

**Name of meeting: Cabinet**

**Date: 16<sup>th</sup> March 2021**

**Title of report: Proposed changes to top-up funding allocations for children in mainstream schools with an Education Health & Care Plan (EHCP) from 1<sup>st</sup> April 2021**

**Purpose of report:** Kirklees maintained schools and academies have recently been consulted about options for changing the way top-up funding allocations are made to support children in school having an Education Health & Care Plan (EHCP).

Details of the consultation proposals and recommendations will be outlined in order to make a decision for the financial year 2021-22

This report should be read with the report titled “**Procuring an External Business Partner to support SEND work in mainstream education settings, using the council’s transformation reserves**” which is also on this cabinet agenda for consideration and decision.

Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	Yes  If yes give the reason why The decision affects all of Kirklees and would have an impact of an increase in spending of more than £250k
Key Decision - Is it in the <u>Council’s Forward Plan (key decisions and private reports)</u> ?	Key Decision – Yes  Private Report/Private Appendix – No
The Decision - Is it eligible for call in by Scrutiny?	Yes
Date signed off by <u>Strategic Director</u> & name	Mel Meggs 8 <sup>th</sup> March 2021
Is it also signed off by the Service Director for Finance?	Eamonn Croston 7 <sup>th</sup> March 2021
Is it also signed off by the Service Director for Legal Governance and Commissioning?	Julie Muscroft 7 <sup>th</sup> March 2021
Cabinet member <a href="#">portfolio</a>	Cllr Carole Pattison – Learning, Aspiration and Communities Cllr Viv Kendrick – Children’s Services Cllr Graham Turner – Corporate Services

**Electoral wards affected: ALL**

**Ward councillors consulted: No**

**Public or private: Public**

**Has GDPR been considered? Yes, no individuals are identified in this report**

## 1. Summary

Improving the outcomes for some of our children with special educational and additional needs is at heart of our inclusive ambition to tackle key inequality issues in Kirklees. By investing in and working with our children and young people and their families at the earliest opportunity will support us to help them achieve the best possible outcomes. We want:

- All our children and young people to have the best start in life
- Our children and young people to be proud to come from Kirklees
- Our children and young people with Special Educational Needs and Disabilities (SEND) to live and be educated in Kirklees
- Our children and young people with Special Educational Needs and Disabilities to make good educational progress, have high aspirations and good life opportunities.

The transformation of Special Educational Needs and Disabilities (SEND) system and securing the financial sustainability of the High Needs block are corporate priorities for Kirklees.

As part of a planned strategy of helping more children and young people to be placed in and thrive in local mainstream educational settings, the purpose of this report is to seek approval to make changes to funding top-ups for children with an Education Health and Care Plan (EHCP) educated in mainstream schools and academies in Kirklees from 1st April 2021 as part of the wider SEND transformation programme that is currently underway.

This is a fundamental part of our strategy to secure and build on the capacity and expertise that exists in mainstream schools to continue to support children and young people's needs by ensuring our funding model is fit for purpose to enable our schools to do this as well as supporting a wider range of need.

The outcomes we are looking to achieve are to see improvements for our children whilst ensuring that over time, our High Needs funding is directed appropriately across the system. Alongside this report which specifically focusses on top ups for Mainstream, in a complementary report also being presented to Cabinet, approval is being sought for the procurement of a long term delivery partner to support the next steps transformation of our SEND provision in Kirklees.

## 2. Information required to take a decision

### 2.1. Background

Fundamental changes were introduced nationally as part of legislative reforms under the Children and Families Act 2014, and the Special Educational Needs and Disability code of practice: 0-25 years 2015. Since that time and like other local areas, Kirklees have experienced an increased demand for Education, Health and Care Plans, and, subsequent rises in costs. This in part has led to significant pressure on the High Needs Block of the Dedicated Schools Grant (DSG).

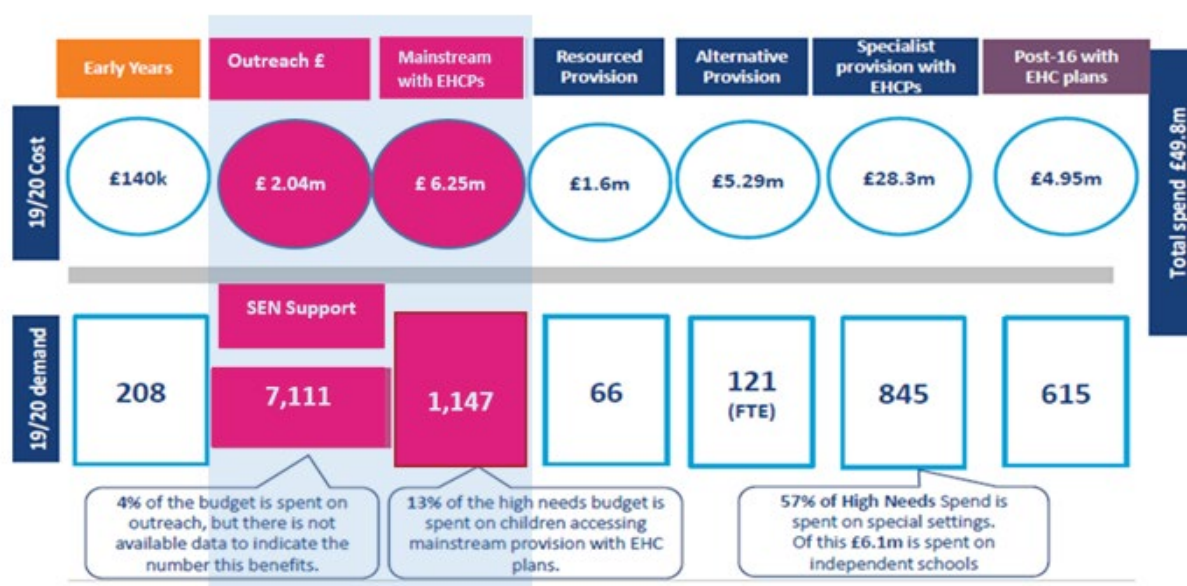
Over the past two years, there has been a greater in depth understanding of the issues across the SEND system and the opportunities that exist to realise our ambitions for the best possible outcomes for our children and young people. Working across the high need system, with our parents and carers, partners, and from some early work commissioned from an external provider, we recognise that we need to align our funding proportionately across the system to ensure that children and young people's needs, the provision we make to meet needs and our spend are tightly interlinked so we enable the best outcomes possible.

Like many other authorities, over recent years Kirklees Council has seen rising numbers of children with SEND who need additional support. Current trajectories in terms of expenditure are unsustainable in the medium to longer term. Key pressures in Kirklees include:

- 44% rise in children with an EHCP since 2015.

- 9% growth in High Needs Block outturn between 16/17 & 17/18.
- Fixed period and permanent exclusions in the SEND cohort have risen sharply and above national trends. (The reasons for the rise in exclusions is complex and there is no one single factor but unmet needs for many young people is a significant issue)

Impower, a recognised national expert in the area of SEND, were commissioned by Kirklees to do some initial diagnostic work with us. This identified that the bulk of our current spending is high cost but is delivering only moderate outcomes and that our spending is focussed on the most intensive level of provision. The aim is to pivot to a situation of sustainable cost provision with high outcomes by realigning our spend proportionately away from high cost specialist provision to earlier intervention and mainstream provision. An explicit outcome we are seeking is to ensure that we maximise inclusivity and have more of our children who can be educated with their peers in mainstream schools whilst receiving the appropriate support to progress and develop. This report focuses on the differences that can be made for our children's outcomes by making changes to the way we align our funding top ups for Children with Education Health and Care plans that are educated in mainstream provision. A summary of the analysis is provided in the chart below.



