



Haringey Council

The Children and Young People's Service

**Agenda Item
6**

Report Status

For information/note
For consultation & views
For decision

Report to Haringey Schools Forum – 26 February 2014.

Report Title: Haringey Council's Scheme for Financing Schools.

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Purpose:

To consult with members of the proposed changes to the local Scheme for Financing Schools.

To obtain approval for the changes from members representing maintained schools.

Recommendations:

That members representing maintained schools agree the revisions to the Scheme set out in the report and its appendices.

1. Introduction.

- 1.1. It is a statutory requirement for each local authority to have a Scheme for Financing Schools that sets out the financial relationship between the authority and its maintained schools.
- 1.2. From time to time the Department for Education DfE issues Directed Changes which an authority must incorporate in its scheme.
- 1.3. The following sections set out the proposed changes in Haringey's Scheme for 2014-15.

2. Responsibility for Redundancy and Early Retirement Costs.

- 2.1. This is an important section within the scheme and the change is to bring the local scheme into line with the updated DfE's Model Scheme. The current and proposed wording is set out in Appendix 1.

3. The Funding Framework.

- 3.1. The proposed changes for Section 1.1, the Funding Framework, are set out in Appendix 2.

4. Other Changes.

- 4.1. Change in the status of Pupil Referral Units (Pupil Support Centre). This brings the PRUs into the scope of the Scheme following changes introduced in April 2013. Section 1.5.3 now reads:

'Pupil Referral Units (PRU's) or institutions carrying out those functions (e.g. the Haringey Pupil Support Centre) are now maintained schools within the meaning of s.20 (7) of the Act and this Scheme therefore now applies to them.'

- 4.2. Removal of the need to consult with all schools. There is now only a requirement to consult with the Schools Forum Members representing maintained schools on proposed changes to the Scheme. Section 1.8.1 will now read:

'Any proposed revisions to the Scheme will be the subject of consultation with School Forum Members and shall require the approval of School Forum members representing maintained schools. In the event of a disagreement between the Authority and the Schools Forum on proposed changes to the Scheme the adjudication of the Secretary of State will be sought.'

- 4.3. Section 2.19.1 is updated with revised references to relevant legislation and now reads.

'Governing bodies are free to spend their budget shares 'for the purposes of the school', subject to any provisions of this scheme. This has been widened by the Secretary of State to include specifically spending by governing bodies on community facilities and services under S27 of the Education Act 2002. Under s.50(3)(b) the Secretary of State may prescribe additional purposes for which expenditure of the budget share may occur. He has done so in the School Budget Shares (Prescribed Purposes)(England) Regulations 2002 (SI 2002/378), which have been amended by the School Budget Shares (Prescribed Purposes)(England)(Amendment) Regulations 2010 (SI 2010/190). These allow schools to spend their budgets on pupils who are on the roll of other maintained schools.'

- 4.4. Section 3.2.4 is updated to include place-led funding in references to payment of monthly cash advances and the monthly payment of top-up payments for high needs pupils.

'Schools will receive their budget share, including place-led funding, as cash advances in twelve equal instalments. Top-up payments for pupils with statements of special educational need will also be made monthly. Schools buying into Haringey's Payroll Service will have the advance reduced by the equivalent of the previous month's payroll with final adjustments made at the year end.'

- 4.5. Section 4.6.2 is updated for the changes introduced in April 2013 whereby the Contingency for Financial Difficulty for mainstream schools can only be retained centrally if de-delegated is agreed by the relevant members of the Schools Forum.

'Assistance may be made towards the elimination of a deficit balance through the allocation of a cash sum, from the authority's schools budget (from a centrally held budget specified for the purpose of expenditure on special schools and pupil referral units in financial difficulty or, in respect of mainstream maintained schools, from a de-delegated contingency budget where this has been agreed by Schools Forum).'

- 4.6. Section 6.1.4 is added to clarify that local authorities only need the permission of the relevant members of the Schools Forum to de-delegate permitted services and not the permission of individual governing bodies.

'Local authorities may de-delegate funding for permitted services without the express permission of the governing body, provided this has been approved by the appropriate phase representatives of the Schools Forum.'

