

## **SCHOOLS FORUM – 7 DECEMBER 2017**

<b>Title of paper:</b>	Proposed pupil growth allocation for 2018/19 and proposed revision of the pupil growth criteria
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### **Summary**

As part of the budget setting process for 2018/19, this report outlines the proposed requirements of the Pupil Growth Contingency Fund (PGCF) for 2018/19 and seeks Schools Forum's approval to allocate £1.148m of the Dedicated Schools Grant to fund this proposal. The funding will be used to fund pupil growth in both maintained schools and academies.

As part of the budget setting process for 2018/19, the School Funding team must inform the Education and Skills Funding Agency (ESFA) by 19 January 2018 on the level of funding allocated for pupil growth for academies for the period April 2018 to August 2018, from the pupil growth contingency fund.

The Department for Education (DfE) Schools Forums: Operational and good practice guidance document from September 2017 identifies central spend on and the criteria for pupil growth as one of the functions Forum are responsible for deciding on (Page 5).

### **Recommendation(s):**

- |          |  |
|----------|--|
| <b>1</b> | <b>To approve</b> the allocation of £1.148m to support pupil growth in 2018/19. Appendix 1 outlines the current commitments for primary growth in 2018/19 based on the current PGCF criteria.  |
| <b>2</b> | <b>To approve</b> that the Sub-group will undertake a review of the PGCF criteria for the funding of both primary and secondary school pupil growth. The Sub-group will be required to review the potential models for the funding of pupil growth and to propose a recommended option to Schools Forum by April 2018.   |
| <b>3</b> | <b>To note:</b><br>(a) the requirement to allocate funding to academies for the period April 2018 to August 2018 as guided by the ESFA;<br>(b) the amount to be allocated is £0.156m;<br>(c) the funding will be included on the submission of the 2018/19 Authority Pro-forma Tool sent in to the ESFA which includes all school budget shares for 2018/19 and the amounts to be given out to academies for pupil growth April to August 2018;<br>(d) the total amount of academies individual school budget shares will be netted off against the pupil growth given out for this period and the Authority's Dedicated Schools Grant for 2018/19 will be adjusted accordingly. |

## **1 REASONS FOR RECOMMENDATIONS**

- 1.1 The pupil growth contingency fund provides funding predominantly to schools and academies who have admitted additional school children to meet growing need for school places. The level of pupil growth in Nottingham in recent years has been substantial. The Council has invested £41.9m in its school expansion programme since 2009, which will create a total of over 4000 additional school places over the period of expansion, once all year groups are full.
- 1.2 Staffing, utilities and classroom resource costs associated with these additional places must be funded through the pupil growth contingency fund, using the criteria agreed by Schools Forum in July 2013 (included as Appendix 2).
- 1.3 For maintained schools, there is usually a funding lag period of 7 months, between September and March, if schools have to provide additional staff for an extra class of pupils, but the increased number on roll are not reflected in their budget until the following April. The PGCF is used to support schools to address this funding lag.
- 1.4 Academies' financial year runs from September to September, therefore, academies receive a full 12 months of PGCF. This is paid in two separate payments: 7/12ths of the annual amount is paid in September (to cover the period Sept – March). The other 5/12ths is paid in April (to cover the period April to August). This additional 5/12ths element for academies is then reimbursed by the ESFA.
- 1.5 When a school expands (if the need for additional capacity is agreed with Council), they may receive funding for every year that they admit additional pupils, until the school is full, so normally 7 years for a primary expansion. If a school expands by a one-off bulge year, they will receive funding for that year only.
- 1.6 The increased demand for school places is moving from the primary phase into the secondary phase. Pupil forecasting evidences that there is a need for the city to provide between 15 –17 additional forms of entry as a minimum, commencing in 2017 and to meet peak demand by 2022. Therefore, there is now a requirement to include provision for the funding of secondary school pupil growth.

