



Thursday, 22nd March 2010

Dear Nick Page

Assurances from the Local Authority regarding Pension Arrangements, Costs of Early Retirement and Redundancies and related matters.

I write as Chair of the Governing Body of Oakwood High School. You will be aware that we have been consulting on changing our school category from community to foundation and at the same time acquiring a charitable trust. The proposed change will mean that governing body becomes the employing body on implementation day: 1st. June, 2010.

This process is not TUPE, but somewhat similar taking place under The School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2007) provide for all rights, powers, duties and liabilities to transfer existing staff from the Local Authority to the Governing Body of the school.

Employees will be employed by the school's Governing Body instead of the Local Authority and it will continue to recognise the same teachers' associations and trade unions. The existing rights of teachers will be fully protected if the school acquires a Trust as the Governing Body will still be bound by the School Teachers' Pay and Conditions Document.

The Governing Body will set terms and conditions for its own support staff. However, terms and conditions will be safeguarded as per the prescribed regulations for existing staff and our support staff will maintain the same employment rights as Local Authority employees.

The Governing Body also agree to abide with the existing local agreements and policies currently in place for school staff, that have been negotiated by teacher associations and trade unions with the Local Authority. Ditto for recognition matters and payment towards facilities time.

However there are now a number of matters we require written assurances on from the Local Authority. These are as follows:

A) Liabilities affecting the governing body in respect of employment matters.

The governing body may, as employer, in some circumstances have to appear at an Employment Tribunal to defend ourselves, if, for example, candidates for a post at the school complain that a governing body's decision or procedure discriminated against them, or if an employee complains that they had been dismissed unfairly.

We would like an assurance in writing that the local authority recognises that in cases of dismissal, it has to pay any compensation or legal costs awarded by an Employment Tribunal unless it can show that it has good reason to charge the school's delegated budget (for example, if the local authority had previously advised the Governing Body that an Employment Tribunal was likely to decide a dismissal was unfair).



B) Responsibility for the cost of premature retirements and compensation for redundancy.

The governing body, as the employer, can grant premature retirement to the staff either for reasons of redundancy or can terminate a member of staff's employment in the interest of the efficient discharge of their employer function. The governing body also decides on the level of compensation to grant any member of staff they may make redundant.

We would like an assurance in writing that the local authority recognises that it, as the "compensating authority" has to pay "mandatory compensation" towards a teacher's annual pension and retirement lump sum if they are granted premature retirement by the governing body. We do recognise that the local authority has the power to take the costs of premature retirement from a school's delegated budget if the authority has not agreed to the premature retirement. Similarly, the authority is empowered to take the costs of discretionary compensation for redundancy from a school's delegated budget if they have good reason to do so (an example of this might be if the local authority thought the discretionary payment in a particular case was too high in relation to its own policy).

C) Pensions of support staff.

Support staff at foundation schools are allowed to continue to be in the Local Government Pension Scheme (LGPS) if the local authority, with the consent of the school governing body, has by a statutory resolution specified them to be eligible to belong to the scheme. Otherwise, the support staff will no longer be members of the LGPS and it will be for them and the school governing body to make alternative pension arrangements. In our case, the governing body has resolved to seek to ensure continuity of pension arrangements for support staff through the local authority and the LGPS. We are now formally seeking written assurances that

1. That the local authority will agree as a matter of urgency the statutory resolution specifying that support staff currently in the LGPS will continue to be eligible to belong to the scheme. We would ask for a
2. copy of the actual resolution and the minute of the meeting where it was agreed.
3. That the local authority will also agree to support staff currently not in the LGPS, continue to have the right to join it going forward and that a similar offer be made to new support staff joining us in the future.

Yours sincerely,

A handwritten signature in blue ink that reads "L. J. Cooper". The signature is written in a cursive style and is positioned above a light yellow rectangular highlight.

Laurence Cooper
Chair of Governors