The top up values in Kirklees have not been reviewed or increased since 2013. Following lengthy discussions and engagement at Kirklees Schools Forum, detailed modelling using local data about the numbers of young people needing support and comparing that with statistical neighbours and national benchmarking was undertaken by Council officers together with a subgroup of Schools Forum representatives and proposals were developed for a new, more fit for purpose model of funding. These proposals were subject to a 4 week consultation with schools in Autumn 2020. Kirklees Council Cabinet are now asked to approve a proposed new approach and that implementation begins from April 2021. This change would affect the funding of all existing Education Health and Care Plans (EHCPs) and new EHCPs in mainstream settings.

To make the changes to our top ups will cost an additional £1.26m. The changes fundamentally contribute to creating the conditions to secure and build on the capacity and expertise that exists in mainstream schools by providing a more appropriate level of funding to support more children. We need to realign our approach so that children can receive support at the earliest opportunity. By changing to a new funding model would mean that our schools are better equipped to continue to support children and young people's needs. In addition, this would enable schools to develop capacity to meet a wider range of need because of our overarching SEND system transformation, because we are creating capacity with effective outreach services, Early Help and

our Inclusion Support Offer, reviewing our Graduated Approach<sup>1</sup>, and ensuring we have the right capacity in our Specialist Provision. As the report will illustrate, doing nothing is not an option as costs will continue to escalate and we miss vital opportunities to secure the best possible outcomes for our children and young people.

## 2.2. The High Needs Block

The high needs funding system supports the provision for children and young people with special educational needs and disabilities (SEND) in line with the Children and Families Act 2014. The Children and Families Act (2014) extended the statutory duties local authorities hold relating to SEND across the 0-25 age range. Kirklees Council has a key role in determining how the funding is allocated to schools and providers to meet the needs of children and young people with SEND. Schools and providers are also required under the duties outlined in the Children and Families Act 2014 to co-operate with local authorities on arrangements for children and young people with SEND.

### 2.2.1. Explanation of the funding for Children with an Education, Health and Care Plan

To provide for pupils with SEND, mainstream schools need to fund the first £10k (element 1 and 2) from their core budgets, (taken from the schools block element of the DSG).

- **Element 1:** a basic £4,000 per pupil allocation that's schools receive for all children on roll
- **Element 2:** up to a further £6,000 for the additional needs of a child or young person
- **Element 3** 'top up' funding this is the funding which is taken from the High Needs Block and drawn down following an Education, Health and Care and Assessment and the Local Authority issuing an EHCP if required.

In Kirklees, there are currently 5 funding categories or 'top up bands' that make up the Element 3 funding.

Band	Amount
A - Exceptional	£ 6,900
B - Profound	£ 3,300
C - Severe	£ 1,900
D - Significant	£ 500
E - Mild/moderate	£ -

### 2.2.2. Department for Education (DfE) Led National High Needs Funding System 2021/22

The DfE is currently consulting (10<sup>th</sup> February – 24<sup>th</sup> March) about '*Possible changes to two specific factors in the high needs national funding formula, which is the formula the department uses to allocate funding to local authorities for children and young people with complex needs.*' One of the factors used to determine funding is based on historic spend to ensure differences in local circumstances are acknowledged, and the consultation says this factor probably doesn't reflect the current situation in a local area at present and are looking to seek views about how to achieve this, initially for 2022/23. What this means is that the way the funding system is constructed ie with element 1, 2 and 3 is likely to remain the same for at least the financial year 2021/22 and 22/23. Our refreshed approach for Mainstream top ups is valid to implement.

<sup>1</sup> The graduated approach – a spiral of support in the new SEND Code of Practice the categories of School Action and School Action plus have been replaced by a single category called SEN Support. Where a pupil is identified as having SEN, to enable the pupil to participate, learn and make progress schools should take action to: • remove barriers to learning • put effective special educational provision in place. SEN support should arise from a four part cycle, known as the graduated approach, through which earlier decisions and actions are revisited, refined and revised, leading to a growing understanding of the pupil's needs and of what supports the pupil in making good progress and securing good outcomes. (NASEN 2014)

### 2.2.3. Current position

Chart B is an illustration of the proportion of pupils nationally that are identified as having a Special Educational Need in data released in 2020. Overall, there are 15.4% of the whole pupil population in this group. The blue section shows that 12.1% of children’s needs are being met at SEN support (with the vast majority being educated in mainstream education), and 3.3 % have an Education Health and Care Plan of which 1.6% are being educated in a mainstream school. In Kirklees 1.9% of the pupil cohort with an Education Health and Care Plan are being educated in a mainstream school.

**Chart B : The percentage of all pupils in schools in England at SEN support and with an Education Health and Care Plan.**

DfE published data July 2020

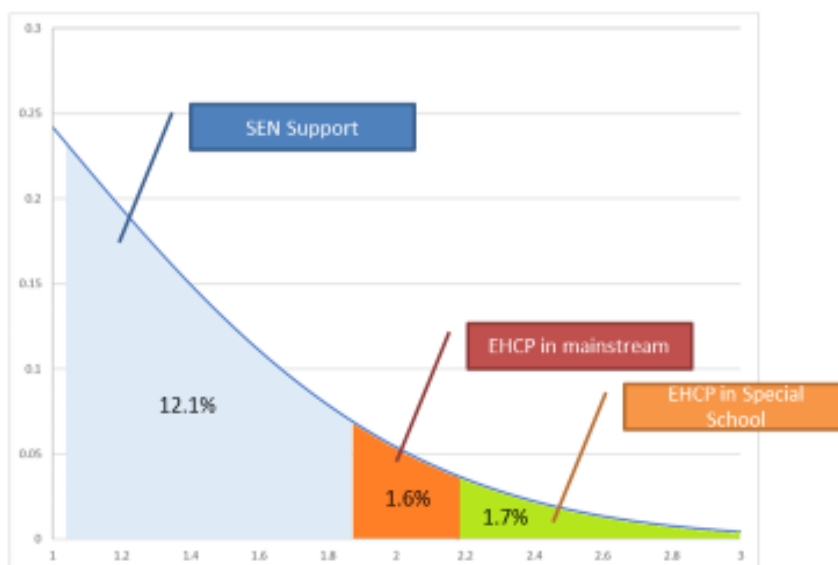
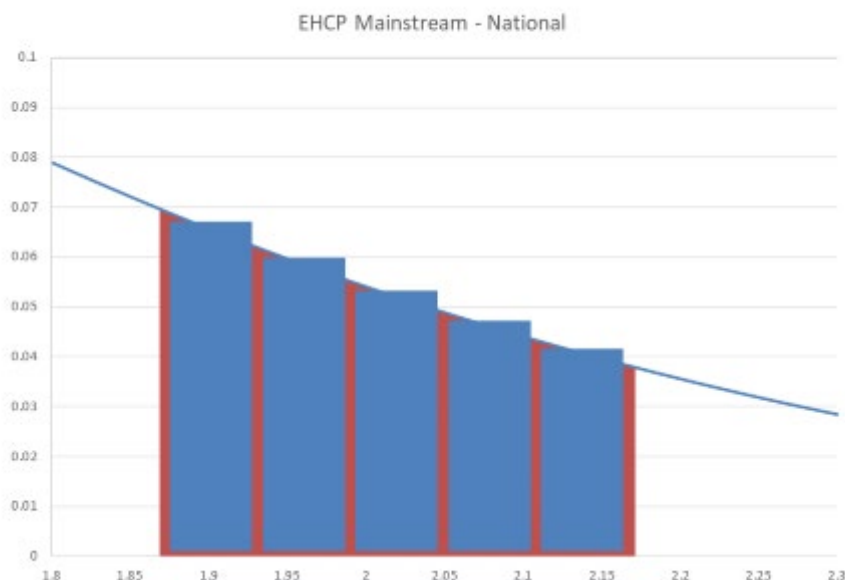