- 4.7. In Section 6.2, 'Circumstances in Which Charges may be Made' against a school's budget share, the insertion of the following,

'Costs incurred by the authority in securing provision specified in a statement of SEN where the governing body of a school fails to secure such provision despite the delegation of funds in respect of low cost high incidence SEN and/or specific funding for a pupil with High Needs;'

5. Recommendation.

- 5.1. That members representing maintained schools agree the revisions to the Scheme set out in the report and its appendices.**

5.2.

Appendix 1 Responsibility for Redundancy and Early Retirement Costs.

Current Wording.

Responsibility for Meeting the Costs of Securing Resignation or Early Retirement and Costs Incurred In Respect of Dismissal

Section 37 of the Education Act 2002 sets out the respective responsibilities of governing bodies and local authorities in this area; in summary, the governing body is, for school based staff, the 'deciding' body and will determine if payment should be made in respect of the dismissal, or for securing the resignation or early retirement, of a member of staff of the school, and the amount of any such payment. The local authority is the 'compensating' body and will make the payment; in certain circumstances, some or all of this payment will be charged to individual school budget shares.

The 'deciding' body must take account of all relevant legal requirements and of the advice of the local authority in reaching its decision.

Only where the Local Authority has 'good reason' for not funding the whole or part of Early Retirement, Resignation or Dismissal costs centrally will these be charged against the school's delegated budget. The following are examples where the LA would expect there was good reason to charge a school's budget share and would do so, subject to consultation with the school:

- If a school has decided to offer more generous terms than the authority's policy, then it would be reasonable to charge the excess to the school;
- If a school is otherwise acting outside of the LA's policy;
- Where the school is making staffing reductions which the LA does not believe are necessary to either set a balanced budget or meet the conditions of a licensed deficit;
- Where staffing reductions arise from a deficit caused by factors within the schools control;
- Where the school has excess surplus balances and no agreed plan to use these;
- Where a school has refused to engage with the LA's redeployment policy.
- Where the school has not sought and followed the LA's advice

The Council will provide written confirmation of its agreement to the proposed payment(s).

Early Retirement.

Unless Haringey Council has agreed otherwise in writing, the school's budget share will be charged with the cost of premature retirement.

Updated Wording extracted from the DfE Model Scheme

Responsibility for Redundancy and Early Retirement Costs.

This Section summarises the position relating to the charging of voluntary early retirement and redundancy costs. It sets out what is specified in legislation and provides some examples of when it might be appropriate to charge an individual school's budget, the central Schools Budget or the local authority's non-schools budget.

Section 37 of the 2002 Education Act says:

(4) costs incurred by the local education authority in respect of any premature retirement of a member of the staff of a maintained school shall be met from the school's budget share for one or more financial years except in so far as the authority agree with the governing body in writing (whether before or after the retirement occurs) that they shall not be so met

(5) costs incurred by the local education authority in respect of the dismissal, or for the purpose of securing the resignation, of any member of the staff of a maintained school shall not be met from the school's budget share for any financial year except in so far as the authority have good reason for deducting those costs, or any part of those costs, from that share.

(6) The fact that the authority have a policy precluding dismissal of their employees by reason of redundancy is not to be regarded as a good reason for the purposes of subsection (5); and in this subsection the reference to dismissal by reason of redundancy shall be read in accordance with section 139 of the Employment Rights Act 1996 (c. 18).

The default position, therefore, is that premature retirement costs must be charged to the school's delegated budget, while redundancy costs must be charged to the local authority's budget. In the former case, the local authority has to agree otherwise for costs to be centrally funded, while in the latter case, there has to be a good reason for it not to be centrally funded, and that cannot include having a no redundancy policy. Ultimately, it would be for the courts to decide what a good reason was, but the examples set out below indicate the situations in which exceptions to the default position might be taken.

