



**Agenda Item
10**

Report Status

- For information/note
For consultation & views
For decision

Report to Haringey Schools Forum – 13 July 2017

Report Title: Proposals to address restructuring in our community schools and resultant potential redundancies and other related finance matters

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Purpose: To advise Schools Forum of the proposal to amend section 12 of the Financial Scheme of Delegation for schools to reflect the need to:

- 1 appropriately and robustly challenge restructure proposals with redundancy implications, and:
- 2 advise the Forum of other measures the Local Authority is taking to support schools in being able to operate within budget and challenge as appropriate where judicious financial decision making is not evidenced.

Recommendations:

- to agree amendments to section 12 of the Financial Scheme of Delegation to reflect increasing redundancy costs to the LA;
- note the other measures the LA is taking to support and advise all schools on financial matters to ensure optimised financial planning in all of our settings.

1. Introduction

- 1.1 An emerging national funding formula and other changes (including increasing pension and national insurance contribution commitments) has put significant financial pressure on schools' budgets.
- 1.2 As part of a number of measures that schools are considering to reduce spending and keep within budgets, some schools have looked at staffing structures to see *if* and *where* any savings might be made.
- 1.3 As a result, the Local Authority has received a number of restructure proposals from schools that result in redundancy payments. Further, we anticipate that the number of schools looking at restructuring and the resultant likelihood of increased redundancy payments is set to increase for at least the coming academic year, possibly beyond.
- 1.4 Appendix 1 to this report sets out a flow chart for how the Local Authority expects to be consulted on proposed restructures with a route outlined for those schools that buy Haringey's HR SLA and those schools that buy HR advice from outside of the Local Authority. This flow chart was shared with schools in June 2017.

2. Redundancies

- 2.1 The primary legislation for the issues relating to redundancy in community and VA schools is set out in Section 37 of the Education Act 2002 which makes clear that decision making responsibilities in securing the termination employment contracts of teaching and support staff in schools through redundancy lie with the Governing Body.
- 2.2 Consequently, the Local Authority role in consideration of any matter of possible staff redundancy would be only on making decisions about funding any such proposal, in accordance with relevant statutory requirements.
- 2.3 Section 37 of the Act makes it clear that the costs incurred in respect of securing the dismissal of staff through redundancies, shall not come from the school's delegated budget unless the Local Authority has good reason for refusing to fund all or part of the costs. 'Good reason' is not defined but a good reason might be that the Local Authority believes the proposed redundancy was unnecessary, efforts to secure redeployment were not adequately explored, where payments are too high or if the school holds a surplus revenue balance which could reasonably be used to fund the additional costs.
- 2.4 To support both schools and the LA through the process of restructuring proposals and resultant possible redundancies, and to ensure the appropriate challenge to the process, the LA is proposing to set up a panel of officers and head teachers that will scrutinise any

restructure proposal where there is a redundancy implication and, among other things, ascertain:

- a) Is there a clear and detailed rationale for the proposed staffing reduction?
- b) Is the proposed reduction in staffing based on an accurate assessment of the school's current financial position?
- c) Is the proposed reduction in staffing based on a reasonable and accurate prediction of the school's future financial position?
- d) Is the proposed reduction in staffing necessary to either set a balanced budget or meet the conditions of a licensed deficit?
- e) Does the proposed reduction in staffing arise from a deficit caused by factors within the school's control?
- f) Does the school have excess surplus balances and no agreed plan to use these?
- g) Has the school provided sufficient advance warning (a minimum of four weeks) of any possible redundancy to the Local Authority?
- h) Has the school carried out a thorough investigation of ways to avoid any redundancy?
- i) Does the school have a clear plan in place to try and avoid any redundancy/ through re-deployment of staff affected, including possible redeployment to other schools within the Local Authority pending the relevant a recruitment process of that school?
- j) Does the school have an agreed procedure and policy in place, which will be followed to make any reduction to staffing?

2.5 The changes proposed above necessitate an amendment to the Schools Financial Scheme of Delegation and Appendix 2 to this report sets out a proposed section 12 (Responsibility for redundancy and severance costs) to the Scheme which reflects the role of the panel.