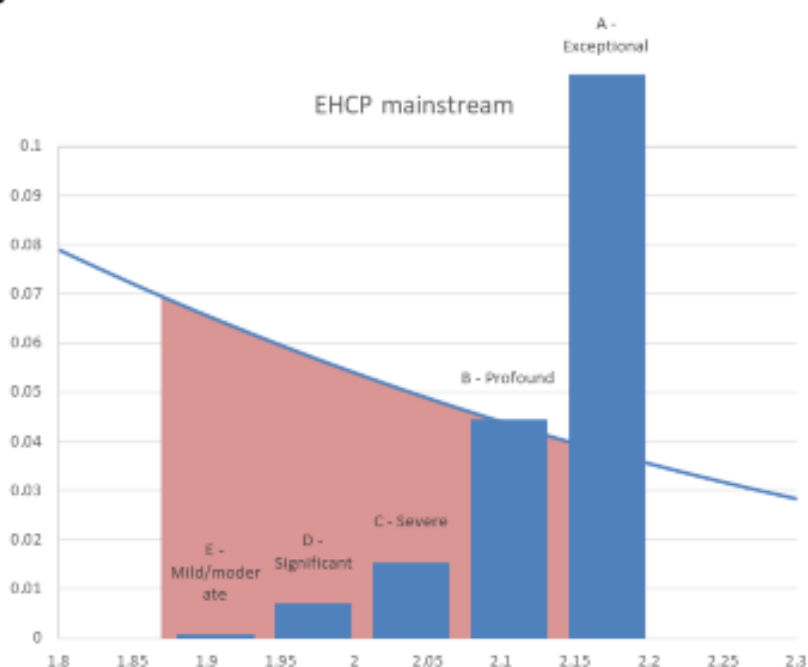
Chart C illustrates that an effective model of funding (the blue bars) that meets need for the pupils who have an Education Health and Care Plan in mainstream schools would follow the curve.

**Chart C**



In Kirklees, as Chart D shows, this currently is not the case. Analysis shows that there are missed opportunities to invest in expert support for our children at lower levels of need as our existing model is not providing the right levels of funding. This is having an impact where EHCPs are pushed to higher bands as a result.

**Chart D: The distribution of top up funding in Kirklees Mainstream Schools**



### 2.3. The review

Reviewing the existing model and addressing the fact that no uplift has been attributed to the rates of Element 3 since 2013/14 has been necessary to harness opportunities that this could be rectified. Discussions at Kirklees Schools Forum led to the development of a smaller working group to develop options for consideration in 2020. The group consisted of Headteacher representatives from Primary, Secondary and Special Schools, as well as Local Authority officers from Finance and Learning. Key principles were agreed to underpin the work undertaken that should seek to:

- Sufficiently fund the provision described in the Children and Young People’s EHCP (this is described in Section F of an EHCP) in order to meet need.
- Align with the principles of the SEND Code of Practice 2015 and related legislation and regulations.
- Promote the graduated approach and build capacity to meet needs of Children and Young People at SEN Support if appropriate.
- Have safeguards in place to protect the schools notional SEN budget when EHCP numbers are disproportionately high.
- Enable straightforward and transparent financial administration.

Two approaches were developed and discussed by Schools Forum and a wider consultation with schools took place in September and October 2020.

## 2.4. The 2 models

The table below shows the numbers of pupils in Kirklees from the school census in January 2021 across each of the existing Element 3 top ups, the amount of funding aligned currently and how much spend is being incurred.

<b>School age cohort as at 1<sup>st</sup> January 2021</b>			
Band	Pupil Count	Amount	Cost of Cohort
A - Exceptional	884	£ 6,900	£ 6,099,600
B - Profound	269	£ 3,300	£ 887,700
C - Severe	77	£ 1,900	£ 146,300
D - Significant	33	£ 500	£ 16,500
E – mild/moderate		-£ 0	£ 0
<b>Total</b>	<b>1263</b>		<b>£ 7,150,100</b>

### 2.4.1. Model 1 - To link top ups to the level of support required to make the provision in the EHCP

#### Overview

- The cost to a school in Kirklees of 1 hour of support is determined (see Appendix 1 for methodology).
- 30 hours of support a week is regarded in the model as 100% support.
- The hourly cost of support is indexed to pay scale to ensure funding rises with future increase in staffing costs.
- The percentage of support provided by Element 2 (notional budget), £6k, can be calculated.
- Support required above Element 2 is divided into 5 steps Mainstream (M)1 to M5 covering and the hourly cost can be used to assign a funding level to each step.
- The provision in Section F of the EHCP will quantify the amount of support needed to meet need. This level of support, if over element 2 will map onto one of the steps which will determine the funding for that EHCP.

The new funding top ups would be calculated as below with pupil numbers at Jan 2021 mapped across from the current approach;

Top up	% Support	Band Value	Pupil count	Cost of Cohort
<b>M5</b>	96% - 100%	£ 12,226	-	
<b>M4</b>	81% - 96%	£ 10,107	-	
<b>M3</b>	66% - 81%	£ 7,341	884	£6,489,444
<b>M2</b>	51% - 66%	£ 4,577	269	£1,231,213
<b>M1</b>	33% - 51%	£ 1,597	110	£175,670
		<b>Total</b>	<b>1263</b>	<b>£7,896,327</b>

### 2.4.2. Model 2 - To link top ups to the level of support required to make the provision in the EHCP and delegate up to 50%

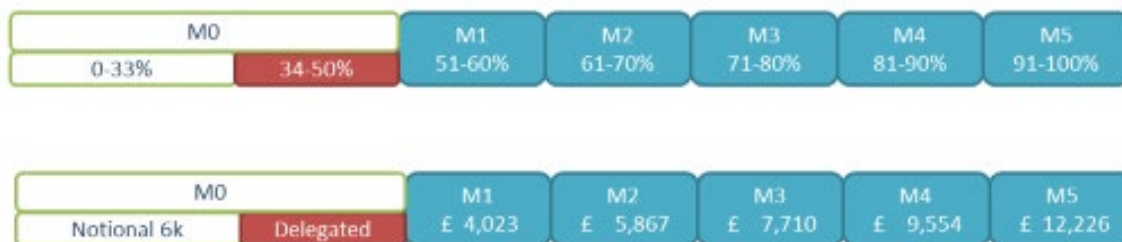
#### Overview

- The cost to a school in Kirklees of 1 hour of support is determined.
- 30 hours of support a week is regarded in the model as 100% support.
- The hourly cost of support is indexed to pay scale to ensure funding rises with future increase in staffing costs.
- The percentage of support provided by Element 2 (notional budget), £6k, can be calculated.

