

Date: 14 March 2023	Type of report: Item for approval
Item: TBC	
Report title:	School Financial Support Panel – Terms of Reference
Author name:	Kate Bingham
Officer to present the report:	Kate Bingham

Executive Summary

The Terms of Reference for the School Financial Support Panel were last reviewed in April 2019. This review, along with the amendments to the 2022-23 Scheme for Financing Schools and launch of the Licenced Deficit Framework, is one element of the overarching reassessment of the support and guidance available to maintained schools experiencing financial difficulties in Southwark.

The proposed updates to the Terms of Reference include:

- reference to delegated responsibility for allocation of the Growth and Falling Rolls Fund (for which the eligibility criteria was approved by the School Forum 06/07/2018);
- specific reference to submission deadlines and meeting schedule (as agreed at Schools' Forum December 2021);
- amendments following consultation with the Panel members (April 2022); and
- panel membership details.

Schools Forum Actions

That the Schools Forum

- Agree the revised Terms of Reference for the School Financial Support Panel, as attached at **Appendix A**

1. Background

- 1.1 The School Financial Support Panel (the Panel) has been in operation since before 2017, with major reviews of the Terms of Reference (ToR) conducted in October 2017 and April 2019.
- 1.2 During March 2022, the current members of the Panel were consulted on the general operation and the content of specific sections in the current ToR.
- 1.3 In addition, amendments to the ToR had been agreed at School Forum but not included in the document. Specifically: the inclusion of the allocation of the Falling Rolls Fund and the results of an Internal Audit conducted in 2021.
- 1.4 The Panel discussed and endorsed the updated ToR at their meeting of 3 March 2023.

2. The proposed amendments

2.1 The proposed updates to the Terms of Reference include:

- reference to delegated responsibility for allocation of the Growth and Falling Rolls Fund (for which the eligibility criteria was approved by the School Forum 06/07/2018);
- specific reference to submission deadlines and meeting schedule (as agreed at Schools' Forum December 2021);
- amendments following consultation with the Panel members (April 2022); and
- panel membership details.

3. Conclusion

1.1 The proposed ToR are set out Appendix 1 and the School Forum is ask to agree the revised Terms of Reference for the School Financial Support Panel.

Contents

Section 1	Background
Section 2	About the fund
Section 3	Who can apply for funding?
Section 4	The role of the panel
Section 5	When can a school submit a request?
Section 6	How often are the meetings held?
Section 7	Panel considerations – Growth Fund
Section 8	Panel considerations – Falling Rolls Fund
Section 9	Panel considerations – Schools in Financial Difficulty Fund
A	Redundancies
B	Premature retirement costs
C	Ill health retirements
D	Settlement agreements
E	Legal costs and awards
F	Licensed deficits
G	Other financial support
Section 10	Membership
Section 11	Contributing schools
Section 12	Appendices
A	Submitting a request – the process
B	Form – request for financial assistance
C	Form – settlement agreement form
Section 13	Version Control

1. Background

The Scheme for Financing Schools applies to all Southwark maintained schools and makes it clear that it is the duty of each governing body (or other relevant body) to ensure that the school plans and conducts its affairs in order to remain solvent, to apply good financial management practice and follow best value principles in their expenditure.

It is recognised, on occasion, there may be unforeseen or additional costs, which can place additional pressures on a school budget. In these instances, schools (subject to meeting the eligibility criteria) are able to request additional financial support.

2. About the fund

The Panel manages three funding streams:

1. The Growth Fund
2. The Falling Rolls Fund; and
3. The Schools in Financial Difficulty Fund

The Growth and Falling Rolls funds are created by ‘top slicing’ the Schools Block of the Dedicated Schools Grant (DSG). Both funds are open to maintained and academy schools.

Southwark Schools’ Forum (hereafter referred to as the “Forum”) must be consulted annually on the total size of the both funds and should be consulted prior to any expenditure from either fund being incurred.

The Schools in Financial Difficulty Fund is only open to Southwark maintained schools who elect to contribute to this fund, either by way of de-delegating primary and secondary school budgets or specific buy in for nurse and special schools.

The Forum decides on the de-delegated amounts for primary and secondary schools, annually, and has the discretion to allocate funds for financial support to contributing schools in difficulty.

