

Schools Forum			
REPORT TITLE	Proposed Amendments to the Scheme of Delegation		
KEY DECISION	Yes	Item No.	11
WARD	N/A		
CLASS	Part 1	Date	15 March 2018

1 Purpose of the Report

- 1.1 The purpose of this report is to consider a revision to the Scheme of Delegation to schools.

2 Recommendation

- 2.1 The Schools Forum is recommended to:

- 2.1.1 Agree to incorporate the proposed amendments to the scheme of delegation to schools as set out in Appendix 1 to this report.

3 Background

- 3.1 Prior to the start of each financial year the Schools Forum undertakes an annual review of the scheme of delegation and its finance manual. This is to incorporate any legislative changes required and any changes which the Schools Forum consider desirable to make. In response to a potential legal challenge to the current provision of Section 6 of the scheme of delegation (pertaining to the costs of dismissals, resignations and premature retirement set out in Annex E of the Scheme) and an enquiry from the DfE following a complaint to the Secretary of State, it has become necessary to review the provision set out in this section of the Scheme.

4 Redundancy

- 4.1 Lewisham's Scheme of Financial Delegation, in line with national requirements which have been in place for many years, gives schools the freedom to exercise choice over their spending plans. Like other local authorities, Lewisham Council can only impose regulations which are consistent with the need for accountability and control over the expenditure of public funds. The Scheme expects all schools to set a balanced budget and to manage within the resources made available to them. This is specifically a duty on the governing body of the school.
- 4.2 Proposed changes to the Scheme of Delegation to schools were considered by the Schools Forum in October 2017. There was subsequent consideration

and agreement to changes to the Scheme in December 2017. In the light of further concerns raised by the DfE and in accordance with further external advice, it is proposed that further amendments are necessary and these changes are reflected in the documents appended to this report.

- 4.3 The Council had the approach of automatically charging redundancy costs to school budgets unless it identified good reason to do otherwise. After discussions with the Department for Education and having sought external legal advice, the local authority has revisited its procedures and proposes the amendments set out in Appendix 1.
- 4.4 Members of the Schools Forum should note that the Appendix to this report sets out a proposed revision to Section 6 of the Scheme ‘for the costs of dismissals, resignations and premature retirement’ with the revised Annex E to the Scheme incorporating these proposed changes.
- 4.5 Essentially, the proposed revisions to the Scheme clarifies the position in relation to the circumstances in which costs incurred in respect of dismissals, resignations and premature retirement may or must be met from a school’s budget in accordance with the requirements of section 37 of the Education Act 2002. The proposed amendments of Annex E, which is attached at Appendix 1 sets out the Council’s policy in relation to the consideration of such matters.
- 4.6 As set out in the proposed amendments at Annex E, Section 37 of the Education Act 2002 sets out two basic rules for members of staff of a maintained school. Firstly, that costs incurred by the local authority in respect of premature retirement must be met from the school’s budget share unless (and to the extent that) the authority and governing body agree otherwise in writing. Secondly, that costs incurred by the local authority in respect of dismissal or securing the resignation of a staff member may be met from the school’s budget share, but only if (and to the extent that) the local authority has “good reason” to deduct those costs from the school’s budget share.
- 4.7 Members of the Schools Forum will note that the proposed revision to the Scheme sets out the local authority’s policy and revised process for the consideration of such matters on an individual case basis. Members will also note that whilst it is not considered possible to satisfactorily provide an advance definition of what may constitute “good reason” for charging school’s budget share, the examples provided in DfE guidance whilst helpful, are not to be treated as exhaustive.
- 4.8 Members will also note that even in cases where “good reason” for charging a school’s budget share exists in principle, the local authority may exercise its discretion so as not to do so, in whole or in part.

5 Further Information

- 5.1 Should you require any additional information regarding the items contained in this report please contact:

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Appendix 1 – Draft proposed amendments to Scheme of Delegation