



Children and Young People Overview and Scrutiny Committee

20 March 2013

Report from the Director of Children & Families

For Information

Wards Affected:
ALL

Schools Finance Update – 2012/13

1. Background

- 1.1. This report provides an overview of the current situation regarding financial management in Brent Schools. It provides an update following a more detailed report that was presented to this Scrutiny Committee on 19 July 2012. At that meeting a small number of key issues were identified as being the most significant areas for improvement in terms of financial management practices in schools. These issues were as follows:
 - Leasing arrangements
 - The School Teachers Pay and Conditions Document
 - Outcomes of internal audit reviews
- 1.2. This report provides an update on those key areas and provides more general assurance that financial management in Brent Schools is improving and is in the vast majority of cases performed at the expected level.
- 1.3. As day to day financial management is a function that is delegated to Schools this report reflects a strategic view of some of the issues that have been identified and the support and controls that are in place to ensure good financial management in schools.
- 1.4. Although day to day financial management is a responsibility delegated to governing bodies the Council maintains an important role in ensuring public funds passed onto schools are spent appropriately. The Director of Finance has section 151 responsibilities to ensure sound financial systems and controls are in place across the council and in its schools.

1.5. The areas covered in this report should be considered in conjunction with the large number of systems and practices in place to allow the Director of Finance to discharge his responsibilities regarding schools, which include:

- Regular internal audit reviews
- Key documents and guidance including: Schools Financial Regulations, Scheme of Financial Management, and Schools Standards Value Statements.
- Guidance and information updates via the schools intranet
- Regular seminars for school bursars
- Regular meetings with Headteachers
- Training sessions for Headteachers, Bursars and Governors

2. Update on Outcomes of Audit Reviews

2.1. The Audit and Investigations Team have issued reports on fifteen schools as part of their audit plan coverage for 2012/13. At its meeting on 19 July 2012 the Committee was provided with an analysis of assurance ratings given to schools over 2010/11 and 2011/12. The position in 2012/13 is much improved with far fewer schools having received a limited or nil assurance rating. The proportion of schools receiving substantial assurance has increased from 35% to 80%. Whilst this may drop slightly when all reports have been completed, there will be an overall improvement in ratings. A summary of the assurance levels over the current and previous two years is shown below:

Year	Substantial	Limited	Nil
2010/11	46%	54%	0%
2011/12	35%	45%	20%
2012/13	80%	13%	7%

2.2. In practice, what this means is that there are far fewer recommendations for improvement being made which are considered to be of high priority, meaning that the control environment is better, generally, in those schools being visited in 2012/13. These are, of course, different schools than those which were visited in the previous years and, therefore, a direct conclusion about improvement can not necessarily be made. However, there is no reason to believe that the schools visited are not representative of the whole school group.

2.3. The problems identified last year in relation to leadership pay and leasing have not been a significant feature of the school audits in the current year.

3. Update on Compliance with the School Teachers Pay and conditions document

- 3.1. In September 2011, changes were made to the School Teachers' Pay and Conditions Document (STPCD) (a statutory document that is reviewed and published annually).
- 3.2. A key issue that had been identified through the audit process related to schools complying with the statutory requirements of the STPCD regarding the setting of pay levels for Headteachers and other Senior Leadership posts. The regulations are complex but nevertheless compliance with them is a statutory requirement and a comprehensive action plan was put in place by the Council to both support and challenge schools to ensure compliance
- 3.3. In October 2011, Brent wrote to all schools, requesting details of their headteacher salary arrangements. Schools were also advised of the new pay arrangements and that they should ensure that the headteacher salary was compliant with the school teachers' pay and conditions document.
- 3.4. In 2012, other than schools that became academies all schools had provided the requested information.
- 3.5. A number of schools also sought advice from the HR Services Manager, who was invited to governing body meetings to advise them on setting the headteacher's pay.
- 3.6. The majority of schools are now compliant with the provisions of the STPCD. A small number of schools are being asked to provide further supporting documentation setting out the rationale and processes used to set pay levels to ensure full compliance with the STPCD.
- 3.7. Brent continues to carry out school audits and where it identifies any issues regarding compliance with the STPCD, the school is asked to contact the HR Services Manager for advice. Schools have been acting promptly and seeking advice, to ensure compliance.
- 3.8. Brent has also delivered training on the pay provisions of the STPCD (with particular focus on senior leadership pay) to governors, clerks, bursars and school business managers.
- 3.9. Brent will continue to support and inform schools appropriately of their statutory obligations and ensure any actions necessary for compliance are undertaken.