The Forum has delegated responsibility to the Schools’ Financial Support Panel (SFSP), hereafter referred to as the “Panel”, to act on its behalf.

The Principal Advisor, Southwark Education Learning and Achievement (SELA) will oversee the budget on behalf of the Forum. The Principal Advisor, SELA has delegated authority from the Forum to authorise requests for financial assistance up to the value of £5,000 on behalf of the Panel.

3. Who can apply for funding?**(a) Growth and Falling Rolls**

Both funds are open to maintained and academy schools. In the case of the Falling Rolls fund, only schools judged good or outstanding at their last Ofsted inspection are eligible.

(b) Schools in Financial Difficulty

Maintained school, in financial difficulties, who have contributed to the fund (either by way of de-delegation or specific contribution) can request support from the Panel. Schools would be considered to be in financial difficulty if they are looking to avoid a deficit greater than 5% their School Budget Share¹.

Maintained schools, where there are no financial difficulties and balances are sound (e.g. with a surplus balance > £10k), are **NOT** eligible.

Schools from the non-maintained sector (e.g. academies, free schools, etc.) are **NOT** eligible.

4. The role of the Panel

The Panel will ensure that:

- the Growth and Falling Rolls funds are allocated in accordance with the set criteria, on behalf of the Forum, as set out in Sections 7 and 8;
- the Schools in Financial Difficulty fund is allocated in accordance with the Terms of Reference, on behalf of the Forum, as set out in Sections 9;
- all funds are allocated in line with accountability for public funds and constitutes a reasonable use of public funds;
- it will not support any unlawful decisions proposed or taken by schools to end employment;
- it will not support schools if it determines that the school has acted unfairly or inconsistently, failed to follow agreed employment procedures and/or failed to accept and/or act upon advice given by the authority;
- it will report on the expenditure incurred for each fund at every Panel sitting at the next scheduled Forum;
- it will update the Forum on the performance of the fund, to inform the Forum for their annual determination of the overall budget and contributions of individual schools;
- it will review these terms of reference annually.

5. When can a school submit a request?

The panel will determine whether to offer financial support to schools, and the amount of any such support, in relation to:

- contribution of costs for bulge classes (Growth Fund);

¹ **For the purposes of this section, the school budget share is defined in section 4.2.1. of the Scheme for Financing Schools:** ‘The school budget share will be the sum of I01 (fund delegated by the LA), I02 (funding for sixth form students), I03 (SEN funding), I04 (funding for minority), I05 (pupil premium), as defined in the consistent financial reporting framework’

Southwark School Forum

14 March, 2023

- support where the places are forecast to be needed over the short-medium term (Falling Rolls Fund);
- severance payments to school employees on the grounds of compulsory and voluntary redundancy, including the ending of a fixed term contract by reason of redundancy (Schools in Financial Difficulty Fund);
- premature retirement, including ill health retirement (Schools in Financial Difficulty Fund);
- settlement agreements made to secure resignations (Schools in Financial Difficulty Fund);
- help addressing a deficit balance which has been licenced by the authority (Schools in Financial Difficulty Fund).

6. How often are the meetings held?

The Panel will schedule one meeting per half term, but may cancel or schedule further meetings as required. Dates of meetings will be published in advance for each academic year.

School documentation should be sent to the Council at least ten working days before the Panel meets otherwise applications will not be considered.

In turn, it will be a requirement that panel members receive the papers at least five working days before the panel meet.

Each meeting will have an update on the collective funds' financial position as a standard agenda item.

The process for submitting a request is outlined at Section 12, Appendix a.

7. Panel considerations – Growth Fund

Growth funding (for basic need expansion & bulge classes) is based on £52k per primary class / £65k per secondary class of 30 pupils, to cover the period September to March for Maintained schools and Academies (including the extended timeframe for academies of April to August).

8. Panel considerations – Falling Rolls Fund

The criteria for the Falling Rolls Fund, all of which must be met, are as follows:

- the school must have been judged Good or Outstanding at their last Ofsted inspection (this is a nationally mandated requirement).
- the surplus capacity must exceed 30 pupils or 20% of the published admissions number, whichever is the greater.
- local planning data needs to show a requirement for at least 25% of the surplus places within the next three years.
- the formula funding available to the school must be insufficient to support the provision of an appropriate curriculum for the existing cohort.