- Support from 50% to 100% is divided into 5 steps, Mainstream (M)1 to M5. The hourly cost can be used to assign a funding level to each step.
- The provision in Section F of the EHCP will quantify the amount of support needed to meet need. This level of support, if over 50%, will map onto one of the steps which will determine the funding for that EHCP.
- The population of pupils from the percentage of support provided by Element 2 up to 50% is projected using the 'Normal Distribution' and National EHCP figures. This funding is then calculated and delegated to schools in proportion to school roll.

The new funding top ups would be calculated as below with pupil numbers at Jan 2021 mapped across from the current approach;

Top up	% Support	Band Value	Pupil count	Cost of Cohort
M5	91% - 100%	£ 12,226	-	
M4	81% - 90%	£ 9,554	-	
M3	71% - 80%	£ 7,710	884	£6,815,640
M2	61% - 70%	£ 5,867		
M1	51% - 60%	£ 4,023	269	£1,082,187
MO	(delegated)			£688,600
		<b>Total</b>	<b>1263</b>	<b>£8,586,427</b>



***Delegated element to accommodate notional 33% - 50% of population - rationale***

Where a Child or Young Person may need between 33% and 50% support and this can be met at SEN Support, this additional feature in Option 2 is in place to provide sufficient funding to do so, creating maximum opportunities for meeting need at the earliest opportunity. It is predicated on the assumption that the notional £6k is insufficient to support the graduated approach. 15 hours of support a week (50% in this model) can be considered to be reasonable for provision of an EHCP (though not the only consideration, reasonable endeavours being another). Option 2 would also therefore safeguard against an increase in referrals. (See Appendix 2 for methodology)

**2.4.3. Options 1 & 2 – SEN Floor funding**

Both options would have an additional feature which protects a school’s SEN funding against the impact of disproportionately high numbers of pupils with an EHCP in their setting.

Schools are expected to use their notional SEN funding to provide for the first £6,000 of the provision in a pupil’s EHCP. A high number of pupils with an EHCP in a setting can impact on the remaining budget left to support those pupils on SEN Support.



This approach identifies an amount that can be regarded as the 'floor'. Additional funding would be provided to ensure that the funding remaining for SEN Support does not fall below this floor. The floor funding has been calculated as £176,238 based on the pupil cohort in January 2021.

The floor funding is described in more detail in Appendix 3

#### 2.4.4. The additional overall cost of model 1 and 2

Based on the pupil numbers and existing top up bands at January 2021 a summary of the additional expenditure has been provided below.

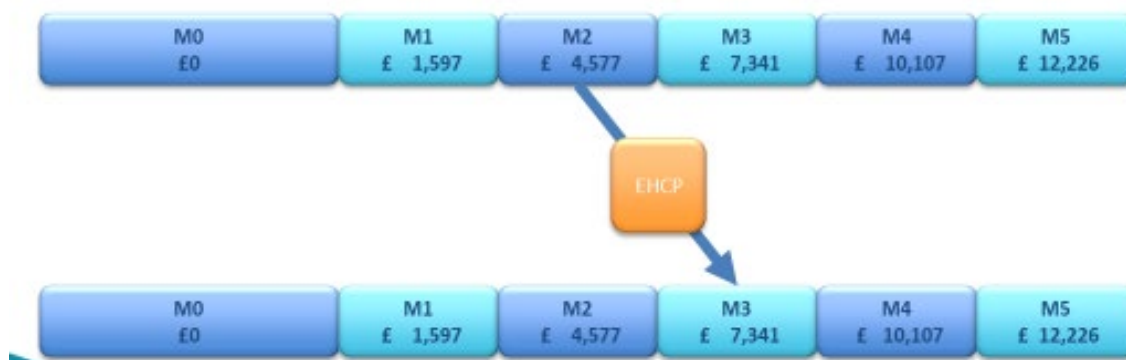
SUMMARY			
OPTION 1	2021-22 Initial mapping		£746,227
	Additional cost once transition to new system achieved		£334,036
	Cost of funding floor protection		£176,238
	Total annual cost compared to current banding system		£1,256,501
OPTION 2	2021-22 initial mapping		£1,436,327
	Saving once transition to new system achieved		-£346,412
	Cost of funding floor protection		£176,238
	Total annual cost compared to current banding system		£1,266,153

This shows that the cost of implementing model 1 is £1.257m and model 2 is £1.266m. Model 2 is marginally higher but creates a better opportunity for enabling early support.

#### 2.4.5. The process for implementation – Model 1

Each of the current top ups would be mapped onto the revised top ups in the first instance. The SEND Code of Practice expects that the provision detailed in the EHCP is 'Specific and quantified', and EHCPs at Annual Review would be modified to enable this specificity. This would allow each EHCP on an individual needs led basis to be aligned more appropriately with the new funding model, and to be specifically funded to meet the provision identified in the plan. Floor funding would be assigned where applicable.

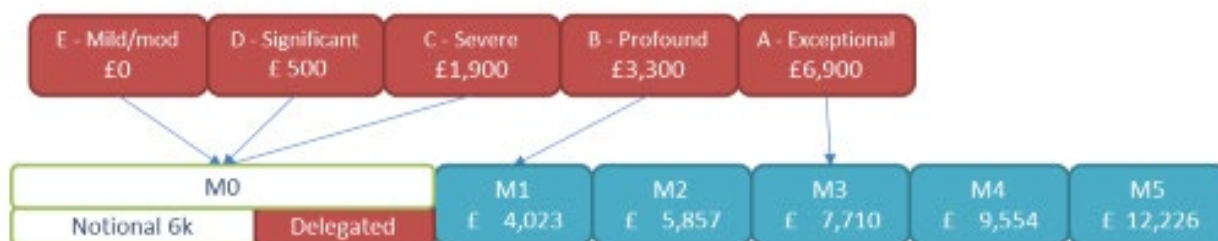
Over time, as part of the anticipated transition to "normal distribution" once assessment processes have been adapted Kirklees could expect to turn the curve so that spend is proportionately aligned to need. It is anticipated that this approach is likely to take between 1-3 years to achieve.



### 2.4.6. The process for implementation – Model 2

Current top ups would be mapped directly onto the nearest revised top up. These EHCPs can be reviewed in their normal cycle and assigned a band according to specific and quantified provision in Section F of their plan. It may be the case that on review the support described in Section F falls below 50%. In this case all procedures would still follow the code of practice and align with legislation. In particular, if an EHCP is still required to secure provision described in the plan, it will not be ceased and a plan with no funding (M0) will be issued. There is no intention by the local authority to use this process to systematically reduce the number of EHCPs. The SEND Code of Practice expects that the provision detailed in the EHCP is 'Specific and quantified' and at Annual Review would be modified to enable this specificity.

This would allow each EHCP on an individual needs led basis to be aligned more appropriately with the new funding model, and to be specifically funded to meet the provision identified in the plan. Funding from 34% to 50% is delegated directly to schools to enable support at the earliest opportunity to be maximised. Funding from 51% to 100% support would be divided into 10% steps and delivered through top-ups and floor funding would be assigned where applicable.