Charge of dismissal/resignation costs to delegated school budget:

- If a school has decided to offer more generous terms than the authority's policy, then it would be reasonable to charge the excess to the school
- If a school is otherwise acting outside the local authority's policy
- Where the school is making staffing reductions which the local authority does not believe are necessary to either set a balanced budget or meet the conditions of a licensed deficit

- Where staffing reductions arise from a deficit caused by factors within the school's control
- Where the school has excess surplus balances and no agreed plan to use these
- Where a school has refused to engage with the local authority's redeployment policy

Charge of premature retirement costs to local authority non-schools budget:

- Where a school has a long-term reduction in pupil numbers and charging such costs to their budget would impact on standards
- Where a school is closing, does not have sufficient balances to cover the costs and where the central Schools Budget does not have capacity to absorb the deficit
- Where charging such costs to the school's budget would prevent the school from complying with a requirement to recover a licensed deficit within the agreed timescale
- Where a school is in special measures, does not have excess balances and employment of the relevant staff is being/has been terminated as a result of local authority or government intervention to improve standards

Costs of early retirements or redundancies may only be charged to the central part of the Schools Budget where the expenditure is to be incurred as a result of decisions made before 1st April 2013. Costs may not exceed the amount budgeted in the previous financial year.

The local authority will discuss its policy with the Schools Forum. Although each case should be considered on its merits, this should be within an agreed framework.

For staff employed under the community facilities power, the default position is that any costs must be met by the governing body, and can be funded from the school's delegated budget if the governing body is satisfied that this will not interfere to a significant extent with the performance of any duties imposed on them by the Education Acts, including the requirement to conduct the school with a view to promoting high standards of educational achievement. Section 37 now states:

(7) Where a local education authority incur costs—

(a) in respect of any premature retirement of any member of the staff of a maintained school who is employed for community purposes, or
 (b) in respect of the dismissal, or for the purpose of securing the resignation, of any member of the staff of a maintained school who is employed for those purposes,
 they shall recover those costs from the governing body except in so far as the authority agree with the governing body in writing (whether before or after the retirement, dismissal or resignation occurs) that they shall not be so recoverable.

(7A) Any amount payable by virtue of subsection (7) by the governing body of a maintained school in England to the local authority may be met by the governing body out of the school's budget share for any funding period if and to the extent that the condition in subsection 7(B) is met.

(7B) The condition is that the governing body are satisfied that meeting the amount out of the school's budget share will not to a significant extent interfere with the performance of any duty imposed on them by section 21(2) or by any other provision of the education Acts.

(8) Where a person is employed partly for community purposes and partly for other purposes, any payment or costs in respect of that person is to be apportioned between the two purposes; and the preceding provisions of this section shall apply separately to each part of the payment or costs.

Appendix 2. The Funding Framework.

Current Wording.

This document replaces the Authority's Local Management of Schools Scheme created under the terms of the 1988 Education Reform Act and subsequent legislation. The funding framework detailed below is based upon the legislative provisions in Sections 45 to 53 of the School Standards and Framework Act 1998 (SSFA), and subsequent regulations.

This document has been updated for 2013/14 to reflect recent statutory guidance issued by the Government, other Department for Education (DfE) guidance and changes proposed by the Local Authority (LA).

Under the terms of Section 48 of the SSFA, the Authority is required to prepare this document detailing the conditions and arrangements it has made for the financial management of its maintained schools. All revisions to the Scheme must, following consultation with the governing body and head teacher of all maintained schools, be submitted for approval by the Schools Forum. In the event that the forum rejects a proposal to amend the scheme or approves it subject to modifications that are not acceptable to the LA, the authority may apply to the Secretary of State for its approval.

Under this legislation, the Authority will determine on an annual basis, the size of the Schools Budget and their non-schools education budget – although at a minimum an authority must appropriate its entire Dedicated Schools Grant (DSG) to their Schools Budget (DSB).

The categories of expenditure which fall within the two budgets (the Schools Budget and the non-schools education budget) are prescribed under regulations made by the Secretary of State, but included within the two is all expenditure, direct and indirect, on the LA's maintained schools except for Capital.

The LA may centrally retain funding in the Schools Budget for purposes defined in regulations made by the Secretary of State under Section 45A of the Act. The amounts to be retained centrally are decided upon by the LA, subject to any limits or conditions prescribed by the Secretary of State. The balance of the Schools Budget remaining after deduction of centrally retained funds is termed the Individual Schools Budget (ISB).

Expenditure items in the non-schools education budget must be retained centrally (although earmarked allocations may be made to schools).