4. Update on School Leasing Issues

4.1. In 2010, the Council identified that a number of schools had entered into very unfavourable leasing arrangements with large finance companies for the hire of equipment such as photocopiers. The Council is of the view that these leases should be treated as being void from the outset, as the schools in question did not have the legal power (*'vires'*) to enter into them. If the leases were enforceable, they would have a negative impact on the schools' financial positions. There are various grounds as to why the Council argues the leases should be considered void. The Council put in place an action plan in order to protect the public funds exposed to these purported leases, which had the following key actions:

- Sent a number of letters and uploaded intranet postings clarifying the importance of complying with the leasing requirements set out in the Council's Financial Regulations.
- Arranged for Council officers to meet with school officers where appropriate in order to discuss leasing issues.
- Hosted a number of presentations at Governor, Headteacher and Bursar meetings, clarifying the requirements of a lawful lease and offering support to schools that may have ostensibly entered into leases which are void in law, in order to encourage schools to obtain legal advice.
- Referred schools to the Council's internal and external solicitors who are able to advise the schools (the content of the advice is confidential and subject to legal privilege).
- Obtained advice from a QC (the content of which is confidential and subject to legal privilege).
- Released guidance to all schools setting out the framework agreements available, in order to help schools purchase or lease equipment at favourable rates.
- Hosted regular leasing / procurement training sessions with school bursars.

4.2. Since initiating that action plan, Legal Services, Children & Families and Audit & Investigation are continuing to help extricate the worst affected schools from their costly finance leases (leases in respect of photocopiers and other IT equipment). The legal position of the schools and Council remains that the leases should be considered void, essentially because the schools did not have the power to enter into such agreements.

4.3. After receiving legal advice as well as guidance from Children & Families, five schools stopped paying the sums purportedly due under their leases (with a further school which is about to stop paying). The schools' refusal to pay attracted

legal action on the part of seven finance companies, all of which had entered into purported leases with at least one of the five schools.

- 4.4. There is currently one live case on-going before the High Court, the trial of which is likely to be heard early next year. There are at least four more prospective cases still being threatened.
- 4.5. The Council/ affected schools have, however, so far successfully reached negotiated settlements in relation to seven high value cases. The Council/ affected schools are extremely satisfied with the outcomes of those cases. The details of the settlements are subject to confidentiality agreements: it is not, therefore, possible for the details to be released into the public domain.
- 4.6. The Council will continue with its approach of taking a robust overt position regarding any legal action, whilst at the same time negotiating behind the scenes where appropriate. The Council, however, is prepared to contest any finance lease case at court if necessary.

5. Other New Measures taken to Support Improved Financial management in Schools

- 5.1. As reported at the Scrutiny Meeting of 19 July 2012, a Brent Schools Finance Conference was organised which took place on 31 January 2013. The aim of the conference was to provide School leaders with up to date briefings and information on key school finance and funding matters.
- 5.2. Around 200 delegates from Brent schools attended and feedback has been overwhelmingly positive regarding the conference.
- 5.3. A number of high profile speakers gave key note speeches including Russell Hobby the President of the National Association of Headteachers and Bill Simmonds the Chief Executive of the National Association of School Business managers.
- 5.4. Headteachers and governors also had the opportunity to attend a number of workshops covering in detail key aspects of financial management including preparing for an audit, VAT regulations and procurement.
- 5.5. Alongside this major one-day event regular on going training courses for Governors and Headteachers continue to be available for all Brent Schools.

6.0 Financial Implications

- 6.1 There are no direct financial implications from this report. Clearly the work described in report aims to safeguard the stewardship of public money and ensure good value for money.

7.0 Legal Implications

7.1 The legal issues around leasing are dealt with in the body of the report.

8.0 Diversity Implications

8.1 There are no diversity implications

9.0 Staffing/Accommodation Implications (if appropriate)

9.1 There are no direct staffing implications from this report.

Contact Officers

Mustafa Salih, Assistant Director, Strategic Finance