Over time, as part of the anticipated transition to "normal distribution" once assessment processes have been adapted Kirklees could expect to turn the curve so that spend is proportionately aligned to need. This approach is likely to take between 1 and 3 years to achieve.

The foundations for both models presented are that:

- The SEND Code of Practice 2015 requires the provision described in 'Section F' of the EHCP to be, where possible, specific and quantified.
- Quality and expertise of staff is the most significant element of cost in an EHCP.
- Incidence of need follows a 'normal distribution'.

### 2.5. Preferred model

Both models are very similar and both have merit which has been summarised in the table below, however, model 2 builds on model 1 and enables a greater opportunity for investment upfront to promote the graduated approach and grow capacity at SEN support.

Principles	Model 1	Model 2
Sufficiently fund the provision described in the pupil's EHCP in order to meet need.	✓	✓
Align with the principles of the SEND Code of Practice 2015 and related legislation and regulations.	✓	✓
Promote the graduated approach and build capacity to meet needs of pupil at SEN Support if appropriate.	✗	✓
Have safeguards in place to protect the schools notional SEN budget when EHCP numbers are disproportionately high.	✓	✓
Enable straightforward and transparent financial administration.	✓	✓

Therefore, the preferred option for implementation is model 2, including the floor protection factor. To invest in our mainstream funding bands represents a shared opportunity to create the conditions to enable more children achieve their aspirations, secure better outcomes whilst being educated with their peers wherever possible in mainstream schools.

In broad terms, for every pupil that can be supported effectively in a mainstream placement could increase our Special School capacity by 1 and reduce external placements by 1. Where we can meet need locally, this could realise a net saving on average of £40k per pupil. This means that over time, the savings would cover the costs of implementing the new approach.

It is key to see this increase in top up funding as part of the wider plan to address the High Needs issues and needs to be linked with the 10 point improvement plan, our work with an external improvement partner (see the other report on the agenda relating to this), our future capital investment and the development of early intervention and prevention services all of which would result in more children having their educational needs met within Kirklees. This in turn, realises wider benefits, reducing social care costs from out of area residential placements. The re-banding of SEND funding allocations will increase investment in mainstream schools which would incentivise the inclusion of more children in mainstream schools and should help us to operate effectively and within the funding envelope for High Needs.

### 3. Implications for the Council

#### 3.1. Working with People

Co-production with Children, parents, carers and our families is core to the principles of the Children and Families Act. The proposals recognise that should we implement a new model, there will need to be work undertaken to ensure that the new approach is well understood by families as part of Section F of the Education Health and Care Plan and is well understood by our mainstream schools.

#### 3.2. Working with Partners

The proposals have been developed with our schools and support the wider SEND transformation programme. They align to strategies under development that we commissioned Impower to do some early diagnostic work on, including the Valuing SEND mapping tool. That early work and the investment in further work to help transform our approach to SEND is the subject of another report on the agenda at cabinet today.

#### 3.3. Place Based Working

We want children and young people to be able to attend their local mainstream school, and to enable the best opportunities for inclusion. Investing into our mainstream top-ups would support this ambition.

### **3.4. Climate Change and Air Quality**

The aspiration for SEND strategy is that less young people will leave or travel outside of Kirklees. By having services more local / accessible within existing settings to where people live in communities, this can have an impact on their mode of travel. Services development and extending our capacity will need to factor in such environmental consideration as the transportation review.

### **3.5. Improving outcomes for children**

Across the partnership, Kirklees have taken much action to improve SEND services for children and young people aged 0 to 25. This is now captured as part of a clear 10 point improvement plan. With the development of our “Inclusive Ambitions” (see Appendix the direction for the service is to work towards shared vision and equal partnership with a clear pathway of improvement across a range of partners striving for the best outcomes for children and young people with SEND.

In modelling the proposals, meeting the needs of children and young people and their preparation for adulthood has been an underlying principle in order that this is funded appropriately in our mainstream schools.

### **3.6. Other (eg Legal/Financial or Human Resources)**

These proposals are in line with requirements in the Children and Families Act 2014 and the SEND Code of Practice 2015. The modelling and the financial implications have been detailed in the report and appendices.

The High Needs Block of the Dedicated Schools Grant is allocated to local authorities to make provision for local children and young people with SEND. It is the one block of DSG grant funding where the Schools Forum does not have formal powers and responsibilities over the usage of the funds (although it is good practice to keep the Forum informed of changes being considered, provide regular monitoring updates, listen to High Needs funding problems raised via the Forum representatives etc.) It is formally a Council responsibility to commission specialist places for the higher need C & YP and decide how children with SEND should be funded for their needs when attending a mainstream school.

The 20/21 High Needs allocation is £43.2m with projected spend being approximately £50.2m resulting in an in- year pressure of £7m. There is already an historic deficit of £12m and therefore as at 31st March 2021 the cumulative deficit will be approximately £19m.

Whilst additional funding of £5.6m will be made available in 21/22 it is expected that unless we reform our funding approach costs will continue to increase. In terms of tracking the return on this investment we will need to look at this as part of the wider SEND transformation programme. These changes will provide schools with a more appropriate level of funding to support more children in mainstream and help build on the existing relationships we have with schools to support our children with SEND.

If we do nothing, our costs will continue to escalate through more children being educated outside of Kirklees schools, and this will have knock on effects for social care budgets as some of these placements will result in residential costs as well as transport costs. Whilst this investment may not see children currently placed outside of Kirklees return, it will help to stem the flow of children to external organisations.

## **4. Consultees and their opinions**

Discussions at Schools Forum have been supportive of moving to revised funding model. On balance, Model 2 being the preferred option. A consultation document was prepared and circulated, and an online consultation event took place, which was recorded and made available to review for those that couldn't attend.

Formal responses to the consultation were low (only 3 written responses were received), but all 3 expressed support for the changes proposed. In addition, positive feedback was received from the small number of attendees (15) at the 'live' online consultation meeting and from Schools Forum. It is understood that it is because there is support from Schools Forum, and this has been communicated back through sector representation at those meetings, that accounts for the relatively low level of formal responses received.

## **5. Next steps and timelines**

The proposed models anticipate that implementation begins from 1<sup>st</sup> April 2021.

Subject to member decision, officers would begin to work on implementation by mapping existing EHCPs onto the new top up system, and ensuring any new EHCPs reflected the new top up system in Section F. An assessment would be made for individual school budgets and floor funding applied where eligible.

Training and development would be undertaken alongside the implementation of the new model. Communication would be undertaken with parents and carers, Schools Forum and all schools in Kirklees. This would integrate with the work that would be undertaken with external improvement partner should Cabinet approve the report alongside this one that seeks permission to procurement.

## **6. Officer recommendations and reasons**

Officers recommend that changes are made from the current arrangements for Mainstream Top Ups to a new model from April 1<sup>st</sup> 2021.

Of the two options Cabinet are asked to approve model 2, this is because it better aligns with the wider transformation programme and underlying principles we are seeking to achieve for Children and Young People with SEND and create maximum opportunities for needs to be met at the earliest opportunity. Model 2 will,

- Sufficiently fund the provision described in the pupil's EHCP in order to meet need.
- Align with the principles of the SEND Code of Practice 2015 and related legislation and regulations.
- Promote the graduated approach and build capacity to meet needs of pupils at SEN Support if appropriate.
- Have safeguards in place to protect the schools notional SEN budget when EHCP numbers are disproportionately high.
- Enable straightforward and transparent financial administration.