The LA must distribute the ISB amongst all maintained schools using a formula, which accords with regulations made by the Secretary of State, and enables the calculation of a budget share for each maintained school. This budget share is then delegated to the governing body of the school concerned, unless the school is a new school which has not yet received a

delegated budget, or the right to a delegated budget has been suspended in accordance with Section 51 of the Act.

Subject to the provisions of the scheme, governing bodies may spend their budget share for the purposes of their school or for pupils at other maintained schools. This also includes provision to spend a school's budget share on any additional purposes prescribed by the Secretary of State in regulations made under S50 (3A) of the SSFA (the provision of community facilities).

The LA will publish each year a statement setting out details of its planned Schools Budget and other expenditure on children's services, showing the amounts to be centrally retained, the budget share for each school, the formula used to calculate those budget shares, and the detailed calculation for each school. After each financial year the LA will publish a statement showing outturn expenditure at both central level and for each school, and the balances held in respect of each school.

The detailed publication requirements for financial statements and for schemes are set out in regulations, but each school must receive a copy of the scheme and any amendment, and each year's budget and outturn statements so far as they relate to that school or central expenditure. The financial controls within which delegation works are set out in Haringey's Financial Regulations for Schools and the School Finance Manual.

Revised Wording.

THE FUNDING FRAMEWORK: MAIN FEATURES

The funding framework which replaces Local Management of Schools is set out in the legislative provisions in sections 45-53 of the School Standards and Framework Act 1998.

Under this legislation, local authorities determine for themselves the size of their schools budget and their non-schools education budget – although at a minimum an authority must appropriate its entire Dedicated Schools Grant to their schools budget. The categories of expenditure which fall within the two budgets are prescribed under regulations made by the Secretary of State, but included within the two, taken together, is all expenditure, direct and indirect, on an authority's maintained schools except for capital and certain miscellaneous items.

Authorities may deduct funds from their schools budget for purposes specified in regulations made by the Secretary of State under s.45A of the Act (the centrally retained expenditure). The amounts to be deducted for these purposes are decided by the authority concerned, subject to any limits or conditions (including gaining the approval of their Schools Forum or the Secretary of State in certain instances) as prescribed by the Secretary of State. The balance of the schools budget left after deduction of the centrally retained expenditure is termed the Individual Schools Budget (ISB).

Expenditure items in the non-schools education budget must be retained centrally (although earmarked allocations may be made to schools).

Authorities must distribute the ISB amongst their maintained schools using a formula which accords with regulations made by the Secretary of State, and enables the calculation of a budget share for each maintained school. This budget share is then delegated to the governing body of the school concerned, unless the school is a new school which has not yet received a delegated budget, or the right to a delegated budget has been suspended in accordance with s.51 of the Act. The financial controls within which delegation works are set out in a scheme made by the authority in accordance with s.48 of the Act and regulations made under that section. All proposals to revise the scheme must be approved by the Schools Forum, though the authority may apply to the Secretary of State for approval in the event of the forum rejecting a proposal or approving it subject to modifications that are not acceptable to the authority.

Subject to any provision made by or under the scheme, governing bodies of schools may spend such amounts of their budget shares as they think fit for any purposes of their school and for any additional purposes prescribed by the Secretary of State in regulations made under s.50 of the Act. (*Section 50 has been amended to provide that amounts spent by a governing body on providing community facilities or services under section 27 of the Education Act 2002 are treated as if they were amounts spent for the purposes of the school (s50(3A) of the Act.) An authority may suspend a school's right to a delegated budget if the provisions of the authority's financial scheme (or rules applied by the scheme) have been substantially or persistently breached, or if the budget share has not been managed satisfactorily. A school's right to a delegated budget share may also be suspended for other reasons (schedule 17 to the Act).

Each authority is obliged to publish each year a statement setting out details of its planned Schools Budget and other expenditure on children's services, showing the amounts to be centrally retained and funding delegated to schools. After each financial year the authority must publish a statement showing out-turn expenditure at both central level and for each school, and the balances held in respect of each school.

The detailed publication requirements for financial statements are set out in directions issued by the Secretary of State, but each school must receive a copy of each year's budget and out-turn statements so far as they relate to that school or central expenditure.

Regulations also require a local authority to publish their scheme and any revisions to it on a website accessible to the general public, by the date that any revisions come into force, together with a statement that the revised scheme comes into force on that date.