

Dear Colleague

LEICESTERSHIRE SCHOOLS' FORUM

I would like to invite you to a meeting of the Leicestershire Schools' Forum to be held on **Tuesday 4th December 2012** at 1.30pm at **Beaumanor Hall** with the room being available from 1pm.

Please see below for the agenda for the meeting.

Yours sincerely

Gareth Banks

AGENDA

	Paper
1. Apologies for absence / Substitutions	
2. Minutes of the Previous Meeting and matters arising	
3. Revised Schools Forum Constitution	A
4. School Funding Reform Update	B
5. Funding Union Facilities Time	C
6. AOB	
7. Next Meeting	

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Minutes of the Meeting of the Leicestershire Schools' Forum held on Thursday 20th September 2012 at Beaumanor Hall

Present

Tim Moralee – in the Chair

Alex Green	}	Secondary Academy Headteachers
Heather Sewell	}	Maintained Primary Headteachers
David Lloyd		
Jean Lewis	}	Maintained Primary Governors
Tony Gelsthorpe		
David Thomas		
Brenda Carson	}	RC Representative

In attendance: Ivan Ould CC – CYPS Lead Member
 Jenny Lawrence – Finance Business Partner
 Gareth Banks – Clerk to the Forum

1.	<p><u>Apologies</u></p> <p>John Bassford, Graham Bett, Lesley Hagger, Sonia Singleton, Chris Ball, Andrew Munro, John Herbert, Sue Horn, Brian Myatt</p>
2.	<p><u>Minutes & Matters Arising</u></p> <p>Amendment to page 4, paragraph 6: “Still some LAs yet to respond to school funding reform through publishing consultations”</p>
3.	<p><u>School Funding Reform</u></p> <p>Takes account of current LA position in terms of the proposals for the primary and secondary school formula changes required under funding reform. Lots of discussions about where going CYPS Overview and Scrutiny Committee discussed School Funding Reform Update report (Schools' Forum Paper B – 7/9/2012) on Monday 17th September.</p> <ul style="list-style-type: none"> • <i>Hand-out: Extract of minutes of Overview and Scrutiny Committee.</i> <p>Similar conversation had to Forum with no concerns around proposals. Inclusion of outcome of discussion, as well as consultation extension, is main reason for delay in today's report being issued.</p> <p>Appendix 1 shows un-annotated, anonymous responses. Responses split across all proposals. Level at which top up level for high needs pupils most significant split. Based on responses and the danger of special needs places being made more attractive for other LAs, leading to placement shortage for Leicestershire pupils, it is proposed that implement DFE's recommendation of top up funding in excess of £6,000 additional needs.</p> <p>Consultation Q1 – Services to be de-delegated</p> <p>As all but 6 secondary schools will be academies by April 2013, full delegation recommended for this phase, this reduces LACSEG and increases delegated budgets. Primary budgets to be delegated except for:</p>

- Free School Meals
- Licences and subscriptions

These are minor budgets with low funding in 2012/13. If high primary conversion rate in run up to 2014 position may need changing.

Consultation Q2 – Formula mapping

Timescales limited amount of work that could be done.

No major issues raised about basic premise of new formula during briefings and consultations.

Consultation Q3 – Implementation of high needs pupil funding

Most significant change of all proposals and area of most concern amongst schools, particularly around targeted funding, in year changes with pupil migration and LA management of process. LAs have challenged the proposals with specific challenge around the level bureaucracy this change means which also seems at odds with current climate where the DfE wish to see as much funding as possible being delegated to schools. DfE maintaining strong recommendation despite challenges from LAs. Disappointed with move from current delegated system to something that resembling 2003 situation, the current system was introduced as a result of rising costs of SEN and increased pressure for statements. Consultation shows a near 50/50 split in preference between 2 approaches. Consistency needed with geographical neighbours.

The following discussions took place:

Financial situation around SEN funding in Leicester City unclear however money is available in Leicestershire, all local authorities are required under the new system to provide top up funding for high needs pupils.

Will be winners and losers within either of the proposals. Top up level at additional £2,000 for one year only negligible within total school budgets. Most significant impacts around those with enhanced packages.

Lengthy discussion took place around wider issues of SEN funding.

- Issues with consistency in cross border funding where different LAs have different SEN criteria. Arrangements of high needs system should alleviate issue but not completely remove. £6,000 threshold for top-ups consistent with neighbouring authorities.
- LA officers looking at cross-border funding issues through collaboration across authorities. Desire to remove incentive to place children in cost influenced settings. Non-financial issues still in place outside of Forum's remit.
- Children and Families Bill will change SEN landscape.
- TM invited to Scrutiny panel as chair of Forum. Discussed financial aspects within limitations of Forum's remit.

Consultation Q4 – View on formula proposals

Consultation speed and reasons for change outside of LA control. Proposals provide an element of protection for schools.

Some mixed responses on subsidies for small schools. Consultation itself refers to proposals not protecting small schools and need to look to the future for them. The lump sum set at £150,000 actually provides more funding across the board than the small school protection in the current formula.

Consultation Q5 – Boarding provision funding withdrawal and split-site definition

Boarding provision proposals agreed by Forum in 2005 but funding locked in by MFG. Process for change now allows removal.

Current definition of split sites is unworkable, referring to schools sites being more than 200m apart. Irrelevant to special schools due to funding methodology. Represents

minor element of school funding. Creation of secondary split school funding would require scaling back of other funding or shift of elements of resource from primary to secondary.

Conclusions

Following consultation with schools, Leicestershire County Council proposes no change to formula factors presented to Forum on 7th September 2012.

The following discussions took place:

Concerns raised that policy formula factors relating to infant class sizes and ghost funding creates significant number of losers and increases volatility. Small yet significant number of schools potentially facing large reduction in funding which may push breaking of class size limits to avoid deficits.

- Broad view needed within formula development, not just individual schools / development groups.
- Ghost funding doesn't necessarily replicate per pupil funding. Move to lump sum rather than targeted funding.
- Limited number of formula factors mean schools may lose in one area yet gain in another.
- Class sizes and ghost funding not raised as issues at briefing neither through consultation with schools.
- Working group considered impact of June change of stance by DFE on holding money outside of formula for growth and opted to leave in formula. Funding has very wide distribution pattern with varying impacts. More issues historically around sudden loss of ghost funding within long term planning as yearly class sizes change.
- Suggestion that management of class sizes is local issue. Potential for use of mixed year group classes. Formula moves £3.4 million in funding for class sizes in multiples of 30 from targeted to universal funding, allowing greater scope for management and moderation by MFG. Any funding pot created to alleviate losses will theoretically require back into targeted funding.
- Noted that proposals produced by working group commissioned by Forum.
- Exceptions to class size now stay through entirety of KS1.

Discussion took place on future review of formula.

- Limited time at present as formula has to be with EFA by October 31st 2012, hence compressed timescales. Formula cannot be a fit-all but no reason not to review at later date. Financial regulations do not say 2013/14 formula has to be used for as is for 2014/15.
- Individual impacts almost impossible to correlate with school characteristics.
- Desire for concerns to be brought to Cabinet.

Proposal by Chair to review formula after 12 months passed with 6 votes for and 2 against.

- Concern about readmitting formula factors once removed.
- Important that all concerns are taken back to groups across all phases.

Headteacher briefings on funding reform began this week. Biggest area of concern around changes is high need pupil funding, the financial impact which is not moderated by MFG. Timescales do not allow closer look at proportionalities on small schools, deprivation, etc. LA proposals represent best solution available at current time. Schools that benefit in 2013/14 may be different to those benefiting in 2014/15.

Concerns raised over lump sum of £150,000 being given to all schools.

- 7 small schools see reduction compared with current protection funding. Such protection queried given amounts involved.
- Currently £23 million placed into formula for small schools protection. Working group looked at range of models with lump sum value of £90,000 up to DFE limit of £200,000. Modelling showed lowest overall impact at £150,000 with only 7 secondary schools facing a loss. New lump sum places £41 million into formula, of

	<p>which £18 million is for small school protection. No small schools losing out</p> <ul style="list-style-type: none"> • No longer able to differentiate schools on size. • Other elements such as swimming pool allowances removed under new formula. • No difference in current small school protection between higher and upper schools. • Small school thresholds: <ul style="list-style-type: none"> ○ Primary – 180 pupils across all years. ○ Secondary – 180 pupils per year group ○ Not affected by age ranges. <p>Recommendations</p> <ul style="list-style-type: none"> • Schools Forum endorses the proposals with one vote against. <i>JL to append extract of minutes to Cabinet report.</i> • Schools Forum approves the proposals for additional delegation to primary schools. • Schools Forum approves the proposals for additional delegation to secondary schools. <p>Proposals given justice in terms of debate. Thanks given to David Thomas for stimulating debate.</p>
6.	<p><u>AOB</u></p> <p><u>Schools Forum Constitution</u></p> <p>Final Schools Forum regulations made available from DFE last week. JL to revise constitution to make it explicit over representations.</p> <p><u>Implementation of Formula</u></p> <p>Thoughts now need to move from look of formula to implementation. Clear that lot of operational thought required around high needs in particular. Forum agrees proposal to assemble working group to consider implementation. <i>Representatives from Forum should contact Jenny Lawrence if they wish to be involved.</i></p> <p><u>Deployment of DSG</u></p> <p>LA required at beginning and end of year is to produce statement for DFE saying Schools Forum have been consulted on deployment of DSG and are aware of LA plans for unallocated DSG. Final settlement received late July. Can only apologise for not bringing report back to Forum advising of final settlement. £560,000 additional DSG received in final settlement. No plan to allocate in current financial year but will use to take forward into 2013/14 settlement. Going back, Forum have had some long hard discussions on in-year allocations. Wish to follow same principles adopted in previous years.</p> <ul style="list-style-type: none"> • Agreement given by Forum
7.	<p><u>Next Meetings</u></p> <p>The proposed date of 19th October 2012 has been removed. This has been replaced by a meeting at 1:30pm on Tuesday 4th December, to be held at Beaumanor Hall.</p>

LEICESTERSHIRE SCHOOLS FORUM

DECEMBER 4 2012

SCHOOLS FORUM CONSTITUTION

Purpose of this Report

1. This report presents the revised Schools Forum Constitution amended to ensure compliance with the Schools Forum (England) Regulations 2012 and to ensure that membership is proportional pupil numbers in each school phase and between maintained schools and Academies.

Recommendations

2. That Schools Forum notes the revised constitution.

Background

3. The Schools Forum (England) Regulations make a number of changes to membership and operation of Schools Forums, these can be summarised as;
 - Membership changes which require membership of a Pupil Referral Unit representative
 - A reduction in the minimum size for School Forums
 - Proportionate representation according to pupil numbers
 - Limit to the number of local authority officers able to attend meetings
 - The granting of observer status for the Education Funding Agency (EFA)
 - Restricting voting to changes on the school funding formula to schools members. Schools members are defined as being mainstream schools, academies, special schools, PRU's and PVI members)
 - The requirement for Schools Forum meetings to be held in public

The Leicestershire Constitution

4. The revised constitution is attached as an appendix to this report. In addition to ensuring compliance with the new regulations two further changes have been enacted.
 - 1) The limit on participation of non-members result in Trade Unions, through the Joint Consultative Committee are admitted as a non-schools member.
 - 2) Given the disbanding of the 13 -19 Partnership representation has been removed.
 - 3) The constitution does not define a split of membership for academies between headteachers and governors

Conclusions

5. The changes ensure that the Leicestershire Schools Forum constitution reflects new regulations and guidance but also the significantly changed proportion of schools converted to academies.
6. Whilst the rate of school conversion to academies has been estimated in order to implement these changes, further conversions will result in future amendments which will be completed annually in September as agreed by the County Council's Cabinet on July 26 2011.

Officer to Contact

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CONSTITUTION OF THE LEICESTERSHIRE SCHOOLS FORUM**INTRODUCTION**

- 1) The Schools Forum for Leicestershire County Council is established by virtue of Section 47A of the Schools Standards and Framework Act 1998 (as amended by the Education Act 2002). It also operates under the Schools Forums (England) Regulations 2012, which set out the legal parameters for Schools Forums and which came into force on 1st October 2012.
- 2) The Schools Forum for the Authority has a legal existence, but is not a corporate body. Its functions are a combination of an advisory and consultative body and a decision making body on certain proposals presented to it by the Local Authority.
- 3) The Schools Finance (England) Regulations charge Schools Forums with taking some decisions on the Schools Budget.

FUNCTIONS

- 4) The Local Authority is required to consult the Schools Forum on the following matters:-
 - a) Amendments to the schools funding formula, for which voting is restricted by the exclusion of non-schools members except for PVI representatives.
 - b) Any proposed exclusions from the Minimum Funding Guarantee for application to the Department for Education
 - c) Any proposed contract for supplies or services being:-
 - i) a contract to be paid from the Schools Budget; and

- ii) the estimated value of which is not less than the specific threshold which applies to Leicestershire County Council in pursuance of Regulation 7(1) of the Public Services Contracts Regulations 1993 (c), or Regulation 7(2) of the Public Supply Contracts Regulations 1995(d).