## **2 BACKGROUND (INCLUDING OUTCOMES OF CONSULTATION)**

- 2.1 For 2018/19, the level of funding for pupil growth requested from Schools Forum is £1.148m. In 2014/15 it was £1.523m, in 2015/16 it was £1.047m, in 2016/17 it was £1.318m (including the additional £0.300m which was agreed by Schools Forum on 3 November 2016) and in 2017/18 it was £1.052m. The **Table 1** below demonstrates how the fund for 2018/19 is estimated to be spent. A full breakdown of known expenditure is shown in Appendix 1.

<b>Table 1: Forecast expenditure 2018/19</b>	
Planned expansions / bulge years (staffing and utilities)	£0.454m
Classroom set up	£0.088m
Additional funding for academies to fund full financial years	£0.156m
Contingency	£0.450m
<b>TOTAL</b>	<b>£1.148m</b>

The **Table 2** below shows funding approved in recent years.

<b>Table 2: Approved Funding</b>	
2017/18	£1.052m
2016/17	£1.318m
2015/16	£1.047m
2014/15	£1.523m

- 2.2 Where growth funding has been provided to an academy from September 2017, there is a requirement by the ESFA for local authorities to continue this payment until August 2018. In 2018/19 the pupil growth contingency will allocate £0.156m to academies for April 2018 to August 2018. This is because academies are funded based on an academic year rather than a financial year and this means that local authorities have to pass onto academies a full 12 months of funding whereas they only need to fund maintained schools for 7/12ths of the year.
- 2.3 To provide the local authority with the appropriate level of funding to continue these payments the EFA will make an adjustment to the amount recouped for academies in 2018/19. They will take the academies' school budget shares and then deduct the amounts given out for pupil growth for April to August 2018. This revised total is then the amount that is recouped.
- 2.4 For 2018/19, the known requirements that are already committed for the pupil growth fund total £0.698m. This relates to schools which have already expanded or which are currently expanding. When a school expands and admits additional pupils, they are not reflected in the school's budget until the following April for maintained schools, or the following September for academies. The pupil growth contingency fund is used to fund this lag, every year that the school admit an additional class until they are full (which is usually 7 years for a permanent expansion of a primary school and 5 years for expansion of a secondary school).
- 2.5 A further £0.450m has been set aside to allow for contingency as other expansions come on line. In 2017/18 the contingency was set at £0.400m. As we continue our ambition to provide Ofsted good-rated school places close to home for every child in Nottingham, the final planned primary school expansions are now underway. However, although the city-wide position for primary provision at first entry is good, we need to consider that there will be a growing need for additional secondary capacity. See further background in section 3 below.
- 2.6 The pupil growth contingency fund supports those primary schools which have expanded / increased their capacity and PAN, in agreement with Council. In line with the criteria agreed with Schools Forum in 2013, they currently receive funding for every year that they admit additional pupils, until the school is full, so normally 7 years for a primary expansion. If a school expands by a one-off bulge year, they will receive funding for that year only.
- 2.7 As this criteria was agreed back in 2013, it is recommended that the Schools Forum Finance Sub-group should now undertake a review of the PGCF criteria for the funding of both primary and secondary school pupil growth. The Sub-group will be required to review the potential models for the funding of pupil growth and to propose a recommended option to Schools Forum by April 2018. Any changes to the criteria

for primary schools will need to apply for agreed expansions / bulge years implemented after this date.

- 2.8 The full breakdown and any changes or updates to spend will continue to be reported to Schools Forum as a regular agenda item.
- 2.9 Any unspent monies at the end of the 2017/18 financial year, will be carried forward and allocated to the Pupil Growth Contingency in 2018/19.

