

<b>Meeting:</b>	<b>Herefordshire schools forum</b>
<b>Meeting date:</b>	<b>Friday 12 October 2018</b>
<b>Title of report:</b>	<b>Local management of schools directed changes</b>
<b>Report by:</b>	<b>Director for children and families</b>

## **Classification**

Open

## **Decision type**

This is not an executive decision

## **Wards affected**

(All Wards);

## **Purpose and summary**

The Department for Education has issued a directed change to the council's local scheme for managing schools. Schools Forum is asked to approve the change. The directed change is to ensure that loans agreed by the council with schools in future are for capital purposes only.

## **Recommendation(s)**

**That: The Herefordshire scheme for financing schools be amended as follows**

**(a) Add a new para 4.10 (f) as follows:**

**“Loans will only be used to assist schools in spreading the cost over more than one year of large one-off individual items of a capital nature that have a benefit to the school lasting more than one financial or academic year. Loans will not be used as a means of funding a deficit that has arisen because a school's recurrent costs exceed its current income. If loans are made to fund a deficit and a school subsequently converts to academy status, the Secretary of State will consider using the power under paragraph 13(4)(d) of Schedule 1 to the Academies Act 2010 to make a direction to the effect that such a loan does not transfer, either in full or part, to the new Academy school.”**

**(b) Replace the existing paragraph 4.8 as follows**

**“Where in the funding period, a school has been established or is subject to a prescribed alteration as a result of the closure of a school, a local authority may add an amount to the budget share of the new or enlarged school to reflect all or part of the unspent budget share (including any surplus carried over from previous funding periods) of the closing school for the funding period in which it closes”**

**(c) Add an additional paragraph to Annex F as follows**

**“A local authority can retain a central budget within the schools budget to fund the costs of new early retirements or redundancies by a deduction from maintained school budgets (excluding nursery schools) only, where the relevant maintained school members of the school forum agree to a de-delegated budget in accordance with Schedule 2 Part 7, of the Finance Regulations.”**

## **Alternative options**

1. The Secretary of State may by direction revise the whole or any part of the scheme for financing schools from such date as specified in the direction. There are no alternatives.

## **Key considerations**

2. In order to make a directed revision to schemes, the Secretary of State is required by provisions in the Schools Standards and Framework Act 1998, to consult the relevant local authorities and other interested parties. Following consultation, the Secretary of State directs that from 22 March 2018 the text below shall be incorporated into the schemes of all local authorities in England.

Loans will only be used to assist schools in spreading the cost over more than one year of large one-off individual items of a capital nature that have a benefit to the school lasting more than one financial or academic year. Loans will not be used as a means of funding a deficit that has arisen because a school's recurrent costs exceed its current income. If loans are made to fund a deficit and a school subsequently converts to academy status, the Secretary of State will consider using the power under paragraph 13(4)(d) of Schedule 1 to the Academies Act 2010 to make a direction to the effect that such a loan does not transfer, either in full or part, to the new Academy school.

3. Updates have been made to the DfE's guidance, to mirror changes in the Schools and Early Years Finance (England) regulations 2018. Paragraph 4.8 has been updated to reflect changes on balances of closing schools as detailed under Regulation 25(9) as follows:

4.8 Where in the funding period, a school has been established or is subject to a prescribed alteration as a result of the closure of a school, a local authority may add an amount to the budget share of the new or enlarged school to reflect all or part of the unspent budget share (including any surplus carried over from previous funding periods) of the closing school for the funding period in which it closes.

4. Annex B: Responsibility for redundancy and early retirement cost has been updated to reflect changes under Schedule 2 Part 7, of the Finance Regulations. This details how a local authority can retain a central budget within the schools budget to fund the costs of new early retirements or redundancies by a deduction from maintained school budgets (excluding nursery schools) only, where the relevant maintained school members of the schools forum agree.
5. This is a directed revision and as such all local authorities must update their schemes and ensure any new loans are in line with the criteria. From the 22 March 2018, DfE expects new loans to be made in line with the provision in schemes. Where a maintained school converts to academy, it will only continue to repay any new loan or changes to an existing loan agreed between the local authority and its predecessor maintained schools if it meets the criteria 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 “
6. From the 22 March 2018, the Secretary of State would consider whether to make a direction under paragraph 13(4)(d) of the Academies Act 2010, to the effect that a new loan would not transfer to the new academy school on a case by case basis and all applications would be viewed on their own merits. Every decision will take into account the purposes of the loan and if it is compliant with revised guidance. The revision to the criteria for agreeing loan schemes will not be applied retrospectively to existing loans when schools convert.
7. The recommended changes to the Herefordshire scheme for financing schools are set out in the appendix.

## **Community impact**

8. In accordance with our code of corporate governance, Herefordshire Council is accountable for how it uses the resources under its stewardship, including accountability for outputs and outcomes achieved. In addition the council has an overarching responsibility to serve the public interest in adhering to the requirements of legislation and government policies. The council is committed to ensuring openness and transparency and the recommendations of this report demonstrate the reasons for a policy change being made.

## **Equality duty**

9. Under section 149 of the Equality Act 2010, the ‘general duty’ on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to -

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
10. As this is a directed revision by the Secretary of State, we do not believe that it will have an impact on our equality duty

## **Resource implications**

11. Currently outstanding loans total £835,917 and are split 20.7% capital and 79.3% revenue. There are 14 loans in total and 9 loans are each less than £20,000. All loans are on track to be repaid.

## **Legal implications**

12. The recommended amendments to the Scheme are in accordance with updates to the Department for Education Guidance to reflect changes in the Schools and Early Years Finance (England) Regulations 2018. Department for Education Schemes for financing schools Statutory Guidance for local authorities March 2018 states that councils are required to publish schemes for financing schools setting out the financial relationship between them and the schools they maintain. In making any changes to their schemes, councils must consult all schools in their area and receive the approval of members of their schools forum representing maintained schools. Councils must take this guidance into account when revising their schemes, in consultation with the schools forum.

## **Risk management**

13. The council will fully comply with the revisions to the scheme in so far as only capital loans that comply with the scheme requirements will be approved.

## **Consultees**

14. All locally maintained schools have been consulted and no comments received. A copy of the amended scheme will be distributed to all locally maintained schools in September 2018. The council's S151 officer has been consulted and is content with the proposed changes to the scheme of delegation to schools.
15. This matter was considered by the Schools Forum at its meeting of 6 July 2018. As the meeting was inquorate the forum was not able to make a binding decision but members present indicated their support for the recommendations.

## **Appendices**

Summary of recommended changes to the Scheme for financing schools in Herefordshire

## **Background papers**

None