

Calderdale Schools Forum

Consultation on equal pay

1 Background

- 1.1 The equal pay issue was dealt with in Calderdale in 2007 by a process that began with a briefing for schools on the background to the legislation leading to equal pay claims. This led to a recommendation that schools should agree to the proposed settlement on offer to LA employed staff. The process was taken through to March 2008 when invoices were prepared to go out to schools to recover the equal pay costs that had been funded by the authority initially.
- 1.2 In March 2008 the DCSF produced guidance to local authorities on 'back pay for education staff'. A route through funding decisions was outlined in this document. At the time a view was taken that as the process was nearing its completion in Calderdale no further discussion was necessary with Schools Forum. This guidance was therefore not shared, or discussed with the forum.
- 1.3 In January 2009 a number of schools expressed concern about the process that had been undertaken in relation to equal pay and asked that this was discussed at the Schools Forum. The chair agreed to this request and a report was prepared by officers for consideration. Schools Forum felt that a process of consultation should be undertaken to agree a way forward for resolution of the equal pay issue. The process to recover unsettled invoices was to be suspended until the consultation has been completed.
- 1.4 This paper forms the consultation document that was agreed to go to Calderdale Association of Secondary Heads (CASH) and Calderdale Primary Heads Association (CPHA).
- 1.5 The DCSF proposed route is described in section 2 to section 9, the local context is outlined with the actions taken locally and options for recovery of the costs.
- 1.6 When the issue of equal pay was discussed at the last Schools Forum, it agreed the authority would seek to establish how other local authorities had met equal pay costs. The responses will be summarised and presented at the meeting.

2 'Local authority anticipates costs and builds up reserves'

- 2.1 The position of the authority was clearly stated in the briefing of May 2007 that *'for schools where the council is the employer we[the council] will carry out the work in relation to this aspect of equal pay free of charge, however the compensatory payment costs will come from your own [schools] budget'*

2.2 This was the Council's position at the time and this has not changed. The Authority did not build up reserves with the intention to fund the equal pay costs. The Council's ability to make a contribution towards these costs is considerably restricted by the need to make savings next year of £2 million and the year after of £3.7 million. The Council does hold balances of £6.5 million for specific liabilities that it carries. By comparison, the Dedicated Schools Grant will increase by £4.3 million next year and school balances stand at £7.5 million.

3 'The local authority considers how to share costs between schools budgets, the LEA or other LA budgets'

3.1 The response to this section of the guidance is as at 2.1 and 2.2

4 'Local authority and workforce representatives reach agreement on the package of pay changes'

4.1 This process was proposed to schools through the briefing note of May 2007 schools where the council is the employer were asked to co-operate fully with the process. For Foundation and Voluntary Aided schools, a recommendation was made to them to sign up to enable the authority to act on their behalf. In the event 65 schools had staff who settled through this process. The payments were made to staff who settled in July 2007. The view of the authority is that there is no benefit in revisiting this process.

5 'Local authority keeps education colleagues (including the Schools Forum) informed as financial parameters and distribution of liability are firmed up'

5.1 Each school was informed of the financial liability through a letter sent in November 2007, this detailed eligible staff who had settled and also staff who had not settled with an indication of potential liability.

5.2 The matter was not brought to schools forum at any point for discussion, this is regrettable. However, legal advice was sought in January 2008 (3 months before the guidance was published). The advice given at the time was that the issue of equal pay fell outside the terms of reference of the schools forum.

5.3 This consultation document is a means of addressing the omission of the consultation phase as recommended in the DCSF guidance.

6 'Local authority makes capitalisation request for anticipated costs which cannot be met from reserves'

6.1 This stage was not done as the intention from the outset was that schools would fund the costs of equal pay. Again, this position has not changed.

7 'Local authority firms up decision on allocation of education costs'

7.1 This was done as described in 5.1.

8 'Costs are crystallised, payments made and contributions are made from authority reserves, any reclaimed excess surplus schools balances or from the schools budget including from individual schools after full discussion of the options with the schools forum'

- 8.1 The costs were crystallised in November 2007. Reclaiming the payments made to staff in July was undertaken by sending invoices to the 65 schools affected in March 2008. Schools Forum was not consulted at the time about this course of action.
- 8.2 The position of the authority regarding the funding coming from school budgets remains unchanged
- 8.3 There are a number of alternatives for reclaiming the funding which are offered to Schools Forum, CASH and CPHA for consideration:
- 8.3.1 The process begun in March 2008 of reclaiming the outstanding amount is resumed with the 9 schools yet to settle, pay the outstanding invoices.
- 8.3.2 All funding paid by the 56 schools who have settled is returned to allow the process to begin again. Options could include:
- 8.3.2.1 Taking the full amount from the schools delegated funding before it is distributed. (Note, this may adversely affect the central expenditure limit). This in effect would spread the cost amongst all schools including those who have yet to settle outstanding equal pay claims.
- 8.3.2.2 All 65 schools where equal pay claims have been paid to staff, split the costs equally, this would equate to a cost of £6,022 per school. (Proposed by James Proctor on behalf of CPHA). Note there are 7 schools with 2 or less staff affected.
- 8.3.2.3 The average amount per person who settled is calculated and then each school is charged for the number of staff within school who settled. This would enable the costs to be shared incrementally between the 65 schools, smoothing the effect of length of service. (Proposed by James Proctor on behalf of CPHA)
- 8.3.3 Funding is removed from budget share of the 9 schools who have not settled at a date to be agreed.
- 8.3.4 Funding is taken from the balances of the 9 schools who have not settled at a date to be agreed.

9 'Where capitalisation is secured, repayment of the borrowing costs are shared between schools (through the Schools Budget or individual schools budgets) and the local authority budgets.'

- 9.1 This option of capitalisation of back pay was not considered at the time. This scheme has now ended, the decision making criteria for allowing capitalisation directions was made on the level of unallocated balances held by the authority.

10 Conclusion

- 10.1 This paper responds retrospectively to the processes as outlined in the guidance produced by the DCSF in March 2008, giving the authorities position at the time and the current context. As a significant amount of time has passed since this process began in May 2007 it is the authorities view that it is not in the best interests of the individuals concerned who are entitled to equal pay to revisit the process that was in place and has been completed.
- 10.2 However, the authority acknowledges that this situation was avoidable and the Acting Group Director and Head of Service are committed to working in partnership and consulting fully with the Schools Forum in the future.
- 10.3 The Forum, CPHA and CASH are asked to consider the options for recovery of the costs as detailed in 8.3, reporting back to the Forum on the 27th April to agree a way forward.