



Department  
for Education

# **Attaching conditions to the Local Authority School Improvement Monitoring and Brokering Grant**

## **Government consultation response**

**July 2021**

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# Introduction

In April, we launched a consultation seeking views on our intention to attach conditions to the payment of the Local Authority School Improvement Monitoring and Brokering grant (**'the grant'**) in order to ensure that it is contributing, all across England, to the delivery of urgent school improvement (SI) priorities.

The public consultation exercise sought views on making these changes and allowed respondents to express comments, views or concerns.

## Who this was for

The following stakeholders were identified and consulted on the proposed changes:

- Local Authorities (LAs)
- Schools and colleges
- Any other interested organisations and individuals

## Consultation period

The consultation took place from 28 April 2021 to 26 May 2021. It was conducted online using the government's consultation software, or alternatively, respondents were able to email or send a response form.

# About the consultation

## Context

Since 2017, the Local Authority School Improvement Monitoring and Brokering grant ('the grant') has been allocated to LAs to support them in fulfilling their statutory school improvement functions under Part 4 of the [Education and Inspections Act 2006](#) and their additional SI expectations as set out in the [Schools Causing Concern \(SCC\) guidance](#) (collectively referred to as "SI functions"). In summary, these functions require LAs to monitor performance of maintained schools, broker SI provision, and intervene as appropriate. The grant is currently non-ringfenced (meaning it does not need to be spent on the SI functions for which it is provided).

Given the urgent challenges posed by Covid-19 on schools, and its impact on LAs' SI priorities, we believe it is important that LAs use the grant solely for the purpose of delivering their SI functions for which the grant is paid, and in doing so take active steps to support the successful and sustained return of all pupils to school and in addressing any adverse impacts of the pandemic on their education.

## Proposals

In view of these exceptional circumstances, we proposed to attach three conditions to the payment of the grant.

The **first condition** we proposed is that the grant must be used exclusively to support LAs' SI functions for which the grant is paid (ring-fencing the grant).

The **second condition** we proposed is that, in fulfilling their existing SI functions, LAs in receipt of the grant must take active steps to support the successful and sustained return of all pupils to school and in addressing any adverse impacts of the pandemic on their education.

The **third condition** we proposed is that, in the event that the first two conditions are not complied with, the Secretary of State will be enabled to take action to enforce the conditions, including as a last resort, the right to claw back grant or withhold future funding where appropriate on a case-by-case basis.

Subject to the outcome of the consultation, we proposed to pay the upcoming instalment of the grant (to be paid by the end of July 2021 at the latest) on a **ring-fenced basis, with the conditions of payment attached**.

We asked respondents what the impact of attaching each of the three conditions would be for LAs, schools and pupils, in particular on LAs' ability to deliver their SI functions. We also asked whether any of our proposals might have a positive or negative impact on

particular groups compared to others, in particular those who share protected characteristics.

## Summary of responses received

In total there were 52 responses to the consultation.

*Figure 1 – Breakdown of consultation respondents*

Type of respondent	Total
Local authority	43
National organisation	5
Individual	3
Other	1

A list of the organisations that responded can be found at Annex A, other than those who asked for their response to be kept confidential.

Overall, the largest group of responses were from those who either expressed support for our proposals, or who believed they would not have a significant impact on LAs, schools and pupils. In the following section we provide a detailed analysis of the responses to each question.

# Question analysis and government response

This section provides a breakdown of the responses received for each consultation question following a categorisation process, and provides the government's response to the issues raised.

Questions 1-9 gathered basic details about the respondent such as name, organisation and role. The full list of consultation questions can be found at Annex B.

