

SCHOOLS FORUM - 16 OCTOBER 2014

Title of paper:	Permanent Exclusions – Inclusion Cost Recovery Arrangements from September 2014
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Summary	
<p>This report notifies the Schools Forum that a Cost Recovery model for permanent exclusions will recommence for all secondary schools and academies from September 2014.</p> <p>The Local Authority (LA) and all City schools and academies are committed to reducing exclusions and using early intervention. However, there has been a significant increase in the amount of permanent exclusions from primary and secondary schools and academies. It is the LA's intention that this becomes an Inclusion Cost Recovery to allow partnership between schools/academies and the LA to support early intervention and, over time, reduce permanent exclusions. This Inclusion Cost Recovery can then directly support intervention projects and, if necessary, the Inclusion Cost Recovery would also provide a mechanism to ensure the LA can carry out its statutory duties to provide full time education to pupils permanently excluded if numbers increased beyond capacity. We will still operate a model of only charging Average Weighted Pupil Unit (AWPU) for the first two permanent exclusions of any single Secondary School or Academy, but Cost Recovery will be effective for any further exclusions.</p>	
Recommendation(s):	
1	To note that the LA will recommence Cost Recovery for all permanent exclusions issued from Secondary Schools and Academies from September 2014 and a flat rate of £14,900 Inclusion Cost Recovery will be charged after the second permanent exclusion from any single Secondary School or Academy.

1. REASONS FOR RECOMMENDATIONS

- 1.1 The LA is legally responsible for the full time education of all pupils permanently excluded who live within the City boundary from the 6th day of their permanent exclusion. There have been national trials to explore pupils remaining on the roll of their schools; however, this responsibility has not changed in law. Recommending the Cost Recovery model will secure funding for education for permanently excluded pupils, but will alternatively provide direct funding to reduce exclusions through intervention projects with partners.
- 1.2 Funding for Learning Centres will be moving to the place-plus system from April 2015. This means they will receive place funding based on the planned places and then top-up funding based on actual pupils on roll each term. Previously the Learning Centres have had a budget that was fixed and did not vary in-year. This creates a potential financial risk to the high needs budget if no cost recovery model is in place and permanent exclusions continue at the level seen in the last academic year. The LA will not receive any additional funding if there is an increase in demand for places

at the Learning Centres as LAs are expected to meet changes to the scale and nature of alternative provision from within their existing funding envelope.

- 1.3 An Intervention Cost Recovery would enable the LA, in partnership with schools and academies, to use this funding for early intervention, helping to achieve our commitment to reduce exclusions. This funding would also be kept completely separate from other funding and allocations reported back to the forum. However, if permanent exclusions exceeded expectations and resources, the funding would secure education for these additional pupils.

2. BACKGROUND (INCLUDING OUTCOMES OF CONSULTATION)

- 2.1 Current legislation and central government directive states that the LA is still currently responsible for arranging suitable full-time education for permanently excluded pupils from the 6th day of exclusion.
- 2.2 As a result of this new responsibility it was necessary to adopt a cost recovery model to ensure that funding was available for the LA to carry out its statutory duty. Consultation and discussions eventually lead to full cost recovery being implemented in September 2010. Initially, Schools Forum approved the model and dedicated £0.300m from headroom funding to support schools in meeting the full cost recovery (£14,900) for the first year of the first 2 exclusions. Schools were only charged the AWPU rate and the £0.300m topped the value up to £14,900 for the first 2 exclusions. For any further exclusion the school paid the full £14,900.
- 2.3 Full cost recovery continued through the 2011/2012 and 2012/2013 academic years. However, due to changes in Learning Centre funding it was agreed at the Schools Forum in February 2014 that for the 2013/2014 financial year, full cost recovery would not be charged and this report would establish costs going forward for the 2014/2015 financial year.
- 2.4 The policy of full cost recovery had not changed since being established and other LAs are implementing similar policies for the provision of excluded pupils. For example, Nottinghamshire County Council approved through their Schools Forum in 2013 that their schools will pay full cost of £15,000 for every year that the pupil remained out of mainstream education. There are other LAs that charge approximately £19,000 for pupils who have been permanently excluded.
- 2.5 Therefore, the LA intends to continue with the cost recovery model charging an Inclusion Cost Recovery for all secondary school and academies from September 2014.