Consultation on such items must take place at least one month prior to the issue of invitations to tender.

- d) There must also be an annual consultation on financial issues relating to:-
 - a) The arrangements to be made for the education of pupils with special educational needs.
 - b) Arrangements for the use of pupil referral units and the education of children otherwise than at school.
 - c) Arrangements for early years education.
 - d) Administration arrangements for the allocation of central government grants paid to schools via the Authority.
- 5) The Schools Forum has decision making powers in respect of the following;
 - a) De-delegation for mainstream schools for prescribed services to be provided centrally;
 - a) Contingencies
 - b) Administration of free school meals
 - c) Insurance
 - d) Licences and subscriptions
 - e) Staff costs – supply cover

- f) Support for minority ethnic pupils / under achieving groups
 - g) Behaviour support services
 - h) Library and museum services
- b) Retention of budgets to meet central costs up to the value of the 2012/13 budget and where expenditure is committed;
 - a) Admissions
 - b) Servicing of the Schools Forum
 - c) Carbon reduction commitment
 - d) Capital expenditure funded from revenue
 - e) Contribution to combined budgets
 - f) Schools Budget centrally funded termination of employment costs
 - g) Schools Budget funded prudential borrowing costs
 - c) Authorising a reduction in the Schools Budget in order to fund a deficit arising in central expenditure carried forward from a previous funding period.
 - d) Amendments to the Scheme for Financing Schools with the exception of revisions directed by the Secretary of State
6. The Forum may be consulted on any aspect of the management of school funding, and may commission work to scrutinise aspects of schools funding.

MEMBERSHIP

7. The Schools Forums (England) Regulations 2012 lay out parameters within which the Local Authority determines the membership, this membership will be reviewed annually to ensure that membership is fully representative of different phases of schools. The Leicestershire County Council has decided that the membership of the Leicestershire Schools Forum shall be made up as follows:-

20 Schools Members – who are “elected”

- a) 2 governors of maintained primary schools
- b) 5 headteachers of maintained primary schools
- c) 2 headteachers or governors of primary academy schools
- d) 1 headteacher of maintained secondary school
- e) 1 governor of maintained secondary school
- f) 7 representatives of secondary academy schools
- g) 1 headteacher or governor of maintained special schools
- h) 1 headteacher or governor of academy special schools

6 Non-school Members – who are “appointed”

- i) 1 representative of the Catholic Diocese
 - j) 1 representative of the Church of England Diocese
 - k) 1 representative of private, voluntary and independent early years providers
 - l) 1 representative of pupil referral unit
 - m) 1 representative of Trade Unions
- 8) The “Schools Members” represent schools and must, to accord with the Regulations, be in some way elected. In the case of the Leicestershire Schools Forum, the following arrangements will apply:-

- | | |
|-----------------|--|
| Category a) e), | - elected via the Association of Leicestershire Governors. |
| Category b) | - elected via the Leicestershire Association of Primary Heads |
| Category d) | - elected via the Leicestershire Association of Secondary Heads |
| Category g), h) | - elected via the Leicestershire Association of Special School Heads |
| Category c), f) | - elected via Leicestershire Academies |

Category m) - nominated by the pupil referral unit

In relation to the non Schools members, the following arrangements will apply:-

- | | |
|--------------------|---|
| Category i) and j) | - Appointed by the County Council on the nomination of the relevant Diocesan Authority. |
| Category k) | Appointed by the County Council on the nomination of the Childcare Sector group. |
| Category m) | Appointed by the County council on the nomination of the Joint Consultative Committee. |

All newly elected / nominated members shall receive an induction into the role and functions of the Forum prior to taking an active involvement in the business undertaken at Forum.

VOTING RIGHTS

9. Each member will be entitled to a vote but will be subject to the following restrictions;
 - a) Only school members and PVI representatives may vote on issues affecting the funding formula
 - b) Voting for items of de-delegation will be limited to the specific primary and secondary schools members.

EXECUTIVE/CABINET MEMBER

- 10) The Lead Member and the Cabinet Support Member for Children and Young People's Service on the County Council's Cabinet will have the

right to attend meetings. He / she will be entitled to speak at the meeting, but will not have any voting rights.

ATTENDANCE OF LOCAL AUTHORITY OFFICERS AT MEETINGS

- 11) Attendance at meetings and the right of officers to speak at meetings is limited to;
- a) Director of Children’s Services or their representative
 - b) Chief Financial Officer or their representative
 - c) Any person invited by Schools Forum to provide financial or technical advice
 - d) Any person presenting a paper to Schools Forum but their ability to speak is limited to the paper that they are presenting

SUBSTITUTES

- 12) Each body electing or nominating representatives will be entitled to maintain one member who is able to act as a substitute for Schools Forum Members

Substitute members may attend meetings of the Leicestershire Schools Forum, Substitutes may attend meeting to accompany their elected member, in this capacity substitutes are not entitled to speak or vote at the meeting. Substitutes, when actively representing their elective group, will be entitled to speak at the meeting and have voting rights.

OBSERVORS

- 13) The secretary of State may appoint an observer to attend and speak to Schools Forum meetings. It is expected that this will be fulfilled by a representative of the Education Funding Agency (EFA).

INFORMING SCHOOLS OF MEMBERSHIP OF FORUM

- 14) The Leicestershire County Council must inform all its maintained schools of the details of any non-school members appointed to the Forum, within

1 month of such an appointment being made. As good practice, the Authority will inform all such schools of the whole membership of the Forum, and of any subsequent changes.

TERM OF OFFICE AND NON-ATTENDANCE

- 15) Members will be appointed for a maximum of 4 years.

The Local Authority may end the appointment of any Forum member before the expiry of his / her term of membership if the member concerned ceases to hold the office by virtue of which he / she became eligible for appointment to the Forum.

Where any member of the Forum is absent for three consecutive meetings, without what the Forum considers to be acceptable reasons, membership of the Forum will cease. The Clerk to the Forum will write to that member's constituent group, informing them of the cessation of the individual's membership, and asking them to elect a replacement for the position on the Forum.

FREQUENCY OF MEETINGS

- 16) The Leicestershire Schools Forum will meet on a minimum of 4 occasions per year, of which 2 will be in the Autumn Term of the academic year. Other meetings above the minimum will be arranged at the request of the Forum.

QUORUM

- 17) The Schools Forum must have a quorum of 40% of the total number of Forum members being present at each meeting i.e. 10 members. If a meeting is inquorate it may proceed and give its views to the local authority but it cannot take decisions. There is no provision requiring at least one member from each of the sectors to be present. Where substitute members are present, they shall count towards the members present to decide on whether the meeting is quorate.

ACCESS TO THE MEETING

- 18) The meetings of the Leicestershire Schools Forum will be open to the public. Access to information will be through the Schools Forum meetings section of the Leicestershire County Council website.

The attendance of observers or other persons invited by the Forum, will not be precluded, if the Forum agrees to extend that facility to representatives of other groups, or to individuals.

The decision as to whether the persons should be invited to attend will be made at the preceding meeting of the Forum, or where not practicable, by the Chair of the Forum between meetings.

It will be a matter for the Chair of the Forum to decide if such observers or invitees should be invited to address the Forum. Such persons would not have any voting rights.

CHAIR/VICE-CHAIR OF THE FORUM

- 19) The Forum shall elect a Chair and Vice Chair from amongst its members. This will be done on an annual basis, at the first meeting of the Forum held in the Autumn Term.

The term of office for Chair and Vice-Chair will not exceed 3 years.

To be elected, a candidate must receive more than half the number of votes cast. Where there are more than two candidates, and no candidate receives the required number of votes, the candidate with the least votes in the first ballot will be removed, and a second ballot held.

- 20) The Chair will retain his/her right to vote, but will not have a second or casting vote.

APPOINTMENT OF WORKING GROUPS

- 21) The Schools Forum may establish working groups when the Forum deems them appropriate. Where such Working Groups are established:
- a) The membership will be decided by the Schools Forum.
 - b) Membership of such groups may include persons who are not themselves members of the Forum.
 - c) The Working Group will have no individual right to take decisions. All advice should be formally passed to the LA through the Schools Forum and decisions taken must be undertaken Schools Forum as a whole.

URGENT BUSINESS

- 22) In the event of urgent business the local authority may;
- a) Call an unscheduled meeting
 - b) Communicate the issue through email to all members. Responses will be collated by the local authority and make recommendations to the Chair. Any decision would be reported to the next meeting of the Schools Forum together with the process taken, the role of the Chair in that decision and the reason for the urgency.

CONDUCT OF MEETINGS

- 23) The conduct of meetings will follow the rules/standing orders which are appropriate to the County Council as a whole.

CODE OF CONDUCT

- 24) The conduct of Members at meetings will follow the principles laid down by the County Council to govern the conduct of the County Councils' Elected Members as defined in Part 5A – Members' Code of Conduct of the Constitution of Leicestershire County Council (Appendix A).

Members shall declare at the commencement of each meeting, whether they have any personal, or individual school interest in the business to be undertaken at Forum and abstain from any subsequent voting process.

Personal interest is deemed to be a decision that affects an individual school, and not a decision that has an equal application for all or a specific group of schools.

OPERATIONAL UNDERSTANDING

- 25) The operational understanding defines the expectations of the LA and Forum Members in undertaking the business of the Forum as per Appendix B

SETTING OF AGENDA

- 26) The Chair of the Forum shall consult with the LA's lead officer to draw up the agenda for the next meeting. Where a request is received from any two members of the Forum to place an item on the agenda, it shall be placed on the agenda of the next meeting.

DECISIONS OF THE FORUM

- 27) The Clerk to the Forum shall ensure that all such advice and decisions, if appropriate, are submitted to the Cabinet or other Committee of the County Council.

In addition, in the course of the Summer Term, a report will be submitted to the County Council's Cabinet on behalf of the Schools Forum, summarising the issues on which the Forum has been consulted in the course of that academic year, the advice given and the decisions taken.

- 28) The Forum shall, as soon as reasonably possible, via its Clerk, inform the governing bodies of all schools maintained by Leicestershire County Council, of all recommendations made to the Local Authority in relation to issues on which the Forum has been consulted.

This will be done by placing details on the Leicestershire County Council website.

MEMBERS' EXPENSES

- 29) Under the terms of the Regulations, the Local Education Authority is required to pay the reasonable expenses of members of the Forum, incurred in connection with attendance at meetings of the Forum. Details of the reimbursement of expenses and expenses claim forms may be obtained from the Clerk to the Forum.

- supply cover
- travel expenses
- loss of earnings
- childcare costs – where these would not otherwise have been incurred.

LEICESTERSHIRE SCHOOLS FORUM**MEMBERS CODE OF CONDUCT**

Leicestershire County Council has adopted 10 principles to govern the code of conduct of members and co-opted members, these principles are have been adopted and will be applied to the conduct of Schools Forum members.

The 10 principles are;

1. **Selflessness**
Members should serve only the public interest and should never improperly confer an advantage on any person or individual school
2. **Honesty and Integrity**
Members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.
3. **Objectivity**
Members should take decisions on merit
4. **Accountability**
Members should be accountable for their actions and the manner in which they carry out their responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to their role
5. **Openness**
Members should be as open as possible about their actions and should be prepared to give reasons for those actions.
6. **Personal Judgement**
Members should take account of the views of their elective / nominating bodies to reach conclusions on the issues before them and act in accordance with those conclusions.
7. **Respect for Others**
Members should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the local authority's officers.
8. **Duty to Uphold the Law**
Members should uphold the law, and on all occasions, act in accordance with the trust that their elective / nominating group is entitled to place in them.

9. Stewardship

Members should do whatever they are able to ensure that the local authority uses Dedicated Schools Grant prudently and in accordance with regulations.

10. Leadership

Members should promote and support these principles by leadership, and by example, should act in a way that secures or preserves schools confidence

LEICESTERSHIRE SCHOOLS FORUM**OPERATIONAL UNDERSTANDING**

The purpose of the operational understanding is to define the expectations of, and responsibilities of the Local Authority and Schools Forum Members in undertaking the business of the Schools Forum.

