

School Forum

12 October 2021

Maintained Schools De-delegation 2022/23

1. Purpose of report

- 1.1 To provide maintained schools with the opportunity to decide whether to de-delegate funding for relevant services back to the local authority for the 2022/23 financial year.

2. Recommendations

- 2.1 That Schools Forum note the insurance options available under the DfE's 'Risk Protection Arrangement', and the work that has been undertaken by the council to seek to be able to offer a comparative insurance package.
- 2.2 Maintained Secondary School members of Schools Forum **approve or do not approve** de-delegation of the Free School Meal Eligibility Service (estimated at £17.33 per free school meal eligible pupil).
- 2.3 Maintained Secondary School members of Schools Forum **approve or do not approve** de-delegation of Insurance Services (estimated at £20.00 per pupil).
- 2.4 Maintained Secondary School members of Schools Forum approve or do not approve utilisation of the DfE's Risk Protection Arrangements for insurance cover (set at £19 per pupil for the 2021/22 financial year but subject to potential increase for 2022/23).
- 2.5 Maintained Secondary School members of Schools Forum **approve or do not approve** de-delegation of Staff Costs – Teaching Union and Public Duties (estimated at £4.99 per pupil).
- 2.6 Maintained Secondary School members of Schools Forum **approve or do not approve** de-delegation of Specialist Inclusion Support Service (estimated at £12.00 per pupil).
- 2.7 Maintained Primary School members **approve or do not approve** de-delegation of Free School Meal Eligibility Service (estimated at £17.33 per free school meal eligible pupil).
- 2.8 Maintained Primary School members **approve or do not approve** de-delegation of Insurance services (estimated at £20.00 per pupil).
- 2.9 Maintained Primary School members of Schools Forum approve or do not approve utilisation of the DfE's risk protection arrangements for insurance cover (set at £19 per pupil for the 2021/22 financial year but subject to potential increase for 2022/23).

- 2.10 Maintained Primary School members **approve or do not approve** de-delegation of Staff Costs – Teaching Union and Public Duties (estimated at £4.99 per pupil).
- 2.11 Maintained Primary School members of Schools Forum **approve or do not approve** de-delegation of Specialist Inclusion Support Service (estimated at £11.00 per pupil).
- 2.12 Maintained Primary and Secondary School members recognise that library services, maternity support and contingency are not being offered under de-delegation and they will have to purchase individually any service they require.

3. Background

- 3.1 As part of the funding changes introduced for the 2013/14 financial year, the Education Skills Funding Agency (ESFA) introduced the concept of de-delegation. The process of de-delegation only applies to maintained schools and not to academies. Within maintained schools it only applies to primary and secondary schools and not to special, PRU or stand-alone nursery schools.
- 3.2 The ESFA definition of de-delegation is reported in depth later in this report. In simple terms there are various services that prior to 1 April 2013 the local authority could hold money centrally for if it wished to deliver the service. Now the value of those funds is highlighted as a funding factor. These funds are passed to schools to commission their own services. However, if schools in a phase (e.g. primary / secondary) and the local authority both want the local authority to deliver that service then a decision can be made to pass those funds back (de-delegate) to the local authority.
- 3.3 Clearly while the decision to de-delegate can be informally discussed anywhere, the formal legally binding vote takes place within Schools Forum. The purpose of this report is therefore to ensure that Schools Forum has the opportunity to make an appropriate formalised vote.
- 3.4 This report does not include the significant data about each service where there is the option for de-delegation, as that supporting information has already been provided to those making the decision. An example of this is that Primary Forum discussed this issue at their meetings on 7 October 2021 and received detailed information on each service to inform their conversation. Primary representatives on Schools Forum can use that conversation to inform their vote as they wish. Additionally the relevant secondary heads all received the same detailed information directly prior to today's meeting. However it must be clear that it is only the Schools Forum vote that is binding.

4. Guidance from DfE

- 4.1 The operational guidance from the DfE in relation to de-delegation states the following:

De-delegated services are for maintained schools only. Funding for de-delegated services must be allocated through the formula but can be passed back, or de-delegated for maintained mainstream primary and secondary schools with Schools Forum approval.

De-delegation does not apply to special schools, nursery schools, or PRUs. Where de-delegation has been agreed for maintained primary and secondary schools, our presumption is that the local authority will offer the service on a buy-back basis to those schools and academies in their area which are not covered by the de-delegation.

In the case of special schools and PRUs, the funding to buy such services will be included in any top-up payments. Any decisions made to de-delegate in 2021/22 related to that year only, so new decisions will be required for any service to be de-delegated in 2022/23.