- it will be necessary for the school to make redundancies in order to contain spending within its formula budget.
- the school did not have a surplus balance in excess of 5% of its school budget share as at 31 March of the previous financial year (or the relevant academic years in the case of academies).

Schools whose rolls are set to continue to fall but are subject to an agreed planned merger, hard or soft federation or closure in order to create larger schools will be able to apply to the fund to support curriculum delivery while the school is right sized. These will be considered on an individual basis.

Schools who meet the above criteria should prepare a business case that, after checking by officers, will be submitted to Schools' Finance Support Panel for a decision, taking into account the available funding. The timetable for applications will fit it with the timetable for the Schools' Finance Support Panel.

The business case should consist of the elements set out below.

- **5 year budget plan**
- **Class size structure and forecast pupil numbers**
- **Staffing structure**
- **Details of savings to date you have put in place**
- **Written narrative supporting your bid**

Funding allocation

Where a school meets all the above criteria, funding will be provided using the following calculation:

- the Number on Roll (NOR) as at last October census will be deducted from the NOR of the previous October's census. The result will be multiplied by the current base rate, appropriate to phase, pro rata April - August (5 months).

9. Panel considerations – Schools in Financial Difficulty Fund

a. Redundancies

The panel may only agree financial support for redundancy payments based on statutory redundancy. Any discretionary and/or enhanced severance payments offered beyond this must be met by the school.

Where there is a need to carry out a restructure process, this change should be managed in line with the school's Reorganisation policy and employment legislation.

Reorganisations are not a substitute for effective performance management and any redundancies offered as a means to avoid action under the schools' performance management framework will not be eligible for financial support from this panel.

The school will be responsible for any payments made in lieu of contractual notice entitlement.

Mitigating redundancies

In considering the request for financial support with redundancy costs, the Panel will take into account what actions the School has or will take to mitigate the impact of compulsory redundancies.

Headteachers need to demonstrate they have considered alternatives to compulsory redundancies. This includes supporting staff with redeployment opportunities through:

- actively reaching out to other schools;
- contacting other Headteachers for information on their vacancies;
- work with other Headteachers to facilitate an open day for staff to visit other schools, where there are or may be vacancies.
- signposting their employees to the following job sites* for vacancy information within Southwark Council or other schools:

Southwark Schools	School Job Vacancies Southwark Schools
Southwark Council	Jobs and careers - Southwark Council
Catholic Education Service	Vacancies in Catholic schools (catholiceducation.org.uk)
Southwark Diocesan Board of Education (SDBE)	Opportunities - Southwark Diocesan Board of Education (anglican.org)

**This is not an exhaustive list and there are other job sites that Headteachers can signpost their staff to.*

The Panel need to be satisfied that the school has made every effort to mitigate against compulsory redundancies. Payment for financial support is conditional on this being met.

Severance payments for compulsory or voluntary redundancies

The Governing Body is responsible for carrying out a whole school staff review. It needs to ensure that the management and deployment of all employees and the allocation of responsibilities and duties is effective and focused on teaching and learning to raise standards.

Where the school does not have significant revenue balances (i.e. above 8% carry forward for nursery, primary and special schools or 5% for secondary schools), any requests will be eligible for consideration.

The school needs to submit their request for funding for severance costs **PRIOR** to any formal processes. A failure to do so may leave the school liable for any costs arising.

The Governing Body need to have signed off the proposals.

The School needs to provide:

- **The consultation document, which should include the following:**
 - **The rationale for the changes**
 - **The detail of the proposals**
 - **The implementation date for the proposal**
 - **The impact on individual staff, including any possible suitable alternative employment available**
 - **Alternatives to redundancy**
- **An estimate of redundancy costs**
- **The financial impact (savings and costs)**
- **The school budget information**
- **Action the school has already taken to mitigate against potential redundancies**
- **The impact on outcomes for pupils, the impact on teaching and learning and any wider school impact**

Fixed term contracts – redundancy costs

Fixed term contracts are used in the following instances:

- For cover up until a particular date;
- On completion of a specific task.

Employees who are on a fixed term contract have the same employment rights as a permanent employee. An employee becomes eligible for a redundancy payment after two years' continuous service.