### **3 Review of the funding requirements for planned pupil growth in secondary schools**

- 3.1 The increased demand for school places is moving from the primary phase into the secondary phase. City secondary schools have historically run with a significant surplus capacity. However, the growth in both birth rate and new arrivals to the city has resulted in a projected overall deficit of secondary school place provision. Pupil forecasting evidences that there is a need for the city to provide between 15 –17 additional forms of entry as a minimum, which has commenced in 2017 and demand is projected to peak by 2022.
- 3.2 Therefore, it is necessary to consider whether there is a requirement to fund secondary school pupil growth; specifically relating to a planned capacity and PAN increase, which must be agreed with the Council's School Organisation team, as one of the solutions for meeting the Council's secondary place planning strategy. Any pupil number fluctuations that are within a school's PAN would not be funded.
- 3.3 Until September 2017, any fluctuations have been within a school's PAN. Whereas the PGCF was established to support the significant pupil growth when a primary school increases its capacity and PAN in agreement with the Council, either by a temporary bulge class or a permanent expansion. The fund is used to support staffing, utilities and classroom set up costs (fixtures, fittings, smart board kit) associated with the funding lag resulting in a school admitting additional children, usually in September of each year.
- 3.4 All city primary and secondary school head teachers have been invited to give their views and rationale on what principles they think this specific growth funding for secondary schools should be based. i.e. the essential additional costs incurred during the one year interim period, between the September when the pupils are admitted, to the following September (for academies) when they are reflected in a school's budget. We invited feedback on whether the existing criteria for primary growth (Appendix 2) is relevant for secondary growth.
- 3.5 However, as there was minimal feedback in response to this request, it is now recommended that the Schools Forum Sub-group undertake a review of the need, and if appropriate, the criteria, for the funding of secondary school pupil growth. The Sub-group will be required to review the potential models for the funding of pupil growth and to propose a recommended option to Schools Forum by April 2018.

## **4 OTHER OPTIONS CONSIDERED IN MAKING RECOMMENDATIONS**

4.1 None.

## **5 OUTCOMES/DELIVERABLES**

5.1 Continued provision of required school places.

## **6 FINANCE COMMENTS (INCLUDING IMPLICATIONS AND VALUE FOR MONEY/VAT)**

6.1 The DfE have confirmed that in the financial year 2018/19, local authorities will be funded for pupil growth based on 2017/18 historic spend. In the financial year 2018/19 Nottingham City have been allocated £0.871m for pupil growth. This is more than the funding requirement of £0.818m that has been requested in this report, refer to **Table 3**. Therefore, the surplus funding of £0.053m will be used to support the funding allocated to primary and secondary schools through the formula in 2018/19.

6.2 In the Schools National Funding Formula – Consultation Stage 2, the Government proposed that from the financial year 2019/20 to fund pupil growth based on lagged pupil growth. The lagged growth method would count all pupil number increases in every school nationally, at a year-group level, based on the 2 previous years and use this to calculate the total amount of pupil growth in each local authority area. The Consultation Stage 2 stated that this could involve counting pupil growth only above a set threshold, to ensure we are counting only growth that is likely to result in an extra class, rather than lower levels of growth that are more likely to be accommodated in existing classes. The total amount of funding available nationally for growth would be allocated to local authorities on a per-pupil basis, based on the distribution of the lagged pupil growth across the country.

6.3 However, the DfE have responded that although there was some support for the use of lagged pupil numbers, many responder's thought there should be an extensive review considering other options. For example, funding growth in real time or using a combination of projections and in-year adjustments. Some responders also suggested using alternative data sources such as birth rates or housing data. The Government have announced that they will continue to explore the options of using projections and in-years adjustments or funding growth directly in real time according to a national unit rate prior to finalising the approach for 2019/20 and beyond.

6.4 As the LA does not know how much funding it will be receiving for pupil growth from the financial year 2019/20, the amount that will be allocated to an expanding school cannot be quantified at present. Moving forward, the LA will need to manage the growth funding they receive from year-to-year and review the pupil growth contingency criteria when clear guidance is released from the DfE.

6.5 Therefore, in this report Schools Forum representatives are being asked to approve:

1. The 2018/19 allocation for pupil growth.
2. That the Schools Forum Sub-group will undertake a review of the PGCF criteria for both the primary and secondary phases which will cover the period April 2018 to March 2019. As part of the Finance Sub-group review

consideration also needs to be given to the fact that from 2019/20 the DfE have not confirmed how pupil growth will be funded. Therefore, as stated in 6.4 the PGCF criteria may need to be revised once the guidance is released.

