

## Schools Forum – 13 October 2020

<b>Title of paper:</b>	Update on the consultation with maintained schools on the revised scheme for financing schools (Fair Funding Scheme) and proposed changes to that scheme.
<b>Director(s)/ Corporate Director(s):</b>	Catherine Underwood, Corporate Director for People (Children & Adults)
<b>Report author(s) and contact details:</b>	Ceri Walters, Head of Commercial Finance Tel: 0115 8764128 Email: ceri.walters@nottinghamcity.gov.uk
<b>Other colleagues who have provided input:</b>	Julia Holmes, Senior Commercial Business Partner, Children and Adults Tel: 0115 8763733 Email: julia.holmes@nottinghamcity.gov.uk Trish Lockhart, Commercial Business Partner, Children and Adults Tel: 0115 8764615 Email: patricia.lockhart@nottinghamcity.gov.uk
<b>Summary</b>	
<p>The purpose of this report is to update Schools Forum (SF) on the findings of the consultation on the revised scheme for financing schools (Fair Funding Scheme) and to seek approval for the recommended changes to the scheme as required.</p> <p>The revisions to the scheme are set out in <b>Appendix A</b> with changes aligning to “Schemes for financing schools – statutory guidance for local authorities April and August 2020” publication. The approval from SF on these revisions is a requirement of the guidance.</p>	
<b>Recommendation(s):</b>	
<b>1</b>	For <b>maintained schools only</b> to approve the changes made to the Scheme for financing schools, the key changes are outlined in <b>Section 2</b> and a full list of the changes are detailed in <b>Appendix A</b> .

### 1 Reasons for recommendations

- 1.1 The scheme should outline the financial relationship between the Local Authority (LA) and maintained schools. LA’s are required to revise and publish schemes for the financing of schools in accordance with latest statutory guidance from the Department for Education (DfE).
- 1.2 The revision of the scheme will strengthen the LA’s overall responsibility for the provision of school budgets and will assist schools in managing their delegated budget share in a robust manner.

### 2 Background (including outcomes of consultation)

- 2.1 Under Section 48 of the Schools Standards and Framework Act 1998, LA’s are required to have schemes of delegation which set out the financial controls and the financial relationship between the LA and the maintained schools which it funds.

The LA’s previous version (June 2019) is now out of date and as per “Schedule 14 of

School Standards and Framework Act 1998” and “as regards any proposed variation of the scheme, the authority shall first consult every governing body and head teacher whom they are obliged to consult”. Any proposed revisions to the scheme must be the subject of consultation and require approval by the SF.

2.2 The consultation document was circulated to all head teachers and chair of governors of maintained schools on 18 September 2020, the consultation was open for a 13 day period.

2.3 The closing date of the consultation was midday 30 September 2020.

2.4 Key changes proposed:

It is possible for the Secretary of State (SoS) to make directed revisions to the schemes after consultation. Such revisions become part of the scheme from the date of the direction. The SoS has used this power and directed that all schemes must include the following:

- a. From the 2021 to 2022 funding year each school must submit a 3-year budget forecast each year, at a date determined by the LA between 1 May and 30 June.

Therefore, to align the scheme to the guidance the following amendment has been made:

“From 2021 to 2022 funding year each school must submit a 3-year budget forecast each year by 15 June each year.”

For clarity the 2021 to 2022 relates to the financial year not the academic year.

- b. Following consultation that closed on 19 November 2019, the SoS decided that from 1 April 2020 Local Authority Maintained Schools (LAMS) would be able to join the Risk Protection Arrangement (RPA). To reflect this change the guidance below has been added as the DfE have not had time to conduct a consultation on a directed revision but they may do that later.

The guidance states that the scheme should contain a provision which allows schools to join the RPA after 1 April 2020. Schools may do this individually when any insurance contract of which they are part expires.

The scheme should also provide for all primary and/or secondary maintained schools to join the RPA collectively by agreeing through the schools forum to de-delegate funding.

The scheme has been updated to reflect the latest guidance on risk protection arrangements for maintained schools in **Section 10.1 Insurance cover**. Noted below is the proposed text:

## **10.1 INSURANCE COVER**

*10.1.1 The budget for insurance is fully delegated to schools. It is the responsibility of the governing body to ensure that its school has adequate insurance cover. Insurance cover maybe arranged through Nottingham City Council’s Insurance and Risk Team or with an external provider. If schools choose to arrange their own insurance cover, they must demonstrate to the Insurance and Risk Management Team that the cover relevant to the LA’s insurable interests, which is provided under a policy arranged by the governing body, is as least as good as the minimum relevant cover arranged and offered by the LA.*