## Question 10

*We intend to attach a condition to the payment of the grant that the grant must be used exclusively to support LAs' SI functions for which the grant is paid.*

*What would be the impact of making this change for LAs, in particular for schools and pupils, and on LAs' ability to deliver their SI functions? Please provide evidence where possible.*

*Figure 2 – Breakdown of responses to Question 10*

Response type	Number of responses	%
Supportive or responded that the proposal would have no impact on their activities	38	73
Against ring-fencing in principle or expressed concern about flexibility	16	30
Queries about funding level	10	19

*Note, for questions 10-14, the total number of responses associated with each response type does not equal 52 and the respective percentages do not total 100, due to some respondents providing comments falling under more than one category, or not providing a response to that question.*

## Government response

We welcome the fact that the significant majority of respondents (73%) agreed with the proposal to ring-fence the grant such that it must be used exclusively to support LAs' SI functions, or indicated that it would not have an impact on their activities.

However, we recognise that some respondents were concerned that ring-fencing the grant could reduce LAs' flexibility in how they deliver their SI functions, for example, inhibiting them from undertaking non-Covid related SI work where necessary.

This is not our intention, and we recognise the need to accommodate this flexibility. Therefore, whilst we still intend to ring-fence the grant, we will be clear that this ring-

fence will not prohibit spend on non-Covid SI work, provided that LAs are able to demonstrate that they continue to meet the conditions relating to the successful and sustained return of pupils to school and in addressing any adverse impacts of the pandemic on their education. Further, we will ensure that the new conditions do not over specify how an LA should carry out its SI functions, and that they are consistent with the existing guidance (as per page 36 of the SCC guidance) on how LAs should carry out these functions.

Nonetheless, as a number of respondents noted, given the urgent SI priorities brought about by Covid-19, it is important that both the Department and schools themselves feel confident that all funding provided through this grant is being targeted at SI activities. Our proposal to ring-fence the grant underlines the vital importance of this work, and will enable the Department to ensure that every LA is using the grant to support schools at a time when SI challenges are particularly acute, and as part of ring-fencing the grant we will require LAs to spend all funds within the financial year in line with the urgency of the SI priorities brought about by Covid-19.

## Question 11

*We intend to attach a condition to the payment of the grant that, in fulfilling their existing SI functions, LAs in receipt of the grant must take active steps to support the successful and sustained return of all pupils to school and in addressing any adverse impacts of the pandemic on their education.*

*What would be the impact of making this change for LAs, schools and pupils, in particular on LAs' ability to deliver their SI functions? Please provide evidence where possible.*

*Figure 3 – Breakdown of responses to Question 11*

Response type	Number of responses	%
Supportive or no impact	26	50
Need to avoid placing an expectation of additional activity on LAs	20	38
Queries about monitoring and permanence of conditions	15	29
Queries about interaction with support provided to academies	2	4

## Government response

Half of all respondents indicated that they agreed with this proposal, or that it would not have an impact on their activities. We welcome the fact that many LA respondents

confirmed that they have prioritised their SI activities towards responding to the educational impacts of the pandemic. We fully recognise the crucial role that LAs have played during this challenging period to support schools and their pupils, and we are grateful for the responsiveness LAs have demonstrated.

Some respondents queried whether an expectation that LAs take active steps to support the successful and sustained return of all pupils to school, and in addressing any adverse impacts of the pandemic on their education, implied an expectation of LAs delivering more activity. We will be clear in our conditions that we are not expecting authorities to deliver additional activity on top of existing activity – rather, we are asking LAs to *prioritise* the use of this grant funding for activities which support Covid recovery. In this way, we are simply seeking to ensure that SI resources are focussed on the most urgent priorities at this time; and will ensure that the final wording of the grant conditions reflects this.

Two respondents also queried how the grant conditions would interact with support they provide to non-maintained schools, questioning whether the proposals intended to change or extend LAs' responsibilities towards academies or their pupils. The grant is allocated to LAs to allow them to undertake their SI functions in relation to maintained schools (with academy trusts and Regional Schools Commissioners' offices undertaking parallel activity in academies), and the new ring-fence and conditions will make this clear. LAs do also have a wider set of responsibilities, including with respect to vulnerable children and ensuring a place in school for every child, which apply to both maintained schools and academies. In fulfilling these other responsibilities, which are not within the scope of this grant, we expect LAs to continue to work with all schools in their area.

