

Report to:	Schools' Forum
Date:	17 December 2019
Reporting Officer:	Tom Wilkinson – Assistant Director Finance Tim Bowman – Assistant Director Education
Subject:	De-delegation 2020-21
Report Summary:	A report on the de-delegation services for 2020-21. The report provides additional information to that provided in the previous Schools' Forum report taken on 26 November 2019. The implications of decision not to de-delegate the Trade Union Support are also included.
Recommendations:	<p>Members of the Schools' Forum are requested to note the contents of the report.</p> <p>Members of the Schools Forum are requested to confirm the voting arrangements for de-delegation for maintained Special schools and the Pupil Referral Service (PRS) as discussed at Section 2 of the report.</p> <p>Members of the Secondary maintained sector are required to vote on the de-delegation of funding for each of the following services:</p> <ul style="list-style-type: none"> • Trade Union Support • Schools Contingency
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)	Employees have a statutory right to trade union representation and school leaders will still be required to undertake its statutory obligations as contained within the Employment Relations Act 1999, the Trade Union Labour Relations (Consolidation) Act 1992 and the Safety Representatives and Safety Committees Regulations 1997. School Leaders need to determine whether it is more cost effective to commit to a centrally co-ordinated trade Union service to support schools fulfil their obligations in relation to individual and collective employment law obligations or to find themselves having to fund on an ad hoc basis. What the report does not set out (as it would be difficult to quantify although it is a real cost) is the cost and impact of delay in dealing with disciplinary, attendance processes and grievances without an effective local dedicated trade union resource. Clearly value for

money needs to be at the heart of all decisions and reassurance should be provided that the offer meets this test.

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 – Finance Business Partner, Financial Management, Governance, Resources and Pensions



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1. INTRODUCTION

- 1.1 A report on de-delegation for 2020-21 was taken to Schools' Forum on 26 November 2019. A request was made by the Secondary sector to defer their vote on the de-delegated services. This was to allow consultation with wider stakeholder colleagues.
- 1.2 Requests were also made for further information regarding the support provided by the Trade Union Support service and if / how the contingency fund in 2019-20 has been used.
- 1.3 The Primary sector voted on de-delegation at the Schools' Forum meeting on 26 November 2019. The sector voted not to de-delegate for either service and as a result there are financial implications for the Trade Union service for the 2020-21 financial year.

2. DE-DELEGATION CONSIDERATION FOR MAINTAINED SPECIAL SCHOOLS AND THE PRS

- 2.1 A point was raised at the last Schools' Forum meeting regarding Special schools and their position in the voting process for de-delegation. Historically Special Schools have been charged for de-delegated services in line with the de-delegation decisions. The operational guidance suggests Special schools or the PRS are not part of the voting process but can buy back in the same way that Academies can.
- 2.2 In order to agree the arrangements going forward there are two points for consideration:
 - Do the maintained Special schools and PRS want to be part of the de-delegation vote and therefore agree their Schools' Forum representatives make the annual decision to buy back on behalf of the sector?
 - If yes, Schools' Forum Members will need to agree to this amendment to the current voting process.
- 2.3 This would mean the maintained Special schools and PRS representatives would be part of both the Primary and Secondary sectors vote and will be making decisions on behalf of their sector.

3. TRADE UNION SUPPORT

- 3.1 Tameside schools have for many years had access through a SLA arrangement to a Trade Union Facilities Agreement that recognises the main trade unions and professional associations that support the various public sector employee groups across our whole school workforce across Tameside. This includes recognition of the main teacher and headteacher trade union/professional associations.
- 3.2 This support provides schools with a centrally coordinated Trade Union service to support a school and its leaders' statutory obligations as contained within the Employment Relations Act 1999, the Trade Union Labour Relations (Consolidation) Act 1992 and the Safety Representatives and Safety Committees Regulations 1997. In particular it provides schools, school leaders and Governing Bodies with support and expertise in employment related matters, helping to resolve workplace issues before they become too serious for the school and providing a significant and positive contribution to school leaders with their management of change; any large scale reorganisation school leaders may wish to implement; and the implementation of policies and procedures, enabling governing bodies to adopt and implement these policies and procedures for school staff quickly and easily.
- 3.3 In 2019-20 mainstream primary maintained schools and mainstream secondary maintained schools voted to de-delegate budget for the Trade Unions Service.

