

SCHOOLS FORUM – 24 APRIL 2018

Title of paper:	Pupil Growth Contingency Fund – criteria setting
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Summary	
<p>The Department for Education (DfE) Schools Forums: Operational and good practice guidance document from September 2017 identifies central spend on and the criteria for pupil growth as one of the functions Forum are responsible for deciding on (Page 5).</p> <p>Growth Funds are an established mechanism nationally, to support expanding schools. Local authorities (LAs) are required to produce the criteria to support schools with pupil growth and discretion as to how this is done currently remains with LAs. Therefore, after seeking the feedback of all Head Teachers in the city, but with limited feedback, Schools Forum nominated a Sub-group of members, to review the DfE guidance and the potential growth funding requirements of both primary and secondary schools.</p> <p>This report seeks to update and obtain agreement from Schools Forum on the Sub-group's recommendations for the principles and criteria under which funding can be allocated to maintained schools and academies in 2018/19.</p> <p>In December 2017 and as part of the 2018/19 budget setting process, Schools Forum approved a pupil growth contingency fund of £1.148m, from the Dedicated Schools Grant. The fund will be used to fund pupil growth in both maintained schools and academies during 2018/19, in line with the existing criteria for primary growth and the new criteria to be set for secondary growth.</p>	
Recommendation(s):	
1	To approve the proposed conditions, criteria and methodology under which funding can be allocated to secondary schools during 2018/19 (detailed in Appendix 1) as recommended by the Schools Forum Sub-group.
2	To approve that the existing criteria for pupil growth in primary schools will continue, subject to schools satisfying the conditions, as detailed in Appendix 2.
2	To note a termly update report will continue to be submitted to Schools Forum outlining how the funding has been allocated, to ensure a transparent and consistent process.
3	To note Schools Forum will be consulted again on the approach and criteria for funding secondary growth from the financial year 2019/20 onwards, once updated guidance is received from the ESFA.

4	To note the requirement to allocate funding to academies for the period April 2018 to August 2018 as guided by the ESFA; but which will be reimbursed to the LA's Dedicated Schools Grant.
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1 REASONS FOR RECOMMENDATIONS

- 1.1 In the December 2017 paper, it was agreed that a representative Sub-group of Schools Forum would undertake a review of both the existing Pupil Growth Contingency Funding model for primary schools and of the required model for secondary school pupil growth. The Sub-group have now reviewed the potential models for the funding of pupil growth and propose the recommended model to Schools Forum.
- 1.2 The Sub-group's review has considered the following: ESFA guidance on pupil growth funding, previous practice in Nottingham for primary growth, research of best practice from other local authorities (where there is mixed practice and no standard methodology) and an assessment of the impact pupil growth has on school budgets. Following this, the Sub-group is recommending an appropriate criteria and methodology under which funding can be allocated (set out in Appendices 1 and 2)
- 1.3 In July 2013, Schools Forum agreed a criteria for contingency funding to support schools and academies that require additional funding as a result of either formal school expansion proposals, the emergency creation of additional places or 'bulge' classes in response to unanticipated demand.
- 1.4 The City's significant pupil growth is now impacting on the secondary sector, therefore an appropriate funding model needs to be implemented to support this. City secondary schools have historically run with a significant surplus capacity. However, the growth in both birth rate and new arrivals to the city has resulted in a projected overall deficit of secondary school place provision.
- 1.5 The proposed criteria for secondary pupil growth has been costed on the basis of the current and anticipated level of demand at the secondary phase, which is a likely minimum of 15-17 forms of entry across the city. This figure could increase further as pupil numbers also rise in neighbouring schools in the County. The requirement for additional capacity commenced in 2017 and is expected to peak by 2022.
- 1.6 The local authority retains a statutory duty to ensure all children within the city are able to access a suitable school place. A centrally held pupil growth fund allows the LA to manage the process of supporting schools to meet basic need. Collaborative and strategic coordination and cooperation between all Nottingham City learning settings will be required to meet the secondary growth between now and 2022.
- 1.7 Financial support for schools that are providing additional capacity to meet this need is essential to avoid schools being at a financial disadvantage until the increased capacity is reflected in their budgets. The recommended proposal for funding secondary schools within this report will encourage the efficient deployment and allocation of resources as a school grows, while protecting the growth fund against long-term, non-sustainable funding commitments.