We note the fact that our proposal not to introduce significant new reporting requirements for LAs was welcomed by respondents. This reflects the government's commitment to minimise burdens on LAs, and our recognition that the specific SI challenges faced by LAs will vary across the country. For this reason, the only regular reporting required by the Department will be confirmation that the grant conditions have been complied with in each LA's annual Chief Financial Officer's (CFO) return.

Given these arrangements, a number of respondents queried how compliance would be monitored or assessed during the period before annual CFO returns are due. As such, if in the interim the Department becomes aware of concerns relating to the fulfilment of the grant conditions (either through the routine engagement of Regional Schools Commissioners' offices or through an assessment of relevant published information – for example, Ofsted reports or other performance information), we will notify the LA of our concerns, and may request that it demonstrates how it has delivered its SI functions in line with the grant conditions. We will set out within the grant terms and conditions the types of activity which would demonstrate compliance.

A small number of respondents also queried how long the proposed grant conditions and associated reporting would be in place, particularly in relation to the condition concerning Covid recovery. We will keep the grant conditions under continual review, recognising that priorities relating to recovery will evolve over time. Whilst it is true that the significant majority of pupils have now returned to school, ongoing absence issues relating to the pandemic still persist in some areas, and the task of supporting schools and their pupils to address the adverse educational impacts brought about during this period will remain a priority for some time.

## Question 12

*We intend to attach a condition to the payment of the grant enabling the Secretary of State to take action to enforce the conditions referred to in questions 10 and 11 in the event of non-compliance, including as a last resort, the right to claw back grant or withhold future funding where appropriate on a case-by-case basis.*

*What would be the impact of making this change for LAs, schools and pupils, in particular on LAs' ability to deliver their SI functions, and how can we help to mitigate any negative impacts? Please provide evidence where possible.*

*Figure 4 – Breakdown of responses to Question 12*

Response type	Number of responses	%
Supportive or no impact	28	53
Queries about the process for monitoring compliance	18	35
Noted concerns about clawback / withholding funds	7	13
Sought increased funding	10	19

## Government response

The majority of respondents (53%) indicated that they agreed with this proposal, or that it would not have an impact on their activities.

As with question 11, a number of respondents queried how the process for monitoring compliance would work, or indicated that they would prefer the Department to work with LAs to ensure compliance rather than through clawback, raising concerns about the impact this could have on their SI provision. As above, beyond the annual certification of funds, we will only ask LAs to provide further evidence that the grant conditions are being met in cases where our routine engagement with an LA, or analysis of other available information, raises concerns. Where such evidence is not forthcoming, or indeed there is

evidence of non-compliance, the Department's first priority will be in supporting the LA to meet the grant conditions. We will ensure that the grant conditions are clear that claw back or withholding funds will only be pursued as a last resort, once all other options are exhausted; including having notified an LA of a breach, and having given it the opportunity to agree a plan with the Department that achieves compliance.

Whilst it was outside of the scope of the consultation, some respondents queried our intention to reduce the size of the grant in October 2021 to reflect the reduction in the number of maintained schools since the grant was established in 2017, indicating they would instead welcome increased rather than reduced funding under this grant (noting that LAs' SI provision often goes beyond the statutory functions and additional expectations for which this grant is provided). We believe it is reasonable to implement a modest reduction in the allocations covering the period September 2021 to March 2022, in order to return per school funding levels to those when the grant was established, and note that (i) the grant is not allocated to support SI activities which go beyond the statutory functions in Part 4 of the Education and Inspections Act 2006 and additional expectations set out in the SCC guidance for which the grant is provided; and (ii) there are other means open to LAs to resource these other activities, including de-delegation or provision as a traded service. Moreover, since the grant was established, the number of LA maintained schools has fallen as levels of academisation have increased, and the performance of the remaining stock of maintained schools is generally better now than in 2017.<sup>1</sup> Therefore, it is reasonable to update the overall value of the grant accordingly.

