

CABINET

1 OCTOBER 2013

DISBURSEMENT OF RECOVERED FUNDS

Portfolio Holder: Councillor Alan Jarrett, Finance

Report from: Mick Hayward, Chief Finance Officer

Author: Mick Hayward, Chief Finance Officer

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 matter on 11 July 2013 and 4 September 2013 and the report sets out the Committee's recommendations to Cabinet.

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 recommended to Cabinet on 6 August 2013 the provision of training on governance issues (option 4), as this would reduce the risk of a similar fraud occurring elsewhere in Medway and requested a further report on how the proposed programme would be delivered.
- 2.7 The Cabinet, on 6 August 2013, requested that the Audit Committee re-examines all existing evidence relating to the issues at Temple Mill School and reviews any new information that has become available before making a further recommendation to Cabinet.
- 2.8 The Audit Committee, on 4 September 2013, reconsidered the issues which included representations from the Headteacher and Governors from Temple Mill Primary School (see paragraph 5 below).

3. Options reported to Cabinet on 6 August 2013 for disbursement and Chief Finance Officer comment

- 3.1 Option 1: Pay 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 this option could be seen as providing a disproportionate 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: Pay 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 reported to Cabinet on 6 August 2013

4.1 Options 3 or 4 were 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 – 4 September 2013

5.1 The Audit Committee, on 4 September 2013, reconsidered the issues which included representations from the Headteacher and Governors from Temple Mill Primary School. A copy of the draft minutes is set out in Appendix 1 to this report. The Committee made the following decisions;

5.1.1 That it be placed on record that the Audit Committee was appalled at the weak financial management and controls over public funds at Temple Mill Primary School from 2007 to 2011. There appeared to have been a systemic failure of the most basic financial controls in place over many years and that the Headteacher, Jane Bright, must take responsibility as the appropriate officer within the school.

5.1.2 The Committee recommended to Cabinet that the School's Voluntary Fund be reinstated in the sum of £14,000.

- 5.1.3 The Committee agreed that a sum be identified by officers working with the School for ICT replenishment and that this sum be reported to Cabinet for consideration.
- 5.1.4 The Audit Committee recommended to Cabinet that a specific reserve of £25,000 be established for enhancements to the teaching environment at the School and that this be ringfenced for draw down on application.
- 5.1.5 The Committee recommended to Cabinet that an Internal Audit post be created for one year in the sum of £40,000 to provide internal audit support for schools.
- 5.1.6 The Committee recommended to Cabinet that the balance of the funds be allocated to the governor training budget as set out in option 4 of the report.

6. Update since Audit Committee

6.1 The following information has been provided since the Audit Committee meeting on 4 September 2013:

6.2 ICT replenishment

6.2.1 In order to have up to date ICT equipment, and to be able to use that equipment to deliver the wider curriculum, the school requires £50,000 which it can then augment from its existing rollover. This would enable the school to replace white boards, data projectors, purchase ipads and digital cameras for a class as well as to put training in place.

6.3 Financial Management System

6.3.1 During consideration at the Audit Committee, there was discussion regarding the Financial Management System used by Temple Mill Primary School and the support provided by Medway Council. The Finance Manager stated that financial management was the responsibility of the School and the Governing Body and that the funding for this was within the School's delegated budget. It was for the school to decide what financial system to use and whilst the Education Finance Team would provide advice to schools in relation to financial processes and controls, support and advice for the Schools Information Management System (SIMS) system would need to be purchased from an expert provider, such as Kent County Council.

6.3.2 The Finance Manager has sought a meeting with the headteacher of Temple Mill School in order to discuss this issue and ascertain the nature of the support that is required.

6.4 Support to School

6.4.1 As an under performing school giving concern about standards, the Local Authority funded school improvement function support, directly and indirectly. Between 2011 and 2013 a total of £119,000 has been spent. This included

money for 1-1 tuition, 'below floor' improvement grant, support for leadership development as well as costed support from LA advisors.

7. Risk Management, Financial and Legal implications

- 7.1 There are no risk management implications arising directly from this report.
- 7.2 According to the relevant legislation (Schools Standards and Framework Act 1998, 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.

8. Recommendations

- 8.1 That the School's Voluntary Fund be reinstated in the sum of £14,000.
- 8.2 That £50,000 be allocated for the replenishment of ICT as set out in paragraph 6.2 of the report.
- 8.3 That a specific reserve of £25,000 be established for enhancements to the teaching environment at the School and that this be ringfenced for draw down on application.
- 8.4 That £40,000 be allocated for one year for the creation of an Internal Audit post to provide internal audit support for schools.
- 8.5 That the balance of the funds be allocated to the governor training budget as set out in paragraph 3.4 (option 4) of the report.

