

Annex B

Redundancy, Premature Retirement Costs and Severance Payments in Maintained Schools

Guidance and Application Process for Financial Assistance

This document sets out Milton Keynes City Council (MKCC) policy on providing financial assistance towards the costs arising from redundancies, premature retirement costs and severance agreements in maintained schools.

1. Background

- 1.1. The Education Act 2002 outlines the Local Authorities' (LA) responsibility in providing financial support to schools where costs arise from redundancies in certain circumstances. This guidance sets out a clear process for schools and the LA to follow and the circumstances in which financial support may be agreed.
- 1.2. This guidance is for schools seeking financial assistance towards the costs of redundancy and is intended to support existing HR policies which still need to be followed. It **does not** replace or supersede any of the processes set out in these policies.

2. Funding

- 2.1. Schools must fund all costs arising from premature retirement and severance agreements from their school budgets. The LA will only fund or contribute funding towards redundancy costs where the school need to make budget savings in order to set an overall balanced budget. The LA will not provide support in certain situations which include;
 - where the school offers more generous terms than the LA policy
 - where the school has unplanned use of surplus balances
 - where the school is making reductions which the LA does not believe are necessary to set a balanced budget
 - if a deficit is likely to occur this has been caused by factors within the school's control.

- 2.2. Where a school has a surplus balance that is not earmarked for another agreed use, the school should fund the redundancy costs from these unallocated surplus funds. Where schools have insufficient balances, the LA will fund or contribute funding towards these costs. The LA will also assess value for money of any request by calculating the payback period of the investment (i.e. the cost of the redundancy vs the savings made). The expectation is that the payback period will not exceed two years.
- 2.3. The Council's decision to provide funding will also consider the overall management of the school budget to ensure that any costs incurred by the Council are fair and reasonable.

3. Decision Making Process

- 3.1. Schools considering reducing their staffing complement through redundancies, premature retirement or severance agreements should consult with their HR provider in the first instance.
- 3.2. With the support of their HR provider, the school is required to provide a written business case to the Finance Team when requesting financial assistance and all of the elements that must be included are outlined in the checklist at the end of this guidance (annex A). Failure to include all of the requested information may result in a decision on the funding of redundancy costs being rejected or delayed.
- 3.3. The Education Performance Board is responsible for the decision as to whether finance support will be offered (and at what level, either full or part contribution), following review and recommendation from Finance, Legal, and HR colleagues as appropriate. If agreed, the funding support is then made in principle and will not be paid to the school until the redundancy process has been completed and final costs can be evidenced to the LA. All agreed requests will be shared with the Director of Children's Services for information.
- 3.4. The LA will respond to the outline business case in writing within twenty five working days, setting out the decision on funding or requesting additional information if required before a decision can be reached. If additional information is required, the decision timeline will start again from the point when all information is received. **It is therefore essential that schools allow for this period within their proposed timelines (including decisions by their Governing Body) and submit all information required as outlined in the checklist.**

After Decision Actions

- 3.5. If the LA accepts in principle to fund the potential costs resulting from the business case, the school should then begin to formally work through the relevant procedures in conjunction with their HR provider and in accordance with relevant statutory requirements. The LA will continue to

- 3.6. monitor school balances and may decide that there are additional reporting requirements that need to be met. The school will be informed of this at the point of agreement.
- 3.7. If the LA does not accept the business case put forward by the Governing Body, or requests modification which the Governing Body rejects, then the school will have a period of ten working days in which it may appeal the decision. The appeal should be submitted to the Finance Team for final decision by the Group Head, Learning and Inclusion and Head of Finance.
- 3.8. Where the LA decision is not to fund a business case, following either the original Governing Body request or any subsequent appeal, the school has the option to continue with their proposals and meet any funding requirement from their delegated budget, providing this does not put them into a deficit budget position.
- 3.9. Once the school has a record of the final Governing Body decision and a schedule of the costs of all the individuals affected, this should be sent to the Finance Team where this will be checked against the original business case and agreement in principle and ensure that payments do not exceed those set out in the LA Redeployment and Redundancy Policy. Any queries will be discussed with the school.
- 3.10. The school should make any payment through their payroll provider and then, if a LA contribution has been agreed, reclaim this based on the actual costs. The LA will arrange for the payment of the agreed contribution (usually through the next available monthly cash advance) to the school.