We will retain the minimum grant threshold of £50,000 per LA, with the methodology for allocating the grant to individual LAs unchanged. The overall quantum of funding to be allocated will be reduced in line with the percentage reduction in the number of maintained schools since 2017.

## Question 13

*In exercising their functions, the Public Sector Equality Duty (PSED) in section 149 of the Equality Act 2010, requires Ministers to have due regard to the need to eliminate discrimination, victimisation, harassment and other conduct prohibited by or under the Equality Act 2010, and to the need to advance equality of opportunity and to foster good relations between persons who share a relevant protected characteristic and persons who do not share it. The relevant protected characteristics for the purposes of the PSED*

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<sup>1</sup> The number of LA maintained schools has fallen since 2017 and within the remaining stock of maintained schools, there are now 24% fewer schools judged RI or Inadequate.

are: sex; race; disability; religion or belief; sexual orientation; pregnancy or maternity; gender reassignment; and age.

*Please let us know, providing evidence where possible, if you believe any of the proposals set out in this consultation will have the potential to have a positive or negative impact on particular groups, in particular those who share protected characteristics, compared to others.*

*Figure 5 – Breakdown of responses to Question 13*

Response type	Number of responses	%
Would expect no disproportionate impacts on groups sharing protected characteristics	14	27
Recognised potential negative impacts for some groups, but no new evidence	10	19
Recognised potential positive impacts for some groups, but no new evidence	3	6
Concerns about inequality between maintained and academy sectors	5	10

## Government response

A significant proportion of respondents indicated that they would not expect our proposals to have a disproportionate impact on particular groups. A number of respondents recognised, as set out in our consultation, that there could be potential for the proposals to have negative impacts for certain groups, or for there to be potential benefits for disadvantaged pupils who are more likely to share protected characteristics. There was no evidence provided, however, which would change our existing equalities impact assessment, which concluded that the proposals are unlikely to have any disproportionate negative impacts on persons who share a protected characteristic compared to others. We will continue to keep the equalities impacts of this policy under review.

Several respondents suggested that by ring-fencing the grant, pupils in academies would be adversely affected since LAs' SI functions relate only to maintained schools. However, as noted above, Regional Schools Commissioners' offices and academy trusts hold the equivalent SI responsibilities for academies, and these schools have not been the intended recipients of support as funded by the grant. Furthermore, since the proportion of pupils with protected characteristics in academies is comparable with that in maintained schools, we do not consider that any changes in grant funding received in relation to maintained schools – either brought about through ring-fencing the grant in July 2021 or reducing the grant in October 2021 – will disproportionately impact persons with these characteristics.

## Conclusion

We are grateful for the responses received, and for the ongoing role that LAs continue to play in supporting schools and their pupils during this challenging period. Overall, the response to the consultation was positive and after careful consideration of the responses, the government intends to proceed with implementing the proposals.

As such, from July 2021 the grant will be ring-fenced and paid with conditions attached, designed to ensure that:

- 1) LAs use the grant for the sole purpose of carrying out their SI functions, for which the grant is provided;
- 2) In delivering their SI functions, LAs prioritise actively supporting the successful and sustained return of all pupils to school and in addressing any adverse impacts of the pandemic on their education; and
- 3) The Secretary of State will be enabled to enforce those conditions in the event of non-compliance including, as a last resort, the right to claw back grant or withhold future funding, where it is deemed appropriate on a case-by-case basis.

As discussed above, whilst we intend to implement these conditions, we will take into account the issues raised by respondents when delivering these changes. In particular, we will ensure that the grant terms and conditions allow LAs flexibility in how they carry out their SI functions whilst prioritising educational recovery; we will provide an indication of the types of activity that an LA should undertake in order to demonstrate compliance with the grant conditions; and we will clearly set out the process by which the Department will work with LAs to secure compliance where there are concerns – and recognising the urgency of SI priorities brought about by Covid-19, as part of ring-fencing the grant we will require LAs to spend all funds within the financial year.