3. OTHER OPTIONS CONSIDERED IN MAKING RECOMMENDATIONS

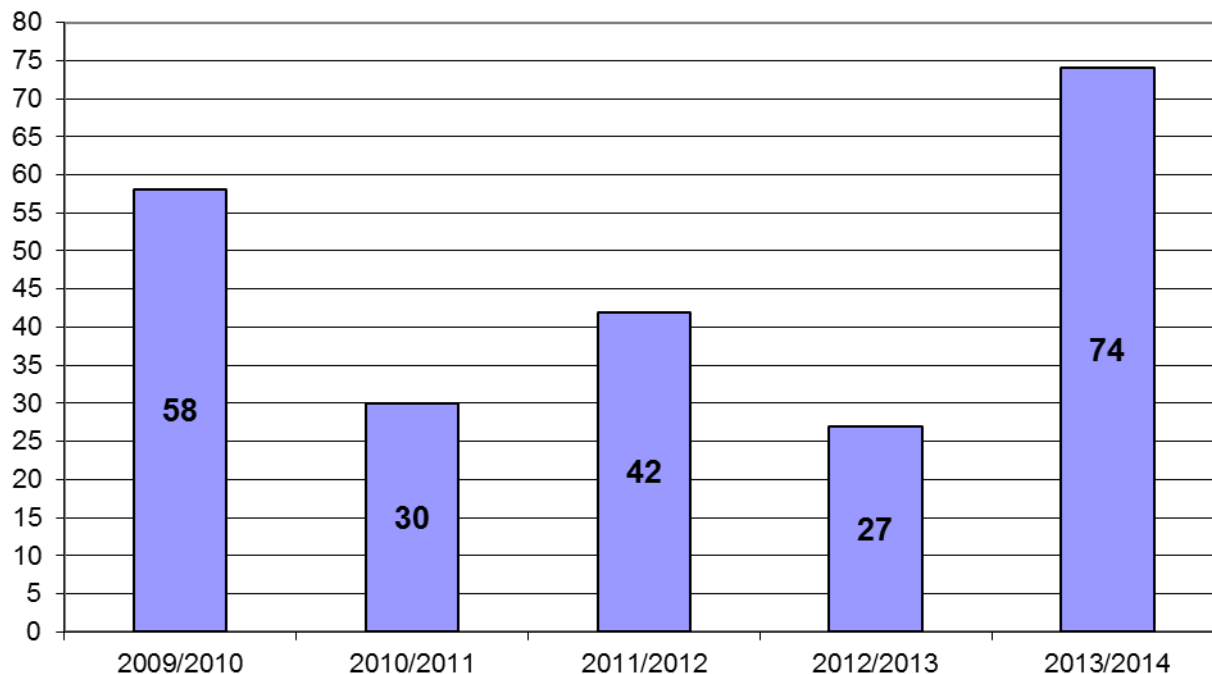
- 3.1 Other options have been previously explored and the current model agreed. Any other options would be considering top slicing funding to ensure the LA has sufficient funds; however, this reduces the amount of funding available for schools to try and avoid exclusion.

