

**TITLE OF REPORT: Schools in Financial Difficulty**

---

**Purpose of the Report**

1. To bring to Schools Forum the request from Gateshead Council to re-instate the Schools in Financial Difficulty Procedure.

**Background**

2. Following a recent Leaders Briefing on schools balances for 2020/21 and projected balances for 2021/22 and 2022/23 Councillors and senior management would like to reintroduce the Schools in Financial Difficulty Procedure (Appendix 1) which was suspended by Schools Forum in 2017.
3. Although mainstream schools as a whole have made record additions to their balances in 2020/21, there are a number of small schools with specific difficulties. These include falling rolls and those who have had children placed who need additional support. There are also those who have small numbers but class sizes that are difficult to mix and who therefore find it extremely difficult to set an in year balanced budget and are not able to reduce their structural (brought forward) deficit. With funding in these schools so tight it would not be possible to make the level of savings required without impacting on the outcomes for children.

**Proposal**

4. It is proposed that the attached procedure is updated with the input of Schools Forum and other stakeholders and updated Financial Difficulty Procedure is re-instated to support schools in this situation to enable schools to apply for funding to assist with their deficit situation. It is also proposed that Dedicated Schools Grant (DSG) reserves are used to fund for Schools in Financial Difficulty, as under the Scheme for Financing Schools the Local Authority is prohibited from writing off school deficits.

**Recommendations**

5. It is recommended:
  - The attached procedure in Appendix 1 is updated with the input of Schools Forum and other stakeholders.
  - Funding allocated is from DSG reserves.

**For the following reasons: -**

- To enable schools to function without an adverse impact on the outcomes for children.

**Appendix 1**

Version 03 July 2017

# **Contingency Funding Schools Guidance**

## **Schools Procedure Note**

# **Contents**

**1) Purpose**

**2) Scope**

**3) Procedure Steps**

**a) Schools Procedure for Applying for a Contingency Funding Payment**

**b) Review process**

**c) Notification and Appeal Process**

**4) Appendix 1 – Detailed instructions for the application process**

**5) Appendix 2 – Contingency Funding Criteria**

**6) Appendix 3 - Model of Reasonableness**

**7) Appendix 4 - Model of Reasonableness – application proforma**

## 1) Purpose

The purpose of this guidance note is to provide Schools with the process for applying for Contingency Funding.

## 2) Scope

This procedure is intended to provide the process for both schools and the Local Authority (LA) on the application, review and allocation of Contingency Funding to ensure that the process is clear, transparent and fair.

## 3) Procedure Steps

Below is guidance on how applications are to be made for Contingency Funding.

### a) Schools Procedure for Applying for Contingency Funding

- i) Only schools within Gateshead that are maintained or have been maintained and converted to an academy can apply for Contingency Funding
- ii) Schools must make a formal request in writing for Contingency Funding.
- iii) Schools must state clearly the amount of contingency that they are applying for and the rationale for the amount requested.
- iv) Schools making an application must provide information to support their application. The information to support applications will differ depending on the criteria under which the contingency funding is being applied for. The examples provide below are for guidance only as information required will relate to each individual application Appendix 2 gives the full list of Contingency Funding Criteria.

#### (1) Criteria 1

“Cost pressures specifically identified and caused by a relatively large numerical change in pupil numbers, especially if it relates to a single age-group, where the change is outside the control of the governing body and where the timing of the change in circumstances prevents no opportunity to the school to plan accordingly (e.g. housing demolition or compulsory purchase orders, or reorganisation).”

- (a) Pupil number details for a number of year groups showing the change in numbers in specific year groups or different pupil groups.
- (b) The reasons why the school has not been able to anticipate or adequately plan for the circumstances
- (c) Any school/ class organisational issues
- (d) Measures that have been put in place to mitigate the impact on the schools budget

#### (2) Criteria 2

“The correction of significant errors in the data or in the application of the resource allocation formula.”

- (a) The Formula error must be brought to the attention of Business Partner (Schools) together with the evidence to support that there is a formula

error. E.g. number of children in Additionally Resourced Mainstream Support (ARMS). In this instance contingency funding would not require to be paid back if the school has a surplus balance at the end of the financial year.

(3) Criteria 3

“Emergency costs arising from incidents outside the control of the governing body of the school (e.g. flood or fire damage). The money allocated for these purposes will be earmarked for specific use.”