From 2017/18, schools forums have been able to agree to de-delegate further funding for additional school improvement provision for maintained schools.

This provision sits alongside the new school improvement monitoring and brokering grant for statutory local authority intervention functions. This grant commenced in September 2017.

Schools forum members for primary maintained schools and secondary maintained schools must decide separately for each phase whether the service should be provided centrally and the decision will apply to all maintained mainstream schools in that phase.

They must decide on fixed contributions for these services so that funding can then be removed from the formula before schools budgets are issued.

There may be different decisions for each phase. The services which may be de-delegated are:

Additional school improvement services

Contingencies (including schools in financial difficulties and deficits of closing schools)

Behaviour support services

Support to underperforming ethnic groups and bilingual learners

Free school meals eligibility

Insurance

Museum and library services

Licences / subscriptions (other than those paid by the DfE)

Staff costs supply cover (e.g. long-term sickness, maternity, trade union and public duties).

Local authorities should make a clear statement of how the funding is being taken out of the formula for each de-delegated service (for example – primary insurance £20 per pupil, secondary behaviour support services £30 per FSM pupil). There should be a clear statement of how contingencies and other resources will be allocated. Academies will continue to receive a share of funding for these services in their delegated budget.

2022/23 de-delegation arrangements for schools converting to academy status are as follows:

- conversion date on or before 1 April 2022 – no de-delegation*
- conversion date between 2 April 2022 and 1 September 2022 – local authority retains any de-delegation funding until 1 September 2022.*

- *conversion date between 2 September 2022 and 31 March 2023 – local authority retains any de-delegation funding until 31 March 2023*

After the dates specified, the academy will receive the full formula allocation and the department will recoup this from the local authority.

The local authority should continue to provide the services to new academies where funding is de-delegated, if they are asked to do so. If the local authority is unable to provide the requested service, the department expects the local authority and the academy to come to an arrangement to pay the funding directly to the academy.

Exceptions to this would be in cases where contractual arrangement to pay services in advance have already been made, and the local authority does not have the ability to continue to provide this service.

Where there has been agreement that a school is entitled to receive an allocation from a de-delegated contingency fund, that agreement should be honoured if the school converts to an academy at any point in the year.

Where a school converts to an academy in the period 2 April 2022 to 1 September 2022, local authorities will have an opportunity to present an evidence-based case to request a recoupment adjustment for the period 2 September 2022 to 31 March 2023.

Local authorities should report any unspent de-delegated funding remaining at year-end to their schools forum.

Local authorities can carry funding forward to the following funding period as with any other centrally retained budget and can choose to use it specifically for de-delegated services.

5. Insurance Cover Options

- 5.1 Currently a Traded Service, insurance is offered to all Walsall maintained schools (via de-delegation for primary and secondary schools and via traded offer to special schools and nurseries – as these schools are not subject to de-delegation) to buy back the full portfolio of covers including Property, Public & Employer's Liability, School Journey and Minibus insurances. The Council's proposed charge for 2022/23 is £20 per-pupil per year.
- 5.2 By comparison, a 'risk protection arrangement' (RPA) set up by the DfE in 2014 is now also available to maintained schools. The RPA does not technically constitute an insurance 'policy', but in practical terms it operates in identical fashion.
- 5.3 The scope and terms of covers provided by the RPA are at least equal to the Council's corporate insurances policies in nearly all areas – the only exceptions being:
 - Motor / minibus insurance is not offered / covered by RPA but is available on the open insurance market, however the authority can also offer this as standalone cover at a rate of £750 per vehicle per year;
 - Contract Works cover is limited to £250,000 (compared to unlimited cover provided under the council insurance provision), which for the vast majority of

capital projects will be adequate, but if works exceeding this value are planned, then additional cover needs to be arranged. The authority's cover is unlimited;

- Statutory inspection (known as engineering inspection) of lifts, boilers, etc is not provided by the RPA, however this is included within the authority package.
- The Zurich 'Safer Schools' app is free for all maintained schools within the authority's package. This is not offered by the RPA and would incur a charge if schools opted to move to the RPA but wished to retain the app.