Members are asked to delegate authority to the Strategic Director for Children's Services in consultation with the Service Director for Finance to undertake the required implementation processes to make sure that the new top ups are in place with effect from 1<sup>st</sup> April 2021.

## **7. Cabinet Portfolio Holder's recommendations**

As Cabinet Portfolio Holders, we are supportive of the revision of the approach and investment in top ups for our children with an Education, Health and Care Plan that are educated in mainstream schools. This is because we appreciate that it will support our ambitions in Kirklees, and wherever possible we want children and young people to be supported within our borough, and where appropriate in their local school. Essentially, implementing the officer recommendations better equips our mainstream schools to enable them to provide pupils with the support they need when they need it. We can see that this, alongside the wider improvements we are delivering will contribute to creating the conditions for achieving our system wide inclusive ambitions.

## **8. Contact officer**

Jo-Anne Sanders – Service Director for Learning and Early Support 01484 221000  
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David Gearing – School Funding Delegation Manager 01484 221000  
[david.gearing@kirklees.gov.uk](mailto:david.gearing@kirklees.gov.uk)

## **9. Background Papers and History of Decisions**

- Children and Families Act 2014
- SEND Code of Practice 2015

- *Review of national funding formula for allocations of high needs funding to local authorities: changes for 2022-23*

[https://consult.education.gov.uk/funding-policy-unit/high-needs-nff-proposed-changes/supporting\\_documents/High%20needs%20NFF%20review%20consultation%20document.pdf](https://consult.education.gov.uk/funding-policy-unit/high-needs-nff-proposed-changes/supporting_documents/High%20needs%20NFF%20review%20consultation%20document.pdf)

#### **10. Service Director responsible**

Jo-Anne Sanders – Service Director for Learning and Early Support 01484 221000  
[jo-anne.sanders@kirklees.gov.uk](mailto:jo-anne.sanders@kirklees.gov.uk)

## Appendix 1 – Cost per hour calculation

**NB.** This calculation was based on costs (including some assumptions made about pay awards in 2021) as at the time of consultation...these figures have been updated to reflect the actual position and the hourly rate is now calculated (using the methodology below) as **£16.17**. The purpose of including this appendix is to illustrate the methodology used to arrive at the hourly rate.

### 1 - Average ETA salary

The table below uses the current mainstream school payroll data to determine the average pay of all support staff and Educational Teaching Assistant staff in mainstream schools.

Spinal point	Amount	Total in Mnstrm	Sum	ETA in Mnstrm	Sum
SP3	£ 18,427	1	£ 18,427		
SP4	£ 18,795		£ -		
SP5	£ 19,171	76	£ 1,456,996	1	£ 19,171
SP6	£ 19,555	490	£ 9,581,950		£ -
SP7	£ 19,946	125	£ 2,493,250	121	£ 2,413,466
SP8	£ 20,344	76	£ 1,546,144	76	£ 1,546,144
SP9	£ 20,751	69	£ 1,431,819	69	£ 1,431,819
SP11	£ 21,590	617	£ 13,321,030	576	£ 12,435,840
SP14	£ 22,912	33	£ 756,096		£ -
SP15	£ 23,370	11	£ 257,070		£ -
SP17	£ 24,313	107	£ 2,601,491		£ -
SP19	£ 25,295	4	£ 101,180		£ -
SP20	£ 25,801	7	£ 180,607		£ -
SP22	£ 26,844	27	£ 724,788		£ -
<b>Total</b>		<b>1643</b>	<b>£ 34,470,848</b>	<b>843</b>	<b>£ 17,846,440</b>
<b>Average</b>			<b>£ 20,980.43</b>		<b>£ 21,170.15</b>

### 2 - Mapping onto a spinal point

The spinal point SP10 has been deprecated, but if the mid-point of SP9 and SP11 is calculated this corresponds almost exactly to the average of ETA above.

Spinal Point	Salary April 2020
SP9	£ 20,751
'SP10'	£ 21,171
SP11	£ 21,590

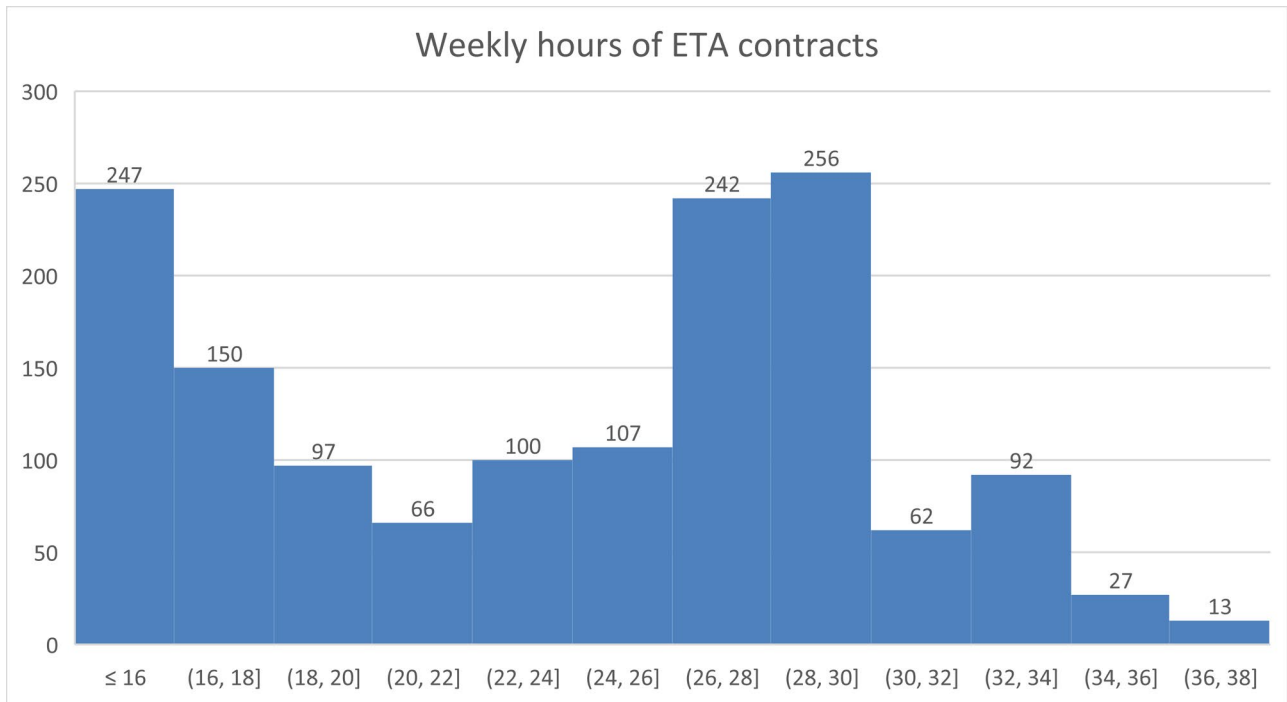
### 3 – On-costs

On-costs of 21.78% are used to represent the actual cost to the school.

