

Review of Early Retirement & Redundancy Policy and Trade Union Facilities Agreement

SCHOOLS FORUM

17 January 2012

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Parish / Wards Affected: All

Purpose

Further to the report to the October 2011 meeting of the Schools Forum, to report on the review of the existing Early Retirement & Redundancy Policy and Trade Union Facilities Agreement in the light of Maintained schools converting to Academy status and the need to achieve value for money for the Dedicated Schools Grant (DSG).

Recommendations

The Schools Forum is asked to:

- 1) note the consultation that has been carried out on the Early Retirement & Redundancy Policy for teachers and support staff and the Trade Union Facilities Agreement, both with the Education Joint Consultative Committee and through the Schools Forum Sub-group;
- 2) endorse the revised Early Retirement & Redundancy Policy and Trade Union Facilities Agreement attached as **Appendices 1 and 2** to this report, to be implemented from 1 April 2012, in final consultation with recognised Trade Union representatives and the Education Joint Consultative Committee.

1. Reasons

- 1.1 At the meeting of the Schools Forum on 11 October 2011 a report was considered proposing a review of the Early Retirement & Redundancy Policy for teaching and support staff and the Trade Union Facilities Agreement, in the light of Maintained schools converting to Academy status, the need to achieve equity across all school types and the requirement to obtain value for money for the DSG.
- 1.2 Since the October meeting, these two Policies have been reviewed by both the Education Joint Consultative Committee on 19 October 2011 and the Schools Forum Sub-group on 22 November 2011.

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- 1.3 As a result of this review, revised approaches and Policies are now recommended to the Schools Forum in order that these can be implemented from 1 April 2012.

2. Detail

(a) Trade Union Facilities Agreement

- 2.1 As reported to the October meeting of the Schools Forum, the existing Trade Union Facilities Agreement reimburses authorised teacher Trade Union representatives to attend meetings in support of their duties (including training courses). The budget for funding Trade Union representatives to undertake these activities in the retained part of the DSG amounts to around £23k per annum. This funds three teacher Branch Secretaries for one day release time per week. The Council also currently employs a full-time Unison official, who supports members in schools, and this arrangement may also need to be reviewed.
- 2.2 Maintained schools converting to Academy status will receive a share of this budget through the Local Authority Central Spend Equivalent Grant (LACSEG) process (as reported to the last meeting) and it would be inappropriate, therefore, for the retained DSG to continue also to finance Trade Union representatives and members who are Academy-based.
- 2.3 The Trade Union Facilities Agreement has now been reviewed in consultation with the Education Joint Consultative Committee (comprising school Trade Union representatives and SBC officers) and subsequently the Schools Forum Sub-group. This review has considered the following three options for revised arrangements from 1 April 2012:

Option 1 – Each Academy has its own Trade Union representative

With this option all Academies would need to recruit and train their own Trade Union representatives for each of the recognised teacher Unions within their Academies.

Option 2 – Academies pay a daily rate

Each Academy would pay the agreed daily rate per Union for representation. The Academy would be responsible for any additional cost, such as travel.

Option 3 – Annual fee arrangement

This option would enable each Academy to pay an annual fee, the amount to be determined as equivalent to the LACSEG funding. This is similar to the current arrangement. An annual fee from Academies would, therefore,

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be paid to the Local Authority (LA) to fund one day release time per teacher Union and an annual administrative fee would be charged.

- 2.4 The advantages and disadvantages of all three options have been assessed and the view of both the Education Joint Consultative Committee and the Schools Forum Sub-Group is that Option 3 is preferred as it would enable a more co-ordinated and coherent Trade Union Facilities Agreement across all schools and Academies in Swindon. This arrangement would be administered by the Schools HR Team and it is not felt that this would result in a significant additional workload. However, it would, of course, be dependent on Academies agreeing to subscribe.
- 2.5 A copy of the revised Trade Union Facilities Agreement is attached as **Appendix 1** to this report.
- 2.6 The principles of the new Trade Union Facilities Agreement are based on the Advisory, Conciliation & Arbitration Service (ACAS) Code of Practice and fulfil the legal requirements for facilities time. The policy sets out clear guidelines for Academies and Maintained schools for dealing with requests for time off from work-based representatives and allows for the continuation of the current arrangements to fund the three teacher representatives to work across Swindon.
- (b) Early Retirement & Redundancy Policy
- 2.7 It was agreed at the last meeting of the Schools Forum that there was a need to review the existing Early Retirement & Redundancy Policy for both teachers and school support staff in the light of Maintained schools converting to Academy status, to clarify responsibilities and to achieve improved value for money for the retained part of the DSG.
- 2.8 The LA's core budget of approximately £320k funds ongoing commitments but the cost of any new redundancies is financed through the Redundancy budget in the retained part of the DSG, which amounts to £200k per annum. This budget historically overspends and is currently running at £265,000 this year.
- 2.9 As Schools Forum members will recall, the report to the last meeting set out the legislative background (see also *Legal/Human Rights Implications* below), funding responsibilities and options for managing the Redundancy budget. On the last of these, two options were identified for managing the budget in future, as follows:

