

LEWISHAM SCHOOLS FORUM			
REPORT TITLE	DfE Consultations: - schools loans and -free meals under universal credit		
KEY DECISION	Yes	Item No.	7 Appendix B
CLASS	Part 1	Date	17 January 2018

Proposal 1 – How breaches to the criteria for loan agreements will be challenged

We proposed to make a directed revision to local authorities' schemes for financing schools to clarify the purpose of loan schemes and distinguish them from licensed deficits. We consider that any loans made to fund a deficit of a school in general financial difficulty (and not to spread the cost over more than one year of large one-off individual items of capital expenditure), should not transfer to an academy on conversion.

We are therefore proposing to put in place a process for determining what should happen to loans that have been made in breach of the loan scheme criteria.

Paragraph 13 of Schedule 1 of the Academies Act 2010 sets out what happens to land, property, rights and liabilities on the conversion of a maintained school. There is a presumption that loans will transfer to the person running the academy. However, we are proposing to use powers the Secretary of State has under paragraph 13(4)(d). These enable her to make a direction to the effect that a loan does not transfer in individual cases. We propose making use of this power in cases where loans have been made in breach of the directed revision that we are making to schemes. We propose to create a new approach whereby each decision will be considered carefully and on a case-by-case basis, taking into account the purpose of the loan and the extent to which it is compliant with the revised guidance.

Local authorities and converting schools would then be specifically notified as part of the conversion process where a loan was not going to transfer. We would welcome views on how this process should operate.

Response

We believe that it is appropriate to provide loans to schools to cover short-term (five years or less) deficits so that schools can manage their cash flow planning over more than one year, and the regulations do not need revision.

However, in converting to an academy the proposal shifts the responsibility for an element of schools finances from central government to local government creating a new burden. This would also be going in the opposite direction to the main formula funding changes being implemented that clearly direct central government funds directly to schools to manage, not local authorities. It is therefore not reasonable to now suddenly change the rules, effectively making local authorities liable for the financial responsibilities of schools to manage their budgets.

The potential consequences to Local Authority tax payers of your proposal would be damaging. If this was put in place the cost to a council taxpayer of the existing loans in Lewisham schools which are funded from central government taxation would be 4% increase in Council Tax or £44 per year on a band D property.

We believe that the Governors of a school are responsible for setting their budget and controlling expenditure, not the Local Authority. With the withdrawal of the Education Service Grant any local authority has limited capacity to provide anything apart from light touch oversight and analysis of schools finances, which should not mean that the council tax payer should cover the risk of schools who run a deficit. The loan should continue with the conversion to the academy.

Proposal 2 – When the changes to the criteria will come into force

We are now seeking views on when the changes to the criteria for agreeing loans schemes will come into force. We are proposing that this should be from the date of the publication of the government response to this consultation. Where a maintained school converts to an academy, it would be our expectation that the academy will only continue to repay the loans agreed between the local authority and its predecessor maintained school, under an internal scheme, if any loans agreed after the publication date of the government response meet the definition below.

'to assist the school in spreading the cost over more than one year for a large one-off individual item of capital nature that has had/will have, a benefit to the school lasting more than one financial year'

Response

We do not believe this change should come into force.