

## Changes to Funding for Inclusion (FFI) – briefing

Date: 18<sup>th</sup> July 2024

Report of: Director of Children and Families

Report to: Children and Families Scrutiny Board

Will the decision be open for call in?  Yes  No

Does the report contain confidential or exempt information?  Yes  No

### Brief summary

This briefing follows the Children and Families SEND transformation update paper to Executive Board on 19<sup>th</sup> June 2024. A number of questions were raised in the Executive Board meeting by the Leader of the opposition who requested further information and clarification in relation to proposed changes to Leeds Funding For Inclusion (FFI).

FFI, is an approach developed by Leeds City Council some years ago to identify and fund provision to meet needs of children and young people with SEND. FFI and its underlying principles of early intervention and prevention has been acknowledged historically as best practice however the Local Authority and Leeds education leaders agreed that it is no longer fit for purpose and must be reviewed, not least to ensure that the council is fulfilling its statutory duty to children with SEND.

The review has been conducted in partnership with school leaders and Officers from Children and Families have agreed to develop a focused briefing for the Children and Families Scrutiny Board. This briefing provides in-depth information in relation to the review and the proposed changes, which are set out in this paper.

### Recommendations

- a) Note the specific and detailed responses to questions raised at Executive Board on the 19<sup>th</sup> June.
- b) Note the clarity and assurance provided in relation to the interface and for some children the necessary transition from FFI to Education, Health and Care Plan (EHCP) provision.

## What is this report about?

In Leeds, Funding for Inclusion (FFI) has been a mechanism for supporting the education of children with Special Educational Needs by funding provision in education settings since 2002. Since the changes to legislation in 2015, it has become clear that the system needs to change for a number of reasons which are set out in this report. The aim is to remove the system for FFI in order to ensure adherence to statutory obligations providing children with regular review of provision and right to appeal. At the same time, the proposals will continue to focus on early intervention through alternative means and by linking with other areas of improvement across the directorate and wider children's system.

- 1 This briefing responds to questions focusing on:
  - i. Communication, consultation and co-production with schools and other education settings as part of the review process.
  - ii. The scale of the transformation in terms of numbers of young people affected
  - iii. How needs will be met for children moving from FFI to EHCP provision
  - iv. Plans for how to conversion from some FFI plans to EHCPs will be managed
  - v. Clarity around the legal basis for making these changes

## What impact will this proposal have?

- 2 This briefing paper is designed to provide updates and assurance. The specific proposal to move away from FFI as a mechanism for funding provision to meet need is a necessary step to take to ensure that the council meets its statutory duties. Children and young people with SEND will benefit from more regular review of needs and provision as well as the right to appeal and challenge provision and placement, which are integral to the 2015 act and related Code of Practice.

## How does this proposal impact the three pillars of the Best City Ambition?

Health and Wellbeing       Inclusive Growth       Zero Carbon

- 3 Provision for children and young people with Special Educational Needs and/or Disabilities (SEND) is a crucial protective factor for all health and wellbeing outcomes and future life chances. This proposal is central to the delivery of the city's Children and Young People's Plan and, in particular, the education 'obsession' and 3As delivery plan (attendance, attainment, achievement).

## What consultation and engagement has taken place?

Wards affected: All wards

Have ward members been consulted?       Yes       No

- 4 This main body of this paper sets out for the rationale for transformation activity and provides a detailed summary of consultation and engagement with school leaders undertaken to date. It is clear that Head Teachers and SENCOs recognise the need to review and change FFI due to concerns around duplication, unwieldy application processes and specific 'windows' for application which do not allow for timely or agile identification of need.

