

Schools Forum

4 July 2022

Scheme for Financing of LA Maintained Schools: Updates

This report is for Information.

1. Recommendations:

That Schools Forum members:

- 1.1 Note the updates to the Scheme for the Financing of Schools outlined in the report and Appendix 1 and 2.

2. Purpose

- 2.1 This report is to note the updates to be made to the Scheme for the Financing of Schools.

3. Links to School Improvement Priorities

- 3.1 School leaders and the relevant committee of governing bodies should take note of the proposed changes and how they impact on management of school finances and budgets.

4. Report Details

- 4.1 Local authorities are required by the Department for Education (DfE) to publish schemes of financing setting out the financial relationship between them and the schools they maintain.
- 4.2 The Fair Funding Scheme provides guidance to all maintained schools on the process to follow when undertaking the outsourcing of services with consequent TUPE transfer of staff.
- 4.3 That Schools Forum members note the updates and changes to the Scheme for the Financing of Schools outlined in the report and Appendix 1.
- 4.4 A number of maintained schools have recently outsourced services and transferred staff. Appendix 2 provides further clarity on the requirements that schools would need to follow to proceed with outsourcing.

4.5 Schools Forum member raised a question regarding the technicalities in changing provider once an original contract has come to an end. The LA response has now been added into section 11.12 as outlined in Appendix 2.

5. Recommendations

5.1 That Schools Forum note the contents of the report.

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3.6 Borrowing by schools

Schools fall within the overall borrowing controls of the authority and are governed by the Local Government and Housing Act 1989. Governing bodies may borrow money only with the written permission of the Secretary of State. The Secretary of State's general position is that schools will only be granted permission for borrowing in exceptional circumstances. From time to time, however, the Secretary of State may introduce limited schemes in order to meet broader policy objectives.

~~Schools are able to use any scheme that the Secretary of State has said is available to schools without specific approval, currently including the Salix scheme, which is designed to support energy saving. Schools should contact Phil Kingston on phil_kingston@sandwell.gov.uk or 0121 569 4507 for further information on taking part in the Salix scheme. As part of this, schools will be required to provide a financial forecast which shows that the repayment of the Salix loan is affordable. The forecast should clearly show the assumed energy savings and loan repayments expected by the school.~~

The restrictions on borrowing do not apply to Trustees and Foundations, whose borrowing, as private bodies, makes no impact on Government accounts. These debts may not be serviced directly from the delegated budgets, but schools are free to agree a charge for a service which the Trustees or Foundation are able to provide as a consequence of their own borrowing. Governing bodies do not act as agents of the authority when repaying loans.

11.12 Information for Maintained schools involved in outsourcing

The authority is aware that schools are examining different service delivery models, which could entail the outsourcing of services. Where the outsourcing of services involves the TUPE transfer of any council employees who are members of or are entitled to be members of the Local Government Pension Scheme (LGPS), there will be pension transfer implications which must be considered as part of the initial tender process.

There is a responsibility for schools to be fully aware of the pension transfer procedures and arrangements early in the tendering process. Schools considering outsourcing a service must contact the following bodies/teams at the start of the tendering process to ensure all pension implications are fully understood and considered.

- Schools Strategic Finance Unit (SSFU)
schools_financialservices@sandwell.gov.uk
- Local authority HR Team hr_frontline@sandwell.gov.uk
- Local authority Legal team hr_frontline@sandwell.gov.uk
- The West Midlands Pension Fund (WMPF) – Wolverhampton Council is the administering authority responsible for the administration of the Fund.

This will ensure that the proper processes are followed, and the school can factor in any pension issues and costs in their tender documents and potential contractors can price these costs accurately into their bids. This will avoid potential and unnecessary delays and complications at the latter stages of the tender process or after the contract has been awarded.

It is recognised that Schools do have the delegated powers to make such decisions without the need to seek formal Council approval. However, under pension fund regulations and in relation to any potential future pension liabilities/guarantees the Council (Not the School) is still regarded as the Scheme Employer. This means that the Council (Not the School) is a party to the Pension Admission Agreement which has to be signed and executed under deed of seal by Council Officers acting on behalf of the Council. The agreement also has to be signed and

executed by the West Midlands Pension Fund (The Administering Authority), and the new employer (The Admission Body). Once signed and sealed the Pension Admission Agreement will enable those transferred staff to continue to participate in the Local Government Pension Scheme as part of their employment with a new employer. If proper process is not followed, then this could result in those former Council employees no longer being eligible to participate in the West Midlands Pension Scheme. Those employees would suffer significant financial loss arising from the curtailment of their accrued future pension benefits.

FAQ

If a school has already outsourced a service and presumably involved the parties as listed below. If they then change to another provider when the first contract finishes, do they have to contact the parties below again and go through the same process?

Local Authority Response

The School would need to follow the same procedure because staff would be transferring to a new employer. The new employer would have to apply for admitted body status via WMPF and a new admission agreement/pension guarantee document would need to be drafted, signed and executed by deed of seal by all parties to the agreement. i.e.: SMBC as the Scheme Employer, The new employer as the Admitted Body and the WMPF as the Administering Authority.