4. OUTCOMES/DELIVERABLES

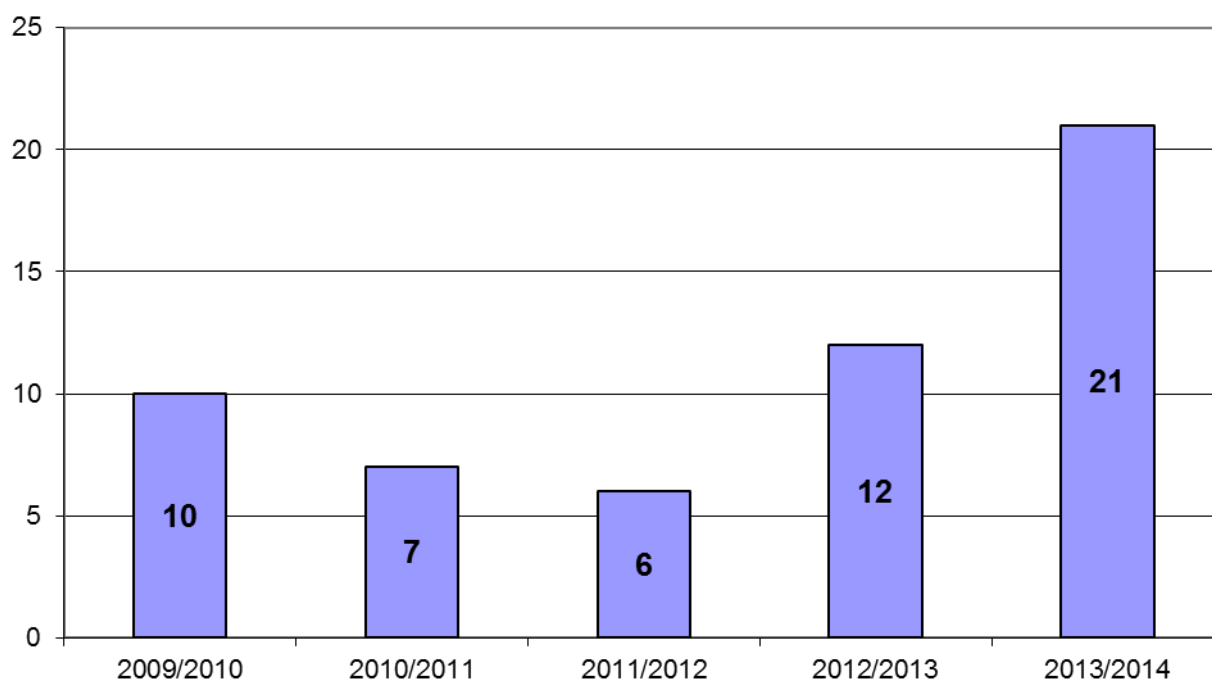
- 4.1 It would be expected that the schools, academies and all relevant partners work together to reduce exclusions across the City. Last year in secondary schools and

academies was the highest excluding year in a decade for permanent exclusions and primary permanent exclusions are rapidly increasing (see charts below). It is expected that through partnership and re-implementation of cost recovery we can provide greater support for pupils prior to permanent exclusion we can reduce exclusions overall, but also ensure that funding is available as required for pupils who are permanently excluded.

Secondary Permanent Exclusions (Effective) Over 5 Years



Primary Permanent Exclusions (Effective) Over 5 Years



5. FINANCIAL IMPLICATIONS (INCLUDING VALUE FOR MONEY/VAT)

5.1 For the 2014/15 financial year, the Learning Centres have received fixed budgets which are not dependent on the number of pupils accessing the provision. This

funding has been fully budgeted from the high needs block. Income generated from charging schools a flat rate £14,900 would therefore be available to support intervention projects.

- 5.2 From April 2015, the Learning Centres will be funded on a place-plus basis. This means they will receive guaranteed funding per place (£8,000 per place increasing to £10,000 from September 2015) and then top-up funding per pupil that will vary based on in-year pupil number changes. Work is currently being undertaken to determine the level of top-up funding to be received by the Learning Centres. Proposals will be shared in detail with the Schools Forum formula sub-group. Initial work indicates that the amount that will be required to fund Denewood and Unity Learning Centres under the revised methodology would be affordable from within the current year funding allocations despite the recent high numbers of permanently excluded pupils. This means that income generated from charging schools the flat rate £14,900 should be available to support intervention projects.
- 5.3 The future funding requirement of the Learning Centres will be directly linked to the numbers of permanently excluded pupils that are accessing the provisions. However, in contrast, high needs Dedicated Schools Grant funding received by the LA is not linked to PRU places or pupil numbers. Therefore future growth in the numbers of permanently excluded pupils will result in a pressure to the high needs budget. Historic trends indicate that charging schools the flat rate of £14,900 will both mitigate against this risk and provide a potential source of funding to supplement the high needs budget should this be required.