- (a) What the emergency is and how it has affected the school
- (b) Evidence that it is a significant cost that the school budget cannot support
- (c) There are no other sources of funding
- (d) Estimates and invoices related to any work undertaken

(4) Criteria 4

“The provision of additional resources or other special support, temporarily, in response to a school as described in the DfE guidance “Schools Causing Concern” issued March 2016, and in accordance with Section 44 of the Education Act 2005, sections 60, 61 and 62 of the Education and Inspections Act 2006.” The details of the sections of the acts are in appendix 1

- (a) Schools can ask for additional specific resources if they are deemed to be a school causing concern or have received a notice of concern.
- (b) Requests should be specific and linked to areas of school expenditure highlighted either by the notice of concern or Ofsted judgements

(5) Criteria 5

“For in-year allocations to schools in respect of pupils with new or revised statements of Special Educational Needs (SEN) /Education Health and Care Plan (EHCP), or for these pupils transferring between schools within the LA.”

- (a) Schools should in the first instance apply to the High Needs Block of the Dedicated Schools Grant, (DSG) for additional funding. Top up payments for pupils that qualify will follow the pupil to a new school within the LA.

(6) Criteria 6

“Schools that are in financial difficulty and can demonstrate that they have taken all reasonable measures to address financial issues, and that the current financial difficulties are not as a result of financial mismanagement. Schools must apply the LEA’s “Model of Reasonableness” before making an application to demonstrate that they meet the criteria.”

- (a) This criterion is subject to a separate process as detailed in Financial Difficulty Funding Procedure.

- v) Maintained Schools who have entered into a Financial Advice & Support SLA should contact their budget officer for assistance with the process and support with any financial information before submitting their application to the Business Partner (Schools). Schools that have not entered into a financial advice and SLA should send their applications direct to Business Partner (Schools)

**b) Review Process**

- i) The Business Partner (Schools) will review the contingency funding application and all relevant financial records to assess the contingency application. For

Academies full data sharing which could include, but not limited to: access to all management accounts, pay and grading structures, 3 year financial forecasts, Governing Body and subcommittee minutes and any other information that maybe required to assist in the assessment of the contingency funding request.

- ii) Business Partner (Schools) will liaise with relevant offers and school staff to establish facts and for the provision of professional opinions.
- iii) Business Partner (Schools) will request confirmation from Business Partner (Care, Wellbeing and Learning) on the value of funds available in Dedicated Schools Grant (DSG) reserves.
- iv) Funding can only be allocated to schools up to the uncommitted balance held in DSG reserves; however an exception may be made in cases where there has been a formula error.
- v) The Business Partner (Schools) will review each application against the contingency criteria and will make a recommendation to the Director of Learning and Schools for approving or rejecting the application.
- vi) At the end of the financial year in which Contingency Funding was received, the maintained schools outturn position will be reviewed. For academies both yearend management reports and year end accounts will be reviewed. Where a school has a surplus balance above 0%, an amount will be deducted from the maintained school budget share or an invoice raised for academies up to the value of the contingency payment received, but no greater than the surplus balance held by the school. The calculation for the surplus balance does not include any additional grants including pupil premium. The amount deducted will be the lesser of either the total amount of Financial Difficulty Funding received or the amount of surplus balance above 0%. The exception to this review will be for schools that received funding for formula errors.

### **c) Notification of Application Decision and Funding**

- i) The Business Partner (Schools) will provide a written confirmation on the outcome of the application process to the school, Business Partner (Care Wellbeing and Learning) and the Group Accountant (Schools). The letter will include any amount of funding awarded to the school.
- ii) Schools will then have 10 working days to appeal the decision, and the appeal will be reviewed by a sub group of the Schools Forum. The sub group will comprise of 3 any members of the Schools Forum ensuring there are no conflicts of interest. The Head Teacher and Chair of Governors of the school applying for funding may be asked to attend a meeting to discuss the application for Contingency Funding. The decision of the Schools Forum sub group will be final.
- iii) Schools will receive their Contingency Funding allocation as a separately identifiable contingency payment.
- iv) All Contingency Funding applications and decisions will be reported to Schools Forum at the next appropriate meeting.

## Section 44 of the Education Act 2005

**59 School that is Causing Concern –**

Categories of schools causing concern-

- (i) For the purposes of this Part (of section 44 of the Education Act 2005), special measures are required to be taken in relation to a school if —
1. the school is failing to give its pupils an acceptable standard of education, and .
  2. the persons responsible for leading, managing or governing the school are not demonstrating the capacity to secure the necessary improvement in the school.
  3. For the purposes of this Part, a school requires significant improvement if, although not falling within subsection (1), it is performing significantly less well than it might in all the circumstances reasonably be expected to perform.

Schools that are eligible for intervention

**60 Warning notice by local education authority.**

(1) A maintained school is by virtue of this section eligible for intervention if

— (a) the local education authority have given the governing body a warning notice in accordance with subsection (2).