Local Authority

The Local Authority will:-

- 1) Ensure that reports and other documents to be discussed at Forum meetings to be published 1 week in advance of meetings and minutes within 1 week of the meeting.
- 2) Ensure that all Forum meetings will be supported by appropriate senior officers relevant to the items to be discussed at the meeting.
- 3) Provide a pre meeting briefing for the Forum Chair and Vice Chair in the week preceding the meeting.
- 4) Publish reports, other relevant documents and minutes of meetings on the County Councils' intranet
- 5) Ensure that Forum is informed of any proposed changes in legislation that will impact upon the work of the Forum.
- 6) Provide appropriate training and induction to new Forum Members and provide appropriate on-going training to Forum Members to ensure they are able to effectively discharge their responsibilities.
- 7) Ensure that in presenting formal budget proposals for approval that the meeting is a single agenda to ensure sufficient time for discussion of proposals.
- 8) Keep Forum informed of strategic developments and service issues which may result in a request for additional funding where the financial impact would fall to be met from the Schools Budget.
- 9) Facilitate and support workshops and working groups necessary to support both the consultative and decision making responsibilities of Forum.

Schools Forum Members

Schools Forum members will:-

- 1) Follow the principles as set down in the Members' Code of Conduct
 - 2) Ensure that any personal interest in any item for discussion at Forum meetings is declared at the beginning of all meetings. Personal interest is deemed to be a discussion or decision that affects an individual school, and not a decision that has an equal application for all or specific group(s) of schools.
 - 3) Ensure that they are representative of, and present the views, of their elective / nominating group at meetings.
 - 4) Ensure that all reports and other papers tabled at meetings are reviewed prior to each individual meeting.
 - 5) Consider the needs of the whole educational community rather than advancing issues pertaining to a particular school phase or an individual school.
 - 6) Gather views and provide feedback to individual elective / nominated groups in advance of and after School Forum meetings.
 - 7) Are responsible to their elective groups for the feedback of items discussed at, and decisions taken, by School Forum.
 - 8) Identify any training requirements to the Local Authority to inform the Forum induction and training programme.
 - 9) Ensure, through the use of substitutes, that each elective / nominating group is represented at all meetings.
 - 10) Within their representative group, consider nominations for the Chair and Vice –Chair prior to the elections to this position held annually at the first meeting of the Forum at the commencement of the academic year.
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SCHOOLS FORUM
DECEMBER 4 2012
SCHOOL FUNDING REFORM 2013

Purpose of this Report

1. This report;
 - a) Provides an update on the position on school funding reform.
 - b) Sets out the circumstances where the unit values for delegation may require adjustment and proposes the method of adjustment
 - c) Gives the response of the Education Funding Agency on the proposed formula for primary and secondary schools and actions required as a result of that view.

Recommendations

2. Note the current position in respect of school funding reform.
3. Note the potential for movements between the Schools, Early Years and High Needs Block within the 2013/14 Dedicated Schools Grant settlement (paragraphs 8, 9 &10)
4. Note the reasons where a realignment of the agreed funding formula in respect of unit costs may be necessary;
 - a) To ensure that the cost of school delegated budgets is able to be accommodated within the Schools Block (paragraph 13)
 - b) To reflect any changes between the January 2012 DfE dataset used for modelling and the October DfE dataset which will drive the 2013/14 school formula (paragraphs 14 & 15)
 - c) Any changes to the locally adopted % per pupil in capping budgets set at 1.5%. (paragraph 16)
 - d) The changes as requested by the Education Funding Agency as a result of the validation process of the proposed and final formula (paragraphs 17, 19)
 - e) Any changes to the number and cost of high needs pupils within primary and secondary schools requiring changes to the level of de-delegation in SEN funding (paragraph 22)

- f) Any requirement delegation of funding for NQT induction (paragraph 25)
 - g) Any decision to de-delegate funding for trade union facilities (subject to a further report on today's agenda)
5. Note the response from the Education funding Agency to the primary and secondary formula and the local authorities response to it (paragraphs 17 & 18 16)
 6. Approve the actions taken in respect of the application of the exceptional factor in respect of rent (paragraph 17a)
 7. Note the measures the local authority intend to take to align delegated school budgets with the schools block settlement through the adjustment of the per pupil entitlement (paragraph 21)

Dedicated Schools Grant

8. The structure of the DSG settlement will move from one funding block subdivided into budgets the Individual Schools Budget (ISB) and the centrally managed Schools Budget 2012/13 to a three block system in 2013/14 based upon 3 blocks i.e. Schools, Early Years and High Needs. In order to split the settlement the DfE have taken some judgments regarding two changes within the new funding system;
 - a) Hospital School provision – In the removal of the system for local authority recoupment the DfE have top-sliced the funding for hospital school provision in order to fund those authorities with provision directly.
 - b) Early Years – Authorities have previously funded for 90% of 3 year olds receiving nursery education provision, the floor funding for this will be removed in 2013/14 although the DfE have yet to confirm how this will be undertaken this equated to £1.3m in 2012/13 and the worst case scenario is that all this funding may be removed.

The DfE have removed both of these elements pro-rata across funding blocks and as a result there may need to be an adjustment between the funding blocks. Whilst the funding blocks will not be ring fenced, the DfE have given indications that this may not be the case in the future. As the detail of the budget and the DSG settlement are drawn together Schools Forum may be informed of required movements between funding blocks.

9. The DfE have used the 2012/13 S251 statement to attribute expenditure to the three blocks. Baseline information has been received from the DfE, this has been adjusted and validated locally with a further adjustment requested in respect of school notional SEN budget which was originally included within the

Leicestershire High Needs baseline rather than the Schools Baseline. This adjustment is c£10m and should the DfE not make this movement in the baselines then Schools Forum will be requested to approve this adjustment which will move funding from the High Needs to the Schools Block. It should be noted that the baseline purely restates the 202/13 budget, it gives no indication of the 2013/14 DSG settlement.

10. The DfE have now confirmed that the funding for the increased offer for nursery education for disadvantaged 2 year olds will transfer from the Early Intervention Grant (EIG) to DSG. Detailed information on what this will mean is extremely sparse but it is expected that the transfer to DSG will be to the detriment of EIG funded services and a shortfall of funding in the LA budget of c£4m is expected. The position on funding the extended two year old offer is uncertain and will remain so until the 2013/14 DSG settlement is received, it is likely that early years EIG current expenditure will need to be moved with the funding and be met from DSG. It is unclear whether there will be further funding as the offer is expanded.

Formula Update

11. The County Council's Cabinet approved the primary and secondary formula, as endorsed by Schools Forum, at its meeting on October 16th.
12. Significant work has been completed on the structure of the new system for funding special school and special needs units within maintained schools. The special school formula provides the basis for all specialist providers and unit rates of funding will be confirmed within the Council's MTFs process which in turn will inform the 2013/14 budget report to be presented to Schools Forum in February 2013.
13. There is no additional funding with which to implement school funding reform. The position of the County Council remains that the Schools Budget be set at the level of Dedicated Schools Grant (DSG). It is uncertain what, if any, level of turbulence will be in the local authority settlement. The schools formula for 2013/14 must be delivered within the newly defined schools block; adjustments may be required to the unit values when the detailed settlement information is known.
14. Modelling of the new formula was completed on the 2012/13 level of funding and January 2012 pupil numbers, hence it was possible to give a like for like comparison between 2012/13 school budgets and the proposals for 2013/14. However the 2013/14 formula must be based on the DfE's October dataset and able to be funded from the 2013/14 settlement. Should the schools block settlement be insufficient to meet any new costs arising from underlying data changes it may be necessary to amend elements of the formula.

15. The special school and special school unit budgets have also been modelled on 2012/13 data, adjustments to top up values may be necessary if the data changes and cannot be accommodated within the 2013/14 DSG settlement.
16. Any changes in funding allocations arising from data changes will affect the calculation of the Minimum Funding Guarantee (MFG) and the level of funding required to meet its cost. Within the proposals the level of capping gains is measured against the cost of the MFG and set at +1.5% per pupil, as such it may be necessary to adjust this figure. Any such changes will only become apparent as the remodelling exercise is undertaken on October 2012 data and the DSG settlement. It is uncertain when the October dataset will be released

Education Funding Agency

17. The proposed formula was submitted to the Education Funding agency (EFA) on their October 31st deadline and initial feedback was received on November 14. The EFA raised areas of concern and declared the allocation of rent to be non-compliant with the new regulations, whilst the issues give no cause for concern the outcome from the EFA will require an element of change within the proposed formula. The two areas of compliance raised were;
 - a) Rent. The formula proposals included an EFA approved exception to allow funding to be continued to be provided to schools where they incur external rental costs. The EFA has rejected this on the basis that 14% of schools receive funding rather than their limit of 5%. The data shows that 39 schools receive a total of £99k through this factor, it is proposed that only the 5% (13) of schools that receive the greatest proportion of funding in comparison to their school budget should be funded and accounts for 83% of the funding allocation. This proposal has been submitted for to the EFA for their further consideration.

The suitability of continuing to use this factor in 2014/15 onwards should be considered in the review of the formula.

- b) Split Site. The definition of a split site has been challenged by the EFA who have asked for an '*Objective criteria for defining a split site and how amounts are calculated is required which is clear enough to be applied to Academies*'.

The definition consulted on and adopted is;

A Split Site School is a school with two distinct campuses separated by a public highway where teaching and learning occurs on both sites and where it is necessary to maintain permanent staffing on both sites. The following schools will not be considered a split site;

- *schools using additional sites where both staff and pupils temporarily use that site*
- *schools where the additional site is rented from another body,*
- *schools within a federation*
- *schools within any type of formal or informal collaborative arrangement (including schools in collaborative arrangements with special schools)*
- *schools where differing funding bodies or systems are responsible for elements of provision*

No changes to this definition are proposed, although provided initially to the EFA it has been provided again with no change and refer to the fixed nature of the split site factor.

18. Further queries were raised about the proportionality between primary and secondary schools for areas of new delegation;
- a) School budget contingencies where the issue arises as a result of the reduction in budget in 2012/13 and changes which result in post 16 pupil numbers not used for allocation the new formula.
 - b) Behaviour support which is the result of the bias in the service for KS3 support and the result of the principle adopted in the approach to the new formula whereby where funding was specific to a school phase then the funding should remain there.

The EFA have responded '*We would ask your authority to reconsider the formula for these areas and advise us of the action to be taken*'. The EFA have been provided with this explanation and been advised that the local authority intends to take no further action.

- c) When completing the pro-forma notifying the EFA of the formula proposals unallocated funding of £41,000 was identified, this was added to the pro-forma as a growth fund. The EFA have asked for a narrative on how this funding will be allocated, in the final formula it will be included within school delegated budgets and will not exist.
- d) Two areas have failed the EFA's 'reasonableness check' where issues have been raised about the proportionality of delegation between school phases. The first area is behaviour support where the majority of activity is in key stage 3 and, in accordance with the principle adopted within the remodelling, has been allocated to that school phase. The second is school budget contingencies; this is as a result of different data sets between years which included post 16 pupils in 2012/13 and not in 2013/14.

No changes are recommended although it may be prudent to consider these queries within a future formula review.

19. The EFA have confirmed that they are 'content' with the local authority's response to their queries and are not identifying any further areas of change at this moment in time.
20. Local authorities are required to submit their final formula to the EFA by January 28th for final approval before release to schools. The timescale for any necessary changes will be extremely tight and will be required before the next meeting of the Schools Forum on January 17 2013. In order to respond to this challenging timescale the EFA are recommending that local authorities should put principles in place to align budgets and the DSG settlement.
21. There is no information as yet regarding how the Leicestershire formula compares against the national average, although EFA responses to formula proposals appear to have raised issues where authorities are outside the expected norm. Anecdotal information is suggestive that the lump sum in Leicestershire may be higher than that in other authorities; this is suggestive that if there needs to be formula realignment this would be the area to be considered. However within the timescale available, considering that a further review of the formula in 2013/14 will be required and that the proposals for special schools are built on the principle of the lump sum of £150,000 it is proposed that any adjustment for 2013/14 should be made to the per pupil entitlement pending review of the formula for 2014/15.

High Needs Funding

22. In order to formulate the proposals for consultation it was necessary to take a snapshot of SEN funding in order to inform the level of de-delegation and be able to exemplify the impact of the new proposals at individual school level. A further snap shot of this data is now being compiled on the autumn term data, if needs have changed then it may be necessary to de-delegate more or less funding to ensure that the top up funding needs are met.
23. A further snapshot of pupils with high needs in mainstream schools is being created, this may require adjustments to de-delegation, if this is necessary then there will be a requirement to adjust some elements of the formula.
24. Funding reform requires that Pupil Referral Units must have a delegated budget from April 2013 and as such Oakfield will also move onto the place plus system. Whilst no structure for their settlement has yet been defined options are being considered and Schools Forum will be informed of the outcome of this process.

