

Report to:	SCHOOLS' FORUM
Date:	19 January 2022
Reporting Officer:	<p>Tim Bowman –Director, Education (Tameside and Stockport)</p> <p>Tracy Brennand – Assistant Director, People and Workforce Development</p> <p>Caroline Barlow – Assistant Director, Finance</p>
Subject:	SCHOOL DE-DELEGATION 2022-23
Report Summary:	A report on the de-delegation services and risk protection arrangement (RPA) for 2022-23.
Recommendations:	<p>Members of the Schools' Forum are requested to note the contents of the report.</p> <p>Members of the maintained Primary and Secondary sectors are required to vote separately on the de-delegation of funding for each of the following services:</p> <ul style="list-style-type: none"> • Trade Union Support • Schools Contingency • Schools Improvement
Corporate Plan:	Education finances significantly support the Starting Well agenda to provide the very best start in life where children are ready to learn and encouraged to thrive and develop, and supports Aspiration and Hope through learning and moving with confidence from childhood to adulthood.
Policy Implications:	In line with financial and policy framework.
Financial Implications: (Authorised by the statutory Section 151 Officer & Chief Finance Officer)	<p>The Dedicated Schools Grant is a ring fenced grant solely for the purposes of schools and pupil related expenditure from which de-delegation decisions are funded.</p> <p>Any cost pressure created as a result of schools deciding not to de-delegate funding for Trade Union Support will have to be managed by the Council as stated in Section 4.5 of this report.</p>
Legal Implications: (Authorised by the Borough Solicitor)	The legal implications are set out in the main body of the report. This report provides The Forum with an opportunity to consider the potential budgetary pressures related to schools deciding not to de-delegate funding.
Risk Management:	The correct accounting treatment of the Dedicated Schools Grant is a condition of the grant and procedures exist in budget monitoring and the closure of accounts to ensure that this is achieved. These will be subject to regular review.

Access to Information:

NON-CONFIDENTIAL

This report does not contain information, which warrants its consideration in the absence of the Press or members of the public.

Background Information: The background papers relating to this report can be inspected by contacting Christine Mullins

 Telephone: 0161 342 3216

 e-mail: christine.mullins@tameside.gov.uk

1. INTRODUCTION

- 1.1 De-delegated funds are a deduction from a school's budget share and are held centrally to fund relevant services. De-delegation can only apply to maintained primary and secondary school budgets. Decisions on de-delegation have to be taken at the Schools Forum. The Primary and Secondary sector vote separately in relation to each of the services, following discussion with their wider stakeholder colleagues.
- 1.2 Academies do not have the option of de-delegating but can procure the service as a traded service. The charge would be on the same basis as de-delegation.
- 1.3 Decisions made to de-delegate are for one year only, so an annual vote is required. Schools Forum members for the primary maintained schools and secondary maintained schools must decide separately for each sector whether the specific service should be provided centrally and therefore funding de-delegated. The decision will apply to all maintained mainstream schools in that sector.

2. SERVICES FOR CONSIDERATION

- 2.1 The services that are subject to de-delegation vote are
 - Local Trade Union Support details can be found in section 3
 - Contingency outlined in section 4.
 - And Schools Improvement outlined in section 5.
- 2.2 School Improvement is a new de-delegation decision for Schools Forum due to proposed changes by DfE in a consultation held in November 2021.
- 2.3 Section 6 provides an update in relation to the Risk Protection Arrangement (RPA)

3. TRADE UNIONS SUPPORT

- 3.1 The Council for many years has offered Tameside schools access to the services of recognised local trade union and professional association officials, through the annual purchase of a Trade Union Support Service Level Agreement (SLA). The Borough's maintained schools initially have access to this service offer funded through de-delegation. The Council also offers this service on a buyback basis to all Academies and Special Schools.
- 3.2 The national operating guidance published annually by the Education and Skills Funding Agency that guides local authorities and its schools forum on implementation of the schools funding system specifically lists cover for trade union duties as being one service that may be de-delegated. Access to trade union support through a de-delegated decision is consistent practice nationally.
- 3.3 Listed below are the trade unions presently recognised by the Council, with each of them having a longstanding history of representing various public sector employee groups across Tameside schools' workforce:
Teaching staff:
 - ASCL
 - NAHT
 - NASUWT
 - NEU
Support staff:
 - GMB
 - UNISON