(b) the period beginning with the day on which the warning notice is given and ending with the fifteenth working day following that day (“the initial period”) has expired,

(c) either the governing body made no representations under subsection (7) to the Chief Inspector against the warning notice during the initial period or the Chief Inspector has confirmed the warning notice under subsection (8),

(d) the governing body have failed to comply, or secure compliance, with the notice to the authority's satisfaction by the end of the compliance period (as defined by subsection (10)), and .

(e) the authority have given reasonable notice in writing to the governing body that they propose to exercise their powers under any one or more of sections 63 to 66 (whether or not the notice is combined with a notice under section 62(2A)(c) of SSFA 1998). .

(2) A local education authority may give a warning notice to the governing body of a maintained school where the authority are satisfied —

(a) that the standards of performance of pupils at the school are unacceptably low, and are likely to remain so unless the authority exercise their powers under this Part, or

(b) that there has been a serious breakdown in the way the school is managed or governed which is prejudicing, or likely to prejudice, such standards of performance, or

(c) that the safety of pupils or staff of the school is threatened (whether by a breakdown of discipline or otherwise).

(3) For the purposes of subsection (2)(a) the standards of performance of pupils at a school are low if they are low by reference to any one or more of the following —

- (a) the standards that the pupils might in all the circumstances reasonably be expected to attain,
- (b) where relevant, the standards previously attained by them, or
- (c) the standards attained by pupils at comparable schools.

(4) For the purposes of this section a “warning notice” is a notice in writing by the local education authority setting out —

(a) the matters on which the conclusion mentioned in subsection (2) is based,

(b) the action which they require the governing body to take in order to remedy those matters,

(c) the initial period applying under subsection (1)(b), and

(d) the action which the local education authority are minded to take (under one or more of sections 63 to 66 or otherwise) if the governing body fail to take the required action. .

(5) The warning notice must also inform the governing body of their right to make representations under subsection (7) during the initial period.

(6) The local education authority must, at the same time as giving the governing body the warning notice, give a copy of the notice to each of the following persons— .

(a) the Chief Inspector,

(b) the head teacher of the school,

(c) in the case of a Church of England school or a Roman Catholic Church school, the appropriate diocesan authority, and

(d) in the case of a foundation or voluntary school, the person who appoints the foundation governors.

(7) Before the end of the initial period, the governing body may make representations in writing to the Chief Inspector against the warning notice, and must send a copy of any such representations to the local education authority.

(8) The Chief Inspector must consider any representations made to him under subsection (7) and may, if he thinks fit, confirm the warning notice.

(9) The Chief Inspector must give notice in writing of his decision whether or not to confirm the warning notice to the local education authority, the governing body and such other persons as the Secretary of State may require.

(10) In this section —

“the compliance period”, in relation to a warning notice, means—

(a) in a case where the governing body does not make representations under subsection (7) the initial period mentioned in subsection (1)(b), and

(b) in a case where the Chief Inspector confirms the warning notice under subsection

(8) the period beginning with the day on which he does so and ending with the fifteenth working day following that day;

“working day” means a day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday under the Banking and Financial Dealings Act 1971 (c. 80) in England.

## **61 School requiring significant improvement.**

A maintained school is by virtue of this section eligible for intervention if —

(a) following an inspection of the school under Chapter 1 of Part 1 of EA 2005, the Chief Inspector has given notice under section 13(3)(a) of that Act in a case falling within section 13(1)(b) of that Act (school requiring significant improvement), and



- (b) where any subsequent inspection of the school has been made under Chapter 1 of Part 1 of that Act, the notice has not been superseded by— .
- (i) the person making the subsequent inspection making a report stating that in his opinion the school no longer requires significant improvement, or .
  - (ii) the Chief Inspector giving the Secretary of State a notice under section 13(3)(a) of that Act in a case falling within section 13(1)(a) of that Act (school requiring special measures).

## **62 School requiring special measures.**

A maintained school is by virtue of this section eligible for intervention if—

- (a) following an inspection of the school under Chapter 1 of Part 1 of EA 2005, the Chief Inspector has given notice under section 13(3)(a) of that Act in a case falling within section 13(1)(a) of that Act (school requiring special measures), and .
- (b) where any subsequent inspection of the school has been made under Chapter 1 of Part 1 of that Act, the person making it did not state that in his opinion special measures were not required to be taken in relation to the school.