NQT Induction

25. Consultation with schools took place on information provided in the DfE's June announcement on school funding reform. The consultation on the replacement of LACSEG identified £12m funding within the local government settlement notionally assumed by the DfE to be used on NQT induction, the consultation was minded that this funding should be transferred to DSG and then delegated to schools from April 2013. This consultation has not as yet reported and the consultations on school funding reform did not identify this potential movement
26. The local authority is currently the awarding body for NQT until August 2013, post 2013 the DfE refer to Teaching Schools being able to act as the awarding body and discussions will be undertaken to determine how they may undertake this work in the future, in the new education system it is not thought appropriate for Leicestershire to seek to continue to be the awarding body.
27. It may be necessary to establish a short term and a longer term solution to this transfer whereby Leicestershire continues this work to the end of August 2013 and then seek the market place, through Teaching Schools, to continue this work post September 2013. This would require a top slice of DSG should this funding be transferred to DSG in order that the authority is able to fulfil its contractual arrangements to August, with delegation from September 2013 when schools would be required to buy their own service. The Leicestershire consultation response raised the issue of delegation spreading funding so thinly it could be insufficient for its intended purpose.
28. Should the consultation require the delegation of this funding it is proposed that it be incorporated into the per pupil entitlement.

Next Steps

29. Briefings have been undertaken on the changes with headteachers, governors and school finance staff and the next phase of change needs to consider the operational arrangements to support the changes, especially those in relation to high needs pupils. A number of actions are underway;
 - The development of a budget tool which will allow schools to estimate actual 2013/14 budget based upon October pupil numbers.
 - A SEN operational workstream is looking at the systems needed to support the changes and identify school data needs and methods of payment to schools.
 - Work continues on formula changes for the early years formula and how the extended offer for nursery education for 2 year old can be best funded.

- Modelling is on-going on the financial implications of the transfer of responsibility to local authorities for funding 19-25 year olds with learning difficulties and disabilities from September 2013.
 - A briefing note will be prepared for schools to ensure they understand the services that will be delegated from April 2013 and the actions they may need to take to ensure their delegated responsibilities are met.
30. A task and finish SEN and Schools Operational group has been established to establish the practical arrangements that will need to underpin the changes within high needs funding. This group includes representation from the SENA service, finance, Schools Forum, school business managers and the LA's Bursar service. This group will establish;
- The information requirements for both schools and the local authority
 - The process for agreeing place numbers to inform the return to the EFA expected annually in September
 - Payment procedures and frequency of payments for top-up funding
 - The process for determining start and end dates for placements
 - The expectation of what each element of funding is to deliver i.e the £10,000 place cost in special schools and special units, the first £6,000 of additional needs in mainstream and the top-up paid by the local authority
 - The nature of the contract for pupils receiving top-up funding
 - Contacts for Leicestershire and other local authorities

The group will aim to make best use of national work being undertaken by the Local Government Association and local work undertaken within officer and school established networks.

31. It is unknown at which point the DfE will release the settlement information, mid to late December is the anticipated date, that said the DfE have just confirmed that they will not be able to release the 2013/14 capital settlement until late January.

2013/14 Budget Risks

32. Significant risks surround the new structure of the settlement. Whilst the school and early years blocks will be determined with reference to pupil numbers, the high needs block will be based upon actual spend from 2012/13. It is unclear whether growth will be funded and if it is the level at which additional funding will be provided. Schools Forum members will be extremely aware of the difficulties in Leicestershire of increasing spend on SEN, these will be exacerbated by the new responsibility for 19 -25 year olds with learning difficulties and disabilities.

33. The new structure for high needs pupils requires the local authority to set up payment and monitoring systems, no central funding is available for this purpose and in order to meet the new requirements it may be necessary to top-slice an element of the high needs block to meet the additional costs.
34. There is no further information on the intentions of the DfE in respect of the formulae agreed by local authorities other than that they are undertaking an exercise to establish 'national averages'. It is widely believed that the identification of these averages will result in outlying authorities being pushed towards that average whether through the EFA requesting formula changes, this has been reported in other local authorities but appears not to be the case in Leicestershire, or through further directions to local authorities for change in 2014/15.
35. It is however clear that there will be further reviews before the expected implementation of the national funding formula scheduled to commence in 2015. Schools Forum and Cabinet have already agreed to review the new formula during 2013/14, this will need to be aligned to any national timescales and expectations.

Conclusions

36. It has required a significant commitment from local authority officers, schools and Schools Forum to have achieved the level of progress in this extremely difficult and complex implementation to date, it is also clear that full implementation will require significant levels of resource up to and after implementation in April 2013.
37. The new system reintroduces a perverse financial incentive for providers, including schools, to push pupil needs to higher levels as the new system means more needs than more funding. The revised SEN criteria will act as a gatekeeper for this process but any increased needs that are unfunded by the DfE will result in the need for further de-delegation for schools and the unit rates of funding for specialist providers to be revisited.
38. Schools have been briefed on the changes but there are concerns whether they have fully recognised the impact of the changes, the consultation information has remained available on the Leicestershire County Council website as a reference point for schools who continue to be advised to consult it.
39. MFG is confirmed at -1.5% per pupil for 2013/14 and 2014/15, the DfE have confirmed it will exist in 2015/16 but not its level.
40. The national funding formula is expected to be confirmed for implementation in 2015/16, it is now widely believed that this will be an extension of the current changes through placing criteria and ratios on the national average

established on the 2013/14 formula proposals from local authorities although they have not ruled out formula changes again for 2014/15. The DfE have on a number of occasions confirmed that a national funding formula remains the direction of travel, they have also stated that Ministers accept that the movement to the national formula will create turbulence in school funding in 2013/14 and in 2015/16.

41. The DfE however, have not been forthcoming on how, or if, the funding disparity between local authorities will be dealt with. Whilst moving DSG to a different basis for 2013/14 historical funding issues that have been locked into that settlement given that school funding levels are a factor of the current level of local authority spending locked into the system through MFG and funding for high cost pupils remains based upon previous year spend rather than an objective assessment of need.
42. The detail of the 2013/14 is being drafted and cannot be completed until the 2013/14 DSG settlement is known. Forum will be aware that service reductions were necessary in order to fund the growing budget requirement for SEN in 2012/13 and 2013/14, to meet the reduction in DSG as schools convert to academies and to create provision for any deficit balances that fall to be met by the local authority resulting from mainstream school moving to be sponsored academies. In completing the 2013/14 the longer term position of DSG will need to be considered alongside the budget for the next financial year.

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SCHOOLS FORUM**DECEMBER 4 2012****FUNDING TRADE UNION FACILITY TIME****Purpose of this Report**

1. This report is presented to Schools Forum to set out the background to the decision to delegation of funding for Trade Union facility time and responds to a second request from the Joint Consultative Committee (JCC) for Schools Forum to reconsider this position.

Recommendations

2. That Schools Forum determine whether the decision taken to delegate funding for Trade Union facilities time should be reversed.

Background

3. Under school funding reform local authorities are required to delegate funding for school budget contingencies, in Leicestershire this is where the funding used to support Trade Union facilities time is reported.
4. For Academies whilst Leicestershire continues to fund these activities they receive funding through LACSEG, hence Leicestershire is double funding this area of activity and by default maintained schools are subsidising academy activity as local authorities have no responsibility for providing this service to academies.
5. Phase 1 consultation identifies to schools that facility time was included in schools budget contingency as shown at Appendix 1. The outcome of the consultation was support for delegation and Phase 2 consultation asked schools to confirm this course of action;

Extract from School Funding Reform Report to Schools Forum – 7 September 2012

Phase 1 Consultation

13. *Phase 1 consultation was launched following school briefings on funding reform. It sought to collect views from all schools in Leicestershire on two elements essential for the revised formula;*

13a) *Items for ‘de-delegation’*

The following budgets are required to be delegated unless schools, collectively through each school phase, agree that they should be centrally retained (this is termed de-delegation);

- 1) school budget contingencies,*
- 2) assessment of free school meals eligibility,*
- 3) public, employers and fidelity insurance,*
- 4) licences and subscriptions and*
- 5) behaviour support services.*

Only 22 responses were received (18 primary and 4 secondary). Of these responses the following conclusions have been drawn;

Secondary Schools – given the number of secondary academies who already receive this funding through LACSEG all budget areas should be delegated.

Primary Schools – there is support for school budget contingency, insurance and behaviour support funding to be delegated whilst that for free school meal eligibility and licences and subscriptions to be centrally retained.

Phase 2 Consultation Question 1: Do you agree with the proposal for delegation of items 1 – 5?

6. This outcome was confirmed through Phase 2 consultation delegation and delegation of this funding is included within the formula proposals submitted to the EFA in October. At the Joint Consultative Committee meeting on 27 September the local authority was asked to consult Schools Forum to confirm that they were aware of the decision taken and confirm that decision. Subsequently an email was sent to Schools Forum Members asking for this decision to be reconsidered (Appendix 2)
7. 11 Schools Forum members responded to the question.
 - 3 primary members confirmed delegation
 - 2 primary member confirmed de-delegation
 - 4 secondary members confirmed delegation
 - 1 secondary member had no firm view
 - 1 response was received from a non schools member

The meeting of JCC on November 8th was advised that the original decision was unchanged.

8. Members of JCC again challenged this position based upon a view that Schools Forum members had insufficient information upon which to make a decision and schools were unaware of the consequences of delegation. It was

agreed that Forum would be formally presented to Forum again for further consideration.

9. Of the £305,103 delegated for school budget contingencies £198,000 is used to support union facilities. Funding is provided across unions for a total of 7FTE posts. Delegation will result in individual schools considering whether they would wish to continue to provide funding for this purpose and whether they would wish to pool resources to continue facility time.
10. Using the same snapshot of the location of pupils used to update the constitution of the Schools Forum this funding equates to £2.15 per pupil, £93,804 of the budget can be attributed to maintained schools and £103,965 to academies who are double funded. As more schools convert more of this funding will be attributed to academies and DSG received for maintained schools will be supporting activities within academies who gain this funding through LACSEG.
11. JCC have asked for the decision on delegation to be reconsidered for a second time and have produced a letter for Forum members to present their position (Appendix 3).
12. The fourth paragraph of the letter refers to this budget falling under the same heading as the costs of maternity leave, long term sick leave and secondments, these areas are no longer funded as these budgets were removed in response to the need to find savings within Dedicated Schools Grant.

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Extract from Phase 1 School Funding Reform Consultation**Budgets Required to be Delegated 2013/14**

Under the current funding reform proposals 'School funding Reform: Next steps towards a fairer system' issued by the Department of Education in March. The following budgets are required to be delegated in 2013/14. However the consultation document recognises that for maintained schools it may be more effective for these to be centrally pooled in order to achieve economies of scale.

The budgets as funded from the Schools Block must be delegated to all schools in the first instance but should maintained schools in each phase collectively agree through the Schools Forum, they can be provided centrally by returning funding to the local authority. The outcome of this can be:

- Delegation to all primary and secondary schools who would be responsible for all future costs of service and absorbing financial risk.
- Delegation one of either primary or secondary school, return to local authority by other. The school phase accepting delegation would become fully responsible for meeting costs of service and absorbing financial risk, for schools returning budgets to the local authority the financial risk would fall to be met from local authority through DSG.
- Return to the local authority of budgets related to both school phases. The local authority would remain responsible for service delivery and absorb financial risk through DSG.

It should be noted that this delegation is for primary and secondary schools only, special schools will be funded on a place basis for 2013/14, this needs to be considered in determining the appropriate level of delegation.

In terms of implications for academies should maintained schools wish to see these budgets delegated, this will not result in additional funding for academies. With these budgets delegated the element of GAG based upon the formula of the local authority will increase but will be offset against a reduction in LACSEG.

The budgets required to be delegated by the DfE are shown in the following table which details whether funding is currently centrally retained and potential method of delegation are;

Budget Heading	Potential Delegation Method
Support for schools in financial difficulties	Not applicable to Leicestershire schools, no funding centrally held
Contingencies (please note that this budget contains commitments for meeting the costs of union duties for 2012/13)	£ per pupil – basic pupil entitlement
Free school meals (FSM) eligibility	£ per paid meal
Insurance – Public & employers liability, fidelity, premises	£ per pupil – basic pupil entitlement
Licences & Subscriptions (please note this budget contains apportionments of subscriptions that may need to be categorised as Statutory Duties)	£ per pupil – basic pupil entitlement
Staff Costs – supply cover	Not applicable to Leicestershire schools, budget was withdrawn April 2012
Support for minority ethnic pupils or underachieving groups (please note that the service reduction action plan removes all budget allocation from September 2012, hence no budget allocation)	Not applicable to Leicestershire schools, budget withdrawn September 2012
Behaviour support services	£ per pupil – basic pupil entitlement
Library and museum services	Not applicable to Leicestershire schools, no funding centrally held

Email to School Forum Members 27 September 2012

All

Following a meeting this morning with unions we have agreed to contact members of the Schools Forum regarding the decision to de-delegate funding, specifically the trade unions facilities funding which is included within the Leicestershire school contingency budget required to be delegated from 2013/14 unless schools choose to de-delegate.