Spinal Point	Salary April 2020	w/oncosts
'SP10'	£ 21,171	£ 25,781

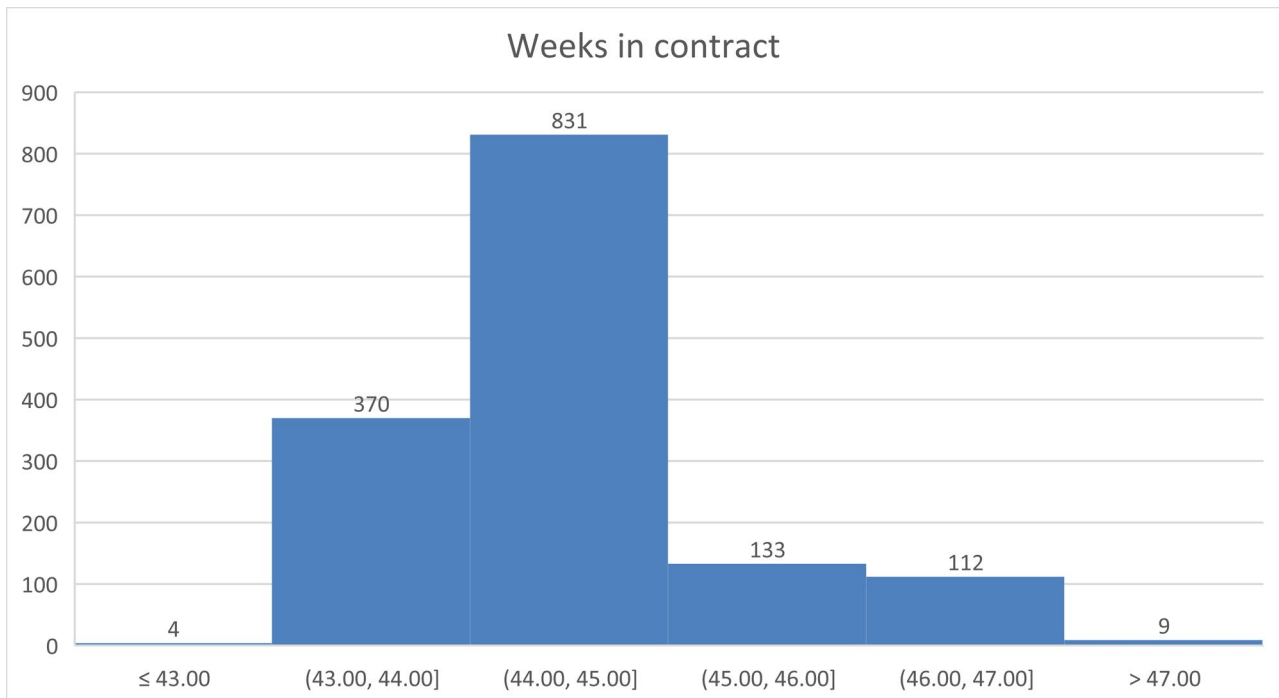
#### 4 - Are schools incurring costs over and above 30 hours per week?

Payroll data shows that 86.85% of ETA staff are contracted to work 30 hours or less a week. Therefore, schools are not generally incurring involuntary costs due to staff contracted over 30 hours a week.



#### 5 - Are schools incurring costs due to ETA contracts outside of term time?

Payroll data shows that the average length of contract for an ETA is very near to 45 weeks per year (44.82 weeks). This is 7 weeks more than the 38 weeks of term time contact.

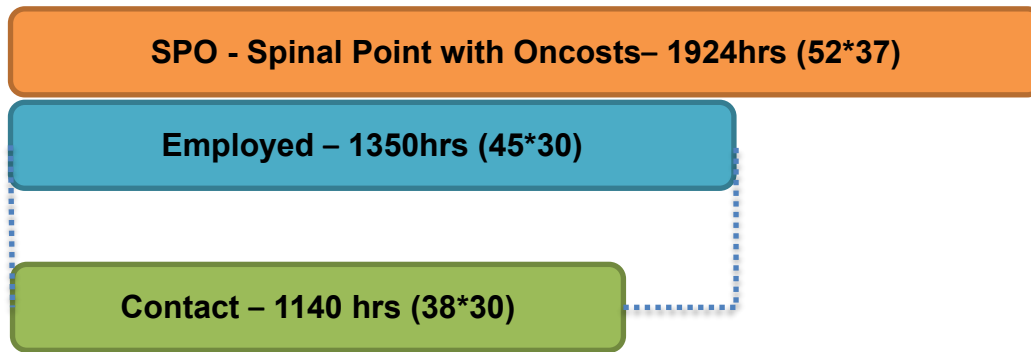


Therefore, schools are incurring costs outside of term time as a result of employing ETAs to meet the needs of CYP during term time.



## 6 – Calculating the hourly rate.

As a result of point 5, the hourly rate for support should be scaled up to accommodate the need for schools to employ ETAs the additional 7 weeks of the year outside of term time.



In this approach the ETA cost per hour is calculated by

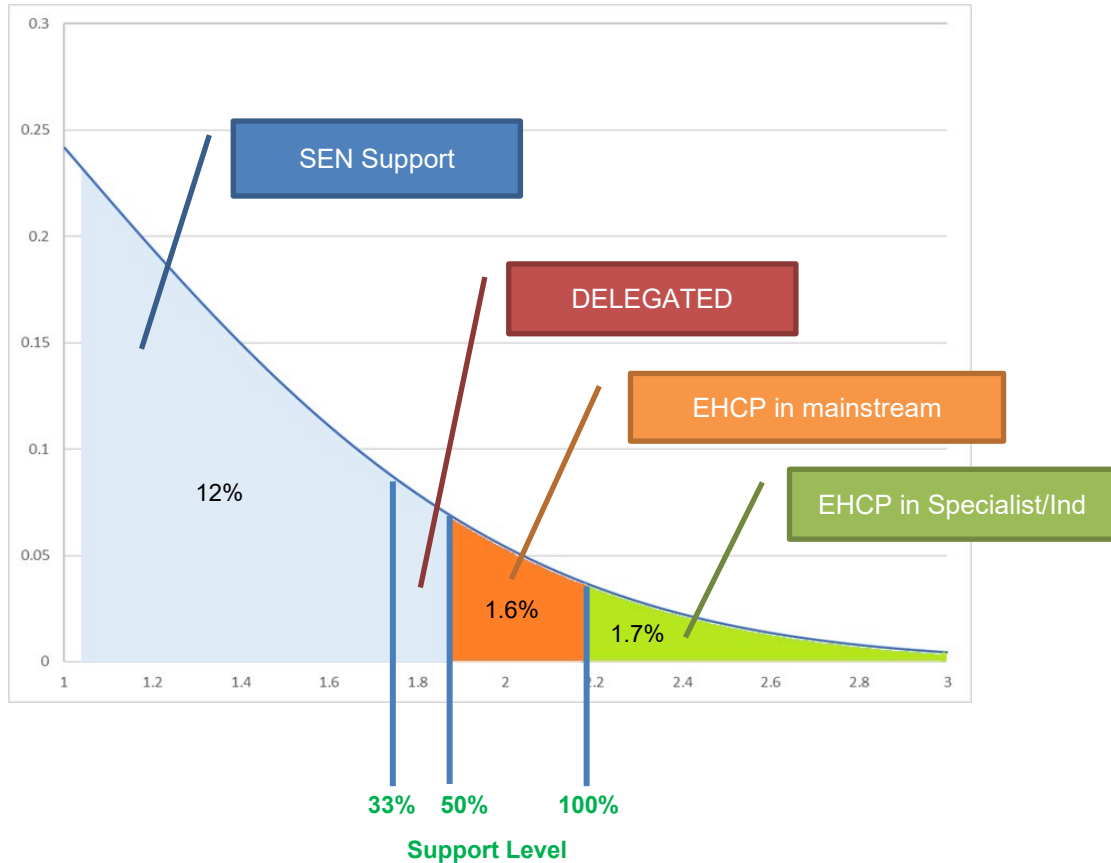
$$((\text{SPO} / 1924) * 1350) / 1140$$

Using the SP10 amount with on-costs from point 3 this gives

$$\text{ETA cost per hour} = ((£25,781 / 1924) * 1350) / 1140 = \underline{\underline{£15.87}}$$