6. RISK MANAGEMENT ISSUES (INCLUDING LEGAL IMPLICATIONS AND CRIME AND DISORDER ACT IMPLICATIONS)

- 6.1 In essence, under regulation 8 of the Education (Pupil Registration) (England) Regulations 2006 permanent exclusion of a pupil is a ground on which the name of a pupil shall be deleted from the admission register of a school once the parent of the pupil has stated in writing s/he does not intend to apply for a review of the permanent exclusion, the time for applying for a review has expired with no review having been applied for or a review applied for within time has either been determined or abandoned.
- 6.2 Alongside this there is the duty of a local authority to provide education in relation to excluded pupils. Under section 19 of the Education Act 1996, the local authority with education responsibility for the area becomes responsible for the provision of suitable full-time education for a pupil of compulsory school age who is permanently excluded. Moreover under regulation 4 of the Education (Provision of Full-Time Education for Excluded Pupils) (England) Regulations 2007, the local authority is required to provide that education from the sixth school day following the day on which the permanent exclusion took place.
- 6.3 The schools forum's powers here derive from the School and Early Years Finance (England) Regulations 2013 ("SEYFR"), made by the Secretary of State in exercise of powers under the School Standards and Framework Act 1998 and the Education Act 2002. The SEYFR came into force on 1 January 2014.
- 6.4 Chapter 2 of the SEYFR is entitled "Further Deductions and Variations to Limits Authorised by School Forums or the Secretary of State" and it contains regulation 12 of the SEYFR. Under regulation 12 of the SEYFR, on the application of a local

authority the schools forum may authorise the redetermination of schools' budget shares by removal of any of the expenditure referred to in Part 5 of Schedule 2 (Items That May Be Removed From Maintained Schools' Budget Shares) [of the SEYFR] from schools' budget shares where it is instead to be treated by the authority as if it were part of central expenditure, under regulation 11(4) (SEYFR, regulation 12(1)(d)). Part 5 of Schedule 2 of the SEYFR contains paragraph 27, which states:

Expenditure (other than expenditure referred to in Schedule 1 or any other paragraph of this Schedule) incurred on services relating to the education of children with behavioural difficulties, and on other activities for the purpose of avoiding the exclusion of pupils from schools.

Therefore, Nottingham City Schools Forum has the power to approve the recommendations in this report by virtue of the above legislation. This power should be exercised lawfully. The Finance Implications in this report suggest this would be the case with the proposals set out in this report.

- 6.5 Presumably, it is a requirement of the funding agreements of the Academies that are a party to Nottingham City Schools Forum that they abide by the decisions of the schools forum.
- 6.6 Since this report does propose policy changes and financial decisions, even if these entail recommencing policy previously in use, it is advisable that an Equality Impact Assessment is conducted on the proposals.

7. HR ISSUES

- 7.1 None

8. EQUALITY IMPACT ASSESSMENT

Has the equality impact been assessed?

Not needed (report does not contain proposals or financial decisions)

No

Yes – Equality Impact Assessment attached

9. LIST OF BACKGROUND PAPERS OTHER THAN PUBLISHED WORKS OR THOSE DISCLOSING CONFIDENTIAL OR EXEMPT INFORMATION

- 9.1 None

10. PUBLISHED DOCUMENTS REFERRED TO IN COMPILING THIS REPORT

10.1 Nottingham City Secondary Education Partnership (NCSEP) Inclusion Strategy (Board Report - September 2012 and March 2014)

10.2 Permanent Exclusion – Full Cost Recovery Arrangements (School Forum Report – 13 February 2014)

10.3 Department for Education Evaluation of the School Exclusion Trial - March 2013 and July 2014