Phase 1 consultation asked schools whether schools wished this budget to be de-delegated, Phase 2 consultation stated the recommendation to delegate and that recommendation was approved by primary and secondary members on Sept 20th. The unions are concerned that it has not been more specific that delegation of this element of the funding would leave no funding centrally to enable the local authority to continue to support union activities and that schools have not been fully aware that this arrangement would not continue and they would need to consider what individual arrangements they would need to make to continue this activity should they wish to do so. The consultation response were silent on this issue.

As a result of this discussion I would like to ask specifically whether you would wish to see funding for union facility time to be delegated to schools or to be de-delegated and held centrally. For academies this funding will remain in LACSEG, the local authority would need to consider its approach to supporting academies as to do so from a centrally retained budget would result in double funding.

Please can you confirm by return whether;

- a. Funding should be delegated. This would result in the decision taken on September 20th being unchanged
- b. Funding should be de-delegated. This would change the September 20th decision.

Jenny

Jenny Lawrence

Finance Business Partner - Children and Young People's Service

Leicestershire County Council

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Letter from JCC to Schools Forum Members**FUNDING FOR TRADE UNION FACILITIES TIME**

Dear colleague,

You will be aware of Schools Forum discussions on the future treatment of funding for supply costs. This letter sets out the reasons why central retention of funding by the local authority for the costs of supply cover relating to trade union facilities time is in the interests of school leaders as well as teachers generally.

As representatives of all recognised educational trade unions and professional associations in Leicestershire, we would support the views expressed in a recent email by the Local Authority on this matter, and the views expressed at regular intervals by school leaders and county councillors. All have commented positively on the valuable work carried out as a result of the current arrangements for facilities time. National research has confirmed these benefits, both in financial terms and in terms of positive industrial relations.

There is absolutely no doubt that disrupting the current arrangements for facilities time, under which the local authority retains a centralised budget to reimburse schools, would create significant additional costs and workload for schools and academies. The arrangement has worked well in ensuring that local authorities and schools meet their statutory responsibilities to provide paid time off for trade union duties and allowing trade union representatives to attend meetings and hearings during normal working time. If the funding for these arrangements was to be delegated to schools, school and academy leadership teams would encounter greater difficulty in ensuring that employees have access to the trade union representation to which they are entitled and would inevitably find themselves obliged to convene and attend more meetings outside school hours and into the evening.

Currently, this funding falls under the same budget head as other supply cover costs. The pooling of funding between all schools within the local authority area allows for more flexibility for schools in providing for the costs of maternity leave, long term sick leave, secondments and trade union and public duties. It allows trade union representatives who understand the local context to deal with issues arising within schools, without necessarily being a member of staff of the particular school. It also allows experienced trade union reps to seek to resolve problems at an early stage, often informally. Trade union reps help to support morale, reduce staff turnover and lower recruitment costs.

The above examples illustrate the extent to which changed or reduced support for the work of trade union representatives would greatly disrupt the working of Leicestershire schools and academies.

It is also vital that the LA produces a series of costings for different models so that Forum Members have a clear understanding of how this decision might actually impact on their budgets, rather than leaving this as a matter of speculation. It is equally important that Forum members have an understanding of how these costings have been arrived at.

We hope you will agree that it is in the interests of everyone at your school, and the generality of Leicestershire schools, that the current arrangements are maintained, and that you will support a position of de-delegation at the Schools Forum when this issue is discussed.

Yours sincerely

Richard Holdsworth, ASCL

Alison Deacon, ATL

Jed Purkis, GMB

Jo Lovell, NAHT

Phil Leech, NASUWT

Andy Reeve, NUT

Jackie Dean, UNISON

Bob Gale, VOICE

TRADE UNION REPORT
TO
LEICESTERSHIRE FUNDING FORUM

DEC 2012

TRADE UNION FACILITIES TIME

1. THE CURRENT POSITION

Historically, the funding of trade union facilities time in Leicestershire has not been as transparent as it should undoubtedly have been. Individual schools have not known how much this funding has cost them, and the costs have just 'existed' - the outcome of a system which simply 'top sliced' an amount of money from the overall schools budget in order to fund this facilities time.

It was never subject to a formula which was then known to each individual school. As it related to a combination of actual costs and a 'release' system based on historic membership figures for each trade union/professional association, schools were unaware of how much they would have financially 'benefited' if this system was not in place.

This is why the current situation is as complex and uncertain as it actually is. The LA cannot quantify the costs involved for each individual school, as this has never actually been part of the way in which the historical costs were funded. The sum was not related to a 'per pupil' cost, or a cost related to the number of staff in each school.

This means that rather than starting from a place where de-delegation could be considered in terms of a formula for the costs of the facilities time element within 'supply costs', Leicestershire is starting from a somewhat different place.

This Report advances the arguments for de-delegating the costs of supply funding, with a particular emphasis on the reasons why trade union/facilities time funding should be de-delegated.

Colleagues should also clearly understand that this would be a continuation of the current arrangements. Leicestershire trade unions/professional associations are not requesting anything new. We are making the case for a continuation of the existing system, which permits the LA to reimburse schools which release 'lay' officers, and for a system where the costs of this are funded by LA schools.

To put this discussion into a Regional context, we do know that the following LA's have decided to de-delegate both Primary and Secondary funding:

Peterborough; Derbyshire; Leicester; Solihull; Warwickshire; Staffordshire; Herefordshire; Nottingham.

We also know that a number of these LA's have also decided to establish a mechanism for academy/delegated schools to buy back into a centrally held facilities 'pot'.

2. FUNDING ARRANGEMENTS FROM APRIL 2013

Colleagues will know that the school funding reforms coming into effect from April 2013 require significantly greater delegation of funding to schools. Local authorities will only be able to retain funding for supply cover costs – including for trade union facility time – where schools have agreed through the Schools Forum to “de-delegate” the funding. Discussing this issue is the subject of this Report.

The retention of funding for trade union facilities time under the heading of supply costs allows the LA to reimburse individual schools for the employment of a long term replacement for local 'lay' officers who are on partial or full time release, as well as for short term supply costs for occasional absences for other trade union representatives' attendance at meetings or training courses.

The 2013 changes pose a serious potential challenge to the existing Leicestershire LA facilities time arrangements, arrangements which have served schools, the LA, employees and trade unions/professional associations well for a considerable number of years.

The DfE's guidance on the operation of the new provisions can be found in its document *2013-14 Revenue Funding Arrangements - Operational Guidance for Local Authorities*, which can be found at www.tinyurl.com/operationalguidance

In summary, the changes mean that LAs can no longer decide unilaterally to retain funding for supply costs such as maternity leave, long term sick leave, trade union facilities time and time off for public duties. Under the new arrangements, the LA can decide that it wishes to retain funding for any or all of these purposes and determine the proposed level of funding under each heading. The Schools Forum's agreement is then, however, required before the LA can exclude this funding from delegation.

The Schools Forum is only legally empowered to agree to or reject the de-delegation of funding for supply costs. It cannot decide to vary the amount of funding to be retained or change the purposes for which the funding is to be retained (eg that it should cover maternity leave but not facilities time).

Should funding be delegated for either primary or secondary phase, or the level of retained funding be reduced, the LA will nevertheless remain statutorily liable to provide time off for local trade union officers employed in its schools.

The DfE guidance further states that decisions must be taken separately for the primary and secondary sectors by Schools Forum members from those sectors. Other Forum members may not take part in voting on the decision. Although the guidance does not say so explicitly, our view is that this suggests that academies members are excluded from taking part in the decision in the same way as non-schools members of Funding Forum.

Where a decision to de-delegate is taken, this will be binding upon all LA schools in that sector and the funding involved will be excluded from their delegated budgets.

Where there is a decision to delegate funding, the DfE guidance advises that LAs may nevertheless offer “buy-back” arrangements to schools. Where any decision is taken to delegate funding in one sector only, schools in that sector should be offered access to “buy-back” arrangements allowing them access to the pooled facilities time arrangements applying in the other sector.

Academies are not affected by these provisions. Their funding allocations will include an element in respect of this funding whether or not it is de-delegated. The LA is able to offer buy-back arrangements to academies in the same way as to other LA schools which have received delegated funding, and we would urge that this is the recommendation of Leicestershire LA. The final part of this Report gives our interpretation of the legal powers of LAs to offer such arrangements and accept funding.

Whatever the decision made by funding forum, legislation ensures statutory rights to time off for trade union duties, and these are summarized below. These rights exist irrespective of whether an employer is an Academy Trust or a Local Authority. Clearly, exercising these rights has a not insignificant cost to the LA and to individual academies.

Rights to Paid Time Off

The statutory provisions on time off for trade union representatives are contained in sections 168-170 of the Trade Union and Labour Relations (Consolidation) Act 1992 (TULR(C)A) and section 10 Employment Relations Act 1999.

These statutory rights provide for:

- Paid time off for union representatives to **accompany** a worker to a disciplinary or grievance hearing
- Paid time off for union representatives to carry out trade union **duties**
- Paid time off for union representatives to attend union **training**
- Paid time off for union ‘learning reps’ to carry out relevant **learning activities**

Time Off to Accompany

A union representative who has been certified by the Union as having experience of, or as having received training in, acting as a worker’s companion at disciplinary or grievance hearings, has a right to take reasonable time off to accompany a worker to a disciplinary or grievance hearing.

The right applies to those entitled to time off for trade union duties under TULR(C)A below, ie an official or accredited representative who has been elected, or appointed, in accordance with the rules of the union, to be a representative of all, or some, of the union’s members who work for that employer.

This right is additional to the rights of trade union officials employed by the trade union to accompany members to such hearings.

Time Off for Other Trade Union Duties

TULR(C)A provides for time off for other trade union duties. The legislation does not specify precisely how much time off should be provided – only that it should be ‘reasonable’. The interpretation of ‘reasonable’ time off has traditionally reflected the number of Union members employed by a particular employer. It has also been subject to Case Law established in appropriate tribunals and courts.

Union duties by law must relate to the **representative’s own employer** and not, for example, to any associated employer such as an Academy. However it is possible to reach agreements whereby duties can be undertaken in respect of other employers.

In the case of maintained LA schools, this would apply to all members employed by the local authority. A current example of this would be voluntary aided and foundation schools, whose governing bodies are technically the employer of teachers in their schools, but who have traditionally maintained their participation in Leicestershire LA arrangements.

Provision for paid time off is also the subject of a collective agreement contained in the Burgundy Book. These statutory provisions can be enforced by application to an employment tribunal.

Who is Entitled to Time Off?

Under TULR(C)A, an accredited trade union representative is an employee who has been elected, or appointed, in accordance with the rules of the union, to be a representative of all, or some, of the union’s members who work for that employer.

Section 169 of TULR(C)A 1992 states that an employer who permits representatives time off for trade union duties must pay them for the time off taken. This will be the amount that would ordinarily be paid for that time. Part time staff are entitled to receive paid time off in the same way as full time staff.

The Burgundy Book Agreement, which provides the framework for local collective bargaining agreements, further defines accredited representatives as being teachers who are:

- a member of the recognised Union’s national executive or other national committee
- an officer of the local Association or Division
- a school representative

Trade Union Duties

In addition to the right to time off to accompany to hearings, section 168 allows time off for duties such as:

- negotiations with the employer on collective issues relating matters listed in s178 TULR(C)A:
 - terms and conditions of employment, or the physical conditions in which any workers are required to work;
 - engagement or 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 between workers or groups of workers;
 - matters of discipline;
 - a worker’s membership or non-membership of a trade union;
 - facilities for officials of trade unions; and

- machinery for negotiation or consultation, and other procedures, relating to any of the above matters, including the recognition by employers or employers' associations of the right of a trade union to represent workers in such negotiation or consultation or in the carrying out of such procedures.
- performance of other functions on behalf of employees of the employer which relate to the matters above, and which have been agreed with the employer.
- receipt of information and consultation relating to TUPE and Section 188 redundancy notices
- negotiations under TUPE.

Time off for Training

Section 168(2) of TULR(C)A provides that union representatives are to be permitted reasonable time off during working hours to undergo training. The training must be relevant to the carrying out of their trade union duties as described above and approved by the relevant union or by the TUC. Again, the definition of 'reasonable' in this context has been established by case law, and is also contained in various documents and Codes of Practice from ACAS (.ACAS code of practice on time off for trade union duties and activities <http://www.acas.org.uk/index.aspx?articleid=1878>)

Union Learning Representatives

S168(A) TULR(C)A provides that an employer must allow reasonable (paid) time off for a union learning representative to carry out activities relating to:

- analysing learning or training needs,
- providing information and advice about learning or training matters,
- arranging learning or training, and
- promoting the value of learning or training,

Health and Safety Representatives

In addition to the provisions in TULR(C)A, the Safety Representatives and Safety Committees Regulations 1977 regulation 4(2)(a) requires that employers allow union health and safety representatives paid time, as is necessary, during working hours, to perform their functions, including

- Investigation of potential hazards and dangerous occurrences/ accidents at work
- Investigate member's complaints regarding health, safety or welfare at work
- Making representations to the employer on the above
- Carrying out health and safety inspections
- Representing members in workplace consultations with enforcing authorities including HSE inspectors
- Receiving information from HSE inspectors
- Attending safety committee meetings in their capacity as safety representative

(see HSE code of practice on consulting workers on health and safety <http://www.hse.gov.uk/pubns/priced/l146.pdf>)

LOCAL AUTHORITY and SCHOOL POWERS

Local Authority Powers

Some local authorities have suggested that they do not have the power to make arrangements for facilities time over and above the requirements of TULR(C)A. Similarly some have suggested that they do not have the power to accept funds from academies who wish to pay into the collective pot of funding for facilities arrangements. Our view is that this is not correct.

