

## SCHOOLS FORUM – 8 DECEMBER 2016

<b>Title of paper:</b>	Proposed budget for pupil growth for 2017/18
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<b>Summary</b>	
<p>As part of the budget setting process for 2017/18, this report outlines the proposed requirements of the pupil growth contingency for 2017/18 and seeks Schools Forum's approval to allocate £1.052m of the Dedicated Schools Grant to fund this proposal. The funding will be used to fund pupil growth in both maintained schools and academies.</p> <p>As part of the budget setting process for 2017/18, the School Funding team must inform the Education Funding Agency (EFA) by mid-January 2017 on the level of funding allocated for pupil growth for academies for the period April 2017 to August 2017, from the pupil growth contingency fund.</p> <p>The Department for Education (DfE) Schools Forums: operational and good practice guidance document from March 2015 identifies central spend on and the criteria for pupil growth as one of the functions Forum are responsible for deciding on (Page 5).</p>	
<b>Recommendation(s):</b>	
<b>1</b>	<b>To approve</b> the allocation of £1.052m to support pupil growth in 2017/18.
<b>2</b>	<b>To note:</b> (a) the requirement to allocate funding to academies for the period April 2017 to August 2017 as guided by the EFA; (b) the amount to be allocated is £0.181m (c) the funding will be included on the submission of the 2017/18 Authority Pro-forma Tool sent in to the EFA which includes all school budget shares for 2017/18 and the amounts to be given out to academies for pupil growth April to August 2017; (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 2017/18 will be adjusted accordingly.
<b>3</b>	<b>To agree</b> the members of the sub group, to review the pupil growth contingency fund criteria for secondary schools.
<b>4</b>	<b>To note</b> that the sub group has no decision making powers and will make recommendations which Schools Forum will have to formally approve at a future meeting.

## **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.

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

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

Planned expansions / bulge years (staffing and utilities)	£0.399m
Classroom set up	£0.072m
Additional funding for academies to fund full financial years	£0.181m
Contingency	£0.400m
<b>TOTAL</b>	<b>£1.052m</b>

The table below shows funding approved in recent years.

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 2016, there is a requirement by the EFA for local authorities to continue this payment until August 2017. In 2017/18 the pupil growth contingency will allocate £0.181m to academies for April 2017 to August 2017. 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 2017/18. They will take the academies' school budget shares and then deduct the amounts given out for pupil growth for April to August 2017. This revised total is then the amount that is recouped.
- 2.4 For 2017/18, the known requirements which are already committed for the pupil growth fund total £0.652m. 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). The funding time periods for each school are also shown in Appendix 1.

- 2.5 A further £0.400m is requested to allow for contingency as other expansions come on line. The contingency funding in the previous three financial years has been between £0.250m and £0.300m, which in all three years was required and utilised to support pupil growth. The city-wide position for primary provision is good. As we continue our ambition to provide Ofsted good-rated school places close to home for every child in Nottingham, a small number of further primary school expansions are being considered.
- 2.6 An increased contingency for 2017/18 is requested, as we also need to consider the growing need for additional secondary places, which is likely to begin taking effect from September 2017. The pupil growth fund criteria agreed in July 2013 is relevant to primary provision. A review of the criteria is required and it may need to be adapted to make it relevant for secondary provision. This is currently being explored and a report will be brought to Schools Forum with any revised proposals in the near future.
- 2.7 Updates and reporting on how the pupil growth contingency fund is spent will continue to come to Forum at every meeting, if there have been changes to report.

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

- 3.1 None.

### **4 OUTCOMES/DELIVERABLES**

- 4.1 Continued provision of required school places.

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

- 5.1 As per paragraph 2.1 this report seeks approval to allocate £1.052m for pupil growth for both maintained schools and academies in the city in 2017/18. The estimated funding requirement for 2016/17 has been calculated based on the Pupil Growth Contingency Fund Criteria set by Schools Forum on 18<sup>th</sup> July 2013, this totalled £0.652m plus an additional contingency of £0.400m for any further expansions that are may be required in 2016/17. If approved the funding will be included in the 2017/18 budget and will be funded from the 2017/18 Dedicated Schools Grant settlement.
- 5.2 Included in the £1.052m funding outlined in paragraph 5.1 the School Organisation Team will be allocating £0.181m to academies in 2017/18 to fund the extra pupils they took in from September 2016. 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. The funding reimbursed to the Authority by the EFA will be added back into the Statutory School Reserve.
- 5.3 Any unspent monies at the end of the financial year will be carried forward and allocated to the Pupil Growth Contingency in 2018/19.

- 5.4 The 2017/18 Pupil Growth for academies relating to April 2016 to August 2016 will be included in the submission of the 2017/18 school budgets to the EFA.
- 5.5 The pupil growth fund criteria agreed in July 2013 is relevant to primary provision. A review of the criteria is required and it may need to be adapted to make it relevant for secondary provision. This is currently being explored and it is proposed that a sub-group is set up to review the current pupil growth criteria and ensure it is fit for purpose once pupils hit the secondary phase. A report will then be brought to Schools Forum with any revised proposals in April 2017. The re-modelling will need to ensure that it is affordable and fits within the DSG allocation issued by the DfE.

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

### **6.1 Legal Implications**

- 6.1.1 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).
- 6.1.2 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.*
- 6.1.3 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 2015 to 2016* (December 2014), paragraph 2). Local authorities can add to the schools budget from local sources of income (*ibid*, paragraph 4).
- 6.1.4 The detail is prescribed by regulations. The current regulations are the School and Early Years Finance (England) Regulations 2015, SI 2014/2033 ("SEYFR").
- 6.1.5 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;*

...

*“2014 Regulations” means the School and Early Years Finance (England) Regulations 2014;*

...

*“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;*

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

(5) *A local authority must not deduct the expenditure referred to in Schedule 2 (other than expenditure referred to in paragraph 12 (expenditure on licences) and Part 4 (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).*

6.1.7 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);*

6.1.8 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 2014 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.*

6.1.9 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.

6.1.10 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.

## 7 HR ISSUES

7.1 Not applicable.

## 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 3, 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 None

**10 PUBLISHED DOCUMENTS REFERRED TO IN COMPILING THIS REPORT**

10.1 Pupil Growth Contingency Fund – update and criteria setting – July 2013