

## EXECUTIVE BOARD – 19 JANUARY 2016

|  |   |  |   |
|--|---|--|---|
| <b>Subject:</b>  | 2015/16 Alternative Provision arrangements  |  |   |
| <b>Corporate Director(s)/ Director(s):</b>   | Alison Michalska, Corporate Director for Children and Adults<br>Pat Fielding, Director of Schools   |  |   |
| <b>Portfolio Holder(s):</b>  | Councillor Sam Webster, Portfolio Holder for Schools  |  |   |
| <b>Report author and contact details:</b>  | Kathryn Stevenson, Finance Analyst<br><a href="mailto:kathryn.stevenson@nottinghamcity.gov.uk">kathryn.stevenson@nottinghamcity.gov.uk</a> 0115 8763731                                     |  |   |
| <b>Key Decision</b>  | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No   | <b>Subject to call-in</b>  | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| <b>Reasons:</b>  | <input checked="" type="checkbox"/> Expenditure <input type="checkbox"/> Income <input type="checkbox"/> Savings of £1,000,000 or more taking account of the overall impact of the decision | <input checked="" type="checkbox"/> Revenue <input type="checkbox"/> Capital |   |
| Significant impact on communities living or working in two or more wards in the City   |   |  | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| <b>Total value of the decision:</b> £1,655,000   |   |  |   |
| <b>Wards affected:</b> All   |   | <b>Date of consultation with Portfolio Holder(s):</b> 1 December 2015        |   |
| <b>Relevant Council Plan Key Theme:</b>  |   |  |   |
| Strategic Regeneration and Development   |   |  | <input type="checkbox"/>  |
| Schools  |   |  | <input checked="" type="checkbox"/>                                 |
| Planning and Housing   |   |  | <input type="checkbox"/>  |
| Community Services   |   |  | <input type="checkbox"/>  |
| Energy, Sustainability and Customer  |   |  | <input type="checkbox"/>  |
| Jobs, Growth and Transport   |   |  | <input type="checkbox"/>  |
| Adults, Health and Community Sector  |   |  | <input type="checkbox"/>  |
| Children, Early Intervention and Early Years   |   |  | <input type="checkbox"/>  |
| Leisure and Culture  |   |  | <input type="checkbox"/>  |
| Resources and Neighbourhood Regeneration   |   |  | <input type="checkbox"/>  |
| <b>Summary of issues (including benefits to citizens/service users):</b>   |   |  |   |
| Due to the increased level of permanent exclusions across all Key Stages (KS), revised arrangements have been required for alternative provision for education for those pupils. This report outlines the arrangements that have been put into place during 2015 for pupils that have been, or are at risk of being, permanently excluded and requests approval for the associated expenditure from the Statutory Schools Reserve (SSR). |   |  |   |
| <b>Exempt information:</b>   |   |  |   |
| None   |   |  |   |
| <b>Recommendation(s):</b>  |   |  |   |
| <b>1</b> To approve £1.655m spend associated with alternative provision from the Dedicated Schools Grant (DSG) reserve within the SSR.   |   |  |   |
| <b>2</b> To delegate authority to the Portfolio Holder for Schools and the Corporate Director for Children and Adults to approve additional spend over and above this amount from the SSR should this be required.   |   |  |   |

### **1 REASONS FOR RECOMMENDATIONS**

- 1.1 The local authority has a statutory obligation to provide education for pupils that have been permanently excluded.
- 1.2 Due to the increased level of permanent exclusions across all KS, revised arrangements have been required to respond to circumstances that were not envisaged at the time of setting the 2015/16 Schools Budget and further funding is required to cover the costs.

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

- 2.1 Immediate action was required in response to the number of exclusions throughout all KS in schools which were not originally envisaged during the 2015/16 budget setting process.
- 2.2 The impact of this has increased costs above those budgeted and this report sets out the reason for those increases and the recommendation for funding.
- 2.3 The issues for each KS are as follows:

(a) Glenbrook (KS1)

The Local Authority (LA) does not have a learning centre provision for KS1 permanent exclusions. Historically KS1 permanent exclusion have been managed through alternative education providers or swift reintegration back into mainstream school.