Local authorities have powers under s2 Local Government Act 2000 to do anything which promotes “the economic, social or environmental wellbeing” of the people of their area. Facilities arrangements come within this definition. Whilst local authorities may choose not to exercise their powers in this way, it is not correct to suggest that they do not have the power to do so.

School Powers to Hold Funds

The School Standards and Framework Act 1998 s50(3) also provides that subject to any provision made by the school under a scheme of arrangement with its local authority, the governing body may spend any such amounts as they think fit :

- a) For any purposes of the school;
- b) Subject also to any prescribed conditions for such purposes as may be prescribed.

This power would allow schools to use their funds to pay towards trade union facilities despite not being the formal employer of teachers at the school, and, therefore, schools may decide to pool funding for in relation to facilities arrangements.

3. **THE CASE FOR DE DELEGATION**

This section of the JCC Report explains the case for de-delegating supply costs, including facilities time.

At a general level, the work of Local union Reps has been widely recognised and praised by employers.

In 2009 the Director General of the CBI, Richard Lambert, said in the foreword to 'Reps in Action: how workplaces gain from modern union representation' a report published by BERR;

'In today's difficult economic climate, it is more important than ever that all resources available to the workplace are well deployed. Union reps constitute a major resource: there are approximately 200,000 workers who act as lay union representatives. We believe that modern representatives have a lot to give their fellow employees and to the organisations that employ them.'

Union Learning Reps (ULRs) also get paid time off in unionised workplaces to support their colleagues in updating existing and obtaining new skills and qualifications. In June 2011, John Hayes MP, Minister for Lifelong Learning, Further Education & Skill paid tribute to the work of ULRs saying;

"I want to pay tribute to union learning reps, who have made so much difference to so many lives, and to such effect. Trade unions can play an invaluable and immeasurable role in improving skills in the workplace."

Benefits of effective trade union representatives

Trade union and professional association representatives carry out a range of complex and demanding activities covering advice, representation and negotiation. This is demonstrated day after day in Leicestershire schools, where staff routinely contact trade unions/professional associations for advice and support, and where local officers participate in arrangements for meaningful consultation, negotiation and representation.

Effective local union officers can help school leaders and union members alike understand the impact of organisational changes; help to resolve reorganisation issues; and pass on ideas from staff. By doing so, they can help to minimise the impact of changes on schools.

Unions and Professional Associations also help to ensure that schools and LAs meet their legal obligations. The expertise of experienced trade union officers should not be lost to school leaders and LA officers. Neither should the associated costs of proceeding without this pooled knowledge of employment-related and legal matters.

Funding for time off allows trade union representatives to attend consultation and representation meetings during the working day. Without it, meetings such as disciplinary, grievance, ill health and capability meetings - formal or informal - and consultation meetings on changes to working arrangements would be much more difficult to arrange. These would still have to take place, but these meetings would more likely have to take place in the evening or at weekends, affecting everyone involved.

Local union officers also help to resolve issues at an early stage. Without de-delegation, fewer issues would be resolved informally, resulting in a significant increase in costs to schools and workload for school leaders and LA officers. Disciplinary, grievance and capability issues would be more likely to escalate, with cases more likely to reach employment tribunals.

De-delegation would also mean the continuation of a system which means that the same reps were more likely to interact with the same managers on a reasonably long-term basis. There was the potential, therefore, to build relationships of mutual respect and trust, essential qualities for positive industrial relations.

In a recent survey for the TUC and **Personnel Today**, over half of responding HR professionals agreed that unions were an “essential part of modern employer/employee relations”, and that union officials approached meetings with managers in an “open, constructive manner”.

Other benefits

Unions provide services such as professional training to members which benefit the employer. These are effectively sold to members by school representatives and by local officers. Without time for them to liaise with members, the benefits of this union training would be lost. All local unions and professional associations provide training courses covering not just trade union duties, but also professional development opportunities for their members, and many of these courses are brought to member's attention by local officers.

Cost benefit analysis

The current arrangements enable unions and professional associations to develop expertise among a relatively small group of representatives who serve as local casework officers supporting members across a large number of schools, and an end to central funding would bring that to an end. Schools would then be required to provide paid time off to trade union representatives at every school for duties relating to union members as well as paid time off for training to do so.

This would have substantial financial consequences for schools, since the costs would considerably exceed the funding delegated. It would also have other consequences such as the reduced likelihood of cases being resolved quickly. The current arrangements efficiently pool the cost risk to individual schools, as well as allowing trade unions to provide more effective support through trained and experienced representatives (see Case Studies in Appendix Two).

The amount of funding per pupil for facilities time would be relatively small. The removal of centrally held funding, however, would result in a significant cost for schools as the valuable contribution made by union representatives is lost.

The current arrangements also allow LAs and schools to determine the pattern of absence for individual trade union officers at the start of the academic year and to make appropriate arrangements to avoid disruption to teaching and learning.

Research commissioned for the TUC from the University of Hertfordshire shows that involving trade union representatives effectively can help reduce dismissal and exit rates, meaning lower recruitment costs and better staff morale and productivity, and reduce workplace-related injuries and illnesses through better health and safety standards.

The return on the investment made in trade union facility time is many times the sum spent. The above research estimated that, for every £1 spent on facility time, between £3 and £9 of benefits accrued to the employer.

At a time of significant change and pressures on funding, the cost to local authorities and schools of not adequately funding facility time could actually cause significant problems in the delivery of education.

THE CASE FOR DE-DELEGATION AND RETENTION OF FUNDING

Risks of additional costs arising from delegation

The cost of supply cover for facilities time will fall unpredictably and/or unevenly across schools. Delegation of funding, however, would be by means of a pupil-based funding formula, allocating a proportion of this funding to all schools. There would be a degree of 'protection' for small schools, in terms of a more even and reasonable spread of the costs.

As noted above, the funding delegated to individual schools will not match the funding needs of those schools liable to pay the costs of facilities time for local officers. In addition, the funding required in total for greater facilities time for each school's different school representatives will far exceed the amount currently provided for the current LA facilities budget.

In establishing the power to de-delegate, the DfE has de facto accepted the argument that central retention of this funding should be permitted on the grounds of economies of scale and of pooled risk. The possibility of de-delegation means that the DfE has recognised that delegation of funding, on the other hand, will increase the likelihood of individual schools bearing a disproportionate cost for functions which actually benefit all schools.

Research has also shown that planned education spending between now and 2014-15 will fall significantly:

Table 4. DfE DEL resource budget, 2010–11 to 2011–12 and to 2014–15

	2010–11 (£ billion)	2011–12 (£ billion)	% change (real terms)	2014–15 (£ billion)	% total change (real terms)
Resource DEL	51.4	51.5	-2.7%	54.0	-5.6%
<i>Of which:</i>					
Early Intervention Grant	2.5	2.2	-13.0%	2.2	-21.7%
Schools spending	37.4	38.0	-1.2%	41.1	-1.2%
Dedicated Schools Grant and Academies	37.4	37.4	–	38.6	-7.3%
Pupil Premium	–	0.625	–	2.5	–
Cancelled education programmes	0.6	0.0	-100%	0.0	–
16–19 education	8.1	8.0	-4.1%	?	–
Further education	4.0	4.0	-2.5%	?	–
Sixth-form funding	2.4	2.4	-2.1%	2.2	-17.6%
Apprenticeships	0.8	0.8	-0.5%	?	–
EMA and 16–19 Bursary	0.6	0.4	-29.4%	?	–
Other spending	0.4	0.4	-3.8%	?	–
Administration	0.5	0.5	-10.9%	0.4	-31.5%
PFI/Other (PESA)	0.5	0.7	28.0%	0.9	55.4%

(“Trends in Education and Schools Spending”, Chowdry and Sibieta, Institute for Fiscal Studies, October 2011, p12)

It is clear that any opportunity for planned savings at individual school level will be of the utmost importance going forward, and deciding not to de-delegate would be a high risk strategy given the potential training costs involved for each individual school. A pooling of those costs, via de-delegation, has shown itself over the years to be the most appropriate way forward on this issue.

In local terms, there are countless examples of trade union and professional association involvement which has contributed to the effective functioning of Leicestershire schools:

- School introductions of action plan plans for redundancy/restructuring which have been resolved without the need for compulsory redundancies. We know of schools where consultations have resulted in suggestions where action plans have been amended and significant savings have been achieved.
- Consultations over an action plan involving LSAs have taken place where staff have agreed to reduce hours while maintaining flexibility and morale within the staff team.
- Compromise agreements have been negotiated that achieved potentially significant savings, with the compromise agreement preventing potential tribunal claims for unfair dismissal.

And on a daily basis we routinely advise and represent our members on their queries and issues arising from their employment in Leicestershire schools and academies. This advice and representation is delivered in such a way as to attempt to resolve difficulties at the earliest opportunity and at the lowest level possible. By doing so, this

involvement is often effective at minimising the costs and time that can arise as a result of grievance and disciplinary procedures that could have been resolved informally. We are often able to prevent an escalation of problems simply by giving our members effective advice that enables them to deal with their issues informally without recourse to costly procedures.

CONCLUSION

Our view is that it is essential for Leicestershire LA schools to decide to de-delegate funding for trade union facilities time for all the reasons discussed above.

In addition, not doing so would be to send out all the wrong messages in terms of what schools and the LA consider to be good practice, and call into question a system which has served the LA and school-based staff remarkably well for a considerable number of years.

In times where conflict can easily become a byword, the relationship between Leicestershire LA, individual schools, HR and trade unions/professional associations has stood the test of time and has been characterised by co-operation and professional dialogue.

This has enabled the resolution of many issues, individual and collective, without recourse to formal procedures and, when matters have had to be pursued formally, this has been done in a swift and timely manner.

School staff and school leaders have valued the tried and tested mechanisms which have served everybody well. Abandoning these mechanisms would be a regressive and unhelpful step for all of those involved in Leicestershire education.

We think that it is an urgent priority for the Funding Forum to make this decision and then for the LA and trade unions/professional associations to enter into negotiations for an acceptable and realistic formula – other LAs have arrived at a figure of between £3 - 5 per pupil per school per year.

This would represent an affordable figure for most schools and we believe that it is an investment worth making to secure peace of mind regarding the issues discussed in this report. We very much hope you will be persuaded by this information as well as your stated support for trade unions, which we appreciate. We are now asking you to commit your school to funding this agreement on an annual basis so we can begin to set the new arrangements up and make them effective in all schools across Leicestershire for the future.

Appendix One

FUNDING FOR TRADE UNION FACILITIES TIME

Dear colleague,

You will be aware of Schools Forum discussions on the future treatment of funding for supply costs. This letter sets out the reasons why central retention of funding by the local authority for the costs of supply cover relating to trade union facilities time is in the interests of school leaders as well as teachers generally.

As representatives of all recognised educational trade unions and professional associations in Leicestershire, we would support the views expressed in a recent email by the Local Authority on this matter, and the views expressed at regular intervals by school leaders and county councillors. All have commented positively on the valuable work carried out as a result of the current arrangements for facilities time. National research has confirmed these benefits, both in financial terms and in terms of positive industrial relations.

There is absolutely no doubt that disrupting the current arrangements for facilities time, under which the local authority retains a centralised budget to reimburse schools, would create significant additional costs and workload for schools and academies. The arrangement has worked well in ensuring that local authorities and schools meet their statutory responsibilities to provide paid time off for trade union duties and allowing trade union representatives to attend meetings and hearings during normal working time. If the funding for these arrangements was to be delegated to schools, school and academy leadership teams would encounter greater difficulty in ensuring that employees have access to the trade union representation to which they are entitled and would inevitably find themselves obliged to convene and attend more meetings outside school hours and into the evening.

Currently, this funding falls under the same budget head as other supply cover costs. The pooling of funding between all schools within the local authority area allows for more flexibility for schools in providing for the costs of maternity leave, long term sick leave, secondments and trade union and public duties. It allows trade union representatives who understand the local context to deal with issues arising within schools, without necessarily being a member of staff of the particular school. It also allows experienced trade union reps to seek to resolve problems at an early stage, often informally. Trade union reps help to support morale, reduce staff turnover and lower recruitment costs.

The above examples illustrate the extent to which changed or reduced support for the work of trade union representatives would greatly disrupt the working of Leicestershire schools and academies.