9. Suggested Reasons for Decisions

- 9.1 Using these funds will provide targeted support to Temple Mill Primary School and will also provide training on governance issues will reduce the risk of a similar fraud occurring elsewhere within Medway.

Lead officer contact

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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>

Report to Cabinet 6 August 2013 *Disbursement of Recovered Funds*

<http://democracy.medway.gov.uk/mglIssueHistoryHome.aspx?IId=11211>

Report to Audit Committee 4 September 2013 *Temple Mill Primary School Investigation*

<http://democracy.medway.gov.uk/ieListDocuments.aspx?CId=121&MId=2918&Ver=4>

Medway Council
Meeting of Audit Committee
Wednesday, 4 September 2013
7.00pm to 9.50pm

Record of the meeting

Subject to approval as an accurate record at the next meeting of this committee

- Present:** Councillors: Jarrett, Mackinlay (Chairman) and Maple
- Substitutes:** Councillors:
Clarke (Substitute for Mackness)
Griffiths (Substitute for Osborne)
- In Attendance:** Councillor Jane Etheridge, Ward Councillor
Councillor Kelly Tolhurst
Neil Davies, Chief Executive
Wayne Hemingway, Democratic Services Officer
Perry Holmes, Assistant Director Legal and Corporate Services/Monitoring Officer
Alison Russell, Audit Services Manager
Phil Watts, Finance Manager, Children & Adult Services
Jane Bright, Headteacher, Temple Mill Primary School
Jason Candasamy, Parent Governor, Temple Mill Primary School
Stephen Peachell, Chair of Governors, Temple Mill Primary School
Lawrie Rose, Governor, Temple Mill Primary School

327 Chairman's Announcements

The Chairman welcomed Jane Bright (Headteacher, Temple Mill Primary School), Stephen Peachell (Chair of Governors, Temple Mill Primary School) and Lawrie Rose (Governor, Temple Mill Primary School) to the meeting and introduced those officers present at the meeting.

He explained that the Committee would make a recommendation to the Cabinet on the disbursement of the recovered funds in relation to Temple Mill Primary School and that it was for the Cabinet to make a final decision on this issue.

328 Record of meeting

The record of the meeting held on 11 July 2013 was agreed and signed by the Chairman as a correct record.

329 Apologies for absence

Apologies for absence were received from Councillors Mackness and Osborne.

330 Urgent matters by reason of special circumstances

There were none.

331 Declarations of disclosable pecuniary interests

Councillor Clarke stated that Stephen Peachell (Chair of Governors – Temple Mill Primary School) was a personal acquaintance.

Councillor Jarrett stated Stephen Peachell (Chair of Governors – Temple Mill Primary School) was a personal acquaintance.

332 Temple Mill Primary School Investigation

Discussion:

Background

The Chairman explained the background to this report and stated that the Audit Committee had considered a shorter report on 11 July 2013 where it had recommended to Cabinet option 4 (set up a ringfenced fund to provide training on governance issues for Headteachers and Governing Bodies of all Medway Schools). The Cabinet had considered this recommendation on 6 August 2013 and had decided to refer the matter back to the Audit Committee to re-examine all existing evidence relating to the issues at Temple Mill Primary School and review any new information that had become available before making a further recommendation to Cabinet.

The Audit Services Manager explained the reports set out in the agenda, namely the investigation report and probity audits (Appendices 1a-1c to the report), the Schools Finance Scheme (Appendix 2 to the report), the School's budget returns (Appendices 3a-3e to the report) and the court's confiscation/compensation letter (Appendix 4 to the report).

The Audit Services Manager stated that, in summary, the School Business Manager, Sandra Ross, had pleaded guilty to 23 counts of fraud totalling £212,000. A total of £57,300 had been returned to the school whilst a compensation order totalling £170,999.73 had been awarded to Medway Council by the court.

Councillor Jarrett informed the Committee of the Cabinet's rationale for referring the matter back to the Committee. He stated that Cabinet Members had been lobbied on the matter and that there had been misinformation and confusion surrounding the

case. He also indicated that there was Cabinet support for the reinstatement of the School's Voluntary Fund.

Temple Mill Primary School representations

Representatives from Temple Mill Primary School addressed the Committee. The Headteacher stated that the School Business Manager's deceit had taken great skill and care and that this had begun with small sums of money to start with which had increased over time. This had coincided with the establishment of the Children's Centre on the site which had increased income to the School.