This approach has been successful in the past due to very low numbers of permanent exclusions, however, during 2014/15 academic year there was an increase of pupils in KS1 at risk of permanent exclusion and 5 KS1 pupils were issued with permanent exclusions, compared to 1 in 2013/14.

Initially, the provision was provided by a specialist educational provider for one pupil, costing on average £15k per term until reintegrated. However, due to the further 4 permanent exclusions emergency temporary accommodation for provision was required. The temporary accommodation is based at Glenbrook Management Centre and is supported and staffed through the Behaviour Support Team (BST).

(b) Denewood Learning Centre (KS2/3)

Following concerns regarding the quality of education provided at Denewood, which was rated inadequate by Ofsted at its inspection in December 2014, the Education Department temporarily closed this resource.

To address the physical capacity issues immediately following the inspection the decision was taken to temporarily relocate KS2 pupils within the Westbury Woodlands Federation and KS3 pupils with Alternative Providers.

(c) Bulwell Hub Pilot (KS 3)

Bulwell Academy continues to pilot a new approach to planning provision for pupils who are permanently excluded/at risk of permanent exclusion.

Following significant consultation with Bulwell Academy leaders, a number of pupils currently on roll at Denewood were admitted to the Academy site, and the academy is providing these students with a range of pathways/options depending on individual need and circumstances. The pilot provision began 1 June 2015 and is funded for a minimum of 4 terms to August 2016. A clear monitoring and evaluation process has been put into place and the outcomes of this approach will be fully evaluated mid and end of year.

(d) Unity Learning Centre (KS4)

During the academic year 2014/15 this provision had 104 permanently excluded students.

There is a formal framework in place to access alternative provision offsite which incorporates 7 providers. Due to the increase in numbers Unity has had to also broker provision outside of the framework agreement.

Strategic plans are currently underway with regard to the commissioning of an updated framework agreement from 2016. It is planned that this framework agreement will not be specifically for the referral of Unity students but will seek to support wider groups of vulnerable students, both at KS3 and KS4.

2.4 In order to address the above issues, an Alternative Provision Focus Group was established consisting of Head Teachers/Vice Principals of primary, secondary, special schools (maintained and academies), LA officers and Nottingham City Secondary Education Partnership (NCSEP).

- 2.5 The Focus Group looked to develop a more effective and sustainable response to pupils presenting challenging behaviour in schools and academies across the city and commissioned reviews of:
- existing systems and structures relating to alternative provision/Pupil Referral Unit's; the structure, range of services and systems operating in the provision of education for city pupils with Special Educational Needs, including special schools and focused provision;
  - the impact of services/agencies that work with our schools and academies KS1-KS4 to improve pupil behaviour/engagement and prevent placement breakdowns beginning with an inter-agency mapping exercise.
- 2.6 The reports from the commissioned reviews are currently being discussed with a broad range of stakeholders to assist in the development of new and preferred, systems, approaches and future arrangements/commissioning processes.

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

- 3.1 No other options were considered as immediate action has been necessary in response to changing circumstances, but wide-ranging options are being considered for the longer-term.

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

- 4.1 The financial implications of this report are set out below and are forecast at between £1.198m to £1.655m over and above the original allocation in the 2015/16 Schools Budget.

|                          | <b>Additional Funding Requirements £m</b> |              |
|--------------------------|---|--------------|
|                          | <b>Low</b>                                | <b>High</b>  |
| Glenbrook (KS1)          | 0.184                                     | 0.208        |
| Westbury/Woodlands (KS2) | 0.000                                     | 0.065        |
| Denewood (KS2/3)         | 0.724                                     | 0.951        |
| Bulwell Hub (KS3)        | 0.152                                     | 0.152        |
| Unity (KS4)              | 0.138                                     | 0.279        |
| <b>TOTAL</b>             | <b>1.198</b>                              | <b>1.655</b> |

- 4.2 It should be noted that there will be significant variability in the costs linked to pupil numbers and the high case estimate could be exceeded, for example, if the numbers of permanent exclusions are higher than the same period last year.

