

Schools Forum – 11 October 2022

Title of paper:	Disapplication request to the Education and Skills Funding Agency to include 'Building Schools for The Future' funding in the premises exceptional circumstances factor in the financial year 2023/24
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Summary

As the Department of Education move towards the implementation of the Direct National Funding Formula for schools, local authorities have advised in the 'Schools Operational Guide: 2023 to 2024' that they must apply to the Secretary of State for approval for the use of the exceptional circumstances factor in the financial year 2023/24 if the latest approval was prior to 2018/19.

Nottingham City Council received approval for the use of exceptional circumstances factor for the financial year 2013/14. This factor is used to allocate funding to schools that were built under the Building Schools for the Future (BSF) Design & Build (D&B) scheme, whereby both the school and the local authority had to commit to funding a lifecycle fund so that the buildings could be maintained to the same standard as a new Private Finance Initiative (PFI) school for 25 years from the date of completion.

The purpose of this report is to seek Schools Forum view on the disapplication request to the Secretary of State for approval to include BSF funding to the schools that currently attract this funding.

The deadline for submitting the disapplication request is 18 November 2022.

Recommendation:

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| 1 | To agree with the Local Authority's proposal to apply to the Secretary of State for approval to include in the premises: exceptional factor funding for schools that were built under the Building Schools for The Future Scheme in the financial year 2023/24. |
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1. Reasons for recommendations

- 1.1 The Education & Skills Funding Agency (ESFA) have announced in the Schools Operational guide for 2023/24 that local authorities should apply to the department to use exceptional circumstances factor relating to school premises, for example, rents, or joint use sports facilities, if their previous approval was given prior to 2018/19. If this is the case, then the local authorities need to submit a new disapplication request for consideration.

1.2 Local authorities (LA) are required to only submit applications where the value of the factor is more than 1% of a school's budget and applies to fewer than 5% of the schools in the local authority area.

2. **Background (including outcomes of consultation)**

2.1 On 14 January 2010 a report titled "New funding formula for BSF schools" was taken to Schools Forum (SF) with the following recommendation:

"The creation of a new element within the building maintenance formula for other BSF schools being built under Design & Build (D&B) schemes. We are contractually obliged to maintain these schools in their original condition as new for the full 25 years. Similar to PFI schools, the budget allocation will be based on the calculated revenue gap for each scheme and the school will be invoiced for the equivalent sum."

SF approved the above recommendation.

2.2 Before the schools funding arrangements were changed in 2013/14 as per the DfE guidance at the time, Nottingham City Council applied to use of the exceptional circumstances factor from the financial year 2013/14 to allow funding to be allocated to schools which were built under the Design and Build scheme. The LA's application was approved.

2.3 As outlined in 1.1 the ESFA are requesting that all LA's that gained approval prior to 2018/19 submit a disapplication request to seek approval from the Secretary of State to include premises: exceptional circumstances funding in their 2023/24 local funding formulae. This is why the LA will be making a disapplication request to use the premises: exceptional circumstances factor in 2023/24.

2.4 The LA is contractually obliged to fund Bluecoat Beechdale Academy for BSF Lifecycle costs until the financial year 2034/35 and Ellis Guilford School until 2036/37. These two schools equate to 2.13% of our schools, therefore we meet the threshold of less than 5% of our schools attract this funding.

2.5 As part of the disapplication request process LA's are required to consult with the affected schools to get their view on the application as well as their Schools Forum.

2.6 Currently the funding allocated to LA's by the Education & Skills Funding Agency (ESFA) for premises: exceptional circumstances is based upon the historic cost in the previous financial year.

2.7 The funding allocated to each school is based on the previous years allocation and is inflated using the February RPIx as per clause 11 of the Governing Body Agreements with each school.

Bluecoat Beechdale Academy manage their own BSF Lifecycle Fund whereas currently the Ellis Guilford School BSF Lifecycle Fund is managed by the LA and the academy is invoiced annually by the LA for the value of the funding allocated to the academy which is then held by the LA in a lifecycle reserve and released to the academy as lifecycle works are undertaken.

Appendix A gives a detailed breakdown on how the BSF Lifecycle funding has been calculated for the financial year 2023/24 and the estimated percentage the BSF funding will represent of the schools illustrative budget.

The estimated BSF Lifecycle funding allocations for 2023/24 have been based upon:

1. Adjusting the allocation for 2022/23 to reflect the actual February RPIx (Estimate based on 7.23%, actual RPIx 8.34%)
2. Inflating the revised 2022/23 allocation by the estimated inflation for 2023/24. The estimated inflation has been set at 10%.
3. Adding the inflation calculated in point 2 to the revised allocation for 2022/23.