## **What are the resource implications?**

- 5 Leeds City Council spends specific grant funding in the form of the High Needs Block (HNB) on provision to meet the needs of children with SEND. The HNB is part of the Dedicated Schools Grant (DSG) which is provided to the council and to all schools in the Leeds City footprint from central government.
- 6 In the last financial year, the City Council spend £121.4m, funded by the HNB, on meeting the needs of children and young people with SEND. Broadly speaking, this funding is split between place funding for special schools, alternative and independent provision, and top-up funding passported directly to schools in the form of EHCP top-ups or FFI.
- 7 Nationally, demand for SEND provision, in the form of EHCPs has increased by more than 60% since 2015. Whilst funding for this provision, in the form of the HNB, has increased, it has not grown at the same rate. As such, there is significant pressure on high needs funding nationally, and this is mirrored in Leeds.
- 8 Nevertheless, transition from FFI to EHCP funding for some existing pupils in the city is intended to be met from within the same resource envelope, excluding new demand. Our working assumption is that the upper threshold of current spend will not be exceeded. The current budget for the 2024/25 financial year for mainstream FFI is c.£32.500m.
- 9 Following transition from FFI to EHCP funded provision for the majority, but not all, of the current FFI cohort, it is envisaged that the proposals for an 'environment fund' would be funded from the remainder of the existing financial envelope. Detailed financial modelling will be undertaken to fully assess the financial impact of the proposal.
- 10 In some cases, the provision and cost will likely remain the same or potentially reduce whereas in others, due to escalating need or needs which become apparent through the rigorous assessment process, costs may be greater. It is certainly the case that the efficiencies developed within the new operating model will realise benefits to processing speed and increased availability of staff time to carry out statutory work. This will mitigate to some extent the potential future liabilities associated with consistent increases in demand.

## **What are the key risks and how are they being managed?**

- 11 There is a risk that transitioning the plans for all children in receipt of FFI packages to EHCPs at the same could overwhelm an already challenged system and process. As such, a carefully managed prioritisation process is being developed which will see groups of children transition to EHCP funded packages in a phased way over the course of a maximum of 4 years – the transition timetable is included in the last section of this report. It is possible that some families will not want their child to have an EHCP, so it will be important to capture this at the point of assessment. This will allow the SENSAP team to process new applications for EHCPs alongside children transitioning from FFI without undue pressure on the system.
- 12 There is a risk that children whose educational needs are being met through FFI funded packages of support will lose out when moving from FFI to EHCP provision. This risk is managed by the guarantee that no FFI package will be ceased for a child who eventually is provided with an EHCP until such time as the EHC needs assessment is concluded and EHCP issued to the school.
- 13 In a small proportion of cases, it is likely that children receiving provision funded through FFI will not meet the threshold required to necessitate an EHCP. In these circumstances, the school, in line with the High Needs Block operational guide and SEND Code of Practice (2015), must provide funding to support educational provision from within its Notional SEND budget.

- 14 As part of the Department for Education's (DfE) Change Programme Partnership (CPP), Leeds is working with other local authorities in the Yorkshire and Humber Region on several pilot projects flowing from the 'Right Support, Right Place, Right Time' improvement plan, which was developed following the SEND review of 2022. The improvement plan has a significant focus on Early Help, which supports the early identification and meeting of need.
- 15 A number of elements in the change programme are, therefore, looking at how to better support pupils in mainstream settings and looking towards the creation of a National Funding Model. Through discussions with DfE colleagues we have developed the concept of an 'environmental fund' which is designed to support schools where the proportion of children with SEND, but below the threshold for an EHCP, is higher than average. The proposal is that these schools would be eligible to apply for additional funding in recognition of the scale of demand in their setting without EHCP funding to support meeting needs. This mechanism will provide further management of the risk that children moving away from FFI packages without an EHCP might risk reduced levels of provision. At this time, further work is required to fully develop these proposals.
- 16 Locally, as part of the Early Help (EH) review, SEND co-ordinators will be employed to work directly from Early Help Hubs to support early identification of need and signposting, both to existing services within the EH offer and to new services which come online as part of the wider service and system redesign. There is also a focus on workforce development which will support the Children and Young People's workforce, cross sector and across the city to achieve early identification of need and get the right support for children at the right time. These improvements will further mitigate risks associated with any potential reduction in funding

### **What are the legal implications?**

- 17 When FFI was created, the Council benefitted from a local pilot scheme which enabled the allocation of top-up funding to schools based on the needs of individual children, but not linked to an EHCP. The legislative position has since shifted. As a result, despite the advantages it may bring, the FFI scheme poses two legal issues.
- 18 Firstly when the authority becomes aware of individual children with potential SEND it triggers the first stage of the statutory EHC needs assessment process. By assessing them under the FFI process, instead of applying the statutory EHC needs assessment process, it creates a risk of challenge.
- 19 Secondly, the application of FFI could be seen as being used to divert or deter schools and parents from pursuing their statutory rights and protections which they benefit from under the EHC legislation. This adds a further risk of challenge.
- 20 The transition away from FFI will ensure that the statutory EHC framework will receive the necessary level of focus and resource that removes the risk of challenge, while preserving the ability of the Council to offer the discretionary programmes described in paragraph 15 above to support the children who do not qualify for EHCPs.