(Please note: if an employee has been on a fixed term contract for four continuous years, then their contract will automatically be deemed to be permanent, unless there is objective justification for continuing the contract as fixed term. In the absence of any action taken by the school, the contract will be deemed to be permanent.)

The School needs to provide:

- **A copy of the employee's statement of terms and particulars of employment, which should clearly detail the reason for the fixed term appointment**
- **The legal justification for ending the fixed term contract**
- **Alternatives to redundancy**
- **Any suitable alternative employment – current and possible future**

b. Premature retirement costs

Premature retirement costs, sometimes referred to as capital costs, arising from redundancies will normally be met in full by the school. Arrangements may be made between schools and the pension service to repay premature retirement costs over a number of years.

The Panel will consider these requests in exceptional circumstances.

The school needs to submit their request for funding for severance costs **PRIOR** to any formal processes. A failure to do so may leave the school liable for any costs arising.

The School needs to provide:

- **A financial business case detailing:**
 - **The beneficial impact of the decision for early retirement (e.g. positive impact on pupil outcomes, efficiency savings, etc.);**
 - **Information detailing all suitable alternative options have been considered and that this is the most suitable option;**
 - **Evidence that the individual employee(s) is (are) eligible for early retirement.**

The School needs to ensure that in this circumstance it has sought and taken advice from the Local Authority and verified the costs of such an agreement.

c. Ill Health Retirements

The decision whether an employee may be eligible for ill health retirement lies with the relevant pension body.

The school is normally expected to meet all costs.

In exceptional circumstances, the Panel may consider a request for financial support as a result of additional costs of ill health retirement incurred by the school for support staff [who are members of the Local Government Pension Scheme (LGPS)]. In all circumstances, the school will be required to make some contribution towards the ill health retirement costs.

The School needs to provide:

- **Financial information regarding its budgetary position and the impact of the ill health retirement costs on the budget, e.g. pupil outcomes, budgetary position, etc.**
- **Evidence that the employee has been accepted for ill health retirement by the LGPS**
- **Latest medical opinion on the individual's fitness to work;**
- **Confirmation from the pension scheme of their determination that the individual is eligible for ill health retirement and a financial analysis setting out the potential costs of agreeing the request.**

d. Settlement agreements

Settlement agreements are only one way of handling potentially difficult employment situations. It is expected that schools, prior to any discussions about settlement agreements, will seek to resolve workplace issues through open dialogue and where appropriate, the necessary HR policies and procedures.

Settlement agreements are legally binding contracts which can be used to end the employment relationship on agreed terms. Their main feature is that they waive an individual's right to make a claim to a court or employment tribunal on the matters that are specifically covered in the agreement. Settlement agreements may be proposed prior to undertaking any other formal process. They usually include some form of payment to the employee by the employer and may also include a reference.

A settlement agreement will not be entered into in respect of any child protection claims or allegations against an individual employee.

For maintained schools, there is a legal risk to the council of liability and as such, the council must be a party to all agreements. Any such agreement must be facilitated via Southwark Council's Legal Services Team, in accordance with the local authority's agreed procedures.

The cost of any settlement payment made as part of the terms of such agreement and any legal costs incurred are normally met by the school.

In exceptional circumstances, the Panel may consider a request for financial support.

The School needs to provide:

- **A completed settlement agreement proposal form, which for maintained schools, has been duly authorised by the Director of Education;**
 - **The Director of Education has agreed for the Local Authority to be party to the agreement (maintained schools only);**
 - **The agreement will secure savings on costs incurred over time in securing a resignation or dismissal through other means and/or is necessary to effect a speedy improvement in the learning and/or progress of pupils;**
 - **The School and/or the Local Authority may be at risk of legal claims and/or financial penalties if such agreement is not made**
- **A clear business rationale for why the School has reached a settlement as opposed to following agreed employment procedures;**
- **Evidence that the school has taken advice from the Local Authority on the terms of the agreement, including the settlement sum;**
- **Confirmation that the Local Authority's Legal Services team will be engaged to facilitate the agreement on behalf of the Local Authority and the School**

e. Legal costs and awards

An employee or former employee may decide to start a claim against their employer. This can be through an employment tribunal or other external legal system, depending on the claim(s). In such cases, there will be costs incurred in responding to and/or defending the claim(s), irrespective of the potential merits of the case. There is also the consideration that in the event that the individual is successful in their claim(s), there will be the potential for awards to be made against the employer (the school and/or the local authority, where the local authority is the employer).