- 1.8 Any growth fund allocation will specifically relate to a planned capacity and PAN increase, which must be agreed with the Council's School Organisation team, as one of the solutions for meeting the Council's secondary place planning strategy. Any pupil number fluctuations that are within a school's PAN would not be funded.
- 1.9 It is recognised that secondary schools are likely to be better placed than primary schools to manage pupil growth, given the size of their budgets. Therefore, although the proposed criteria provides funding for an extra class teacher for every additional class, there is an expectation that some of the other requirements (e.g. other specialist staffing or resources) will be accommodated within the existing curriculum model, infrastructure and staffing structure.
- 1.10 If a school is expanding by more than one class, the funding allocation per class will be tapered on a sliding scale as detailed in the criteria in Appendix 1.
- 1.11 The Pupil Growth Contingency Fund (PGCF) is managed and allocated by the School Organisation Team in accordance with the criteria agreed by Schools Forum.
- 1.12 To date, five additional forms of entry are identified to address increased demand for secondary places: one form at Trinity School effective from September 2017 and four forms at NUAST admitting from Year 7 in September 2018.
- 1.13 Appendix 1 details the proposed funding criteria for secondary pupil growth, and the key principles and conditions for allocating funding.
- 1.14 The existing criteria for primary growth has also been reviewed and is included at Appendix 2, with some additional conditions specified for any new funding allocations. The Sub-group determined the following:
- that the existing primary criteria is reasonable and should continue for any new primary allocations;
 - that the funding rates for staffing costs are reasonable and should continue;
 - that for any *new* primary funding decisions from April 2018 onwards, funding for utilities costs will only be allocated based on specific need / evidence, on a case-by-case basis;
 - that for 'bulge year' funding allocations in KS2, a Teaching Assistant may not be required, or can potentially be shared between more than one class. Allocations on a case-by-case basis as per the criteria and application process above.
- 1.15 Appendix 3 shows the predicted cost of implementing the recommended criteria. This is based on the known expansions in the primary and secondary phases and an additional 10 secondary classes. See 6.3 for the assumptions used in the calculations.
- 1.16 The growth fund is not used for:
- Schools with existing surplus capacity which are admitting additional pupils up to the PAN;
 - Schools admitting over PAN or increasing their PAN at their own choice;
 - Schools who are directed / requested to admit additional pupils admitted through Appeals, FAP, LAC, errors etc, as these numbers will be extremely low on an individual school basis.

2 BACKGROUND (INCLUDING OUTCOMES OF CONSULTATION)

- 2.1 All city primary and secondary school head teachers were invited to give their views and rationale on what principles they think this specific growth funding for secondary schools should be based. i.e. the essential additional costs incurred during the one year interim period, between the September when the pupils are admitted, to the following September (for academies) when they are reflected in a school's budget.
- 2.2 Limited feedback was received therefore Schools Forum nominated a Sub-group of members, to review the DfE guidance and the potential growth funding requirements of both primary and secondary schools.
- 2.3 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 of a primary school and 5 years for expansion of a secondary school). If a school expands by a one-off bulge year, they will receive funding for that year only.
- 2.4 Academies' financial year runs from September to September, therefore where growth funding has been provided to an academy from the September of any given year, there is a requirement by the ESFA for local authorities to continue this payment until the following August. This is paid in two separate payments: 7/12ths of the annual amount is paid in September (to cover the period Sept – March). The other 5/12ths is paid in April (to cover the period April to August). This additional 5/12ths element for academies is then reimbursed to the LA by the ESFA.
- 2.5 A termly update report will continue to be submitted to Schools Forum outlining how the funding has been allocated, to ensure a transparent and consistent process.
- 2.6 Any unspent monies at the end of the financial year will be carried forward and allocated to the Pupil Growth Contingency in the following year.