- 6.6 As per paragraph 2.1 this report seeks approval to allocate £1.148m for pupil growth for both maintained schools and academies in the city in 2018/19. The estimated funding requirement for 2018/19 has been calculated based on the Pupil Growth Contingency Fund Criteria set by Schools Forum on 18 July 2013, this totalled £0.698m plus an additional contingency of £0.450m for any further expansions that may be required in 2018/19. If approved the funding will be included in the 2018/19 budget and will be funded as outlined in **Table 3**.

<b>Table 3: Analysis of pupil growth funding 2018/19</b>		
<b>Income</b>		
2018/19 DSG allocation	-£0.818m	
Brought forward underspend from 2017/18 (forecast)	-£0.174m	
Reimbursement from the ESFA for Academies (Apr-Aug 18)	-£0.156m	
<b>Total income</b>		<b>-£1.148m</b>
<b>Expenditure</b>		
Planned expansions / bulge years (staffing and utilities)	£0.454m	
Classroom set up	£0.088m	
Additional funding for academies to fund full financial years	£0.156m	
Contingency	£0.450m	
<b>Total expenditure</b>		<b>£1.148m</b>
<b>Surplus/(Deficit)</b>		<b>0</b>

- 6.7 **Table 3** includes a forecast brought forward balance from the financial year 2017/18, which is in line with last year's pupil growth allocation for 2017/18 report, as it was agreed that any unspent monies would be carried forward to 2018/19.

The School Organisation Team will be allocating £0.156m to academies in 2018/19 to fund the extra pupils they took in from September 2017. Refer to paragraphs 2.2 for an explanation as to why this is required and 2.3 to obtain an explanation as to how this money is given back to the local authority.

- 6.9 Any unspent monies at the end of the financial year will be carried forward and allocated to the Pupil Growth Contingency in 2019/20.
- 6.10 The 2018/19 pupil growth for academies relating to April 2018 to August 2018 will be included in the submission of the 2018/19 school budgets to the ESFA.

## **7 LEGAL AND PROCUREMENT COMMENTS (INCLUDING RISK MANAGEMENT ISSUES, AND LEGAL, CRIME AND DISORDER ACT AND PROCUREMENT IMPLICATIONS)**

### **7.1 Legal Implications**

7.1.1 The budgetary framework for the financing of maintained schools is contained in Chapter IV of Part II of the School Standards and Framework Act 1998 (“SSFA”). This chapter of the SSFA includes sections 45A (determination of specified budgets of a local authority) and 47A (the duty on a local authority to establish a schools forum for its area).

7.1.2 Section 45A(2) of the SSFA states that for the purposes of Part II of the SSFA, a local authority’s “schools budget” for a funding period is the amount appropriated by the authority for meeting all education expenditure by the authority in that period of a class or description prescribed for the purposes of this subsection (which may include expenditure incurred otherwise than in respect of schools). Section 45A(2A) of the SSFA states the amount referred to in subsection (2) includes the amount of any grant which is appropriated, for meeting the expenditure mentioned in that subsection, in accordance with a condition which –

*(a) is imposed under section 16 of the Education Act 2002 (terms on which assistance under section 14 of that Act is given) or any other enactment, and*

*(b) requires that the grant be applied as part of the authority's schools budget for the funding period.*

7.1.3 This means that the designated schools grant (“DSG”), which is paid to local authorities under section 14 of the Education Act 2002 (“EA2002”) essentially on condition imposed by the Secretary of State under section 16 of the EA2002 that it is applied as part of an authority’s schools budget for the funding period, is part of the schools budget. Indeed, the DSG is the main source of income for the schools budget (Education Funding Agency (“EFA”) guidance *Dedicated schools grant Conditions of grant 2017 to 2018* (December 2016), paragraph 2). Local authorities can add to the schools budget from local sources of income (*ibid*, paragraph 4).

7.1.4 The detail is prescribed by regulations. The current regulations are the School and Early Years Finance (England) Regulations 2017, SI 2017/44 (“SEYFR”).