- 3.4 The local trade union representatives that support delivery of the Facilities Agreement undertake a variety of roles in collective bargaining and working with school leaders and managers, communicating with union members, liaising with relevant trade unions at a regional and national level and greatly assisting in the handling of individual matters concerning school based employees, such as matters relating to performance, capability, disciplinary, grievance and organisational change.
- 3.5 There are positive benefits for school leaders, employees and union members in encouraging the efficient performance of a local union representatives' work, for example in aiding the resolution of problems and conflicts at work in a timely manner and having full knowledge and understanding of local issues to aid and improve working relationships.
- 3.6 The role can be complex and demanding and having local knowledge and understanding of the Tameside school campus's aims and aspirations for our students in the borough brings about many benefits in ensuring positive and collaborative employee relations within a school's workforce.
- 3.7 The provision of facilities for full time union officers has been determined to be the most efficient and effective way for large employers to manage the number of complex and challenging employment related matters, and ensure they are able to fulfil their statutory obligations to consult with employees and their representatives.
- 3.8 The Facilities Agreement outlines the statutory provisions and facilities for trade union duties and activities, along with the agreement for the provision and payment of full time workplace union officers. This arrangement is consistent with other Councils in the Greater Manchester region and across the country.
- 3.9 ACAS identify in summary the following areas of activity for trade union representatives to be involved with:
- Terms and conditions of employment, or the physical conditions in which workers are required to work;
 - Engagement/non-engagement, or termination or suspension of employment, or the duties of employment of one or more workers;
 - Allocation of work or the duties of employment as between workers, or groups of workers;
 - Matters of discipline;
 - Trade union membership/non membership/facilities for trade union representatives;
 - Machinery for negotiation or consultation and other procedures.
- 3.10 Year on year the number of local trade union officers and associated expenditure is reviewed by the Council to ensure the provision continues to deliver excellent services whilst achieving good value for money. For 2020/21 the support offered to schools will be just over 3 full time officers covering all teaching and non- teaching staff across the whole Tameside campus. Their performance is overseen and directed by senior council officers, ensuring work is targeted and directed to where local needs for schools are best met.
- 3.11 A summary of the benefits for schools for access to local representatives are as follows:
- Time and resources directed solely to Tameside schools' priorities, with less competing and conflicting demands;
 - Progression of employee relations issues within schools undertaken and concluded in a timely manner;
 - Full knowledge and understanding of local needs and pressures;
 - Progression of school employment procedure review and implementation undertaken more speedily;

- The development of effective, collaborative working relationships to enable smoother progression of school based organisational matters, such as school staffing reorganisation and health and safety matters;
- Locally based resulting in easier access and speedier responses to requests for service;
- Direct access to senior officers within the Council's Children's Services Directorate, acting as mandate and lobbyist for school leaders/school based staff and school related matters.

4. TRADE UNION SUPPORT – FINANCIAL CONSIDERATIONS

- 4.1 The total cost for providing the Trade Union Support SLA for schools for 2020-21, including staffing costs and associated overhead running costs, is £174k.
- 4.2 The de-delegation rate for Trade Union Support for 2020-21 is £6.47 per pupil and Secondary maintained schools are requested to vote on this.
- 4.3 Assuming none of the maintained primary schools buy in and Secondary maintained schools de-delegate and academies who purchased for 2019-20 (both sectors) continue to buy in, there would be a short fall in cost recovery of approximately £82k.
- 4.4 Should Secondary maintained schools not de-delegate and academies who purchased for 2019-20 (both sectors) continue to buy in, there would be a short fall in cost recovery of approximately £120k.
- 4.5 A buy-back option will be available to the Primary sector on the same basis as de-delegation.