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- Option 1 – the LA continues to retain DSG funding to meet estimated costs, which will vary from year to year.
 - Option 2 – the LA delegates all funding to schools, which will then directly fund any dismissal redundancy costs, making them comparable with Academies.
- 2.10 In relation to Option 2, it was agreed by the Forum that further legal advice should be sought on whether or not it was possible to pursue this option. The advice since received indicates that the legislation does not allow delegation by the LA to schools but that it is acceptable for schools to fund redundancy costs where there are “good reasons” to do so. As set out in paragraph 17 of the revised Policy, attached as **Appendix 2**, “good reasons” would include, for example:
- where a school has decided to offer more generous terms than the redundancy compensation set out in the agreed Policy;
 - if a school acts outside of the LA’s Redundancy Policy and does not act on LA advice;
 - where the school has surplus balances that it has not already committed to use for specific purposes;
 - where a school is, in the LA’s judgement, able to absorb the redundancy costs.
- 2.11 Whilst it is not the intention to delegate the funding to schools from 1 April 2012, the revised Policy will reduce the pressure on the Redundancy budget in the retained DSG by:
- defining more clearly the circumstances under which redundancy payments would be funded by schools or through the retained DSG;
 - ensuring that any schools with uncommitted balances fund redundancy costs – this fits with the report elsewhere on the Agenda regarding the use of school balances;
 - determining that schools will pick up costs associated with premature retirement except in exceptional circumstances;
 - enabling the LA Panel that considers applications from schools for funding redundancy costs to be more rigorous in its approach;
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- nevertheless continuing to fund redundancy costs in schools if there is a strong and robust case to do so.
- 2.12 The model Schools Redundancy Procedure will be amended to reflect the revised rigorous application process for schools to follow.
- (c) Conclusion
- 2.13 The Schools Forum is asked to endorse the revised Trade Union Facilities Agreement and Policy for funding redundancy, premature retirement and severance costs for teaching and support staff in schools, as attached as **Appendices 1 and 2**, for implementation from 1 April 2012.

Alternative Options

Alternative options for the revision of these two Policies are set out in the report.

Risk Management

Financial and Procurement Implications

These were set out in detail in the report to the Schools Forum on 11 October 2011 and are also more briefly picked up in this report.

Legal / Human Rights Implications

As reported to the meeting of the Schools Forum on 11 October 2011, the legislative background in relation to early retirement and redundancy is as follows:

- Section 37(4) of the 2002 Education Act outlines that any costs incurred by the LA in respect of premature retirement costs shall be met from the school's budget share except in exceptional circumstances. These circumstances will be defined in the revised policy.
- In accordance with section 37(5) of the 2002 Education Act, costs incurred by the LA in respect of the dismissal or for the purpose of securing the resignation of any member of staff in a Maintained school shall not be met from the school's budget share for any financial year except insofar as the LA has "good reasons" for deducting those costs or any part of those costs from that share.
- The LA is proposing "good reasons" to be as set out in the revised Policy in **Appendix 2** (paragraph 17).

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Diversity Implications

A Diversity Impact Assessment has been completed for the revised Policy on redundancy, premature retirement and severance costs and this is attached as **Appendix 3**.

Links to Corporate Plans and Policy

This report links to the Children & Young People's Plan.

Consultees

- The Director of Finance (Section 151 Officer) and Director of Law and Democratic Services (Monitoring Officer) are consulted in respect of all reports.
- The Education Joint Consultative Committee on 19 October 2011 and the Schools Forum Sub-group on 22 November 2011 were consulted on these issues.

Background Papers and Appendices

Appendix 1 – Revised Trade Union Facilities Agreement
Appendix 2 – Revised Early Retirement & Redundancy Policy
Appendix 3 – Diversity Impact Assessment