

**Report title:** Special Educational Needs and Disabilities Inclusion Fund policy update

<b>Meeting</b>	<b>Cabinet</b>
<b>Date</b>	<b>9 July 2024</b>
<b>Cabinet Member</b> (if applicable)	Cllr Habiban Zaman - Deputy Leader and Children's Services (Statutory responsibility for Children's)
<b>Key Decision Eligible for Call In</b>	Yes Yes
<p><b>Purpose of Report</b></p> <p>To make Cabinet aware of changes to the national approach to funding of support to children with Special Educational Needs and Disabilities (SEND) in childcare settings; to inform Cabinet of the outcome of a consultation on proposed changes to our SEND Inclusion Fund (SENDIF) policy; and to seek approval to implement the revised SENDIF policy to reflect changes to the national approach. Consultation has been undertaken and the results can be seen at Appendix 2.</p>	
<p><b>Recommendations</b></p> <p>Members are asked to agree the revised policy for the Special Educational Needs and Disabilities Inclusion Fund (SENDIF) (<b>Appendix 1</b>).</p> <p>Members are also asked to delegate authority to Service Director Learning &amp; Early Support to implement the changes.</p> <p><b>Reasons for Recommendations</b></p> <ul style="list-style-type: none"> <li>Align SENDIF to reflect our expanded duties under the government's expansion of free childcare hours for eligible children aged from 9 months to 4 years old.</li> <li>Ensure children in early years education can continue to benefit from additional support funded by SENDIF and that the eligibility criteria and allocation process remain fair.</li> <li>Ensure the budget for SENDIF operates within its financial envelope - if there is a decision to continue with SENDIF+ (Kirklees voluntary provision), there is no identified budget.</li> <li>Reflect Cabinet's decision in January to approve changes to process, after January 2024's consultation, for the allocation of funding and remove the old process from the policy.</li> </ul>	
<p><b>Resource Implication:</b></p> <p>There are no additional financial resource implications in implementing a revised policy.</p>	
<b>Date signed off by <u>Strategic Director</u> &amp; name</b>	<b>Give name and date for Cabinet / Scrutiny reports</b> Tom Brailsford - Strategic Director Children's and Families, 17 June 2024

<p><b>Is it also signed off by the Service Director for Finance?</b></p>	<p><b>Give name and date for Cabinet reports</b> Kevin Mulvaney, 18 June 2024</p>
<p><b>Is it also signed off by the Service Director for Legal Governance and Commissioning?</b></p>	<p><b>Give name and date for Cabinet reports</b> Samantha Lawton, 17 June 2024</p>

**Electoral wards affected:** All wards.

**Ward councillors consulted:** We have consulted the portfolio holder(s) for Children's Services.

**Public or private:** Public.

**Has GDPR been considered?** Yes - this report contains no personal data.

## 1. Executive Summary

- 1.1 Cabinet is asked to agree a change to the Council's policy on the Special Educational Needs and Disabilities Inclusion Fund (SENDIF).
- 1.2 SENDIF is a fund that provides extra money to childcare providers so they can better support children aged 0 to 5 years old with Special Educational Needs and Disabilities (SEND).
- 1.3 The proposed change of policy is to align SENDIF with the government's expansion of free childcare hours for eligible children aged from 9 months to 4 years old. This means SENDIF will only provide support to settings to cover the time that children are in receipt of the free statutory childcare entitlement hours.
- 1.4 SENDIF support will no longer cover childcare hours that are not funded by the government. The change of policy ensures we can continue to meet our obligations within the allocated budget.
- 1.5 A consultation in May 2024 provided some feedback with a total of 36 responses. It is noted that much of the feedback related to wider funding implications.
- 1.6 The previous policy included the process for allocating funding. In January 2024, Cabinet delegated authority for the process to be updated, after consultation with providers (which also took place in January 2024), and therefore the policy requires updating to remove the old process.
- 1.7 The change of policy will be implemented in full from 1 January 2025, with transitional arrangements for existing cases between September and December 2024. See section 2.5 for more information.

## 2. Information required to take a decision

### 2.1 Background

- 2.1.1 The Special Educational Needs and Disabilities Inclusion Fund (SENDIF) is part of the Kirklees approach to supporting inclusion of children with Special Educational Needs and Disabilities (SEND) to participate in Early Years education and address the needs of those individual children with SEND.