Spinal Point	Salary April 2020	With on-costs	Hourly ETA Support Cost
'SP10'	£ 21,171	£ 25,781	£ 15.87

## Appendix 2 – Calculation of delegated element 3 (33% to 50%)



### Key figures for this calculation

National EHCP in Mainstream	= 1.620%	
National EHCP in other specialist or independent	= 1.695%	[DfE]
Kirklees school population	= 66968	[DfE]

Sourced from

<https://explore-education-statistics.service.gov.uk/data-tables/permalink/3c799147-5909-4a93-b4b6-2760d1f7c449>

### Method

To avoid confusion here, percentages indicating support levels will be coloured green. Percentages indicating populations of Children and Young People will remain black.

The **Normal Distribution** is used to project the numbers of pupils between 33% and 50% support levels.

We know that 1.695% of school population have an EHCP and are in Specialist or Independent settings. This point can be regarded as the upper bound of the mainstream population (100% support).

As the percentage of pupils with an EHCP and in mainstream is 1.620% we can regard this point as the lower bound (50% support)

In the normal distribution the area under the curve represents the population. The linear x axis is called the **standard deviation**.

This method

- uses the two percentages of population provided as the upper and lower bounds of the mainstream EHCP population,
- calculates their standard deviation

- uses these standard deviations to project down to the 33% point and find the standard deviation there
- uses bands of 1% increment from 33% to 50% to calculate the projection of numbers of pupils at each of these bands, the equivalent funding at that band and hence the total delegated funding is calculated at **£688,600** (based on pupils as at January 2021)

### Appendix 3 – Floor funding Rationale

Floor funding provides financial protection for schools with a disproportionate number of pupils with an EHCP. Schools are expected to use their notional SEN funding to provide for the first £6,000 of the provision in a pupil's EHCP. A high number of EHCPs in a setting can impact the remaining budget left to support those pupils on SEN Support. This approach identifies an amount that can be regarded as the 'floor'. Additional funding will be provided to ensure that the funding remaining for SEN Support does not fall below this floor.

#### Method

Key figures in this method

- The school's notional SEN budget
- School's headcount
- The number of pupils who have EHCPs attending the school
- National figures for pupils on SEN Support – currently 12%
- Hourly support cost to school
- The following calculation aims to ensure there is a minimum retained to ensure at least 2 hours of support per week for every child on SEN Support.

$$\text{Floor} = (\text{School Headcount}) * (\text{min hours per week}) * (\text{wks}) * (\% \text{SEN Sup}) * (\text{ETA cost})$$

If a school's notional SEN budget falls below the floor due to the impact of the number of EHCPs then a top up will be provided.

#### Example - School A

School A has:

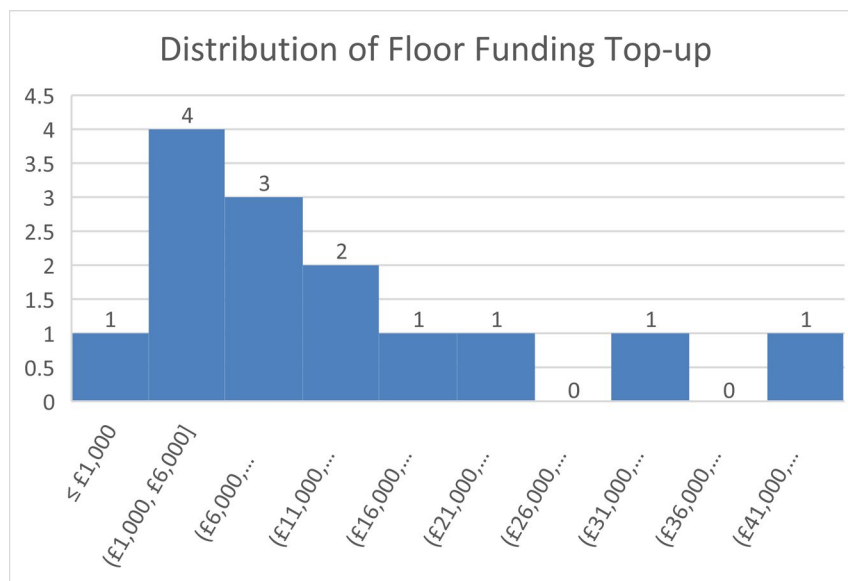
- A notional SEN budget of £25,000
- A Headcount of 83
- 4 Pupils with EHCPs

Notional Budget remaining after 4 \* £6k is subtracted = £25,000-£24,000 = £1,000

This is below the floor, so the difference is provided to school as a top-up.

#### Implementation

It is proposed that this top-up is provided on a termly basis (pro-rata) alongside other financial functions. As with previous elements this factor is indexed to ETA pay scales so will be proofed against inflation. On figures updated for January 2021, this approach would contribute an additional £176,238 to schools.



## Appendix 4 -

### **Kirklees Inclusive Ambitions (Developed in Workshops Autumn/Winter 2020)**

1. We will have a renewed focus on responsive and holistic early intervention for children and young people, refocusing resources to produce a varied multi agency offer including the use of the community and assistive technology and building the skills of the workforce to work preventatively.
2. Families and carers feel empowered and supported. They have strong knowledge of the support available and there is a clear culture of trust between professionals and families. This will enable a shared understanding of needs; the joint support required to meet them and a clear focus on aspirations.
3. Children and young people feel included across the community and within education settings. Schools are celebrated and held accountable for their pupil centred inclusive practice, and the contribution of individual's with additional needs is better understood across the system. This will mean that more children are able to be supported in mainstream settings across Kirklees.
4. Children and young people are able to thrive within their education settings and are supported to access an education that is flexible and empathetic to their needs. Needs are addressed in a proactive and individual way. Schools focus on and measure an individual's holistic outcomes, recognising success outside of purely academic achievements.
5. The system works in an integrated way, using its resources to take a holistic and targeted approach to needs whilst creating a seamless journey for children, young people and their families. This means that bureaucracy is reduced, and that children and young people are able to receive the right support at the right time.
6. Professionals are empowered to meet the needs of children and young people and support them to achieve their aspirations. This is achieved through embedding a shared culture of proactivity; holistic skills and knowledge across the workforce; and creating clear pathways for meeting needs.
7. Children and young people are supported to have clear aspirations for the future, with a focus on independence and preparing for adulthood. Throughout a young person's journey, they are supported to achieve their aspirations through the support they receive. Ultimately, this will mean more young people enter education, employment and training as they progress into adulthood