### Contingency Funding Criteria Agreed October 2016

The LEA will retain centrally contingency funding that could provide in-year support to schools for:

1. Cost pressures specifically identified and caused by a relatively large numerical change in pupil numbers, especially if it relates to a single age-group, where the change is outside the control of the governing body and where the timing of the change in circumstances prevents no opportunity to the school to plan accordingly (e.g. housing demolition or compulsory purchase orders, or reorganisation).
2. The correction of significant errors in the data or in the application of the resource allocation formula.
3. Emergency costs arising from incidents outside the control of the governing body of the school (e.g. flood or fire damage). The money allocated for these purposes will be earmarked for specific use.
4. The provision of additional resources or other special support, temporarily, in response to a school as described in the DfE guidance "Schools Causing Concern" issued March 2016, and in accordance with Section 44 of the Education Act 2005, sections 60, 61 and 62 of the Education and Inspections Act 2006.
5. For in-year allocations to schools in respect of pupils with new or revised statements of SEN /Education Health and Care Plan, or for these pupils transferring between schools within the LEA.
6. Schools that are in financial difficulty, and can demonstrate that they have taken all reasonable measures to address financial issues, and that the current financial difficulties are not as a result of financial mismanagement. Schools must apply the LEA's "Model of Reasonableness" before making an application to demonstrate that they meet the criteria.

If contingency is given and a school ends the same financial year with a surplus the contingency payment, or a proportion of it, will be clawed back.

**MODEL OF REASONABLENESS FOR INFANT, JUNIOR & PRIMARY SCHOOLS**

The below factors will only be used to inform discussions between the Local Authority and Schools who are seeking deficit approval and Contingency Funding. It is intended to help ensure Contingency Funds are allocated fairly.

The criteria below do not represent ideal staffing and service provision but are reasonable within the current financial constraints.

It is recognised that:

- circumstances and needs of individual schools vary and the responsibility for the appointment and deployment of staff remains with the Headteacher and Governors.
- the Local Authority will decide on Contingency Funding allocation and will seek approval for their decisions from the Schools Forum.
- the authority for making final Contingency Fund allocations remains with the LA.
- Schools that receive Contingency Funding, and have balances over 0% at the end of the financial year will have amounts over the 0% and up to the amount of the Contingency Funding deducted from their balance.

	<b>Factor</b>	<b>Group 1 School</b>	<b>Group 2 School</b>	<b>Group 3 School</b>
1	Headteacher	Possible teaching commitment	No teaching commitment	No teaching commitment
2	Deputy Headteacher	Full teaching commitment Review and explain if outside ISR	Full teaching commitment (max. 3 x ½ days release) Review and explain if outside ISR	Teaching at least 50% (20%-50% release) Review and explain if outside ISR
3	Salary Range HT/DHT	Review and explain if outside ISR	Review and explain if outside ISR	Review and explain if outside ISR
4	Pupil Teacher Ratios	Should comply with teaching ratios for nursery and infant class sizes	Should comply with teaching ratios for nursery and infant class sizes	Should comply with teaching ratios for nursery and infant class sizes
5	Pupil Adult Ratios	To be appraised	To be appraised	To be appraised
6	Whole School Staffing Structure, (inc PPA)	To be appraised	To be appraised	To be appraised
7	Financial Services LEA	At minimum level	At minimum level	At minimum level
8	Office Staff	1 F.T.	1.5 F.T. max.	1 – 2 F.T. max
9	Sickness Insurance	Must minimise the risk	Must minimise the risk	Must minimise the risk
10	Caretaking / PFI charges	At minimum level	At minimum level	At minimum level
11	Use of other school income e.g. Standards Funds SSG & SSG(P)	To be appraised	To be appraised	To be appraised
12	Devolved Formula Capital Balance & Use	To be appraised	To be appraised	To be appraised
13	Use of Surplus Balances	To be appraised	To be appraised	To be appraised

**MODEL OF REASONABLENESS FOR INFANT, JUNIOR & PRIMARY SCHOOLS**  
**- Pro-forma Application Form**

The below factors will only to be used to inform discussions between the Local Authority and Schools who are seeking deficit approval and Contingency Funding. It is intended to help ensure Contingency Funds are allocated fairly.

	Factor	
	School Grouping e.g. Group 1,2 or 3	
1	Headteacher	
2	Deputy Headteacher	
3	Salary Range HT/DHT	
4	Pupil Teacher Ratios	
5	Pupil Adult Ratios	
6	Whole School Staffing Structure, (inc PPA)	
7	Financial Services LEA	
8	Office Staff	
9	Sickness Insurance	
10	Caretaking / PFI charges	
11	Use of other school income e.g. Standards Funds SSG & SSG(P)	
12	Devolved Formula Capital Balance & Use	
13	Use of Surplus Balances	

**The rational and amount of Contingency Funding Applied for**

Total Amount of Contingency applied for	
---	--

Rational for Contingency application	
--------------------------------------	--