- 2.1.2 Government guidance says all local authorities must have a SEND Inclusion Fund and gives them some flexibility on how to design and deliver it.
- 2.1.3 The government guidance on SENDIF (known as SENIF nationally) is set out in [‘Early years entitlements: local authority funding operational guide’](#). SENDIF is intended to support Local Authorities to work with providers to support needs of individual children with SEND. This fund also supports Local Authorities to undertake their responsibilities to commission strategically SEND services as required under the Children and Families Act 2014. Local Authorities should target SENDIF at children with lower level or emerging SEND.
- 2.1.4 Historically, Kirklees Council has used SENDIF to deliver additional money to childcare providers based on an individual assessment of a child’s need. Providers were asked to submit evaluations to a panel to seek SENDIF funding. Once allocated, the funding could provide support such as extra staffing.
- 2.1.5 SENDIF has previously been funded from the Council’s General Fund. Education and Skills Funding Agency (ESFA) guidance states that SENDIF should be funded from the Dedicated Schools Grant (DSG). The council took a decision in the financial year 2022/23 to transfer the funding of SENDIF to the DSG from April 2023 onwards.
- 2.1.6 In terms of the 2024/25 financial year, a January 2024 Cabinet decision endorsed the Kirklees Schools Forum proposals for the overall allocation of DSG for the year. The Decision also delegated authority to the then-Cabinet Member for Children, alongside the Strategic Director for Children’s Services, to implement a preferred funding option for SENDIF based on consultation with providers and views from the Early Years Reference Group and Schools Forum. Following this consultation and engagement, the budget for SENDIF was set at £2m for 2024/25 in line with provider wishes. Other details of the provision were also set, such as the hourly amount for SENDIF. This process will repeat each year. After gaining views in the consultation described above, changes were also made to the application and allocation process to make it more straightforward. It is noted that the previous policy included the process for allocating funding and therefore the policy requires updating to remove the old process. The proposed new document focuses purely on policy.
- 2.1.7 Many children with SEND will not require extra resources to be successfully integrated into settings. We expect childcare providers to adapt their universal inclusive high-quality practice for children with emerging SEND needs or identified SEND needs - including medical needs - by using their core funding. Only when there is a clear need for additional resources should childcare providers seek SENDIF.
- 2.1.8 Kirklees Council currently provides SENDIF support for hours a child spends in a childcare setting, whether paid for by the government under the free entitlement or paid for in some other way. Providing SENDIF support for government funded hours is an expectation set out in government guidance. Providing SENDIF support for non-government funded hours is not; instead, it is a voluntary provision by Kirklees Council known as SENDIF+. SENDIF+ support is also currently provided to a very small number of school-age children with SEND who attend after school clubs run by childcare providers. From officer research, this appears to be one of the widest ranging and best-resourced SENDIF offers in the country.
- 2.1.9 The government’s expansion of free childcare is now underway. Eligible working parents of 2-year-olds can access 15 hours childcare, in addition to the maximum of 30 hours

offered to parents of 3- and 4-year-olds. From September 2024, the government will extend 15 hours childcare support to eligible working parents with a child from 9-months-old. From September 2025, support will reach 30 hours for eligible working parents with a child from 9-months-old up to school age.

## 2.2 Reason for change

2.2.1 The government guidance says local authorities are required to offer SENDIF support to all children accessing free government-funded early education and childcare provision. The government's expansion of free childcare hours means more children are eligible for more hours under this duty to offer SENDIF support. This wider base of children and hours, alongside the changes to funding agreeing in January, have made it necessary to review our SENDIF policy.

2.2.2 Demand for SENDIF in Kirklees has also increased significantly over recent years. Expenditure on SENDIF, including SENDIF+, in the financial year 2021-22 was £1.9 million and in 2022-23 was £2.3 million, with an increase to £2.6 million in 2023-24. This is not sustainable under the current funding model. For 2024/25, providers chose a contribution of £1m from the Early Years block to add to the agreed £1m from the High Needs block, making a total of £2m for SENDIF.

## 2.3 Proposed policy changes

2.3.1 The proposed new policy (**Appendix 1**) will change the way SENDIF is calculated. As in the past, each childcare provider will be allocated an amount of money from the Fund for each hour that they look after a child with SEND for use on additional support. However, under the revised policy, only the free childcare hours funded by the government count towards this total. The support for non-government funded hours under SENDIF+ will end. With the government's expansion of free childcare hours, it is no longer possible to offer this. SENDIF will also no longer support school-age children with SEND who attend after school clubs run by childcare providers. There are currently 4 children accessing this.

2.3.2 The updated policy also takes into account the changes made as a result of the January Cabinet decision. For example, reflecting the simplified application process which dispensed with the need for a panel assessment, as well as the more fixed annual budget which may necessitate the need for in-year allocation changes.

## 2.4 Benefits and challenges of the proposed approach

2.4.1 These changes, alongside those agreed in January, have several benefits:

- fulfilling our obligations by aligning Kirklees Council's SENDIF with the government's expansion of free childcare hours for eligible children aged from 9 months to 4 years old.
- ensuring SENDIF can continue to support children with SEND in early years settings while ensuring the eligibility criteria and allocation process remain fair.
- embedding in the policy a SENDIF process that is more efficient, flexible, and straightforward for providers.
- ensure the budget operates within its financial envelope - if there is a decision to continue with SENDIF+ (voluntary provision) there is no identified budget.

