

## **Summary of Recommended changes to the Scheme for financing schools in Herefordshire**

### **4.8 Balances of closing and replacement schools**

#### New text:

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.

#### Deleted text:

When a school closes, any balance (whether surplus or deficit) reverts to the Council. It cannot be transferred as a balance to any other school, even where the school is a successor to the closing school except that a surplus transfers to an academy where a school converts to academy status under section 4(1)(a) of the Academies Act 2010. The allocation regulations make provision for successor schools to receive additional sums through the in-year supplement mechanism

### **4.10 Loan scheme – add new paragraph (f)**

- a) The Council operates a form of loan arrangement for schools by way of actual payments to schools or expenditure in respect of a particular school, on condition that a corresponding sum is repaid from the school's formula budget (by the end of four years from the date of the loan). The loans are available to fund one-off purchases of equipment and certain types of capital works, and are allocated under arrangements determined by the Director of Children's Services and the Council's Chief Financial Officer. The maximum amount allowed for any one school is limited to 2% of the school's own formula allocation. Schools must be able to demonstrate their capacity to repay the loan and interest. Details of the loan scheme are included in Annex H.
- b) The loans will be financed in effect, subject to consultation with schools, by the balances in hand held within the Council's Accounts on behalf of the schools. The statutory right of schools to draw on their balances at any time will not be affected.
- c) The Council's budget statements show the amount centrally retained for devolved loan payments to schools, and the payments also appear in the out-turn statements.
- d) The loan scheme can operate only in respect of expenditure deductible from the ISB under the s.46 regulations.
- e) No provision has been made for any credit union approach to loans.
- f) 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.

**ANNEX F**: add new final paragraph

**RESPONSIBILITY FOR REDUNDANCY AND EARLY RETIREMENT COSTS**

This guidance note summarises the position relating to the charging of voluntary early retirement and redundancy costs. It sets out what is specified in legislation and provides some examples of when it might be appropriate to charge an individual school's budget, the central Schools Budget or the local authority's non-schools budget.

Section 37 of the 2002 Education Act says:

*(4) costs incurred by the local education authority in respect of any premature retirement of a member of the staff of a maintained school shall be met from the school's budget share for one or more financial years except in so far as the authority agree with the governing body in writing (whether before or after the retirement occurs) that they shall not be so met*

*(5) costs incurred by the local education authority in respect of the dismissal, or for the purpose of securing the resignation, of any member of the staff of a maintained school shall not be met from the school's budget share for any financial year except in so far as the authority have good reason for deducting those costs, or any part of those costs, from that share.*

*(6) The fact that the authority have a policy precluding dismissal of their employees by reason of redundancy is not to be regarded as a good reason for the purposes of subsection (5); and in this subsection the reference to dismissal by reason of redundancy shall be read in accordance with section 139 of the Employment Rights Act 1996 (c. 18).*

The default position, therefore, is that premature retirement costs must be charged to the school's delegated budget, while redundancy costs must be charged to the local authority's budget. In the former case, the local authority has to agree otherwise for costs to be centrally funded, while in the latter case, there has to be a good reason for it not to be centrally funded, and that cannot include having a no redundancy policy. Ultimately, it would be for the courts to decide what was a good reason, but the examples set out below indicate the situations in which exceptions to the default position might be taken.

*Charge of dismissal/resignation costs to delegated school budget*

- If a school has decided to offer more generous terms than the authority's policy, then it would be reasonable to charge the excess to the school
- If a school is otherwise acting outside the local authority's policy
- Where the school is making staffing reductions which the local authority does not believe are necessary to either set a balanced budget or meet the conditions of a licensed deficit
- Where staffing reductions arise from a deficit caused by factors within the school's control
- Where the school has excess surplus balances and no agreed plan to use these
- Where a school has refused to engage with the local authority's redeployment policy

*Charge of premature retirement costs to local authority non-schools budget*

- Where a school has a long-term reduction in pupil numbers and charging such costs to their budget would impact on standards
- Where a school is closing, does not have sufficient balances to cover the costs and where the central Schools Budget does not have capacity to absorb the deficit
- Where charging such costs to the school's budget would prevent the school from complying with a requirement to recover a licensed deficit within the agreed timescale
- Where a school is in special measures, does not have excess balances and employment of the relevant staff is being/has been terminated as a result of local authority or government intervention to improve standards

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