

## **CABINET**

**6 AUGUST 2013**

### **DISBURSEMENT OF RECOVERED FUNDS**

Portfolio Holder: Councillor Alan Jarrett, Finance

Report from: Mick Hayward, Chief Finance Officer

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#### **Summary**

To advise Members of the recovery of funds misappropriated from Temple Mill Primary School and the options for disbursement. The Audit Committee considered this report on 11 July 2013 and the report sets out the committee's favoured option.

#### **1. Budget and Policy Framework**

1.1 The disbursement of these funds is a matter for Cabinet.

#### **2. Background**

2.1 Members of the Audit Committee have received several reports regarding the investigation into the misappropriation of funds from Temple Mill Primary School by the former school business manager.

2.2 To summarise the case, following internal audit enquiries in January 2011 into potentially unusual payments from the school's bank account, the school business manager admitted that she had abused her position through misuse of school funds and subsequently repaid £41,656 to the school's account to cover the improper payments identified at that time. She was suspended from duty and subsequently dismissed from her post on grounds of gross misconduct.

2.3 Further audit investigation identified widespread misuse of the school's funds for personal benefit, over a period of at least six years and involving both the main school funds and voluntary funds. The total amount involved was established to be over £200,000, including the £41,656 that had been repaid voluntarily. The matter was reported to the police and the former business manager was subsequently arrested.

- 2.4 Following a lengthy and detailed investigation, and appearances at Medway Magistrates and Maidstone Crown Court, where she entered not guilty pleas, at the pre-trial review hearing in July 2012 she pleaded guilty to 23 counts of fraud totalling £212,166.
- 2.5 At a sentencing hearing in late October 2012 the former business manager was sentenced to three years imprisonment, up to 18 months of which will be served in custody, the balance on licence. The Judge also made a confiscation order under the Proceeds of Crime Act to the value of £170,999, to be paid within six months, and a compensation order in favour of Medway Council.
- 2.6 The recovered funds were received by the Council on 15 May 2013 and have been held in a balance sheet account since. A decision on how the amount should be treated is now needed - various options are outlined in the following section for Members' consideration. The Audit Committee initially considered these options on 9 July 2013 and the committee's recommendations are set out in section 6.

### **3. Options for disbursement and Chief Finance Officer comment**

#### **3.1 Option 1: Return the total amount recovered to Temple Mill Primary School**

- given the length of time over which the misappropriation occurred the purpose for which the funding was provided (educating pupils during the financial years in question) has now passed so the return of these funds could be seen as providing an excess benefit.
- This option could also be perceived to be rewarding a school when management failings had allowed the ongoing theft of school funds to remain undetected for so long. There are a number of issues to be considered if this option were to be taken, including:
  - A proportion of the misused funds were "voluntary funds" over which the council has no jurisdiction. However it has not been possible to determine the level of voluntary funds misused as the school business manager was using the voluntary account as a conduit for misappropriation of both voluntary and main school funds.
  - The school voluntary fund has subsequently been closed, so any repayment of voluntary funds would have to go into the school's main bank account;
  - The school has already received the £41,656 returned by the school business manager, and a further refund of £15,721 from the bank (in March 2012) in respect of cheques payable to the business manager that had been cleared despite the lack of a second authorised signatory, as required under the bank account mandate.

#### **3.2 Option 2: Medway Council to retain the total amount and transfer it to the general fund. Whilst the funding was provided initially for education purposes it could be deemed that the Council did its duty in distributing the amount initially via schools' delegated budgets. However, taking this option could be perceived as the Council taking money from the dedicated schools funding provided by central government.**

- 3.3 Option 3: Return the total amount to the overall schools budget and disburse it across all Medway schools using the standard distribution calculation.
- 3.4 Option 4: Set up a dedicated fund to provide training on governance issues for headteachers and governing bodies of all Medway schools. This would in effect use the funding to reduce the risk of a similar fraud occurring elsewhere within Medway.

#### **4. Preferred option**

- 4.1 Options 3 or 4 are considered by officers to offer equally appropriate treatment for the £170,999 recovered by the Council, though the latter would require ongoing action to maintain the fund and source and provide suitable training opportunities for schools.

#### **5. Audit Committee – 9 July 2013**

- 5.1 The Audit Committee considered this report on 9 July 2013. Members considered the four options outlined above and the Chief Finance Officer recommended to the Committee the final option of providing a programme of training.
- 5.2 During the discussion of this item the committee noted that the Chairman of Governors at Temple Mill Primary School had written to the Chief Finance Officer and, more recently, the Chairman of the Audit Committee requesting that the money be returned to the school. In response to Members' questions, officers assured Members that the decision regarding the disbursement of these recovered funds was a matter for Medway Council.
- 5.3 Members considered the options and recommended the provision of training on governance issues (option 4), as this would reduce the risk of a similar fraud occurring elsewhere in Medway. The Committee discussed the potential extent of this training; whether it is extended to all schools in Medway including academies. The Committee requested that details of the proposed training programme be submitted to the Audit Committee prior to consideration by Cabinet.

#### **6. Risk Management, Financial and Legal implications**

- 6.1 There are no risk management implications arising directly from this report.
- 6.2 According to the relevant legislation (Schools Standards and Framework Act 1996, Education Act 2002 and the School and Early Years Finance (England) Regulations 2012) these sums would not form part of the non-schools education budget, the schools budget or the individual schools budget. They can therefore be used in accordance with Option 4.

## **6. Recommendation**

- 6.1 The Audit Committee recommends to Cabinet:
- (a) that these funds be disbursed in line with option 4 of this report (a ringfenced fund to provide training on governance issues for headteachers and governing bodies of all Medway Schools).
  - (b) that the Director of Children and Adults submits a report to Cabinet, via the next meeting of the Audit Committee, on the proposed programme of training to be delivered by these funds.

## **7. Suggested Reasons for Decisions**

- 7.1 Using these funds to provide training on governance issues would reduce the risk of a similar fraud occurring elsewhere within Medway.

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### **Background papers**

Reports were submitted to the Audit Committee on 29 March 2011, 24 November 2011, 29 March 2012 and 26 September 2012. These reports contained exempt information within one of the categories in Schedule 12A of the Local Government Act 1972.

Report to Audit Committee 11 July 2013 *Disbursement of Recovered Funds*  
<http://democracy.medway.gov.uk/ieListDocuments.aspx?CId=121&MId=2883&Ver=4>