

Wiltshire Council

Schools Funding Working Group
23rd September 2010

Schools Forum
7th October 2010

**Review of Funding for Premature Retirement and Dismissal costs for
Schools Based Staff**

Purpose of report

1. To consider issues in respect of the funding of premature retirement and dismissal (redundancy) cases in schools.
2. Because of the pressures on the budget in recent years Schools Forum has requested a review of the funding of employee termination costs and of the process for approving expenditure. This report focuses on the funding aspect.

Background

3. Within Wiltshire the budget for termination of employment costs (premature retirement and redundancy) is currently held within the centrally retained schools budget (funded by Dedicated Schools Grant).
4. The School Finance Regulations specify the kinds of activities that a local authority can fund from and costs it can incur in its central expenditure. The Regulations also provide for the types of funding that can be retained centrally by the local authority but only on the condition that the Schools Forum agrees the amounts held against each item and this would apply to funding for premature retirement and redundancy costs.
5. Schedule 2 Para 36(b) of the Schools Finance (England) Regulations 2008 makes provision for the costs of termination of employment. Para 36 permits expenditure relating to the dismissal or premature retirement of, or for the purpose of securing the resignation of, any person employed in a mainstream school to be funded from the centrally retained schools budget where –
 - a. the dismissal, premature retirement or resignation occurs after 1st April 2008; and
 - b. the revenue savings achieved by any termination of employment are equal to or greater to the costs incurred.
6. Increased expenditure under this category must be agreed with Schools Forum, and is subject to a 'revenue savings test'. The Schools Forum can only agree to this item from central expenditure in the Schools Budget

where the local authority can prove that it has generated at least equivalent savings to the Schools Budget by undertaking this expenditure.

7. Expenditure on termination of employment costs in those schools who are federating and amalgamating falls within this arrangement because of the savings made to the overall schools budget.
8. Schedule 2 Para 32 of the regulations allows for expenditure to be made from the centrally retained schools budget on allocations to the governing body of a school in financial difficulty provided that the authority consult the schools forum on their arrangements for the implementation of such support. In Wiltshire employment termination costs arising as part of a financial recovery plan in a school have been funded in this way.
9. In recent years this PRC budget has overspent and has therefore been a cost pressure to the overall schools budget with savings having to be made in other budgets to offset the overspend. The number of cases per year has increased from 18 in 2006/07 to 70 in 2009/10 and the budget was increased in 2009/10 as a result of overspends in previous years.

Year	Budget	Outturn	Variance
	£m	£m	£m
2009/10	0.409	0.566	-0.158
2008/09	0.175	0.361	-0.186
2007/08	0.350	0.463	-0.113
2006/07	0.175	0.307	-0.132

(NB Outturn 2009/10 excludes the additional costs of the current severance policy for non-teaching staff as this cost was funded corporately)

10. The projected outturn for 2010/11 is £221,000 after adjusting for the support staff additional cost and so is projected to be within budget at this point in the year.

Main considerations for Schools Forum

11. In line with the Schools Forum request this paper will address the funding aspect of employee redundancies within schools.
12. In addition to the two main circumstances for premature retirements or redundancies outlined above, we have identified an increase in the number of cases of sums paid out at the end of fixed term contracts where statutory rights to redundancy payments have been established. This may occur, for example, in the case of non teaching staff on temporary contracts linked to specific pupils with special educational needs (related to a named pupil allowance (NPA) payment). This is a development which has taken hold only recently following guidance issued to schools on our legal obligations not to treat fixed term workers less favourably.
13. As new circumstances arise it is necessary to go back to the funding regulations to understand how cases need to be funded. Appendix 1 shows a summary (source Department for Children, Schools & Families,

2009) of the funding requirements for termination of employment costs. It can be seen that in premature retirement cases the default position in the legislation is that these costs should be met from the individual schools budget share, whilst for redundancy cases the default is that the costs should be picked up by the LA (Schools Finance (England) Regulations 2008). However, it is possible for both of these types of cost to be met from the centrally retained schools budget in the circumstances outlined in paragraphs 5 to 8 above and this is currently what happens in Wiltshire. Within Wiltshire cases that do not arise as part of a formal federation or amalgamation or a deficit recovery plan are currently funded by individual schools.

14. The cost of a redundancy payment relating to the termination of a fixed term contract would not be eligible for funding from the schools budget. Redundancy payments for the termination of fixed term contracts are therefore to be met by the LA unless there is “good reason” (DCSF, 2009) for all or part of those costs to be deducted from the school’s budget share. “Good reason” is envisaged to be, for example, when a school chooses to pay more than the local scheme would allow.
15. In order to clarify the appropriate funding source for each type of dismissal cost within Wiltshire Schools a flowchart is attached at Appendix 2. Adopting this approach will generate a cost pressure within the LA budget as no redundancy costs are currently being funded from this budget. However it is important to make sure that our funding process is consistent with the law and it is proposed that this approach be implemented for the current financial year.
16. A further pressure is likely to impact on the costs of redundancy cases as the LA renegotiates its current severance policy. Any change will affect the cost of redundancy payments for non teaching staff in schools and is subject to the provisions of The Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006. Currently the full cost of the LA severance policy is not charged to the schools budget because it has been agreed that there will be no adverse financial impact to schools from the move to one council. The new policy would be unrelated to local government reorganisation and, whilst less costly than the current policy, is expected to be a cost pressure to the centrally retained DSG budget. At this stage the policy is not finalised and it is difficult to estimate the likely cost however if cases continue at the current rate the cost pressure is likely to be between £150,000 and £200,000.
17. Schools Forum has previously requested that options for reducing costs of redundancies and premature retirements be looked at. An option to require schools to repay redundancy costs once any financial deficit has been recovered has been considered but rejected on the grounds that there is no provision for such recovery within the current regulations. The key control therefore needs to be in relation to the processes of approval and challenge to ensure that each case is scrutinised and challenged prior to approval.

Environmental impact of the proposal

18. None

Equalities impact of the proposal

19. None – this paper focuses on funding issues.

Financial implications

20. Outlined within the report.

Legal implications

21. Outlined within the report

Proposal

22. It is proposed that

- a. The funding process outlined in Appendix 2 is adopted, with effect from 1 April 2010;
- b. That the revenue savings test be applied to all cases for which funding from DSG is being considered under Schedule 2 paragraph 36b of the 2008 regulations;
- c. that schools who have funded redundancy costs for staff on the termination of fixed term contracts in the current financial year be contacted and the costs reimbursed;
- d. that cost pressures arising from any changes to the LA severance policy be identified and taken in to account in consideration of the overall schools budget in December
- e. that the process for approval and monitoring of redundancies in schools be reviewed to ensure that there is robust challenge for each case.

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Background papers

The following unpublished documents have been relied on in the preparation of this report:

None

Appendices

Appendix 1 – Summary of Funding Regulations for Termination of
Employment

Appendix 2 – Flowchart to illustrate funding process