2.6 The panel will also help challenge and determine (as a supplement to other processes and procedures already tasked with determining such matters) next steps in matters relating to:

- Applications for licensed deficits including challenge to ensure within a specified and reasonable timeline;
- Proposals to support schools in financial difficulty, including dedicated and tailored high quality financial advice and support.

2.7 The panel is expected to consist of the following:

- Schools and Learning officers, finance officers and HR officers;
- Head teacher representatives from Early Years settings, and primary, secondary and special school settings.

2.8 The panel will be scheduled to ensure it is able to meet monthly, and dates will be set across the 2017/18 school year in July 2017, with meetings to be cancelled only where there are no matters for the panel to determine in any given month.

3 Other measures

3.1 In addition to the above measures the local authority is currently taking actions to secure light touch as well as more intensive financial support to schools to respond to the varying levels of need among schools to support them in being able to either:

- keep healthy budgets, or
- to move a budget from a deficit position and maintain that position.

3.2 Such support is likely to take a number of forms including dedicated advice/training to Head teachers and School Business Managers as well as more hands on support and small group training where identified financial issues are deemed more serious.

3.3 The measures outlined in paragraph 1.13 above will include specialist financial support commissioned outside of the Local Authority using money already agreed and earmarked via Schools Forum.

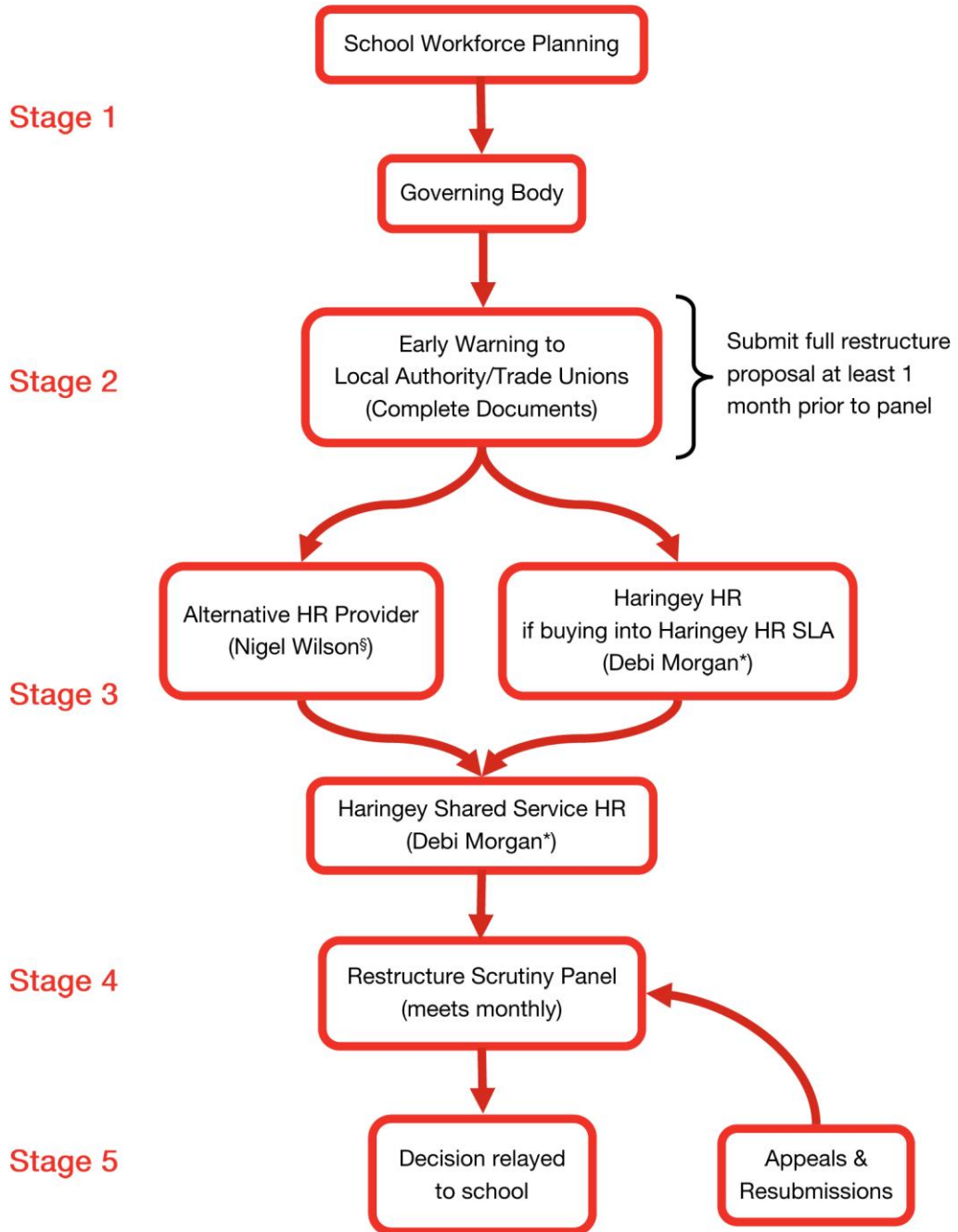
4 Recommendation

4.1 This report asks Schools Forum to note the measures proposed to both support and challenge schools during times of continued financial challenge to their budgets and agree to amend the Financial Scheme for Delegation to reflect the proposed challenge to restructure proposals.

Appendix 1 – LA flow chart for restructure proposals



Draft Redundancy Workflow



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Appendix 1 Scheme of Delegation – Amendment to section 12

12 Responsibility for redundancy and severance costs

This Section sets out Haringey Council's approach to funding part or all of the costs arising from maintained school Governing Body decisions relating to teaching and support staff redundancies, dismissals on the ground of efficiency resulting in staffing reductions and severance agreements on the grounds of redundancy or efficiency resulting in staffing reductions.

The information set out in the following paragraphs **must** be read in conjunction with the Council's School Restructure Scrutiny Panel process.

