



# Brent

## SCHOOLS FORUM

16 September 2015

Report from the Strategic Director of Children and Young People

For Consultation & Information

## 6. UPDATED FINANCE POLICIES

### 1.0 SUMMARY/INTRODUCTION

- 1.1 This report details the changes to be implemented to the Scheme for Financing Schools and the Schools Financial Regulations, and will become effective after approval of the Schools Forum.

### 2.0 RECOMMENDATIONS

- 2.1 The Schools Forum is requested to approve the changes to the following:
- a. Scheme for Financing Schools 2015-16.  
*voting is open to all maintained school members.*
- 2.2 The Schools Forum is being formally consulted on the following:
- b. Schools Financial Regulations 2015-16.  
*open to formal comment from all maintained school members.*

### 3.0 BACKGROUND

- 3.1 Local Authorities are required to publish schemes for financing schools which clearly sets out the financial relationship between the Local Authority and the schools that they maintain.
- 3.2 In addition to the Scheme for Financing Schools, Brent also maintains a Schools Financial Regulations which is supplementary to the Scheme and to the LA's own Financial Regulations. These regulations provide more detailed financial guidance, and specifies the procedures and key control measures that must be implemented in schools to ensure public accountability and to prevent financial risk. It also sets out the responsibilities of the LA in relation

to maintained schools, and of the Governing Body and Head Teachers to which funding has been delegated.

- 3.3 Both documents are reviewed annually, and where changes apply the LA is required to consult with schools and obtain approval from the Schools Forum prior to implementation.

## 4.0 DETAIL

- 4.1 This report details the changes to be implemented to the Scheme for Financing Schools and the Schools Financial Regulations, and will become effective after approval of this Schools Forum.

- 4.2 All changes have been made in line with statutory guidance issued by the DfE, and relevant regulations, including the Public Contracts Regulations 2015 (previously Public Contracts Regulations 2006, as amended) and the Scheme for Financing Schools – Statutory Guidance for LAs which was updated with effect from August 2015.

- 4.3 The main changes can be found in section *2.10: Purchasing, Tendering and Contracting Requirements* of the Scheme for Financing Schools, and section *G: Procurement and Contracts* within the Schools Financial Regulations.

- 4.4 The changes are:

- A Very Low Value Contract is now defined as a contract which is below £25k. This was previously states as below £20k.
- A Low Value Contract is now therefore defined as a contract which is £25k and above. This was previously stated as £20k and above.
- The EU Threshold Values for Supplies & Services are now split between Supplies & Services excluding Schedule 3 Services, and Schedule 3 Services. The threshold for the former remains as £172,514, but the threshold for Schedule 3 Services is now set as £650k. A Schedule 3 Service is defined as those social, educational and other specific services listed in Schedule 3 of the Public Contracts Regulations 2015.

- 4.5 In addition, the following changes have been applied:

- For Very Low Value Contracts, the Scheme and Regulations previously stated that *schools must demonstrate value for money by seeking and obtaining three competitive written quotes*. These have now been updated to state (in line with the LA's own regulations) that *no formal procurement procedures apply to Very Low Value Contracts, except the requirement to secure best value. The best way for schools to demonstrate value for money is either by seeking three competitive written quotes, using an Approved List (where one exists), or using the Online Market Place. Whilst the use of these procedures is not*

*mandatory, it is however a mandatory requirement to keep an auditable record to demonstrate how value for money has been achieved.*

- For Low Value Contracts, an alternative to procure the contract through the Online Market Place has been added.
- The distinction between a medium value contract for works and for supplies and services has been removed. Schools must undertake a competitive tendering exercise for these contracts, as detailed.
- Within the Regulations, *E.6 Expenditure – Payroll*, section *E.6.3* has been updated with regards to expense claims for public transport and subsistence costs. The LA expects that all claims in respect of public transport and subsistence costs would be processed through the payroll, as best practice. This is however not an HMRC requirement, and therefore the wording has been changed to reflect this.
- Within the Regulations, *F.1 Risk Management and Insurance*, section *F.1.5* has been amended. This previously stated that the Governing Body should ensure that contractors provide details of adequate, continuing public and product liability insurance to a minimum value of £5m. This has now been reworded to suggest three questions that the Governing Body should ask to determine the level of liability insurance that contractors should have. This should be determined on a case-by-case basis.
- A discrepancy between section *2.1.4. Control of Assets* within the Scheme and *F.7 Property, Stock and Equipment* within the Regulations in relation to asset registers had been identified. The DfE suggests that all items which have a purchase price above £1,000 (ex VAT) should be included in the inventory. However, Brent strongly suggests that schools should record all items above £100. Section *F.7.2* has been updated to state that all items with a value of £1,000 or over should be recorded, but that the LA strongly suggests that this should be the case for items £100 and above. This previously stated that it must be £100.
- The Scheme for Financing Schools now requires that maintained schools publish a register of business interests of their governors, including any relationships between school staff and members of the governing body. Section *2.9 Register of Business Interests* has therefore been updated to reflect this.
- Within the Scheme, section *3.6 Borrowing by Schools* and section *C.3 Loans* section *C.3.2* within the Regulations, has been reflected to reflect DfE guidance that although schools cannot borrow (including finance leases) they may use such schemes as has been approved by the Secretary of State. Currently on the Salix loan scheme has such approval.