3 OTHER OPTIONS CONSIDERED IN MAKING RECOMMENDATIONS

- 4.1 The following options were also considered:
 - To not fund secondary pupil growth at all. But the resulting funding shortfall would be a disincentive to expand.
 - Other methodologies for allocating funding were also considered by the Schools Forum Sub-group, but were rejected in favour of the recommended model, which is felt more fairly reflects the immediate additional costs associated with expansion or increasing capacity beyond a school's existing PAN. The favoured model has also been costed and is currently affordable. However, the criteria will need to be reviewed again in 2019/20, as the DfE have stated that from this point, the methodology for funding pupil growth may change.

5 OUTCOMES/DELIVERABLES

- 5.1 To address the growing need for additional capacity in the secondary sector, in line with the LAs statutory requirement to provide school places. The provision of this revenue funding in a timely manner supports schools to effectively meet the needs of pupils and to maintain standards and performance, without sustaining a significant funding shortfall.

6 FINANCE COMMENTS (INCLUDING IMPLICATIONS AND VALUE FOR MONEY/VAT)

- 6.1 In the financial year 2018/19 the DfE introduced the National Funding Formula (NFF) for schools. In the first two years of the introduction of the NFF local authorities were given the choice to adopt the approach funding of schools based on the national funding formula or continue to set their own local funding formula. This phase is known as the “soft approach”. As part of the soft approach in 2018/19 and 2019/20 local authorities will be funded in the Schools Block based on the national funding formula. However, confirmation was only given that pupil growth would be funded in 2018/19 based on the historic cost in 2017/18. This was because the DfE wanted to review the methodology for allocating pupil growth funding moving forward. In March 2018 the DfE have been consulting with LA’s on the methodology to be adopted in 2019/20. They stated that they will release the outcome of the consultation in the Summer of 2018. From 2020/21 all LA’s and schools will be funded based on the NFF, this is known as the “Hard approach”. In the consultation process the DfE stated that they will be looking into perhaps allocating pupil growth through the NFF from 2020/21.
- 6.2 Due to the current financial environment LA’s are working within as outlined in 6.1, the LA is seeking Schools Forum’s approval to set the Pupil Growth Criteria for both primary and secondary schools for the financial year 2017/18 and 2018/19 only. Once more information is released by the DfE the LA will reassess if the pupil growth criteria’s need to reviewed.
- 6.3 The proposed pupil growth criteria model for both the primary and secondary phases have been based on the recommendations of the Schools Forum Sub-group. The financial modelling has been based on the following assumptions:
- The primary phase criteria remains unchanged;
 - Funding will be allocated based on consideration of the increase in overall actual numbers, i.e. the difference in pupils leaving year 11 and joining year 7, from the date of the increased capacity;
 - The secondary phase criteria is based up allocating funding for a M6 teacher and uses the actual deprivation ratios for the Trinity and NUASt but the remaining 10 classes have been based on the average ratios for all schools across the city on the Autumn 2017 school census. The actual deprivation allocations to all schools will be based on the individual schools deprivation ratios on the previous Autumn term census;
 - The secondary expansions have been based on 25 pupils class;
 - Assumed a 2% teacher’s pay award in September 2018;

- The deprivation rates used per pupil are the NFF rates for 2018/19;
- As all the secondary schools that will expand are not currently known the additional 10 classes have been costed assuming four schools will expand with two schools taking 3 classes and two schools taking 2 classes each;
- The funding per class has been tapered for secondary school expansions. Schools that expand by one class will receive 100% of the funding attributable to a teacher and the deprivation funding, a second class will attract 80% of the funding, a third class will attract 60% of the funding and a fourth class will attract 40% of the funding. Table 1 in Appendix 1 shows the indicative rates that a secondary school would attract if expanding by one class, Appendix 4 shows the funding that a secondary school would attract for each additional class;
- The model includes funding for classroom set up costs for secondary schools which it is anticipated will need classroom set up costs. This funding is allocated at £0.008m for the first classroom and is then tapered at 80% for the second classroom and 60% for the third classroom. The model has allocated funding for classroom set up costs to the Trinity School and the additional 10 classes that are forecast to be required from the financial year 2019/20 as these are the schools that are forecast to require this funding;
- The forecast includes: 1. £0.179m earmarked in the SSR for growth. This was unallocated funding in the Schools Block in 2018/19, 2. A contingency of £0.135m to cover 3 additional primary classes which may be requested during the financial year;
- As the methodology for funding local authorities for pupil growth from the financial year 2019/20 has not yet been confirmed by the DfE the model assumes the same level of funding moving forward as in 2018/19.