## Next steps

The next instalment of the grant, due to be paid no later than July 2021, will be paid on a ring-fenced basis, with conditions attached. These conditions will come into effect from the date of issue of the grant determination letter to LAs, setting out the updated terms and conditions of payment.

## **Annex A: List of organisations that responded to the consultation**

Association for School and College Leaders (ASCL)

Association of Directors of Children's Services (ADCS)

Bedford Borough Council

Blackburn with Darwen Council

Brent Council

Brighter Futures for Children

Bury Council

Calderdale Metropolitan Borough Council

Catholic Education Service

Central Bedfordshire Council

Cheshire East Council

Coventry City Council

Coventry Headteacher Partnership

Coventry Secondary Headteachers' Partnership

Coventry Special Schools Headteachers' Partnership

Croydon Council

Cumbria County Council

Derbyshire County Council

Education and Children's Services Group of Prospect

Halton Borough Council

Hampshire County Council

Hertfordshire County Council

Lincolnshire County Council

Local Government Association (LGA)

London Borough of Bexley

London Borough of Southwark

Luton Council

Manchester City Council

Milton Keynes Council

National Leaders of Governance – East of England and North-East London Region

Newcastle City Council

North East Lincolnshire Council

North Yorkshire County Council

Northumberland County Council

Nottinghamshire County Council

Oxfordshire County Council

Sandwell Borough Council

South Gloucestershire Council

Wakefield Council

Walsall Borough Council

Warwickshire County Council

West Berkshire Council

Westminster City Council and Royal Borough of Kensington and Chelsea

Wiltshire Council

# Annex B: Copy of all consultation questions

## Preliminary questions

1. What is your name?
2. What is your email address?
3. Are you responding as an individual or as part of an organisation?
4. What is your organisation? (if applicable)
5. What type of organisation is it?
6. What is your role? (if applicable)
7. What local authority area are you based in?
8. Are you happy to be contacted directly about your response?
9. Would you like us to keep your responses confidential?

## Consultation questions

10. We intend to attach a condition to the payment of the grant that the grant must be used exclusively to support LAs' SI functions for which the grant is paid.  
What would be the impact of making this change for LAs, in particular for schools and pupils, and on LAs' ability to deliver their SI functions? Please provide evidence where possible.
11. We intend to attach a condition to the payment of the grant that, in fulfilling their existing SI functions, LAs in receipt of the grant must take active steps to support the successful and sustained return of all pupils to school and in addressing any adverse impacts of the pandemic on their education.  
What would be the impact of making this change for LAs, schools and pupils, in particular on LAs' ability to deliver their SI functions? Please provide evidence where possible.
12. We intend to attach a condition to the payment of the grant enabling the Secretary of State to take action to enforce the conditions referred to in questions 1 and 2 in the event of non-compliance, including as a last resort, the right to claw back grant or withhold future funding where appropriate on a case-by-case basis.  
What would be the impact of making this change for LAs, schools and pupils, in particular on LAs' ability to deliver their SI functions, and how can we help to mitigate any negative impacts? Please provide evidence where possible.
13. In exercising their functions, the Public Sector Equality Duty (PSED) in section 149 of the Equality Act 2010, requires Ministers to have due regard to the need to

eliminate discrimination, victimisation, harassment and other conduct prohibited by or under the Equality Act 2010, and to the need to advance equality of opportunity and to foster good relations between persons who share a relevant protected characteristic and persons who do not share it. The relevant protected characteristics for the purposes of the PSED are: sex; race; disability; religion or belief; sexual orientation; pregnancy or maternity; gender reassignment; and age.

Please let us know, providing evidence where possible, if you believe any of the proposals set out in this consultation will have the potential to have a positive or negative impact on particular groups, in particular those who share protected characteristics, compared to others.



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