

**SCHOOLS FORUM BRIEFING NOTE**  
**3 November 2016**

**Premature Retirement and Redundancy Costs in Maintained Schools**

**Issue**

- 1.1 From 2006-2013 redundancy and early retirement costs were paid for directly from the DSG. Since 2013 following the change in school funding at that time, such costs have been paid for either by the schools directly or more often by using the exceptional cost pressure fund. The costs have not been charged to the Council's General Fund.
- 1.2 The issue of who should pay for redundancy costs has been raised by Schools Forum members.

**Relevant Legislation**

- 2.1 Section 37 of the Education Act 2002 states:

*In sub-section 4:*

- 2.2 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.
- 2.3 In other words pension related costs should be paid by schools unless otherwise agreed.

*In sub section 5*

- 2.4 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.
- 2.5 In other words the local authority pays for redundancy unless it has good reason not to. 'Good reasons' are not defined in the legislation but sub-section 6 says that having a policy of precluding redundancy is not a good reason.

**Council Policy**

- 2.6 The LA deems the following to be good reasons:
  1. Where there is sufficient funding in the individual school's budget for redundancy costs to be paid without the school experiencing financial difficulties
  2. Where there is funding available in the de-delegated exceptional cost pressure/ Schools in Financial Difficulty fund
  3. Where there is uncommitted DSG carried forward (originating from previous years' unused contingency funds) available.
  4. Where a school has decided to offer more generous terms than the local authority's policy.

5. Where a school is otherwise acting outside the local authority's policy
6. Where a school is making a change to staffing which the local authority does not believe is necessary to either set a balanced budget or to meet the conditions of a licenced deficit.
7. Where the school has excess surplus balances and no agreed plan to use these.
8. Fixed term contracts – where a school has direct control over the circumstances leading to the redundancy requirement. For example the decision to appoint an employee on a fixed term contract and the contract ends for reasons other than immediate financial deficit. Also the school budget shall meet the cost of termination where the school has allowed the fixed term contract to become permanent.

2.7 The Scheme for Financing Schools will be updated to include the above.