2.4.2 The main risk of the proposed change of policy is that some childcare providers may receive less funding to provide additional support for children with SEND who are

accessing childcare hours that are not funded by the government. This could prompt providers to consider a reduction of their offer in line with the free early year's entitlement.

2.4.3 The expected mitigation of the risk is to monitor the impact of the proposed change on childcare providers and provide alternative sources of support. For example, this year we have put in place an enhanced SEND support offer for childcare providers on top of the significant existing support through the Graduated Approach toolkit and resources. The simplification of SENDIF procedures means Council officers will spend less time on administration and have more time to offer support to providers.

2.4.4 The expansion of free childcare hours will reduce the impact of the change, given that this enables providers previously accessing funding through what was SENDIF+ to seek funding through the wider standard SENDIF offer instead.

2.4.5 The following outlines the volumes involved in the SENDIF offer.

<b>Summer term 2024 figures</b>	
Total number accessing Free Early Entitlement	10488
Total number accessing SENDIF+	173
<b>% of children accessing SENDIF+ <u>at present</u></b>	<b>0.016 %</b>

Please note:-

- a. Autumn term trajectory – taking into account estimated number of movers into full time school based on above figures: Numbers affected = 68 children (0.006%). Please see below for factors which will impact on a further decrease in numbers:
- b. This will be **maximum** given that a number of those accessing SENDIF+ this term may well be eligible for Free Early Entitlement (FEE) next term so the current SENDIF+ element will become SENDIF.

## 2.5 Transitional arrangements and implementation

2.5.1 Subject to Cabinet approval, the proposed change of policy would apply to new applications for SENDIF from 1 September 2024 onwards. The proposed change of policy would not affect existing applications for SENDIF that have been approved before 1 September 2024. These would be funded in line with the previous policy until 31 December 2024. We would implement the new policy for everyone from 1 January 2025.

2.5.2 If agreed, we would communicate about the change of policy to childcare providers, parents, and other stakeholders in advance of the implementation date, and provide guidance and support as needed, as outlined in 2.4.3.

2.5.3 We would review and evaluate the proposed change of policy after one year of implementation, and address accordingly any feedback or issues.

## 3. Implications for the Council

### 3.1 Council Plan

3.1.1 Putting SENDIF on a firm footing for the future would ensure we can discharge our duties fairly and consistently. This would contribute towards the Council Plan Shared Outcome 'Best Start', meaning children have the best start in life.

### 3.2 **Financial Implications**

3.2.1 As noted, expenditure on SENDIF in the financial year 2021-22 was £1.9 million and in 2022-23 was £2.3 million, with an estimated increase to £2.6 million in 2023/24. Following the January 2024 Cabinet decision, and after January 2024 consultation with key providers and other key stakeholders, the budget for 2024-25 was set at £2m. With the changed approach, this budget is considered a maximum ceiling, with remedial action to be taken in-year if an overspend looks likely.

### 3.3 **Legal Implications**

3.3.1 The Council has various statutory obligations which are relevant to this proposed policy change.

3.3.2 In exercising a function under Part 3 of the Children and Families Act 2014 in the case of a child or young person the Council must have regard to the following matters in particular—

- (a) the views, wishes and feelings of the child and his or her parent, or the young person;
- (b) the importance of the child and his or her parent, or the young person, participating as fully as possible in decisions relating to the exercise of the function concerned;
- (c) the importance of the child and his or her parent, or the young person, being provided with the information and support necessary to enable participation in those decisions;
- (d) the need to support the child and his or her parent, or the young person, in order to facilitate the development of the child or young person and to help him or her achieve the best possible educational and other outcomes.

3.3.3 Under section 175 of the Education Act 2002 the Council must ensure that that the functions conferred on them in their capacity as a local education authority are exercised with a view to safeguarding and promoting the welfare of children.

3.3.4 Similarly, under section 11 of the Children Act 2004 the Council must ensure that functions are discharged having regard to the need to safeguard and promote the welfare of children.

#### The Public Sector Equality Duty

3.3.5 Under section 149 of the Equality Act 2010 the Council must, in the exercise of its functions, have due regard to the need to—

- (a) eliminate discrimination, harassment, victimisation, and any other conduct that is prohibited by or under the Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

3.3.6 Members are referred to the following section of this report which deals with the assessed impact of this proposal including the impact on groups with a relevant protected characteristic.