*10.1.2 In assessing the type and level of insurance cover required, the LA will have regard to the actual risks which might reasonably be expected to arise at the school in question in operating such a requirement, rather than simply applying an arbitrary minimum level standard of insurance cover for all schools.*

*10.1.3 Instead of taking out insurance, a school may join the Secretary of State’s RPA for risks that are covered by the RPA. Schools may do this individually when any insurance contract of which they are part expires. All primary maintained schools may join the RPA collectively by agreeing through the SF to de-delegate funding. It must be noted that the insurance offered by the RPA is not as comprehensive as the cover offered by the LA and cover that is not offered by the RPA must be sourced and obtained by the school separately to ensure adequate cover is in place.*

*10.1.4 Schools must provide any details related to the above insurance arrangements, as requested by the Director of Strategic Finance.*

There are other minor changes to the scheme which have been included in **Appendix A** such as the renaming of a title and the renumbering of paragraphs and out of date information has been removed. These changes will have no impact on maintained schools.

- 2.5 The LA received no responses to the consultation. It must be noted that to reduce the burden of responding to the consultation at this busy time for schools due to the Coronavirus maintained school head teachers and chair of governors were advised of the proposed changes to the scheme and that no response would be assumed to be acceptance of the proposed changes.

### **3 Other options considered in making recommendations**

- 3.1 To not revise the Fair Funding Scheme to keep it in line with the DfEs “Schemes for financing schools – statutory guidance for local authorities August 2020”, could expose the LA and schools to significant financial risk.

### **4 Outcomes/deliverables**

- 4.1 By approving the revised Scheme for financing schools, maintained schools will be required to follow the rules which are set out in the scheme. This scheme is based on the guidance set out by DfE’s “Schemes for financing schools – statutory guidance for local authorities August 2020”.

## **5 Finance colleague comments (including implications and value for money/VAT)**

- 5.1 This report seeks approval from SF to implement an updated version of the LA's Fair Funding Scheme to ensure that the scheme conforms to the latest guidance set out in the "Schemes for financing schools – Statutory guidance for local authorities August 2020".
- 5.2 The revised scheme clearly outlines the financial responsibilities of Governing Bodies, Head Teachers and the LA and tightens up the financial controls. **Appendix A** outlines a detailed list of the proposed amendments and insertions to the revised scheme.
- 5.3 Should SF feel they cannot approve the revisions or approves them subject to modifications which are not acceptable to the LA, the LA may apply to the SoS for approval.
- 5.4 There are no direct financial implications or value for money issues arising from this report.

## **6 Legal and Procurement colleague comments (including risk management issues, and legal, Crime and Disorder Act and procurement implications)**

### **6.1 Legal Implications**

- 6.1.1 Section 48(1) of the School Standards and Framework Act 1998 ("SSFA") states:-  
*(1) Each local authority shall prepare a scheme dealing with such matters connected with the financing of the schools maintained by the authority or the exercise by the governing bodies of those schools of the power conferred by section 27 of the Education Act 2002 (power of governing body to provide community facilities etc.) as are required to be dealt with in the scheme by or by virtue of—*  
  
*(a) regulations made by the Secretary of State; or*  
*(b) any provision of this Part [of the SSFA].*
- 6.1.2 Therefore, by virtue of section 48(1) of the SSFA, Nottingham City Council ("NCC") is required to prepare a scheme essentially dealing with the financing of its maintained schools.
- 6.1.3 The revision of a LA's scheme of delegation is provided for by Schedule 14 to the SSFA. Amongst other things, paragraph 2A of Schedule 14 to the SSFA states:-  
  
*(1) A local authority may, in accordance with this paragraph, revise the whole or part of the scheme maintained by them under section 48(1).*  
*(2) In revising the scheme, the local authority shall take into account any guidance given by the Secretary of State, whether—*  
*(a) generally, or*  
*(b) in relation to that authority or any class or description of local education authorities to which that authority belongs, as to the provisions the Secretary of State regards as appropriate for inclusion in the scheme.*  
*(3) As regards any proposed variation of the scheme, the authority—*

*(a) shall first consult the governing body and head teacher of every school maintained by the authority (within the meaning of this Chapter), and  
(b) shall then submit a copy of their proposals to the authority's schools forum for their approval.*