It is also vital that the LA produces a series of costings for different models so that Forum Members have a clear understanding of how this decision might actually impact on their budgets, rather than leaving this as a matter of speculation. It is equally important that Forum members have an understanding of how these costings have been arrived at.

We hope you will agree that it is in the interests of everyone at your school, and the generality of Leicestershire schools, that the current arrangements are maintained, and that you will support a position of de-delegation at the Schools Forum when this issue is discussed.

Yours sincerely

Richard Holdsworth, ASCL
Alison Deacon, ATL
Jed Purkis, GMB
Jo Lovell, NAHT
Phil Leech, NASUWT
Andy Reeve, NUT
Jackie Dean, UNISON
Bob Gale, VOICE

Appendix Two

EXEMPLAR COSTINGS FOR WHEN INDUSTRIAL RELATIONS GO WRONG IN SCHOOLS

Case Study 1

Costs for a discrimination case

Discrimination claims can include not only race discrimination but also discrimination on the grounds of faith or belief which can be quite wide ranging. The legislation also allows claims for alleged discrimination on grounds of sex, disability, sexuality and age, all of which may also be pursued as separately identified cases against a school. Employees can also pursue claims for victimisation where they have made a complaint of discrimination (whether internally or externally) and feel they received treatment that victimised them in response to that complaint.

Other key pieces of legislation that teachers have been known to pursue claims under include the Fixed Term Employee Regulations, the Part Time Worker Regulations, the Agency Worker Regulations, Unfair Dismissal and Unfair Selection for Redundancy. These are the commonest claims the trade unions generally handle for teachers, although there are other heads of law that could be relied upon.

This case study demonstrates the costs associated with a case where a teacher believed that he was being discriminated against on grounds of race and disability. This teacher raised the issue of race discrimination with the school but was not satisfied with the way in which his complaint was handled or resolved. This led to extreme stress and anxiety which after a period of time manifested itself in physical illness diagnosed as severe and chronic irritable bowel syndrome and severe migraines. This teacher was then off sick for a considerable length of time resulting in the school commencing procedures to dismiss the teacher on grounds of ill health. This teacher was convinced that his illness was caused by the racial discrimination he experienced in his workplace and intended to take a claim for unfair dismissal and discrimination on the grounds of race and disability to employment tribunal. There was medical evidence to support this view for legal purposes.

The case was eventually settled by way of a compromise agreement after more than 18 months of meetings and negotiation.

The NUT rep spent in the region of 168 hours or approximately 24 days over 18 months on this case. The associated cost of release from normal duties is £3,216. Had the member not had NUT representation, he would undoubtedly have taken the case to tribunal. The NUT would have covered the member's legal costs but the school would have had to prepare and defend themselves in an employment tribunal which would have been listed as a 5 day hearing. The legal costs for the school would have been solicitor's fees of approximately £20,000 plus VAT. Since the case involved two strands of discrimination, the school would have considered using a barrister.

Barristers' fees are at least £1,500 per day (and may be much more) so including preparation time this could easily have been in the region of a further £10,000 plus VAT.

The potential costs of this case had it not been resolved by the intervention and support of the trade union concerned have been assessed as follows:

NUT rep	24 days @ £134 per day supply rate	£ 3,216
Solicitor's fees		£ 24,000
Barrister's fees		£ 12,000
TOTAL		£ 39,216

Further associated costs for the school would have been the time for staff in the school in preparing for the case and being witnesses at the hearing. If we take conservative figures of:

Headteacher	12 days @ annual salary of £90,000	£ 2,959
Admin support	12 days	£ 657
Witnesses x 8	2 days per person @ supply rate	£ 2,144
TOTAL COST		£ 44,976

By settling via a compromise agreement rather than having to represent themselves at employment tribunal, **the school saved at least £41,759** before consideration is given to any award that would have been made if the member won his claim. The teacher would not have signed a compromise agreement without NUT support and would certainly have continued to pursue his intended course through the employment tribunal if not given timely and competent advice regarding case prospects and settlement terms by his trade union. The employment tribunal service is well-known for being inundated with claims from unrepresented claimants with little understanding of legal processes and ultimately poor case prospects, whereas none of the teacher trade unions would ever support a member in pursuing a claim without reasonable prospects of success being clearly assessed and identified. The trade union rep's input into this at an early stage is a key element that needs to be supported properly by schools.

Paying into the facilities budget saved this academy school at least £42,935 after taking into consideration their contribution to the facilities budget.

(NB: The figures above do not take into account any compensatory payment made to the employee as part of the compromise agreement).

Case Study 2

The Cost Of An Employment Tribunal Case

The likely costs of any hearing will depend on the complexity of the case and the length of the hearing. However, ATL recently had costs awarded against them for a failure to consult case that was only listed for half a day. These costs, set by the employment tribunal, were £4371.

The School's solicitor's hourly rates were:-

Partner:	£ 260.00
Solicitor:	£ 155.00
Trainee:	£ 98.00

A standard unfair dismissal case could easily take 40 hours to prepare so at £155 per hour that would be **£6,200** (or, for the services of a partner, the cost would be **£10,400**.) Some claims involve a solicitor and a partner working together so those costs would turn out to be quite considerable for a school.

A two day hearing on top (which is fairly standard for unfair dismissal) is £2,480 (a barrister would probably charge around £5,000 for a two day case).

Therefore a straight forward unfair dismissal case could cost £8,000 to £10,000 in fees alone, using a standard level solicitor to prepare and present the case for the school. There would be additional costs if the school were to lose the case and/or have separate costs awarded against them. The average award for unfair dismissal in 2010/11 was £8,924.

Discrimination cases are usually more complex, which means greater solicitor costs, the likely involvement of a barrister to prepare or present a case and a longer Employment Tribunal hearing. In addition, awards in discrimination cases are typically far higher, for example the average award for age discrimination claims in 2010/11 was **£30,289**.

Case Study 3

The True Costs Of A Failure To Agree – Dispute Resolution Case

Whether they are an employer or a trade union representative, everyone is generally committed to transparent, effective and positive employment relations. This is stipulated under recognition agreements but in any case is a good practice model. Dispute issues do occasionally arise within a school, usually around working conditions or practices or the introduction of new measures, and the maintenance of positive employment relations in that context becomes especially critical.

It is in the interests of all employees and employers to resolve potential dispute issues as near to their point of origin as possible and with the minimum amount of conflict and disruption occurring. Schools want to see matters resolved in a timely and effective manner so that their focus can return to the proper business of teaching and learning and the management of their establishment. It is also the wish of every trade union to work in such a manner.

For these reasons, all parties always work hard to achieve agreement and constructively negotiated outcomes that are mutually beneficial and agreeable. If it is to be achieved successfully, this takes time (and therefore money.) Without that commitment to resources being given, any dispute that came to the attention of the unions, no matter how trivial it may be in its origins, would translate immediately into collective balloting activity and/or collective employment tribunal applications, which we do not see as being in the interests of schools or members. This is particularly relevant in the initial stages as all evidence demonstrates that disputes are most capable of constructive resolution at their early phase.

Below is an outline of a dispute issue that arose in a school which we have analysed for time spent and costs to illustrate how and why we believe the intervention of trade union representatives saves schools considerable time and money.

Context and Progress of Dispute:

The school wished to change its Directed Time formula to lengthen the school day. In addition, there was a wish to introduce one late finish per week (5pm) for teachers in exchange for leaving earlier (2pm) on a Friday afternoon once a month. Although the members understood the school's rationale and were not totally unhappy about all of the proposals, the effect of the school's proposal overall was to add 35 minutes to each teacher's contact time each week. This they were extremely unhappy about and the view of all three unions involved (ATL, NASUWT, NUT) was that this would breach the relevant teacher conditions if implemented.

There was a mix of locally-based representation, with two out of the three main teacher unions having a School Representative. Joint and separate members' meetings had been held to consult and discuss the issues and, in the case of the represented unions, indicative ballots had been conducted because there was a strong request made for industrial action in response to the proposal from members almost immediately. These meetings had demonstrated virtually unanimous support for action to oppose the proposals being requested and both the local reps were asked to take this up with the Headteacher immediately. There had been one local meeting to discuss the situation but this had not gone well: the reps had essentially refused to discuss the proposals because it was outside of their union defined remit to do so, but had informed the Headteacher that everyone was upset, ballots were being requested and he had no prospect of implementing his proposal. The Headteacher had become extremely defensive and had stated that he intended to complain about the behaviour of both reps to their respective unions.

At this point, the matter was referred to the Local Secretaries, all of whom worked at other schools. There was also consultation with the Regional Officers of the unions, both paid and elected. A joint Secretaries' letter was produced detailing the concerns expressed by members and sent to the Headteacher and Chair or Governors. A

meeting was requested as a matter of urgency to discuss the situation and see if it might be resolved. In the case of one union, there was also 'behind the scenes' involvement from their National Officers because of the potential for a formal dispute. In tandem with this, the Headteacher wrote a letter to each of the unions formally complaining about the attitude of the local reps. This greatly complicated the situation and led to an almost irretrievable break down in relations locally because of the entrenchment of positions. However, it was believed he may have done this in the heat of the moment, so the Headteacher was contacted by telephone by one of the Local Secretaries and was persuaded to withdraw these complaints in favour of assistance towards a dispute resolution process, since no progress could ever have been made otherwise.

An initial dispute meeting was held with the Headteacher, three Governors, a Personnel Officer from the school and a HR Adviser from the relevant Local Authority. At the first meeting, the key issues from each side were explored in a controlled and appropriate manner, agreement was reached regarding how the negotiating process would be facilitated and barriers to progress each side felt existed were identified. This meeting took 4 hours and included specifications from each side for a joint document to agree how the resolution process would go forwards. This was drafted and shared afterwards, outside of the meeting process and it was used to inform all of the meetings that followed. The document took around 6 hours to produce, consult and come to agreement upon.

There followed a series of six further meetings, all of around 3 hours duration, in which negotiations continued and progress was achieved. The trade union side also held a joint pre-meeting for an hour before each of these to ensure continuity and assist progress of the dispute. Eventually, it was possible to come up with a re-negotiated proposal that met the needs of both the school and its teacher employees and the school was able to implement this positively for the following September after an effective consultation exercise to complete the process.

Commentary and Costing

The involvement of the locally based Association/Branch contacts in this dispute was absolutely crucial to its successful resolution. Without it, there could not have been the same level of commitment to a joint process and partnership to succeed in getting to a satisfactory resolution. The local representatives at the school were under significant pressure from their members and the Headteacher found it very difficult to negotiate on his original proposal because of the way in which it had been introduced and responded to right at the beginning. All of the reps' time was funded via existing facilities arrangements.

There was also considerable activity involved outside of the meeting schedule, to ensure good liaison and communication at all levels and a continuing commitment to the process. This time also included the drafting and sharing of documents, for both the school and the members the school was under an obligation to consult with. In this case, the three Secretaries met together and undertook those activities jointly, to maximise the best use of their available facilities time.

Had the local representatives been unable to assist the situation because of the lack of appropriate facilities support, then the situation would have relied on the employed

officials of the three unions becoming involved in the alternative. This would have inevitably made the dispute appear much more serious and high-level than it needed to be, particularly at the outset. In the case of at least one union involved, it would also have necessitated the direct involvement of the General Secretary because a dispute was declared and then the procedure outlined in the Burgundy Book would have been invoked, meaning nothing could be changed or negotiated upon until there had been a National/Local Deputation meeting. That involves a large number of people and can take months to see through to fruition. It is also likely there would be a simultaneous ballot for industrial action if this route were to be taken.

Had it been adopted, that approach would have severely limited capacity for resolution on both sides, it ran the risk of missing locally-based knowledge and intelligence and the whole situation would have taken much longer, become intractable and would have remained extremely difficult to resolve.

In addition, owing to their wider level of functioning and resulting commitments, it is highly probable that all of the employed officials would struggle to find many days and times on which they could all be available which would also suit the school. The school would then have had to meet with each union separately (in the case of at least one union after the National/Local Deputation process had taken place.) In that circumstance, assuming the pattern of meetings above, the Governors, the Headteacher, the Personnel Officer and the HR representative would have to attend three times as many dispute meetings – even if there were only the seven above that were actually needed to resolve this case, this would amount to twenty-one meetings to resolve the issue overall. That has a significant cost implication for the school, even without anything else being accounted for.