### 3.4 **Other (e.g. Risk, Integrated Impact Assessment or Human Resources)**

3.4.1 An IIA was published on 20 May. It showed mainly neutral impacts. It foresaw a low positive impact in terms of the 'age' protected characteristic, because the SENDIF policy exists to support early years settings to enable children with SEND to receive additional support and standard provision will apply to a wider age range. It made the same judgement – a low positive impact – for disabled individuals.

## 4. Consultation

4.1.1 Consultation was undertaken on the proposed changes between 3 May and 2 June and people were asked to complete an online survey (full report at **Appendix 2**).

4.1.2 There was a total of 36 responses, primarily from childcare providers (97%), with one respondent identifying as a school. The survey results indicated that nearly half of the respondents were day nurseries (49%), followed by pre-schools or playgroups (31%), maintained schools/academies (17%), and childminders (3%).

4.1.3 13 respondents (36%) said the proposed changes would have a lot of impact; 11 (31%) said there would be some impact; 8 (22%) said there would be no impact and 4 people said they did not know.

4.1.4 The open feedback highlighted a few themes, some of which were not related to the change of policy. The most common being around funding proposals and their negative impact on what could be offered to children, negative impacts on staffing including retention, recruitment, and wellbeing, and a need for clarity on how the changes would work.

4.1.5 The feedback included specific comments such as concerns about reduced funding impacting the level of support and number of places available for children requiring extra support; the struggle with recruitment/retention of qualified staff; and the financial implications of underfunding on childcare places.

4.1.6 The mitigation for the above includes, but is not limited to:-

- a. The numbers of children who can access standard SENDIF is expanding.
- b. The amount of funding available to the overall cohort has been confirmed after consulting providers. It is noted that this will be reviewed annually with providers.
- c. Under current policy, from September 2024, SENDIF+ would fund a maximum of 68 children across 400+ providers. Transitional arrangements would be implemented until January 2025 for this small cohort. The financial impact on any single provider is seen as minimal, especially given that some are likely to be eligible for standard SENDIF funding in January 2025.
- d. Providers are provided with a range of support, as outlined in 2.4.3, including the Graduated Approach. We expect childcare providers to adapt their universal inclusive high-quality practice for children with emerging SEND needs or identified SEND needs - including medical needs - by using their core funding. Only when there is a clear need for additional resources should childcare providers seek SENDIF.

## 5. Engagement

5.1.1 We have ongoing engagement with childcare providers and key stakeholders, including via the Early Years Reference Group, the Schools Forum, Early Years SENDCoNET, and the Early Years Development Board. SENDIF is also now part of the annual Early Years Funding Formula Consultation.

5.1.2 In line with Cabinet's decision in January 2024 to delegate authority to amend the funding allocation process, consultation took place in the same month with key stakeholders. The process has been changed to reflect their views.

## **6. Options**

### **6.1 Options Considered**

6.1.1 Government guidance compels us to ensure SENDIF eligibility mirrors the expanded free childcare offer. One option would be to continue offering SENDIF+ on top of this wider offer, including in the calculation all hours spent in a childcare setting. However, this would mean a significant increase to the budget funded either the DSG or general funds. Neither option is consistent with the budget position.

6.1.2 This option would also be inconsistent with the January Cabinet decision, which set a budget for SENDIF in 2024-25 of £2m and changed approach to make this figure a maximum annual funding cap. By retaining our old policy alongside the wider eligibility for government-funded childcare, we would likely see the budget exhausted swiftly within a given year.

### **6.2 Reasons for recommended Option**

6.1.3 As noted, the recommended option balances the need to align SENDIF with the government's expansion of free childcare hours, while also maintaining fairness and budgetary discipline.

## **7. Next steps and timelines**

- Summer 2024: Cabinet decision communicated to stakeholders
- Summer 2024: Implementation working group created
- 1 September 2024: Initial implementation commenced
- 1 January 2025: Full implementation commenced
- End of January 2025: Interim review

## **8. Contact officer**

Jo-Anne Sanders, Service Director - Learning and Early Support

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

23 January 2024 Cabinet Report: Kirklees' School Funding arrangements for financial year 2024/2025

<https://democracy.kirklees.gov.uk/documents/s55107/Jan2024%20Schools%20Funding%20Cabinet%20Report%20Cabinet%20Submission.pdf>

March 2024 Kirklees Safety Valve Agreement

[Dedicated Schools Grant 'Safety Valve' Agreement: Kirklees](#)

SEND The Big Plan

<https://www.kirkleeslocaloffer.org.uk/media/sdgdbox/final-the-big-plan-refresh-of-send-strategy-oct23.pdf>

## **10. Appendices**



Appendix 1 – draft new SENDIF policy.  
Appendix 2 – report on consultation responses.

## **11 Service Director responsible**

Jo-Anne Sanders, Service Director - Learning and Early Support