- 5.4 The RPA also provides a full claims handling service directly to schools purchasing its service, details of which are available on the RPA website.
- 5.5 Although historically the RPA has only been available to academy schools, following consultation during the autumn of 2019 the DfE decided to extend the RPA offer to all Local Authority Maintained schools.
- 5.6 Following a price increase late last year the current rate, for 2021/22, for the RPA is £19pppy – this represents an increase from the price of £18pppy offered by the RPA in previous years.
- 5.7 It is not yet known whether the RPA will therefore increase prices further from the 2022/23 financial year, however the proposed rate for insurance cover set out by the authority is fixed for that period.
- 5.8 Following the change by the DfE to open the RPA to maintained schools, these schools are now able to choose to opt into the RPA scheme with effect from 1st April 2022, as an alternative to choosing to de-delegate their insurance arrangements back to the authority.
- 5.9 This decision would need to be made en-masse for all primary and secondary maintained schools via a formal vote at Schools Forum, with a vote in support meaning all primary and secondary maintained schools would be opted in to the RPA scheme (similar to a vote for de-delegation to the authority). This option would see charges for the service deducted directly from the Council's Dedicated School Grant (DSG) allocation, with a corresponding reduction in the funding then paid to individual maintained schools.

Work Undertaken by the authority

- 5.10 The insurance de-delegation offer to maintained schools provides the full range of covers (with the exception of motor / minibus insurance which would still see a charge of £750 per vehicle per year) at a rate of £20 per pupil, per year.
- 5.11 Whilst this is slightly higher than the current rate offered by the RPA it does still include engineering inspection cover within the price (which the RPA does not, and which is likely to cost more than £1 per pupil if purchased on the open insurance market), and also provides schools with the benefit of retaining the local knowledge of each school and a local named response / support for managing insurance activity and claims. It also provides schools now with a fixed rate for the 2022/23 year and removes any risk of additional increases that may need to be proposed by the RPA.
- 5.12 A full comparison of the covers proposed by the council, and those currently offered by the RPA are set out at Appendix 1.

6. Financial implications

- 6.1 Where the decision to de-delegate is not approved schools will need to identify the costs of procuring the service directly and ensure that they account for these costs when setting their school budget.

7. Legal Implications

- 7.1 Where the decision to de-delegate is not approved schools will need to ensure they follow the correct rules in terms of procuring alternate services.

8. School Improvement

- 8.1 No issues directly arising from this report.

9. Members eligible to vote

- 9.1 Only maintained secondary members (or their nominated representative) with voting rights are eligible to vote on this issue for Secondary Schools.
- 9.2 Only maintained primary members with voting rights are eligible to vote on this issue for Primary Schools.

Appendix 1 – Comparison of Insurance Covers Offered by the council and the RPA

Perils	Council De-delegated Offer		RPA	
	Cover	Excess	Cover	Excess
Lightning	✓	£0	✓	See Note 2
Explosion	✓	£0	✓	See Note 2
Aircraft	✓	See Note 1	✓	See Note 2
Riot	✓	£0	✓	See Note 2
Civil commotion	✓	£0	✓	See Note 2
Earthquake	✓	See Note 1	✓	See Note 2
Malicious damage	✓	See Note 1	✓	See Note 2
Fire	✓	£0	✓	See Note 2
Storm	✓	See Note 1	✓	See Note 2
Terrorism	✓	£0	✓	See Note 2
Flood	✓	See Note 1	✓	See Note 2
Escape of water	✓	See Note 1	✓	See Note 2
Impact by vehicles	✓	See Note 1	✓	See Note 2
Falling trees/branches	✓	See Note 1	✓	See Note 2
Leakage of oil	✓	See Note 1	✓	See Note 2
Glass breakage	✓	See Note 1	✓	See Note 2
Theft	✓	See Note 1	✓	See Note 2
Accidental damage	✓	See Note 1	✓	See Note 2
Business interruption	✓	£0	✓	See Note 2
Works in progress	✓ - unlimited	£0	✓ - £250k	See Note 2
Money	✓	£0	✓	See Note 2
Fidelity Guarantee	✓	£0	✓	See Note 2
Computers	✓	See Note 1	✓	See Note 2
Public Liability	✓	£0	✓	£0
Employer's Liability	✓	£0	✓	£0

Hirer's Liability	✓	£0	✓	£0
Motor / minibuses	✗ (*)	£250	✗	n/a
Engineering Inspection	✓	n/a	✗	n/a
Governors' Liability	✓	£0	✓	£0
Libel and slander	✓	£0	✓	£0
Personal Accident	✓	£0	✓	£0
School Journey	✓	£15	✓	£0
PRICE PER PUPIL PER YEAR	£20 (fixed until end of March 2023)		£19 (at time of writing; potential increase in late 2021)	

Note 1 – Excess of £500 applies to primary schools and £1,500 to secondary schools

Note 2 - Excess of £250 applies to primary schools and £500 to secondary schools

(*) Minibus cover – available at an additional charge of £750 per vehicle per year