- UNITE
- 3.4 Purchase by school leaders/governors of the Trade Union Support SLA enables delivery of their statutory obligations contained within the Employment Relations Act 1999, the Trade Union Labour Relations (Consolidation) Act 1992 and the Safety Representatives and Safety Committees Regulations 1997, with regard to the management and delivery of reasonable facilities time for trade union representatives.
- 3.5 Purchase also enables collaborative working between school leaders/governors and local trade union representatives, achieving smooth, speedy and effective management of change; school reorganisation plans and implementation of employment related policies and procedures for school-based staff.
- 3.6 Access to this service also supports staff wellbeing by providing staff members with easy access to local trade union support and expertise in employment related matters at a local level, helping to resolve workplace issues before they escalate.
- 3.7 The Council reviews year on year the number of local trade union officers and associated expenditure in relation to this service offer, with the majority of expenditure covering employment related costs (salary plus NI/pension contributions).
- 3.8 When setting the ‘per pupil’ rate the Council complies with council policy of ensuring full cost recovery from schools.

4. PREVIOUS TAKE UP OF THE SERVICE AND FEEDBACK TO DATE

- 4.1 Unfortunately, in recent years, the take up of this service by schools has been reducing and for financial year 2021-22, Schools Forum members voted not to de-delegate for this service. Eventual take up of the service for 2021-22 was just 37 of the 98 Tameside schools.
- 4.2 School leaders concerns with the service have been:
- its value for money, within the context of school leaders being aware of lower ‘per pupil rates’ across other Councils;
 - the transparency of actual trade union duties being delivered directly to schools and its staff;
 - the difference of service provision from a local full time official versus a school based shop steward;
 - how the SLA offer aligns to the DfE document ‘Advice on trade union facility time’, January 2014, more specifically the statement that ‘All union representatives who receive facility time to represent members employed in schools should spend the majority of their working hours carrying out their main duties as school employees’.
 - Whether the existing Facilities Agreements remain fit for purpose due to their longevity.

5. THE COUNCIL’S RESPONSE AND ACTION TAKEN

- 5.1 Following ongoing discussion with school leader representatives throughout the year and with the aim of seeking a resolution as to what actions would be required to increase the support, value and buy-in from schools for this service, the Council has undertaken the following action:
- A review of the existing Facilities Agreements with regional trade unions officials, ensuring clearer transparency and accountability of facilities time and activities undertaken on behalf of schools. The revised agreements are to be implemented by the Council from January 2022.

- A change to the methodology of the charging regime for schools in relation to non-teaching staff local trade union representatives, resulting in a reduced 'per pupil' cost for schools.
- Commitment to introducing a different delivery model for the supply of teaching staff local trade union representatives and their facilities time, introduced on a transitional basis over the next two financial years. The Council will work with relevant stakeholders including school leader representatives on developing the new delivery model, with the revised model to be fully operational by April 2024.

This revised delivery model is in response to the request of school leaders to move towards teaching staff local trade union representatives being employed within schools and allocated facility time as part of their normal teaching working week, to undertake trade union duties on a part time basis, funded through a pooled arrangement.

The rationale for this preferred model of delivery is it fully supports the concept that teaching staff should remain active in the school setting and have current classroom practice so not losing their valuable teaching skills and experience. Regional teaching staff trade union representatives also endorse this preferred model of delivery.

- A presentation delivered to school leaders/governors to advise in greater detail the rationale behind actions taken to date by the Council and the future plans, in response to school leaders concerns and future plans.