The Headteacher stated that the School Business Manager had been able to deceive the School and the Governing Body as well as Education Finance and a number of other professionals. The School Business Manager had been suspended and dismissed following the detection of the crime. It had taken the Police two years to obtain a conviction given the complexity of the crime. The effect on the School had been significant including staff redundancies, the lack of funds to recruit an SEN Coordinator and lack of funds to update the School's ICT provision.

The two Governor representatives addressed the Committee on a number of issues, broadly set out in paragraphs 6 and 7 of the report. The Chair of Governors stated that the Governing Body and staff had been upset by the contents of paragraph 6.1 of the covering report and that these comments could not be found elsewhere in the reports. He asked where the evidence was to demonstrate there had been an "inappropriate and excessive level of trust".

The Chair of Governors stated that the Governing Body had followed policy and procedures and had also engaged a full external audit of the School's systems and procedures. He also stated that the comments set out in paragraph 6.3 of the covering report failed to reflect the scale of the actions of the School Business Manager at the School.

The School Governor considered that paragraph 7 of the covering report only selectively dealt with roles and responsibilities. He read through paragraphs 3.1-3.5 of section 4 of the Medway Council Finance Manual for Schools (which had been tabled at the meeting by the School) providing information on the School's actions during the period in question and referred to the level of expertise on the Governing Body's Finance Committee.

The School Governor referred to paragraph 7.4 of the covering report and questioned why the Education Finance Team had missed the fraudulent activity at the School.

The Chair of Governors referred to paragraph 7.5 of the covering report and stated that there had been an independent assessment of the School's systems and procedures using the Financial Management Standard in Schools (FMSiS) framework. He referred to paragraph 7.6 of the covering report and stated that the Governing Body had given the School Business Manager a clear instruction to close the Voluntary Fund.

The Chair of Governors referred to the compensation order as set out in Appendix 4 to the report and asked what Medway Council was being compensated for. The Chief Executive stated that this decision would have been a matter for the Judge, however, the order was clear that the monies be returned to Medway Council. In response to a point about the revenue surpluses shown in the School's accounts, as set out in Appendix 3 to the report, the Chair of Governors informed the Committee that the surplus had been reduced during the period of fraudulent activity and that now the School's finances were slowly improving. He also noted that the Children's Centre on the School site had its own funds which could not be used by the School.

Questions from the Committee

Members of the Committee asked a number of questions regarding the matter including:

- How the school had dealt with cheques, the Voluntary Fund and its closure.

The Headteacher accepted that there was sometimes a lack of documentation when being presented with cheques for her signature – this sometimes had happened during busy periods of the school term. The School Business Manager had normally provided the associated documentation later. The Headteacher also accepted that there were times when she had signed blank cheques for later completion by the School Business Manager. She stated that the School Business Manager had established a mechanism for raising cheques with duplicate numbers. She also stated that she considered that the School Business Manager may have been forging her signature but this had not been followed up by the Police during the investigation. The Headteacher stated that she understood that the Voluntary Fund mandate originally required two signatures (one from the School and one from the PTA), however, she confirmed that at some point the mandate was changed to require just one signature, this permitted the School Business Manager to sign cheques without a second signatory.

The Chair of Governors stated that the Governing Body had given a clear instruction to the School Business Manager to close the Voluntary Fund, however, the Chair of Governors accepted that no independent check had been made to confirm that the account had been closed. The Headteacher stated that there was no evidence of the Voluntary Fund continuing to operate at the School. This evidence was eventually found at the School Business Manager's home.

- The School's weaknesses were set out in paragraph 6.1 of the covering report and reference was made to the agreed management action plan as set out in the Internal Audit report (pages 34-46 of the agenda) and that responsibility had to be taken for these failings.

The Headteacher accepted that corrective action was necessary and that her first priority at the School related to the children. She gave examples of how the School Business Manager had hidden the evidence of her fraudulent activities from the School.

- Whether the Voluntary Fund had been audited.

The School Governor confirmed that the Voluntary Fund had been independently audited prior to 2008. The Governing Body had instructed the School Business Manager to close the Voluntary Fund in 2008 and a closing audit of the Fund had been carried out by an independent auditor. It was confirmed that the likely sum in the Fund during its operation would have been around £1,500.

- Clarification was sought regarding duplicate cheque numbers.

The Audit Services Manager confirmed that this is what was found during the audit investigation.

- Whether the return of the recovered funds would be of any benefit to the children who attended the school during the time of the fraudulent activity.

The Headteacher confirmed that there were still three year groups present at the School which would have been affected by the fraudulent activity. In addition, the loss of monies had caused an ongoing effect to the School's finances including a lack of investment in the School's ICT provision.

- The lack of an Asset Register.