4.3 The final spend over and above the budgeted amount will be met from the SSR, which is following consultation with Schools Forum on 24 September 2015. £1.655m has been earmarked from the DSG balance for this purpose subject to approval by the Executive Board.

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

5.1 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 LA to establish a schools forum for its area).

5.2 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.

5.3 This means that the DSG, which is paid to LAs 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 2015 to 2016* (December 2014), paragraph 2). Local authorities can add to the schools budget from local sources of income (*ibid*, paragraph 4).

5.4 The detail is prescribed by regulations. The current regulations are the School and Early Years Finance (England) Regulations 2014, SI 2014/3352 (“SEYFR”).

5.5 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;

“2013 Regulations” means the School and Early Years Finance (England) Regulations 2013;

“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.

5.6 Regulation 6(1) of SEYFR states the following:

- (1) The classes or descriptions of local authority expenditure specified in paragraph (2) and Schedule 2 are prescribed for the purposes of section 45A(2) of the [SSFA] and the determination of a local authority's schools budget, subject to the exceptions in regulation 7.

5.7 Amongst other things, regulation 6(2) of SEYFR states the following:

- (2) The classes or descriptions of local authority expenditure are:
  - (a) expenditure on the provision and maintenance of maintained schools and on the education of pupils at maintained schools;
  - (b) expenditure on the education of children at independent schools, non-maintained special schools, pupil referral units, at home or in hospital, and on any other arrangements for the provision of primary and secondary education for children otherwise than at schools maintained by a local authority;
  - (c) all other expenditure incurred in connection with the authority's functions in relation to the provision of primary and secondary education, in so far as that expenditure does not fall within sub-paragraphs (a) or (b);

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

**3**

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

**5**

Any deductions under any of paragraphs 1, 2, 3, 4(a), 4(b), 4(c), 4(d) and 4(e) must not exceed the amount deducted under each of the corresponding paragraphs of Part 1 of Schedule 2 to the 2013 Regulations for the previous funding period.

**8**

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.

**21**

Expenditure incurred in relation to education otherwise than at school under section 19 of the 1996 Act or in relation to a pupil referral unit, where the expenditure cannot be met from the sum referred to in regulation 14(3) [i.e. the prescribed sum per place the local authority must include in determining the budget shares for pupil referral units].

5.9 The exceptions set out in regulation 7 of SEYFR in essence concern capital expenditure (other than CERA or capital expenditure appropriated for the purpose of funding certain pay arrears), expenditure on capital financing (other than expenditure incurred on prudential borrowing or for the purpose of meeting the costs of financing the payment of certain pay arrears), and expenditure for patrolling school crossings – none of which are relevant here.

5.10 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. Delegation of additional spend from NCC’s schools budget over and above the £1.655m set out in this report to the Portfolio Holder for Schools and the Corporate Director for Children and Adults will be lawful provided this is in accordance with NCC’s Constitution.

**6 STRATEGIC ASSETS & PROPERTY COMMENTS (FOR DECISIONS RELATING TO ALL PROPERTY ASSETS AND ASSOCIATED INFRASTRUCTURE)**

6.1 Not applicable

**7 SOCIAL VALUE CONSIDERATIONS**

7.1 Not applicable

**8 REGARD TO THE NHS CONSTITUTION**

8.1 Not applicable

**9 EQUALITY IMPACT ASSESSMENT (EIA)**

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

No

Yes

Attached as Appendix 1, and due regard will be given to any implications identified in it.

**10 LIST OF BACKGROUND PAPERS RELIED UPON IN WRITING THIS REPORT (NOT INCLUDING PUBLISHED DOCUMENTS OR CONFIDENTIAL OR EXEMPT INFORMATION)**

10.1 Not applicable

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

11.1 Schools Forum Report 24 September 2015 – Update on 2015/16 Alternative Provision arrangements

**12 OTHER COLLEAGUES WHO HAVE PROVIDED INPUT**

12.1 Michael Wilsher, Inclusion Officer

12.2 Alison Weaver, Service Manager – Inclusive Education Service

12.3 Jon Ludford-Thomas, Senior Solicitor – Housing/Employment/Education Team