6. FINANCIAL CONSIDERATIONS

- 6.1 As already reported, the majority of expenditure relating to delivery of this service is the employment related costs of the local trade union representatives.
- 6.2 Taking account of feedback from school leaders with regard to cost and value for money, alongside feedback from regional non-teaching trade union representatives regarding the existing level of service provided to school support staff; the Council has changed its charging regime for this service. The new charging regime still abides with council policy of ensuring full cost recovery from schools.
- 6.3 The new charging regime has enabled a reduced 'per pupil' rate to be set for schools for the next financial year 2022-23. The rate 'per pupil' for 2022-23, taking account of the full quota of primary, secondary and special maintained schools within the borough, has been set at £4.80 per pupil. This is a reduced level compared to 2021-22's charge rate of £6.13 per pupil.
- 6.4 This service also remains available for purchase by all academy schools and special schools, and it is worth noting that the more schools that buy in the lower the 'per pupil' rate can become. For example, if our full complement of 98 schools across our campus bought this service, including all academy schools, the cost would significantly reduce to less than £3.50 per pupil for 2022-23.
- 6.5 In summary, the Council has listened to the views of school leaders and believes it has taken and continues to take appropriate and responsive action, with the aim of increasing the commitment, support and value for this service. It is hoped these actions result in maintained schools feeling confident in the changes made and planned for the future, enabling them to vote to de-delegate their budget for this service offer for the forthcoming financial year. There is also the aim of increased buy in levels from academy schools.

- 6.6 The vote to de-delegate is fully endorsed by the Council's Director of Education and national trade union representatives, who have made written representations to school leaders/Council representatives at various times throughout the year in support of this service, copies of which are attached at appendices 1, 2 and 3.
- 6.7 However, should all of these actions and plans still not achieve the required level of buy-in to enable full cost recovery, then due to the present financial position of the Council it will find itself requiring to undertake a full review of this service offer to schools.

7. CONTINGENCY

- 7.1 The contingency budget has been established to support those schools facing a deficit budget position or to support the DSG against any future pressures where schools are closing or are forced to convert to academy leaving a deficit balance, as this would need to be funded from DSG. It should be noted that a deficit balance transfers to the Academy Trust where the transfer to Academy is through a convertor route, i.e. the School chooses via an Academy order to convert to Academy. The balance remains a DSG issue where the schools are a forced conversion as part of a Sponsored Academy conversion route required by the Secretary of State.
- 7.2 Where a school is in deficit or facing deficit in the next financial year they will be subject to a review in line with the School Deficit process as outlined within the Tameside Scheme Financing, the LA will work very closely with the school and its Governors to manage the deficit and ensure action is taken to address it.
- 7.3 It is also anticipated that schools struggling to manage deficits where financial issues are beyond the control or influence of the Head teacher could apply. This would be exceptional circumstances, and where significant action had already been taken to bring the plan back into balance and where further cuts are likely to impact on the attainment of the pupils in the school.
- 7.4 Alongside this, support will be provided to schools closing with deficit balances to minimise the impact and potential pressure on the DSG.
- 7.5 The de-delegation rate for Contingency for 2022-23 remains at £5.81 per pupil. Agreement is sought from both the Primary and Secondary sectors to de-delegate in 2022-23. Should both sectors choose to contribute, based on the October 2021 census data, this would result in the following contribution to Contingency:
- Mainstream Primary Maintained Schools - £67k
 - Mainstream Secondary Maintained Schools - £33k
- 7.6 There have been requests made to the contingency fund during 2021-22 which have been refused following further discussion at School Funding Group and Schools Forum. The fund will be carried forward into 2022-23 less any approvals that may be agreed before year end.
- 7.7 The balances in contingency are as outlined in the table below

Contingency Contributions	Primary	Secondary	Total
Balance at 31.3.2021		65,205.42	65,205.42
2021-22 De-delegations	67,432.00	33,383.00	100,815.00
Total Contributions	67,432.00	98,588.42	166,020.42

- 7.8 Contingency was discussed at Schools Forum and it was agreed in June 2021. A maximum level of the fund was set at £424,00 for both sectors. Schools forum requested that the decision regarding if the sectors are willing to merge the pot in a bid. Schools are now asked if they are happy to merge the pot.