Under the Education Act 2002 the Local Authority has to decide whether the costs of redundancy dismissal on the grounds of efficiency and severance on the grounds of redundancy or of efficiency should be deducted from the school's budget share. This Section sets out a clear process for schools and the Local Authority to follow in order to support consistency and fairness.

This Section is intended to support existing HR policies. It does not replace or supersede any of the processes set out in these policies. It should be noted that the timescales and processes set out within this Section are purely for the purpose of decision making on the funding of any possible decisions on redundancies, dismissals on the grounds of efficiency resulting in staffing reductions and severance on the grounds of redundancy or efficiency resulting in staffing reductions, for teaching staff and support staff.

Decision making process

Schools considering reducing their staffing complement through redundancies, or through dismissal on the grounds of efficiency, or by entering into severance agreements on the grounds of redundancy or efficiency, should consult with their HR provider in the first instance. A "severance agreement" is an agreement under which the employee agrees that their employment will end and in which a sum of money is payable by the employer in consideration for that agreement.

With the support of their HR provider, the school is required to provide a written outline business case to the Local Authority setting out the possible need to reduce their staffing complement and the reasons for that possible reduction should there be a risk that the Local Authority will be all or partly funding any termination costs. As part of this outline business case, alternatives to dismissal should be fully explored. If these are discounted, then the reasons for this should be made very clear.

Decisions on whether or not to make funding available in principle and based on the outline business case will be made by the Assistant Director for Schools and Learning following consultation with the finance, legal and HR colleagues as appropriate.

The Local Authority will respond to the outline business case in writing within ten working days, setting out its position on funding or requesting a modification if required before a decision can be reached.

If the Local Authority accepts in principle the risk of potential costs resulting from the outline business case put forward by the Governing Body then the school should begin to formally work through the relevant procedures relating to redundancy, dismissal on the grounds of efficiency and severance agreements on the grounds of redundancy or efficiency in conjunction with their HR provider and in accordance with relevant statutory requirements.

If the Local Authority does not accept the outline business case put forward by the Governing Body, or requests modification which the Governing Body rejects, then the Head teacher or the Governing Body will have a period of ten working days in which it may appeal the decision to the Assistant Director(s) for Schools and Learning.