### **Options, timescales and measuring success**

#### **What other options were considered?**

- 21 This report does not contain an options appraisal. The plan which drives the transition from FFI was developed as part of the overarching transformation plan resulting from the directorate's work with Pricewaterhouse Coopers (PwC). Development of these proposals continues to be done with and alongside the education sector in the city. Legal services have been part of the development, and now implementation, of the plan and have set out

clearly (above) why the council’s approach to identifying and meeting need for children and young people with SEND must progress as described.

### How will success be measured?

- 22 A comprehensive and detailed transformation plan has been developed to support and manage changes to systems, practice and processes which underpin our SEND system locally. The plan clearly sets out a range of milestones and performance metrics to help us stick to plan, identify successes, and manage underperformance in real time over the course of the implementation.
- 23 A clear plan with milestones for specific cohorts of children and young people has also been developed to support the FFI transition process.
- 24 Ultimately, successful transition will be measured through our understanding of the lived experience of our children and young people with SEND. This will be evidenced through the right to appeal and challenge as set out in the 2015 Children and Families Act, which materially impacts on families’ rights under statute. It will also be measured through our regular seeking of qualitative, authentic voice feedback from children and families as well as from schools and settings. Furthermore, children accessing provision in a timely and effective way, as well as provision being reviewed regularly will support them to achieve to the best of their potential.

### What is the timetable and who will be responsible for implementation?

- 25 The timetable for transition will begin in September 2024 and will proceed in four phases, culminating in a final phases in September 2027. We will, of course, keep this plan under review so that we take advantage of any improvements in latent capacity generated by the progress of other transformation activity. Over time, it may be possible to reduce the number of year groups planned to transition in the later phases of the plan. There is a possibility that any national review or change to SEND strategy on a countrywide footprint are likely to have a bearing on the pace and nature of these proposed changes. The current phased plan represents the maximum amount of time that this transition will take.

The year groups below are based on the chronological year group of pupils as of Sep 24			
Phase 1	Phase 2	Phase 3	Phase 4
Sep 24/25	Sep 25/26	Sep 26/27	Sep 27/28
NC Year	NC Year	NC Year	NC Year
N2	N1	EY2	
6	5	4	3
11	10	9	8
13	12	11	10
	1	R	2
	14	7	
	15		

### Appendices

There are no papers appended to this briefing

### Background papers

No background papers are provided

# **Changes to Funding for Inclusion (FFI) – Briefing**

## **Questions for consideration**

### **What consultation has taken place with schools and educational settings?**

Schools and education settings have been an integral part of the root and branch review of SEND process, provision and funding in Leeds, carried out alongside PwC as part of the discovery and planning phases of work.

A series of working groups and consultative groups have been created to support the development of the implementation plan and to test out working assumptions with education professionals. Most notably, the FFI working group, which has seen the FFI team working alongside Special Educational Needs Co-ordinators (SENCOs) to think through and plan the specific work to transition from FFI. In addition to this, the Deputy Director, Dan Barton, has convened the SEND Transformation Oversight Group, which brings together Head Teachers, SENCOs, LCC Service Leads and frontline workers, as well as parent/carer representatives, supported by finance, legal and transformation teams, to provide an opportunity for transparency, check and challenge in relation to both the broader SEND Transformation Programme and the specific plans to transition from FFI as described.

Furthermore, the Deputy Director has attended Family of Schools (FoS) meetings since January, meeting with more than 230 Head Teachers in person in these meetings, allowing dedicated time to inform, consult and take feedback in relation to the FFI transition. Further meetings have taken place at the Primary Head Teachers Forum (c.150 attendees in person, separate online and in-person meetings since January). Early opportunity to indicate the likely changes in FFI arrangements was taken at the SENCO conference at Elland Road in early Spring.

In tandem with these mechanisms, a regular communication product has been written by the Deputy Director via email to all Head Teachers in the city which details, amongst other key information, iterative and increasingly detailed plans for driving forward the FFI transition. These emails are available as articles in the archive on the Leeds for Learning website.