4. Redundancy

- 4.1. The primary legislation for the issues addressed by this policy is set out in Section 37 of the Education Act 2002 which makes it clear that decision making responsibilities in securing the termination of employment contracts of teaching and support staff in schools through redundancy lie with the Governing Body.
- 4.2. Consequently, the LA role in consideration of any matter of possible staff redundancy would be only on making decisions about **funding** any such proposal, in accordance with relevant statutory requirements.
- 4.3. Section 37 of the Act makes it clear that the costs incurred in respect of securing the dismissal of staff through redundancies, shall not come from the schools delegated budget unless the LA has good reason for refusing to fund all or part of the costs. 'Good reason' is not defined but a good reason might be that the LA believes the proposed redundancy was unnecessary, or not necessary to bring the school back into a balanced financial position, efforts to secure redeployment were not adequately explored, where payments are too high or if the school holds a surplus revenue

4.4.

balance which could reasonably be used to fund the additional costs.

4.5. In considering any proposal which might require the LA to fund or contribute towards redundancy payments, we will review the submitted business case and associated information. In addition, the following criteria will be applied to a school's business case by the LA in reaching a decision:

- a) Is the proposed reduction in staffing based on accurate assessment of the school's current financial position?
- b) Is the proposed reduction in staffing based on a reasonable and accurate prediction of the school's future financial position?
- c) Does the funding requested represent value for money when compared to the saving to be achieved?
- d) Has the school considered other alternatives for efficiencies and reduction of costs?

4.6. Having agreed in principle to fund the costs of any redundancy by accepting the business case put forward by a school, the LA will then consider the schedule of proposed costs for redundancy for every individual affected. The LA will only meet the costs of employee payments in line with the MKC policy for redundancy payments, no financial support will be agreed for PILON.

5. Severance and Premature Retirement

5.1. The primary legislation for the issues addressed by this policy is set out in Section 37 of the Education Act 2002 which outlines that decision making responsibilities in securing the resignation of teaching and support staff, through severance agreements and premature retirement, lies with the **Governing Body**.

5.2. Section 37 of the of the Education Act 2002 makes it clear that the costs incurred by a school in respect of securing the resignation of staff through severance agreements or through premature retirement, shall come from the school's delegated budget. Therefore, no financial assistance is available from the LA in these circumstances.

Annex A

Financial Assistance Request - Checklist

Items that must be included in the business case

An explanation as to why the school need to reduce or change their staffing structure (financial support will only be provided where the school are required to make savings in order to balance their budget so this will need to be clear).

Confirmation that any alternatives to dismissal of staff have been fully explored, including possible re-deployment to other schools and if discounted, the reasons made clear.

A clear explanation of the changes to the staff structure and the financial impact of the changes.

Details of any new roles created as part of the proposal.

A summary of the potential impact of the changes on educational outcomes.

Details of the agreed policies and procedures that will be followed to make any reduction to staffing, including proposed selection measures.

Items that must be attached

Current staff structure and proposed staff structure, clearly showing the proposed changes (including the financial impact) and the number of staff at risk.

Three year budget plan without the staff changes and a three year plan that includes the proposed staff changes, including detailed notes for all assumptions.

A timeline showing sufficient advance warning of any possible redundancies, including the LA finance process for funding support and governing body decisions.

Details of any fixed term contracts (a list of posts and dates of contracts). If nil, then this must be made clear in the business case.

Estimated minimum and maximum, redundancy and pension strain costs.

Consult HR

Submit business case and attachments to schoolsfinance@milton-keynes.gov.uk

If agreed in principle:

Notify the LA of the date changes will take effect, within ten working days of the Governing Body decision.

Submit a detailed schedule of proposed costs detailing the individuals affected (after a decision to fund in part or in full has been given).

After final confirmation of the Governing Body decision to terminate employment, notify the LA who will arrange for the reimbursement of costs through the next available monthly cash advance payment.

Commented [MH1]: Schools send us the actual business case that goes to staff and the unions. However Downs Barn have said they have previously had HR advice not to include anything saying the restructure is due to financial reasons as the unions would object to that. Should we move the part about being clear on the need to make savings to the items that must be attached section rather than ask for it to be included in the business case?

Notify the LA if the school recruits to replace the redundant posts within 12 months of the actual redundancy date, in which case the school agrees to reimburse the LA.

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