Where the Local Authority decision is not to fund a proposed reduction, following either the original Governing Body request or any subsequent appeal, the Head teacher and Governing Body has the option to continue with their proposals and meet any funding requirement from their delegated budget.

Where the Local Authority decision is in principle to fund in part or in full, the school will submit a further detailed schedule of proposed costs relating to the individuals affected once the process of

consultation and school decision making has been completed with all reasonable efforts to secure redeployment for those affected having been made.

The schedule of costs will then be considered by the Assistant Director(s) for Schools & Learning to determine if the proposed level of payment was in line with the Council's policy. Payments above those set out in the Council's Restructure Policy¹ will not be approved. The Governing Body would have the option to fund the difference from the school delegated budget

The Local Authority will then notify the school within ten working days of receiving the schedule of proposed costs that it is in agreement, unless it has good grounds for not agreeing.

The school will progress the completion of the HR procedure, in conjunction with their HR provider, to a final decision to terminate employment/ determination to cease to work at the school and/or the school will finalise the severance agreement. The school or their HR provider will notify the Local Authority within ten working days of the decision and the date on which the decision will take effect and /or of the severance agreement

The school should make any payment through their payroll provider and then reclaim the actual costs. This should be done through the Assistant Director of Schools & Learning.

On receipt of final confirmation of the determination to cease to work at the school/ decision to terminate employment/ severance agreement. the Assistant Director will arrange for the payment to the school.

The Assistant Director of Schools & Learning will arrange for the recovery of any agreed portion of any payment from the school's delegated budget if appropriate.

Redundancy/ Dismissal on the grounds of efficiency

The primary legislation for the issues addressed by this policy is set out in Section 37 of the Education Act 2002 which makes clear that decision making responsibilities concerning whether any payment should be made by the Local Authority in respect of the dismissal of, of teaching and support staff in schools, and concerning the amount of any such payment, lie with the Governing Body.

Consequently, the Local Authority role in the consideration of any matter of possible staff redundancy/ dismissal on the ground of efficiency would be only be in making decisions about whether the cost of redundancy/ dismissal on the ground of efficiency should be met from the school's budget share.

In this Section "dismissal" includes the non-renewal of a fixed term contract.

Section 37 of the Act makes it clear that the costs incurred in respect of securing the dismissal of staff by reason of redundancy / efficiency, shall not come from the school's delegated budget unless the Local Authority has good reason for deducting all or part of the costs from the school's budget share. 'Good reason' is not defined but a good reason might be that the Local Authority:

- Believes the proposed redundancy was unnecessary;
- Considers insufficient efforts to secure redeployment were made;
- Considers the payments are too high; or
- Considers the school holds a surplus revenue balance which could reasonably be used to fund the additional costs.

In considering any proposal which might require the Local Authority to fund redundancy payments the following criteria will be applied to a school's outline business case by the Local Authority in reaching a decision:

- k) Is there a clear and detailed rationale for the proposed staffing reduction?
- l) Is the proposed reduction in staffing based on an accurate assessment of the school's current financial position?
- m) Is the proposed reduction in staffing based on a reasonable and accurate prediction of the school's future financial position?

¹ Restructure Policy agreed by S&R on 29th June 2015

- n) Is the proposed reduction in staffing necessary to either set a balanced budget or meet the conditions of a licensed deficit?
- o) Does the proposed reduction in staffing arise from a deficit caused by factors within the school's control?
- p) Does the school have excess surplus balances and no agreed plan to use these?
- q) Has the school provided sufficient advance warning (a minimum of four weeks) of any possible redundancy to the Local Authority?
- r) Has the school carried out a thorough investigation of ways to avoid any redundancy?
- s) Does the school have a clear plan in place to try and avoid any redundancy/ through re-deployment of staff affected, including possible redeployment to other schools within the Local Authority pending the relevant a recruitment process of that school?
- t) Does the school have an agreed procedure and policy in place, which will be followed to make any reduction to staffing?