Most importantly, the FFI team has committed to meeting all schools before the summer break in order to work through a caseload list of children and young people with SEND to ensure that the FFI transition process is understood, and to co-produce a list of children who should be prioritised for assessment request from the Autumn term 2024. At the time of writing the team has met with over 140 schools, with positive feedback.

The service plans to continue to work closely with the wider education system in the city to ensure that the implementation of the transformation plan, as well as the FFI transition, is timely, smooth and effective. An FAQ section has been developed on the Leeds for Learning website. Regular discussion with parents and carers is underway through the Leeds Parent Carer Forum, with a parent carer engagement event planned for the 9<sup>th</sup> of July.

**How many young people are in receipt of FFI funding who do not have an EHCP?  
What is the scale of the change being proposed.**

Over 5000 children and young people in the city are accessing support in mainstream schools via packages of FFI funded provision. The current cost of FFI packages in mainstream settings is £32.5m. It is clear, therefore, that the scale of the transition is very significant. Once the planned transition has been completed, Leeds will be in line with the rest of the country and core city comparators in terms of the percentage of school age and 0-25 population with EHCPs.

For this reason, a detailed programme of prioritisation is underway in meetings directly with schools and settings, led by the FFI team. Children in priority groups will be first to have their FFI provision reviewed through the statutory assessment process. A copy of the phasing plan is embedded in the main body of the report.

We know that approximately 50% of the more complex FFI packages (do we need to explain a bit about the more complex packages? are likely to be progressed automatically through to assessment, with the remaining cases being initially assessed at the 'request to assess' panel. Looked After Children will be the first priority group, followed by children entering key school phase transition points and where settings have identified significant escalation in need.

**What account has been taken of the fact that EHCPs have a higher threshold than FFI have had to date, or is this part of the plan? Will vulnerable learners who might not qualify for EHCP's no longer get the additional funding they need or has this been factored into the plans?**

We anticipate that somewhere in the region of 70% of children on existing FFI packages would meet the threshold for an EHCP following the assessment process. Since the EHCP is designed to provide education support for children for whom the school's notional funding budget is not sufficient, it therefore follows that 'vulnerable' children will meet the threshold and have education delivered in line with an eventual EHCP.

For children currently accessing FFI funded support, some will not meet the EHCP threshold and will have to have their education provision funded through the school's notional budget in line with the national guidance.

Due to the non-statutory nature of FFI, it will always be difficult to be very specific about the extent to which children with existing FFI packages will be assessed to be above the EHCP threshold. However, we can be certain that, for a significant proportion of children accessing FFI, an EHCP assessment will lead to a funded plan

This is complicated by the fact that FFI packages are reviewed (reapplied for) every 3 years, rather than annually. As such, it is possible that needs may have escalated or that the detailed and thorough EHCP assessment process might pick up previously unidentified need.

**Is this not going to cause a significant increase in the number of EHCP applications which will add to the already significant problems dealing with outstanding EHCP applications?**

Certainly, the number of FFI packages which will, in time, need to be processed as part of this transition is very significant and, if all were processed at the same time, it would inevitably cause unmanageable pressure to an already very challenged system.

This is why we have adopted a multi-year phasing arrangement which will support the SENSAP and wider advisory team to manage FFI transitions alongside existing demand. It should be noted that EHCP assessment and production processing speeds will be positively impacted by a number of important productivity improvements taking place in parallel as part of the wider transformation programme.

**Would it be better to resolve issues with outstanding ECHPs and ensure that system is fully working before making a major change such as this, which could create further demand pressure?**

No. Whilst this proposition is not without merit for obvious reasons, the risk of challenge (highlighted in the 'risk' section of the main body of the report) sets out the reasons why we cannot continue to meet needs through FFI without a clear and ambitious plan to move away from this funding mechanism.

In Leeds, around 2.7% of the school-age population has an EHCP. This is very significantly below the national and core city averages (approximately 4.7% and over 5% respectively). This is because FFI packages account for a sizable portion of the actual EHCP demand in the city currently. Whilst the processing of FFI transitions through to EHCP will be a pressure on the service, it should not be thought of as 'new' demand, since the children are already known to the system and have provision in place to meet need.

Children who subsequently become known to the SENSAP team can be considered 'new' demand and requests for assessment are being received currently at a rate of approximately 30 per week in term time. Overall, the team progresses with assessment in roughly 75% of these cases.