As it was, since facilities funding was available to the key local activists of each union, the costs to the school were as follows:

3 x secretaries attending 7 meetings, inc pre-meets Facilities funded – 84 hours total	NIL COST
2 x local reps attending 7 meetings, inc pre-meets Facilities funded – 58 hours total, inc 1 hour for liaison/prep	NIL COST
Secretaries (3) and reps (2) consulting with employees Facilities funded 4 mtgs – 80 hours total	NIL COST
Secretaries drafting reports, agreements, updates etc Facilities funded – 30 hours total	NIL COST
Time spent travelling to/from school (assuming 1 hour each way) for Secretaries x 3 Facilities funded – 66 hours total	NIL COST

Without the TU facility time, assuming supply cover costs of £134 per day (approx £21 per hour), these costs would have been:

3 x secretaries attending 7 meetings 84 hours total	£ 1,764
2 x local reps attending 7 meetings 58 hours total	£ 1,218

Secretaries (3) and reps (2) consulting with employees 80 hours total	£ 1,680
Secretaries drafting reports, agreements, updates etc 30 hours total	£ 630
Time spent travelling to/from school 66 hours total (assuming 1 hour each way)	£ 1,386
GRAND TOTAL COST TO SCHOOL	£ 6,678

(NOTE: Both tables assume that the consultation with employees is a cost that falls to the employer because of the legal obligation to consult where new contractual proposals are being negotiated in recognised workplaces.)

Had the school been an academy paying into the facilities fund to support the resolution activity by the local trade union reps, their costs for this would have been the schools delegated sums – this would range from £1,155 for 300 pupils up to £3,465 for 900 pupils in a school.

On the figures above, this would represent a saving of between £3,213 and £5,523 in a single year after taking into account the school's contribution to the fund. Costs Not Included Above

These figures only represent costs for trade union and/or member consultation time, they do not include any time that was required for school or Local Authority representatives to engage in and seek to resolve the dispute amicably, so the true business costs would have been considerably higher, probably at least twice the amount indicated above. For the purposes of this case study, we have only assessed the trade union time and costs as these are the figures we would present to any school that decided not to purchase the facilities of the Local Association Representatives as invited.

Further to the costs indicated above, without Local Association Secretarial intervention, it is extremely likely that this dispute would have proceeded into a legal arena at a very early stage, with the possibility of failure to consult claims being lodged by all three unions on behalf of each and every member (almost every teacher working there in this case.) Instead of this, the facilities fund enabled constructive attempts to be made by our Secretaries to resolve it as locally as possible. Had that not been available, the spectre of accumulating legal costs is raised immediately for any school, even before any tribunal process takes place, as in the case study example given above. Had such claims been lodged and won by the three unions involved, the award for failure to consult may have been quite considerable in a dispute case as it is calculated on the basis of amount awarded for each member who is part of the relevant bargaining group. This case study was costed only on the basis of the real trade union time taken to resolve it. We believe it demonstrates clearly that the benefits to schools of purchasing facilities time far outweigh the costs of any significant dispute resolution activity, even where no recourse is taken to legal proceedings by either party. In that context, it represents very good value for money to a school.

The purpose of including these case studies is to attempt to explain what the three trade unions who have worked on them have identified as the key projected costings for any school if we cannot maintain good employment relations.

To achieve this, both schools and trade unions need effective and positive support for members and employers that can remain locally based. If schools choose not to purchase facilities in the way we are suggesting, this is very much placed in jeopardy and the school runs a strong risk of higher costs arising than would be necessary under this proposal.

Appendix 3

a) Appendix III of the Burgundy Book

AGREEMENT ON FACILITIES FOR REPRESENTATIVES OF RECOGNISED TEACHERS' ORGANISATIONS

Introduction

1. This agreement between the Council of Local Education Authorities (CLEA), acting on behalf of the Local Government Association, and the teachers' organisations contains the principles and practices which are recommended to local education authorities and governing bodies in respect of the facilities to be made available to those teachers, not being paid officials of any of the recognised teacher organisations, who are representatives of these organisations. Each local education authority is advised to agree jointly with each of its recognised teacher organisations the detailed arrangements for the granting of facilities in accordance with the provisions of this agreement. Disagreements on points of principle and any requests for clarification may be referred to CLEA for discussions with the national teachers' organisations.

General Principles

2. This agreement is based on a belief that both the teachers' organisations and the employing authorities accept their joint responsibility for ensuring a well ordered system of trade union organisation and industrial relations, and on a recognition of the contribution that can be made by the teachers' organisations and their local representatives to the smooth running of the education service at local and national levels. It is agreed that in jointly determining the nature and extent of the facilities required locally, and in their use, the parties to the local agreement will have regard not only to the value of the agreed facilities for effective employee representation as a means of promoting good industrial relations, but also to the need to avoid unnecessary cost, to maintain the effective running of the schools where the teacher representatives are employed, and to recognise that the provisions of the agreement will have to be introduced within the resources available to the employing authorities.
3. An accredited representative of a recognised teachers' organisation will be a teacher who is:
 - (a) a member of the national executive or other national committee of his organisation, or a representative of his organisation appointed by the national executive to serve on a national body;
 - (b) a local officer of such an organisation whose necessary official organisation duties are effectively at local authority level. The relations and negotiations with a local education authority shall be the sole responsibility of the main unit of local organisation. The activities in which these local teacher representatives will be jointly involved with the LEA and governing bodies will include both individual and collective issues. In order to act effectively, the teacher representatives will need to put views to the authority concerned as appropriate, to consider proposals, to conduct correspondence and to consult members of their associations individually or collectively;

(c) a local officer whose duties are at the lower level of an association within the area of the main unit of local organisations;

(d) a school representative whose duties will be limited to activities which are a necessary part of his/her duties for his/her organisation and its members within the school in which he/she is employed.

In certain circumstances a representative may have responsibility for more than one of these functional levels. For their part the recognised teachers' organisations undertake to ensure that their accredited representatives locally understand the extent of their authority and responsibility as teachers' representatives.

4. It will be the responsibility of the recognised teachers' organisations to notify the local education authority and individual head teachers of the names of its accredited representatives and it will be to the accredited representatives only that the recommended opportunities and facilities are extended. It is appreciated that in very large or split site schools organisations may wish to appoint more than one representative, while in those areas where there are very small schools organisations may wish to have one representative to service more than one school.
5. The principal matters with which the appropriate accredited representative will deal, in accordance with the responsibilities defined in paragraph 3, are as follows:

(a) matters arising out of the use of grievance and disputes procedures which have been agreed between the teachers' associations at authority level and the local education authority and governing bodies;

(b) responsibilities of the teacher representatives to their unions (e.g. attendances as delegates to their national conferences);

(c) responsibilities of the teacher representatives in connection with the interests of their members in the schools;

(d) functions connected with the training of teacher representatives, including attendance at training courses arranged by the recognised teacher organisations at national, regional or authority level for this purpose. In these respects consultation with the authority will be part of those functions.

6. It is expected that (b) above will include the involvement of members of the local committee of recognised teacher organisations in attendance at the meetings of those committees, which will not be expected to meet earlier than 4:00 p.m. on any school day, other than in exceptional circumstances⁶. Item (c) is likely to include, without interfering with the normal functioning of the school, the convening of meetings of newly appointed teachers for the purpose of meeting them and explaining the advantages of membership of a recognised organisation.

Facilities for Accredited Representatives

7. It is recommended that local agreements on the provision of facilities for the local officer of the recognised teachers' organisations should include:

- (a) arrangements for carrying out his or her association's responsibilities within the schools and for obtaining permission to leave the school in which he or she is employed so that he or she can perform his or her functions as an accredited representative;
- (b) provision of lists of newly appointed teachers in the authority's area and arrangements for communication direct with the new teachers;
- (c) provision annually of a list of the teachers employed in the schools of the LEA by the means most convenient to the authority⁸;
- (d) arrangements for use of accommodation in schools or other premises of the authority for association meetings;
- (e) arrangements of the use of the local authority's distribution system to schools for the purposes of official union communication with their members, subject, if necessary, to approval by the national union or association concerned;
- (f) arrangements for the deduction of membership subscriptions at source where this is requested by any local association of a nationally recognised teachers' organisation. It will be for the individual member to decide whether to opt for deduction at source.

6 Where meetings called for 4:00pm would adversely affect the school day, as might be the case when committee members in rural areas may have to travel significant distances to attend such meetings, a later starting time should be arranged.

7 It is expected that such agreements will be no less favourable than those already applicable in the area concerned or any similar agreements which authorities have made with recognised unions in respect of other groups of their employees, particularly with regard to the terms of sub-paragraphs (d), (e) and (f) of this paragraph.

8 The lists referred to may, if any authority so wishes, be provided in the form of copies of School returns.

8. Absence from teaching duties for the performance of their responsibilities as local officers of the recognised teachers' organisations is to be allowed without reduction in pay. A scale providing for the maximum amount of leave with pay permitted to the local officers should be negotiated locally, and have regard, inter alia, to the number of members of the organisation concerned who are employed by the local authority and serviced by the officers in question.
9. The likely extent of the time required by accredited representative for the performance of their level of responsibilities as representatives of the recognised teacher organisations should be assessed in accordance with an estimate of their local involvement. They should not unreasonably be refused the time necessary for the performance of their responsibilities. The time which these responsibilities is likely to occupy should be taken into account in respect of its effect on their teaching duties.
10. The accredited school representatives of the recognised teachers' organisations should be permitted reasonable opportunities and be given the necessary facilities to discharge their functions as provided for in the ACAS Code, namely:

- (a) union matters such as recruitment, maintaining membership, collecting contributions and communicating with members;
- (b) within the responsibilities conferred on them by their respective organisations, industrial relations matters within the individual school such as the handling of members' grievances.

11. The facilities envisaged are as follows:

- (a) notice board facilities to be provided by the LEA or governing body without charge and the titles of the organisations to be inscribed on the board or boards. Multi-association boards should be used wherever possible;
- (b) use of telephone with reasonable privacy (if available), with payment for outgoing calls;
- (c) provision of a room for a meeting with the organisation's members as required, providing reasonable notice is given;
- (d) use of school typing, duplicating and photocopying equipment, where available, for essential union work within the school providing this does not interfere with the work of the school and on a basis of repayment by the organisation concerned for the materials used.

12. Local officers should be provided with the documents which set out the pay, conditions of service and the regulations of the local authority which apply to the teachers employed in the authority's area. Accredited school representatives should be provided with access to such documents and also with information as to the structure and allocation of promoted posts applicable to their own schools and with the articles of government. These documents should be supplied without charge.

General

13. Guidance on aspects of this agreement is contained in the accompanying Commentary. Any changes will be notified to those concerned.

COMMENTARY ON ASPECTS OF THE AGREEMENT ON FACILITIES FOR REPRESENTATIVES OF RECOGNISED TEACHERS' ORGANISATIONS

1. Local Authorities have been advised that they should pursue policies designed to fulfil the recommendations of the ACAS Code of Practice with regard to facilities for Union representatives. Employment protection legislation requires employers to allow officials of independent trade unions, including employees who are accredited as representatives of recognised unions (or associations) to act on behalf of union members in the establishments where they themselves are employed, reasonable time off from work with pay for trade union activities which are a necessary part of the official's duties in connection with the employer's own organisation. The legislation provides for such an employee to complain to an Industrial Tribunal that permission has been unreasonably refused to allow him/her time off from work for these purposes.
2. The Agreement arrived at between CLEA and the recognised teachers' organisations seeks to set out in detail the manner in which the recommendations of the ACAS Code on facilities for trade union representatives should be applied within the education service. The purpose of this Commentary is to offer guidance to authorities and teachers' organisations on aspects of that agreement, and the issues which stem from it.
3. It is recognised by CLEA that if the provisions of the agreement are to be given effect without imposing additional burdens on teaching staffs it may be necessary for LEAs to provide additional staffing resources in individual schools and authorities are accordingly recommended to make such provision as far as possible within the resources available to them and subject to the constraints of LMS formulae.
4. It will be noted that the agreement does not specify any limit on the amount of paid leave of absence which shall be granted to national representatives. It is accepted that individual representatives will be willing to inform the employing authority of the reasons for absence if the authority thinks it is necessary to ask.
5. The agreement provides for leave of absence with pay to be permitted for local officers in accordance with a scale to be negotiated locally and related, inter alia, to the number of members of an organisation employed in a LEA area and serviced by the officers in question.
6. With the developments taking place in the field of industrial relations, health and safety at work, and similar matters, the teachers' associations are giving increased attention to training programmes for their accredited representatives and to the needs of the schools. Authorities should therefore give encouragement and support to accredited union representatives wishing to attend courses for this purposes and teachers' organisations should regard to the needs of the school in arranging their training programmes. When arranging them they should consult with the LEA concerned before making any arrangements to hold a training course during term time.

7. The recommendations in the agreement are not intended to alter the relations which at present exist between the recognised teachers' organisations and individual local education authorities, particularly so far as negotiations are concerned.

Appendix 3**b) Part 2, Section 18 of the Green Book****18. Trade Union Facilities**

18.1 Authorities shall provide the recognised trade unions with facilities necessary to carry out their functions, including paid leave of absence to attend meetings concerned with the work of the NJC and Provincial Councils and the operation of a check off system whereby, with the consent of the individual, trade union dues are deducted from pay.