Where the criteria set out above are met, the Local Authority will normally agree in principle to fund the redundancy lump sum compensation payments, including any enhancement in line with Haringey Council's policy for redundancy payments, The Local Authority will normally not meet any liability of the employer to make payment to Haringey Council's Pension Fund in respect of a support staff member aged between 55 and their normal pension age at the date of termination, or to make payment to the Teachers' Pension Fund in respect of a teacher aged between 55 and their normal pension age at the date of termination .

In considering any proposal which might require the Local Authority to fund the costs of a dismissal on the grounds of efficiency, the following criteria will be applied to a school's outline business case by the Local Authority in reaching a decision:

- a) Has the school set out a compelling and consistent case which establishes the need to make the proposed dismissal on the grounds of efficiency?
- b) Has the school clearly demonstrated the efficiencies which will be delivered from the proposed dismissal?
- c) Is the proposed dismissal on efficiency grounds linked to the need to secure educational standards?
- d) Has the school provided sufficient advance warning (a minimum of four weeks) of any possible dismissal on the grounds of efficiency to the Local Authority?
- e) Has the school carried out a thorough investigation of ways to avoid the dismissal?
- f) Does the school have a clear plan in place to try and avoid the dismissal through re-deployment of the staff member affected, including possible redeployment to other schools within the Local Authority?
- g) Does the school have an agreed procedure and policy in place, which will be followed to make the dismissal?

Where the criteria set out above are met, the Local Authority will normally agree in principle to fund the costs of the dismissal. However, the Local Authority will normally not meet any liability of the employer to make payment to Haringey Council's Pension Fund in respect of a support staff member aged between 55 and their normal pension age at the date of termination or to make payment to the Teachers' Pension Fund in respect of a teacher aged between 55 and their normal pension age at the date of termination.

Severance

The primary legislation for the issues addressed by this policy is set out in Section 37 of the Education Act 2002 which makes it clear that decision making responsibilities concerning whether the Local Authority will make any payment for the purpose of securing the resignation of teaching and support staff, and concerning the amount of any such payment lies with the Governing Body.

Consequently, the Local Authority role in the consideration of any matter of possible resignations on the grounds of redundancy or efficiency would be only be in making decisions about whether the cost of securing the resignation should be met from the school's budget share.

Section 37 of the Act makes it clear that the costs incurred in respect of securing the resignation of staff through severance agreements on the grounds of redundancy or efficiency, shall not come from the school's delegated budget unless the Local Authority has good reason for deducting all or part of the costs from the school's budget share.

In considering any proposal which might require the Local Authority to fund the costs of a severance agreement on the grounds of redundancy or efficiency, the following criteria will be applied to a school's outline business case by the Local Authority in reaching a decision:

- a) Has the school set out a compelling and consistent case which establishes the need to enter into the severance agreement on the grounds of redundancy or efficiency?
- b) Has the school clearly demonstrated the efficiencies which will be delivered from the proposed severance agreement?
- c) Is the proposed severance agreement on redundancy or efficiency grounds linked to the need to secure educational standards?
- d) Has the school provided sufficient advance warning (minimum of four weeks) of any possible severance agreement on the grounds of redundancy or efficiency to the Local Authority?

Where the criteria set out above are met, the Local Authority may agree in principle to fund any lump sum payment to a member of staff to secure their resignation on the grounds of redundancy or efficiency.

Having agreed in principle to fund the costs of securing a resignation on the grounds of redundancy or efficiency by accepting the outline business case put forward by a school, the Local Authority will then consider the schedule of proposed costs for any severance agreement for every individual affected. At this stage the Local Authority will only reverse its earlier decision to agree in principle if it has good grounds for doing so. The definition of 'good grounds' will be where the severance agreement payment costs are unreasonably large

Therefore, the Local Authority will normally fund the cost of a lump sum payment to a member of staff to secure their resignation on the grounds of efficiency, provided this does not exceed what would be reasonable, from a reserve drawn from the schools budget as agreed with the Schools Forum. However, the Local Authority will normally not meet any liability of the employer to make payment to Haringey Council's Pension Fund in respect of a support staff member aged between 55 and their normal pension age at the date of termination or to make payment to the Teachers' Pension Fund in respect of a teacher aged between 55 and their normal pension age at the date of termination.