7.1.5 Amongst other things, regulation 1 of SEYFR states the following:-

*(4) In these Regulations—*

*...*

*“1996 Act” means the Education Act 1996;*

*...*

*“2003 Act” means the Local Government Act 2003;*

*...*

*“2015 Regulations” means the School and Early Years Finance (England) Regulations 2015;*

*...*

*“capital expenditure” means expenditure of a local authority which falls to be capitalised in accordance with proper accounting practices, or expenditure treated as capital expenditure by virtue of any regulations or directions made under section 16 of the 2003 Act;*

...

*“CERA” means capital expenditure which a local authority expects to charge to a revenue account of the authority within the meaning of section 22 of the 2003 Act;*

7.1.6 Amongst other things, regulation 8 of SEYFR states the following:-

*(5) Except as provided for in paragraphs (12) and (13) [not relevant here], a local authority must not deduct the expenditure referred to in Schedule 2 (other than expenditure referred to in paragraph 8 (expenditure on licences) and Part 5 (Children and Young People With High Needs) of Schedule 2) without authorisation from its schools forum under regulation 12(1), or from the Secretary of State under regulation 12(3).*

7.1.7 Amongst other things, regulation 12 of SEYFR states the following:-

*(1) On the application of a local authority, its schools forum may authorise—*

...

*(b) the making of deductions from the authority's schools budget of expenditure under regulation 8(5);*

7.1.8 Schedule 2 to SEYFR sets out the following expenditure relevant to this report:-

**1**

*CERA incurred for purposes not falling within any other paragraph of this Schedule or Schedule 1.*

...

**3**

*Any deductions under any of paragraphs 1 and 2(a), 2(b), 2(c), 2(d) and 2(e) must not exceed the amount deducted under each of the corresponding paragraphs of Part 1 of Schedule 2 to the 2015 Regulations for the previous funding period.*

**4**

*Expenditure due to a significant growth in pupil numbers as a result of the local authority's duty under section 13(1) of the 1996 Act to secure that efficient primary education and secondary education are available to meet the needs of the population of its area, including expenditure resulting from the additional costs associated with establishing a new school.*



- 7.1.9 Therefore, the expenditure proposed here is potentially expenditure to be made from the schools budget for Nottingham City Council (“NCC”) and NCC’s DSG at that. This is provided if the money is to be spent in the way proposed in this report that it is either spent as CERA as defined by SEYFR and in accordance with SEYFR, or it is spent due to a significant growth in pupil numbers as a result of NCC’s duty under section 13(1) of the 1996 Act to secure that efficient primary education and secondary education are available to meet the needs of the population of its area. That last point is particularly important where it is envisaged that any such expenditure would be made to assist the expansion of an Academy since any expenditure of NCC’s schools budget on an Academy without a clear legal duty or power enabling NCC to do so would be unlawful. The reasons for recommendations and the background sections to this report set out that a significant growth in pupil numbers means that section 13(1) of the 1996 Act is potentially engaged here and the proposed expenditure would be lawful on that basis alone.
- 7.1.10 Lastly as expenditure caught by Schedule 2 to SEYFR, regulation 8(5) of SEYFR requires NCC to seek the approval of Nottingham City Schools Forum under regulation 12(1)(b) of SEYFR for the expenditure referred to in this report, hence this report.

## **8 HR ISSUES**

- 8.1 Not applicable.

## **9 EQUALITY IMPACT ASSESSMENT**

- 9.1 Has the equality impact of the proposals in this report been assessed?

No

☐

An EIA is not required because:

(Please explain why an EIA is not necessary)

Yes

☒

Attached as Appendix 3, and due regard will be given to any implications identified in it.

## **10 LIST OF BACKGROUND PAPERS OTHER THAN PUBLISHED WORKS OR THOSE DISCLOSING CONFIDENTIAL OR EXEMPT INFORMATION**

- 10.1 None

## **11 PUBLISHED DOCUMENTS REFERRED TO IN COMPILING THIS REPORT**

- 11.1 Pupil Growth Contingency Fund – update and criteria setting – July 2013