

## Schools Forum

7th May 2013

### Changes to the Scheme for Financing Schools

#### Introduction

1. Local authorities are required to publish schemes for financing schools setting out the financial relationship between them and the schools they maintain. Any amendments to schemes must be consulted on with all schools and be approved by the schools forum.
2. Updated statutory guidance on funding schemes for local authorities, effective from 1<sup>st</sup> April 2013, was published by DfE on 28<sup>th</sup> March.
3. The DfE statutory guidance and proposed changes to Stockton's Scheme are covered below. The changes proposed are as directed by DfE for which approval / ratification of the Schools Forum is required. Where relevant the existing paragraph in the current scheme is shown in brackets.

#### Scheme Changes

4. The Funding Framework (para 1.1) is amended to reflect that school detailed budgets are no longer included in Section 251 data collection. The revised Stockton version is enclosed with the changes in **bold and underlined** at Appendix 1.
5. Para 1.2.1 needs to be changed as legislation has already been amended to put maintained Pupil Referral Units (PRUs) in coverage of the scheme and would read.-  
  
"The scheme applies to all community, nursery, voluntary, foundation, community or foundation special schools and **Pupil Referral Units** in the area of the LA. (as listed in Annex)".
6. Para 1.4 is to be amended to update members voting rights as only Schools Forum members representing maintained schools should approve scheme changes.
7. At the commencement of "Section 3 : Instalments of Budget Share; Banking Arrangements" will be an additional sentence providing clarification that place-led funding is included in arrangements for payments by instalment

**“For the purposes of this section, Budget Share includes any place-led funding for special schools, support bases or pupil referral units. Top up payments for pupils with high needs should be made on a monthly basis unless alternative arrangements have been agreed”.**

8. Para 4.7 regarding the write off of deficits be amended as funding to support schools in financial difficulty can only come from a de-delegated contingency for mainstream schools, or a central budget for special schools and PRUs. Therefore it is proposed to add the following:-

**“If the authority wishes to give assistance towards elimination of a deficit balance this should be 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)”.**

9. Under Section 6 : The Charging of School Budget Shares” clarification that Schools Forum can agree dedelegation. It is therefore proposed that the following sentence is added to para 6.1:-

**“For the avoidance of doubt, 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”**

10. Under para 6.2.16 amended wording is needed in relation to charging the school budget share if appropriate support has not been made for a High Needs pupil. Therefore, para 6.2.16 would read

“Costs incurred by the LA 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**”.

11. In respect of Services provided from centrally held budgets (para 8.1) the DfE are requiring a restriction to existing level of commitments for redundancy / PRC payments and removal of reference to non-provision of LA services where funding has been provided to some schools only. The reworded para 8.1 would read :-

“The LA shall determine on what basis services from centrally retained funds will be provided to schools, including **existing** PRC and redundancy payments, but the LA is debarred from discriminating in its

provision of services on the basis of categories of schools except where such discrimination is justified by differences in statutory duties”.

12. Annex B needs to be amended as LA's are no longer able to retain centrally money for repairs and maintenance of school kitchens as funding for school meals has been delegated to special schools.
13. Responsibilities for redundancy and early retirement costs under Annex C need updating for the restriction of termination of employment costs funded from central schools budget to value of previous year and existing commitments; and clarity that contingency for schools in financial difficulty will need to be de-delegated. An updated version is shown in Appendix 2 to this report.
14. Whilst making changes to the scheme the opportunity will be taken to update factual information such as DfE instead of DfES, remove names of schools which are no longer maintained by the LA due to academy conversion etc.

### **Recommendation**

15. The Schools Forum is asked to comment on the proposals prior to consultation with all maintained schools.
16. That a report be brought to the next meeting confirming the outcome of the consultation.

David New  
Senior Finance Manager – Children, Education and Social Care

## Appendix 1

### 1.1 The Funding Framework

The funding framework which replaces Local Management of Schools is based on 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 a local 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. Local authorities may centrally retain funding in the Schools Budget for purposes defined in regulations made by the Secretary of State under s.45A of the Act. The amounts to be retained centrally are decided by the authority concerned, subject to any limits or conditions (including gaining the approval of their School 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 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).

Local 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 approved by the Secretary of State. All revisions to the scheme must also be approved by the Secretary of State, who has power to modify schemes or impose one.

Subject to provisions of the scheme, governing bodies of schools may spend budget shares for the purposes of their school. They may also spend budget shares on any additional purposes prescribed by the Secretary of State in regulations made under s.50.

An authority may suspend a school's right to a delegated budget if the provisions of the school financing scheme (or rules applied by the scheme) have been substantially or persistently breached, or if the budget share has not been managed satisfactorily. There is a right of appeal to the Secretary of State. A school's right to a delegated budget share may also be suspended for other reasons (s.17 of the SSAF Act 1998) but in that case there is no right of appeal.

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 regulations, 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.

### ANNEX C :

#### 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 **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.**

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.

**A de-delegated** contingency **could be provided, if Schools Forum agree, to support individual schools** where "a governing body has incurred expenditure which it would be unreasonable to expect them to meet from the school's budget share.

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 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.*

*(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.*