8. SCHOOL IMPROVEMENT SERVICES

8.1 The LA currently receives an annual School Improvement and Brokerage grant direct from DfE of £213,000, to support LA statutory school improvement functions (i.e. school intervention, etc.). The DfE published a consultation document ([hyperlink provided below](https://consult.education.gov.uk/simb-grant-team/local-authority-school-improvement-funding-reform/)) which closed 26 November 2021.

8.2 The DfE proposes to remove this grant. In 2022-23 the council will receive transitional funding of 50% therefore require local authorities will need to seek de-delegation of schools funding to support any ongoing LA statutory function activity costs, etc.

<https://consult.education.gov.uk/simb-grant-team/local-authority-school-improvement-funding-reform/>

8.3 A formal response to the DfE was submitted in response to the proposal. Many concerns were raised including;

- Although formal powers of intervention had not been used a great deal, the grant is used to meet needs before schools reach this critical point of failure and therefore monies are used to support schools to prevent them from failing children before being eligible for intervention.
- School improvement activity in Tameside is not limited to maintained schools only, support is provided to academy schools too. Removal of this grant and funding would remove the ability to support the whole sector and be detrimental to the whole Education offer in Tameside.
- De-delegation would present an uneven playing field between MAT's and maintained schools, MATs do not need to seek permission of schools to top slice school budgets to provide improvement support.
- Removal of this central government grant to fund school improvement functions is transferring the cost and applying more pressure to the schools block funding of the DSG.
- The timeline for the change makes decision making and informed consultation very difficult.

8.4 The final decision and outcomes of this consultation are due be received from DfE early January 2022, these have not been received at the time of writing this report, which is extremely unhelpful in terms of budget planning for 2022-23. As the LA is required to outline all de-delegation decisions on the annual pro-forma return, which must be submitted to the DfE detailing all local schools funding formula arrangements (including de-delegation) by 20 January 2022.

8.5 The DfE is providing a supplementary grant to Schools alongside the DSG to support with the new Health and Social Care Levy and wider costs, as this announcement was at a similar time as the end of this consultation, it is currently anticipated that the removal of this grant will be agreed.

8.6 The Schools Improvement service will not be able to deliver its statutory functions without the grant, therefore it is requested that a de-delegation decision is made by Schools Forum to de-delegate the equivalent of 50% of the grant for 2022-23. The de-delegation contributions will only be taken should the DfE decision remove the grant. If the decision is to keep the grant the funds will be returned to schools.

8.7 The cost of Schools Improvement for 2022-23 is £6.12 per pupil, it should be noted that this would at least double in 2023-24, as the LA will receive 50% transitional grant in 2022-23, the cost of the service would need to be de-delegated in full from schools in 2023-24.

8.8 Members of Schools Forum are asked to support this.

9. RISK PROTECTION ARRANGEMENT (RPA)

- 9.1 From April 2020 local authority maintained schools have been able to join the risk protection arrangement (RPA), which had previously only been available to academies.
- 9.2 Where schools have opted into this arrangement in 2021-22, the membership will continue on an ongoing basis. Should a school choose to opt out of the arrangement they would need to make their own risk protection arrangements.
- 9.3 The cost of RPA for 2022-23 is £21 per pupil. The DfE is operating a process whereby a deduction is made for the appropriate value, from the local authorities DSG. The LA plan to treat this in the same way as de-delegation items and allocate to the relevant schools on this basis. It should be noted that nursery numbers are included to calculate the charge for the primary sector (where relevant).
- 9.4 Further information about the scheme can be found through the following link:
[The risk protection arrangement \(RPA\) for schools - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/publications/risk-protection-arrangement-for-schools)

10. CONCLUSION

- 10.1 Schools Forum are asked to consider the services and requests for de-delegation in 2022-23 and note the change in rate for the RPA scheme.

11. RECOMMENDATIONS

- 11.1 As set out at the front of the report.