The Chair of Governors stated that the School Business Manager had advised that the School's Asset Register was in the School's attic.

- The School Business Manager's position as a Governor at the School and whether this led to her holding herself to account.

The Chair of Governors stated that the School Business Manager had been appointed as a Staff Governor.

- Whether the Governing Body had raised any concerns about the difficulty in staying inside budget given the need to make redundancies.

The Chair of Governors confirmed that once a decision had been made to make redundancies, Medway Council was contacted for advice under the service agreement.

- That recovered assets should be returned to the School.
- Concern was expressed regarding the School's approach to finances as evidenced by payments made to staff as set out in paragraphs 12-17 of the Internal Audit report (pages 30-31 of the agenda).

The Headteacher stated that each example set out in paragraphs 12-17 could be explained, however, she accepted that the approach to paying mileage allowance (paragraph 15) had been incorrect.

- How the school would spend the recovered funds if returned to the School.

The Headteacher stated that the monies would be spent on improving the ICT hardware and software provision, which would cost around £65,000. She also referred to capital projects such as the ongoing decoration at the school plus the provision of air conditioning in a classroom with no external windows. In addition, monies could be spent on additional Special Educational Needs (SEN) equipment.

The Chair of Governors also stated that the School had now managed to employ an SEN Coordinator, however, this had placed pressure on school budgets. He also stated that the cost of the use of psychiatrists, for example, was expensive.

- Confirmation was sought on the redundancies made by the School and the impact of the fraudulent activity on the reputation of the School.

The Headteacher stated that a teacher and a nursery nurse had been made redundant in 2008. She stated that all but three classes were up to full numbers. She did not consider that the School had a reputational issue as a result of this matter.

- Whether any disciplinary action had been taken against the Headteacher.

The Chair of Governors stated that this meeting was not the place for this type of discussion and that the Governing Body had full confidence in the Headteacher.

- Whether the compensation order was payable to Medway Council or the School.

The Assistant Director, Legal and Corporate Services, explained the process for the making of the order and confirmed that the order had been made payable to Medway Council.

- The financial management system used by the School and the Education Finance Team's responsibility to the School.

The Finance Manager stated that financial management was the responsibility of the School and the Governing Body and that the funding for this was within the School's delegated budget. It was for the School to decide how to meet its responsibilities, either by employing finance staff directly or by buying in the service. Similarly, it was for the school to decide what financial system to use and whilst the Education Finance Team would provide advice to schools in relation to financial processes and controls, support and advice for the Schools Information Management System (SIMS) system would need to be purchased from an expert provider, such as Kent County Council.

The Headteacher stated that the School did buy in the support of the Education Finance Team but that nobody from that Team could understand the School's financial management system.

It was noted that this issue be investigated before the next Cabinet meeting.

Parent Governor representations

Jason Candasamy, a Parent Governor at the School, was allowed to address the Committee. He stated that his daughter was currently in year 5, therefore, she had been affected by the fraudulent activity. He stated this daughter should not have missed out as a result of this and asked the Committee to support option 1 as set out in the covering report.

Ward Councillor representations

Councillor Etheridge (Ward Councillor) was allowed to address the Committee. She stated that the Council did not understand the School's financial management systems and that such a staff resource was required within the Council. She stated that the Judge would have believed that the recovered funds would have been returned to the School. She also stated that the Governing Body included highly competent people and that she had every trust and confidence in them.

Conclusions

During the concluding part of the meeting, the Committee debated and voted against a proposal to recommend to Cabinet that the recovered funds be returned to the School. The Committee also debated the proposals as set out in the decision section below.

Decision:

- (a) That it be placed on record that the Audit Committee was appalled at the weak financial management and controls over public funds at Temple Mill Primary School from 2007 to 2011. There appeared to have been a systemic failure of the most basic financial controls in place over many years and that the Headteacher, Jane Bright, must take responsibility as the appropriate officer within the school.
- (b) The Audit Committee recommended to Cabinet that the School's Voluntary Fund be reinstated in the sum of £14,000.
- (c) The Audit Committee agreed that a sum be identified by officers working with the School for ICT replenishment and that this sum be reported to Cabinet for consideration.
- (d) The Audit Committee recommended to Cabinet that a specific reserve of £25,000 be established for enhancements to the teaching environment at the School and that this be ringfenced for draw down on application.

- (e) The Audit Committee recommended to Cabinet that an Internal Audit post be created for one year in the sum of £40,000 to provide internal audit support for schools.
- (f) The Audit Committee recommended to Cabinet that the balance of the funds be allocated to the governor training budget as set out in option 4 of the report.

Chairman

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