- 6.1.4 Therefore, by virtue of Schedule 14, paragraph 2A(1), NCC has the power to revise the whole or part of its scheme of delegation. The process for this requires NCC to: take into account any guidance given the Secretary of State; consult first the governing body and head teacher of every school maintained by NCC; and then to submit a copy of NCC's proposals for revision of the scheme of delegation to the Nottingham City Schools Forum for their approval.
- 6.1.5 All of the above, is what is happening here. NCC is proposing to revise its scheme of delegation to accord with the latest guidance issued by the Secretary of State entitled: *Schemes for financing local authority maintained schools* (Updated 5 August 2020); NCC has conducted consultation on these proposals with the governing body and head teacher of every school maintained by NCC from 18 September 2020 to 30 September 2020 with no responses received; and clearly this report entails NCC submitting a copy of its proposals to the Nottingham City Schools Forum for their approval. Therefore NCC's proposals are generally lawful, as is the action being taken to take these proposals forwards.
- 6.1.6 Paragraph 2B of Schedule 14 to the SSFA states:-
- (1) Regulations may make provision preventing schemes as revised from coming into force unless they are approved in accordance with the regulations by the local authority's schools forum or by the Secretary of State.*
- (2) The regulations may in particular—*
- (a) prescribe circumstances in which proposals which have been submitted to a local authority's schools forum may be submitted to the Secretary of State,*  
*(b) enable the schools forum or the Secretary of State to approve proposals with modifications, and*  
*(c) enable the schools forum or the Secretary of State, in giving their or his approval, to specify the date on which the scheme as revised is to come into force.*
- 6.1.7 The current regulations are the School and Early Years Finance (England) Regulations 2020, SI 2020/83 ("SEYFR"). Regulation 33 of the SEYFR deals with approval by the schools forum or the Secretary of State of proposals to revise schemes. Amongst other things, regulation 33 of the SEYFR states the following:-
- (1) Where a local authority submits a copy of its proposals to revise its scheme to its schools forum for approval under paragraph 2A(3)(b) of Schedule 14 to the 1998 Act [SSFA], the members of the schools forum who represent schools maintained by the authority may—*  
*(a) approve the proposals;*  
*(b) approve the proposals with modifications; or*  
*(c) refuse to approve the proposals.*
- (2) Where the schools forum approves the proposals to revise the scheme, it may specify the date on which the revised scheme is to come into force.*

...

*(6) No revised scheme is to come into force unless approved by the schools forum or the Secretary of State in accordance with this regulation.*

**7 HR colleague comments**

7.1 None

**8 Equality Impact Assessment**

8.1 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 x, and due regard will be given to any implications identified in it.

**9 List of background papers other than published works or those disclosing confidential or exempt information**

9.1

**10 Published documents referred to in compiling this report**

10.1 Statutory guidance - Schemes for financing local authority maintained schools – Published by the Department of Education and the Education and Skills Funding Agency

## APPENDIX A

### Changes from previous version (June 2019)

- 2.3 Amended title from “Submission of budget plans” to “Submission of budget plans and financial forecasts”.
- 2.3.10 Added: From 2021 to 2022 funding year each school must submit a 3-year budget forecast each year by 15<sup>th</sup> June each year.  
Deleted: Schools are required to prepare a multi-year budget plan. Best practice being a 3 year budget plan.  
Added: This supports the Governing Body and the Local Authority in establishing a view of the schools medium term sustainability and provides the ability to take strategic action in a timely manner where financial issues are highlighted.
- 2.3.12 Added: Schools must submit a recovery plan to the local authority when a forecast deficit is projected at 31 March of any year.  
Amended: deadline for submission of three year financial forecast to 15<sup>th</sup> June from 15<sup>th</sup> July.
- 3.1.7 Deleted: text as no longer relevant – “Top up payments for pupils with high needs in Pupil Referral Units will be made monthly unless otherwise agreed with the provider.”
- 3.1.8 Renumbered 3.1.7
- 4.9.3d Deleted: “The session explains the process for the school loan scheme.”
- 10.1.1 Added: The budget for insurance is fully delegated to schools. It is the responsibility of the governing body to ensure that its school has adequate insurance cover. Insurance cover maybe arranged through Nottingham City Council’s Insurance and Risk Team or with an external provider.
- 10.1.2 Moved guidance in 10.1.2 to 10.1.4.  
Added: In assessing the type and level of insurance cover required, the LA will have regard to the actual risks which might reasonably be expected to arise at the school in question in operating such a requirement, rather than simply applying an arbitrary minimum level standard of insurance cover for all schools.
- 10.1.3 Added: Instead of taking out insurance, a school may join the Secretary of State’s Risk Protection Arrangement (RPA) for risks that are covered by the RPA. Schools may do this individually when any insurance contract of which they are part expires. All primary maintained schools may join the RPA collectively by agreeing through the Schools Forum to de-delegate funding. It must be noted that the insurance offered by the RPA is not as comprehensive as the cover offered by the LA and cover that is not offered by the RPA must be sourced and obtained by the school separately to ensure adequate cover is in place.

10.1.4 Renumbered paragraph 10.1.2 to 10.4.4: Schools must provide any details related to the above insurance arrangements, as requested by the Director of Strategic Finance.

Added contact details for the Nottingham City Council Insurance and Risk Management Team.