5. IMPLICATIONS OF NOT DE-DELEGATING TRADE UNION SUPPORT

- 5.1 Employees will still have a statutory right to trade union representation and school leaders will still be required to undertake its statutory obligations as contained within the Employment Relations Act 1999, the Trade Union Labour Relations (Consolidation) Act 1992 and the Safety Representatives and Safety Committees Regulations 1997.
- 5.2 Where trade union support is required by management or employees, school leaders will need to seek that support at a regional level. Due to the competing demands of regional resources, which are required to support employers and workforces across a variety of public sector disciplines, not just schools, often covering the whole of the North West as a minimum, it is likely this will result in delays in accessing support, which will negatively impact on speedy resolutions to workplace issues and timely progression of employment policies and practices for school leaders.
- 5.3 It is highly likely that any support available will not have full knowledge and understanding of a school's local needs.
- 5.4 It may mean school leaders will have full responsibility for the co-ordination and execution of necessary workforce consultation on some local school related matters. Furthermore any meetings that may require attendance from a variety of trade unions will become more problematic logistically to arrange at a regional level. This may result in school leaders having to hold a number of separate meetings to ensure all relevant trade unions are involved, resulting in an increased time pressure for school leaders. Local trade union representatives work well together in the use of diary management, attendance at meetings and the sharing of information. It is highly unlikely that coordination and joint working across different trade unions would be as prevalent at a regional level.

5.5 The short fall in recovery of costs for the Council will result in the need of a significant review of the facilities afforded through the Facilities Agreement which may result in a reduction in offer being available at the present time and for the future.

6. CONTINGENCY

6.1 In 2019-20 mainstream secondary maintained schools voted to de-delegate budget for Contingency.

6.2 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 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.

6.3 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.

6.4 It is also anticipated that schools struggling to manage deficits where financial issues are beyond the control or influence of the Headteacher where significant action has 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.

6.5 It's acknowledged that whilst schools are facing financial pressures, it's prudent to establish a contingency budget to protect future pressures against the DSG which will affect all schools. The aim is to create a contingency fund of approximately £159k (approximately 10% of projected deficit balances).

6.6 The School Funding Group (SFG) has considered areas to enable an allocation process to be established and discussed the following:

- Allocations from the fund should not be made until the fund reaches the suggested level.
- Allocations should be sector specific unless all sectors agree to contribute to the fund.
- Decision on approvals from the fund will be agreed by Assistant Director Education and the Assistant Director Finance.
- There should be a school sector representative as part of the approval process but the representation should not be from the requesting school.
- When a school is facing financial difficulty a request should be submitted outlining their case for consideration.
- Allocations will only be made where sufficient funds are available.

6.7 The criteria for application need to be formalised and approved by Schools' Forum.

- 6.8 Support will be provided for schools in deficit and therefore in financial difficulty through the normal deficit recovery process, in line with the Local Authority (LA) approach to managing licenced deficits.
- 6.9 Alongside this, the LA will support any schools closing with deficit balances to minimise the impact and potential pressure on the DSG.
- 6.10 The de-delegation rate for Contingency for 2020-21 is £5.81 per pupil. The LA would like to gain agreement from both the Primary and Secondary sectors to de-delegate in 2020-21. Should both sectors choose to contribute, based on the October 2018 census data, this would result in the following contribution to Contingency:
- Mainstream Primary Maintained Schools - £73k
 - Mainstream Secondary Maintained Schools - £32k
- 6.11 These figures will be updated to reflect the October 2019 census data.
- 6.12 There have been no requests made to access the 2019-20 contingency funds to date. The fund will be carried forward into 2020-21.

7. CONCLUSION

- 7.1 The rates and relevant information for the 2020-21 de-delegated services are provided to enable the Secondary maintained sector schools to vote on the de-delegation of these budgets.
- 7.2 The short fall in recovery of costs for the Council in relation to Trade Union support will result in the need of a significant review of the facilities afforded through the Facilities Agreement which may result in a reduction in offer being available at the present time and for the future.

8. RECOMMENDATIONS

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