The forecast schools budget for each academy have been based on the illustrative budgets issued by the ESFA for 2023/24 based on the data used in the Authority Pro-forma Tool for 2022/23 and then adjusted for the inflation that is to be added to the BSF Lifecycle allocations in 2023/24.

- 2.8 **Table 1** shows the percentage the BSF Lifecycle Fund represented of the schools budget in the financial year 2022/23 and the estimated percentage for the financial year 2023/24.

Table 1: Building Schools For the Future Lifecycle Funding as a percentage of schools budgets		
	Financial Year 2022/23	Financial Year 2023/24
Bluecoat Beechdale Academy	4.74%	5.15%
Ellis Guilford School	2.48%	2.61%

As shown in **Table 1** it can be seen that both academies meet the threshold of their BSF Lifecycle funding being greater than 1% of their schools budget in 2022/23 and 2023/24.

3 Other options considered in making recommendations

- 3.1 Do nothing – This is not an option as this would create a significant budget issue for the LA. As stated in 2.1 the LA are contractually obliged to fund the BSF Lifecycle costs for 25 years. There are still 12 years remaining on Bluecoat Beechdale Academy agreement and 14 years remaining on the Ellis Guilford Schools agreement which the LA is committed to funding.

4 Outcomes/deliverables

- 4.1 To demonstrate to the DfE that Schools Forum and the affected schools have been consulted on the disapplication request to approve the inclusion of BSF funding in the exceptional circumstances factor in the financial year 2023/24.

By Schools Forum giving their view on this disapplication request it will enable the LA and SF to comply with the statutory deadlines in the budget setting process.

5 Consideration of Risk

- 5.1 In the “Implementing the Direct National Funding Formula (NFF) - Government consultation” document dated 7 June 2022 the DfE stated that they think that BSF funding for schools should be moved to a modified PFI factor within the Schools NFF.

Further consultation on the PFI factor is to take place as we move towards the implementation of the direct NFF.

As the DfE acknowledge the requirement to include BSF funding in the NFF it is hoped that the Secretary of State will approve the disapplication request for the financial year 2023/24.

- 5.2 If the disapplication request were to be rejected this would create a significant budget issue for the LA.

6 Finance colleague comments (including implications and value for money/VAT)

- 6.1 These are captured as part of the report.

7 Legal colleague comments

- 7.1 Local authorities can apply to the Secretary of State to use the exceptional circumstances factor. Such requests should be exceptional only and made on grounds that align with the Schools operational guidance 2023-2024.
- 7.2 As it is understood that the Council's latest approval was prior to 2018 to 2019, the Council is submitting a new disapplication request for consideration as required under the guidance.
- 7.3 The approach recommended in this report complies with the requirements of the School and Early Years Finance (England) Regulations 2022 and related Guidance.

Dionne Screamon, Senior Solicitor, Contracts and Commercial team – 14 September 2022.

8 Equality Impact Assessment (EIA)

- 8.2 An EIA is not required because the report does not contain new proposals or strategies.

9 List of background papers relied upon in writing this report (not including published documents or confidential or exempt information)

- 9.2 None.

10 Published documents referred to in this report

- 10.2 ESFA - Schools operational guide: 2023 to 2024 - [Schools operational guide: 2022 to 2023 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/111111/Schools_operational_guide_2022_to_2023_-_GOV.UK_(www.gov.uk))
- 10.3 SF report – New funding formula factors for BSF schools – 14 January 2010

APPENDIX A

Calculation of BSF Lifecycle Funds 2023/24 as a percentage of schools budget										
	BSF budget included in 2021/22	BSF budget included in 2022/23	Estimated RPIx increase for 2022/23 (based on 7.23%)	Actual RPIx increase (based on 8.34%)	Adjustment to be added to 2023/24 allocation	Revised allocation for 2022/23	Estimated RPIx increase for 2023/24 (based on 10%)	Estimated BSF budget to be included in 2023/24	Estimated budget 2023/24	Forecast BSF allocation as % of illustrative budget for 2023/24
	(a)	(b)	(b) - (a) = (c)	(a) * 8.34%	(d) - (c) = (e)	(b) + (e) = (f)	(f) * 10% = (g)	(f) + (g) = (h)	(i)	(h) / (i) = (j)
Bluecoat Beechdale Academy	£305,468	£327,546	£22,078	£25,490	£3,412	£330,958	£33,096	£364,054	£7,067,093	5.15%
Ellis Guilford School	£209,567	£224,714	£15,147	£17,487	£2,340	£227,054	£22,705	£249,760	£9,586,878	2.61%