

WIRRAL COUNCIL

WIRRAL SCHOOLS FORUM Wednesday 28th March 2012

REPORT OF THE DIRECTOR OF CHILDREN'S SERVICES

Scheme for Financing Schools - Update

EXECUTIVE SUMMARY

The changes to the Scheme for Financing Schools are currently being consulted with schools. However, the Secretary of State has subsequently issued directed scheme revisions under the Education Act 2002 which must be actioned by Local Authorities. LAs are not required to consult on directed revisions.

The Directed Revisions are:-

- Removal of Best value and FMSiS, which has been taken out as part of the recent consultation.
- Removal of General Teaching Council (section 6.3), which will be taken out before the scheme is re-issued. The GTC will be abolished by the Education Act 2011 with effect from 1st April 2012.
- Inclusion of Efficiency and Value for Money (replaces Best Value in section 2.4). This will read:-

Schools must seek to achieve efficiencies and value for money, to optimise the use of their resources and to invest in teaching and learning, taking into account the Authority's purchasing and tendering and contracting requirements.

It is for head teachers and governors to determine at school level how to secure better value for money.

- Inclusion of Schools Financial Value Standard (new section 2.16, will replace section 2.15) will read as follows:-

All local authority maintained schools (including nursery schools and Pupil Referral Units (PRUs) that have a delegated budget) must demonstrate compliance with the Schools Financial Value Standard (SFVS) and complete the assessment form on an annual basis. It is for the school to determine at what time in the year they wish to complete the form.

Governors must demonstrate compliance through the submission of the SFVS assessment form signed by the Chair of Governors. The form must include a summary of remedial actions with a clear timetable, ensuring that each action has a specified deadline and an agreed owner.

Maintained schools that did not achieve the Financial Management Standard in Schools (FMSiS) must submit the form to the local authority before 31 March 2012, and annually thereafter.

All other maintained schools with a delegated budget must submit the form to the local authority before 31 March 2013 and annually thereafter.

- Inclusion of a section on Fraud and improper use of public money and assets (Section 2.17). This will read:-

All schools must have a robust system of controls to safeguard themselves against fraudulent or improper use of public money and assets.

The governing body and head teacher must inform all staff of school policies and procedures related to fraud and theft, the controls in place to prevent them; and the consequences of breaching these controls. This information must also be included in induction for new school staff and governors.

- Inclusion of the responsibility for Redundancy and Early Retirement Costs as detailed below:-

ANNEX B

RESPONSIBILITY FOR REDUNDANCY AND EARLY RETIREMENT COSTS

This guidance note 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 was a good reason, 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 new early retirements or redundancies can also be charged to the central part of the Schools Budget if the Schools Forum agree and the local authority can demonstrate that the "revenue savings achieved by any termination of employment are equal to or greater than the costs incurred". The Schools Forum must agree to any increase in this budget over the previous financial year. If the Schools Forum does not agree with the local authority's proposal, then the authority can appeal to the Secretary of State. The Schools Forum would also be involved if the additional expenditure resulted in a breach of the central expenditure limit, whereby central expenditure increases faster than the Schools Budget as a whole.

An example of where a charge to the central Schools Budget might be appropriate would be a school reorganisation. A reorganisation involving the closure of a number of schools would be likely to result in savings because there would be a reduced amount being allocated through the formula for factors such as flat rate amounts to all schools or floor area. If the savings in the formula exceeded the ongoing costs of the VER/redundancy then this would qualify.

It would be possible to consider savings at an individual school level as well, but this needs to be carefully managed so that there are clear ground rules in place for applications, recommendations and approval. It may be sensible to agree criteria for eligibility which are consistent with the general approach as to when costs should be centrally funded.

It is important that the local authority discusses its policy with its Schools Forum. Although each case should be considered on its merits, this should be within an agreed framework. It may be reasonable to share costs in some cases, and some authorities operate a panel to adjudicate on applications.

There are clearly difficulties in setting a budget, whether inside or outside the Schools Budget, at a point prior to the beginning of the financial year before schools have set their budgets and made staffing decisions. Local authorities can only make a best estimate of what may be needed, based on past experience, local knowledge of the financial position of individual schools and the context of that year's funding settlement. There are dangers in raising expectations that costs will be met centrally if the budget is set too high, and so an alternative would be to keep the budget tight and use contingency or schools in financial difficulties budgets if there is an unexpected need for staffing reductions and it is not appropriate for delegated budgets to fund VER/redundancy costs. To achieve best use of resources, local authorities should also have an active redeployment policy, to match staff at risk to vacancies.

One of the permitted uses of the contingency is where "a governing body has incurred expenditure which it would be unreasonable to expect them to meet from the school's budget share" while local authorities are also allowed to retain funding for schools in financial difficulties "provided that the authority consult the schools forum on their arrangements for the implementation of such support."

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 (7B) 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.

(9) 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.

RECOMMENDATION

1. The Forum notes the report

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