The Panel will NOT agree to any financial support in respect of any action or inaction by the Governing Body/Headteacher contrary to the Local Authority's advice and/or where advice was not accepted.

The School needs to provide:

- **A legal analysis of the case, detailing the merits and risks;**
- **Confirmation that the School informed and took advice from the Local Authority in respect of the matters leading to the claim;**
- **Confirmation that the School has provided the Local Authority with all requested information required to respond to and/or defend the legal action;**
- **Confirmation that the School has accepted and acted upon advice provided by the Local Authority in respect of responding to the legal action.**

f. Licenced deficits

If a school moves into or predicts a budget deficit, the Local Authority will not be able to write off the deficit balance. Schools may however apply for financial assistance to address the deficit balance by applying to the panel.

Requests will only be considered if the school has engaged with the authority to put in place robust plans to address the deficit over a reasonable time frame. Except in exceptional circumstances, deficits are normally repaid within the following financial year. In some circumstances, schools may apply for and be granted a licensed deficit. *[Advice may be sought on how to do so through the council's finance team.]*

The School needs to provide:

- **A copy of their actual and projected budget;**
- **Details of their deficit recovery plan.**

g. Other financial support

There may be other instances where a school is facing financial difficulty. The Panel has the discretion to consider, in exceptional circumstances, such requests as is relevant and reasonable, where there is sufficient funding available.

The panel will consider financial support if the following criteria are met:

- A head teacher has been appointed within the last academic year and has identified a deficit of more than 2% of the total funds available to the school, or
- The deficit is more that 2.5% of the total funds available to the school, and
- There is a robust deficit recovery plan in place.

10. Membership

The panel will comprise of three Headteacher representatives (based in Southwark schools), at least one of which will be a current member of the School Forum with the others appointed from the pool of schools contributing to this fund.

The Panel will elect a chair from themselves.

Local authority officers include the Director of Education, or their representative, the Head of Schools HR and the Schools’ Finance Manager.

Membership will be agreed at School Forum and be for a period of three years.

Members, as at 01-04-2023

Janice Babb, Headteacher representative	headteacher@st-john.southwark.sch.uk
Pia Longman, Headteacher representative	headteacher@peterhillssouthwark.co.uk
Andrew Rojas, Headteacher representative	arojas@stgps.org.uk
Local authority officers:	
Richard Hunter or Nikki Tilson (Southwark Education, Learning and Achievement @ alternate meetings)	richard.hunter@southwark.gov.uk nikki.tilson@southwark.gov.uk
Shereen Moussa, Head of Schools Human Resources	shereen.moussa@southwark.gov.uk
Tim Gibson, (Interim) Schools Finance Manager	tim.gibson2@southwark.gov.uk

A member of the Schools’ HR team will service the panel.

11. Contributing schools

Growth Fund and Falling Rolls Fund

Local authorities may top slice Schools Block funding to create a fund for growth and falling rolls. The top-sliced fund is open to both maintained and academy schools

Schools in Financial Difficulty Fund

Mainstream maintained primary and secondary schools de-delegate funding to support this fund (excludes special schools)

Nursery maintained, by way of specific buy back

12. Appendices

a)	Submitting a request – the process
b)	Request for financial assistance form
c)	Settlement agreement request form

13. Version Control

12 October 2017	Agreed by Schools’ Forum
November 2017	Updated membership details Updated February 2019: to include nursery schools (as agreed at Schools’ Forum July 2018) and update panel membership details
April 2019	Updated Terms of Reference
January 2020	Updated panel membership details
June 2020	Updated panel membership details
April 2021	Updated panel membership details
February 2023	Reviewed and updated to include:
(a)	reference to delegated responsibility for allocation of the Growth and Falling Rolls Fund (for which the eligibility criteria was approved by the School Forum 06/07/2018);
(b)	specific reference to submission deadlines and meeting schedule (as agreed at Schools’ Forum December 2021);
(c)	amendments following consultation with the Panel members (April 2022); and
(d)	panel membership details

Submitting a request – the process