6.4 Appendix 3 shows a forecast outturn position for the pupil growth criteria for the financial years 2017/18 to 2024/25 (2024/25 is when all the projected expansions will end). Based on the assumptions noted above the proposed for model for both primary and secondary school expansions is affordable. Appendix 3 shows that there is sufficient funding to cover the expansions in 2017/18 and 2018/19. There is a projected underspend of £0.026m in 2018/19. From the financial year 2019/20 there is a projected deficit of -£0.057m rising to -£0.263m by 2021/22. The approach to be taken to recoup this shortfall will have to be considered at a later date:

- once we have had confirmation from the DfE how pupil growth is to be funded from 2019/20;
- We have more idea of which of the secondary schools are going to be expanding, therefore we will be able calculate a more accurate projection;
- We will have a better idea of how much of the contingency is going to be used.

6.5 As stated in 2.6 any underspends on the pupil growth fund will be carried forward to the following financial year.

7 LEGAL AND PROCUREMENT COMMENTS (INCLUDING RISK MANAGEMENT ISSUES, AND LEGAL, CRIME AND DISORDER ACT AND PROCUREMENT IMPLICATIONS)

7.1 Legal Implications

7.1.1 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).

7.1.2 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.*

7.1.3 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 2017 to 2018* (December 2016), paragraph 2). Local authorities can add to the schools budget from local sources of income (*ibid*, paragraph 4).

7.1.4 The detail is prescribed by regulations. The current regulations are the School and Early Years Finance (England) Regulations 2018, SI 2018/10 (“SEYFR”).

7.1.5 Amongst other things, regulation 1 of SEYFR states the following:-

(4) *In these Regulations—*

...

“1996 Act” means the Education Act 1996;

...

“2017 Regulations” means the School and Early Years Finance (England) Regulations 2017;

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

- (4) *A local authority must not deduct the expenditure referred to in paragraphs 4 to 6 of Schedule 2 unless the criteria for determining the expenditure have been authorised by its schools forum under regulation 12(1), or by the Secretary of State under regulation 12(3).*
- (5) *Except as provided for in paragraphs (12) and (13) [not relevant here], a local authority must not deduct the expenditure referred to in Schedule 2 (other than expenditure referred to in paragraph 8 (expenditure on licences) and Part 5 (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) *Where a local authority carries forward a deficit from the previous funding period to the funding period which reduces the amount of the schools budget available, the funding of this deficit from the schools budget must be authorised by its schools forum under regulation 12(1), or by the Secretary of State under regulation 12(3).*
- (7) *Any amount of expenditure which was deducted under paragraphs 4 (growth fund), 5 (falling rolls), 6 (new schools), and 7 (extra infant classes) of Schedule 2 to the 2017 Regulations for the previous funding period and which remains unspent may be used by the local authority in the funding period for the purposes listed in paragraphs 4 to 7 of Schedule 2 to the 2017 Regulations that applied to such expenditure.*

7.1.7 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);*

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

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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, including expenditure resulting from the additional costs associated with establishing a new school.

7.1.9 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 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.

7.1.10 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.

8 HR ISSUES

8.1 Not applicable.

9 EQUALITY IMPACT ASSESSMENT

9.1 An EIA is attached as Appendix 5, and due regard will be given to any implications identified in it.

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

10.1 None

11 PUBLISHED DOCUMENTS REFERRED TO IN COMPILING THIS REPORT

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