## **5.0 APPENDICES**

- A. Scheme for Financing Schools 2015-16;
- B. Schools Financial Regulations 2015-16;

## **6.0 BACKGROUND PAPERS**

- 1. Schemes for Financing Schools – Statutory Guidance for Local Authorities

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# **SCHEME FOR FINANCING SCHOOLS**

**2015-16**

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## **SECTION 1: INTRODUCTION**

### **1.1. The Funding Framework**

The funding framework is set out in the legislative provisions in s.45 – s.53 of the School Standards and Framework Act 1998 (the Act).

Under this legislation, the local authority (LA) will determine for itself on an annual basis, the size of the schools budget and their non-schools education budget – although at a minimum an LA must appropriate its entire Dedicated Schools Grant (DSG) to the schools budget.

The categories of expenditure which fall within the two budgets are prescribed under regulations made by the Secretary of State, but included within the two, taken together, is all expenditure, direct and indirect, on the LA's maintained schools except for capital and certain miscellaneous items.

LAs may deduct funds from their schools budget for purposes specified in regulations made by the Secretary of State under s.45A of the Act (the centrally retained expenditure). The amounts to be deducted for these purposes are decided by the LA annually, subject to any limits or conditions (including gaining the approval of their Schools Forum or the Secretary of State in certain instances) as prescribed by the Secretary of State. The balance of the schools budget remaining after deduction of the centrally retained expenditure is termed the Individual Schools Budget (ISB).

Expenditure items in the non-schools education budget must be retained centrally (although earmarked allocations may be made to schools).

LAs must distribute the ISB amongst their maintained schools using a formula which accords with regulations made by the Secretary of State, and enables the calculation of a budget share for each maintained school. This budget share is then delegated to the Governing Body of the school concerned, unless the school is a new school which has not yet received a delegated budget, or the right to a delegated budget has been suspended in accordance with s.51 of the Act.

The financial controls within which delegation works are set out in the London Borough of Brent's Scheme for Financing Schools (this document), and also in the London Borough of Brent's Schools Financial Regulations in accordance with s.48 of the Act and regulations made under that section.

All proposals to revise the scheme must be approved by the Schools Forum, though the LA may apply to the Secretary of State for approval in the event of the forum rejecting a proposal or approving it subject to modifications that are not acceptable to the LA.

Subject to the provisions made by or under the scheme, Governing Bodies of schools may spend such amounts of their budget shares as they think fit for any purposes of their school\* and for any additional purposes prescribed by the Secretary of State in regulations made under s.50 of the Act. (\*s.50 has been amended to provide that amounts spent by a Governing Body on providing community facilities or services under s.27 of the Education Act 2002 are treated as if they were amounts spent for the purposes of the school (s.50(3A) of the Act.)

An LA may suspend a school's right to a delegated budget if the provisions of this scheme (or rules applied by the scheme) have been substantially or persistently breached, or if the budget share has not been managed satisfactorily. A school's right to a delegated budget share may also be suspended for other reasons (s.17 to the Act) but in that case there is no right to appeal.

The LA is obliged to publish each year a statement setting out details of its planned schools budget and other expenditure on children's services, showing the amounts to be centrally retained and funding delegated to schools. After each financial year the LA must publish a statement showing out-turn expenditure at both central level and for each school, and the balances held in respect of each school.

The detailed publication requirements for financial statements are set out in directions issued by the Secretary of State, but each school must receive a copy of each year's budget and outturn statements so far as they relate to that school or central expenditure. Brent's section 251 budget and outturn statements detailing this information can be found on the LA's website at <http://www.brent.gov.uk/your-council/transparency-in-brent/performance-and-spending/budgets-and-finance/section-251-statements/>.

Regulations also require an LA to publish their scheme and any revisions to it on a website accessible to the general public, by the date that any revisions come into force, together with a statement that the revised scheme comes into force on that date.

## **1.2. The Role of the Scheme**

This scheme sets out the financial relationship between the LA and the maintained schools which it funds. The schools maintained by Brent as at September 2015, and therefore covered by this scheme, are listed in Annex A.

This scheme contains requirements relating to financial management and related issues and is binding on both the LA and on schools.

### **1.2.1. Application of the Scheme to the LA and maintained schools**

This scheme applies in respect of all community, nursery, voluntary, foundation (including trust), community special or foundation special schools and pupil referral units (PRUs) maintained by the LA, as listed for information in Annex A. It does not apply to schools situated in Brent which are maintained by another LA, nor does it apply to academies.

## **1.3. Publication of the Scheme**

Schools will be notified of any changes to this scheme, via the Schools Extranet, and a full copy will be placed on the Schools Extranet.

In addition, this scheme will be published on the LA's website which is accessible to the general public together with a statement stating the date the revised scheme comes into force.

## **1.4. Revision of the Scheme**

Any proposed revisions to the scheme will be the subject of consultation with the Governing Body and Head Teacher at every Brent maintained school prior to seeking approval from the Schools Forum.

All proposed revisions will be submitted to the schools forum for approval by the members of the Schools Forum representing maintained schools. If the Schools Forum does not approve the changes or approves the changes subject to modifications which are not acceptable to the LA, the LA may apply to the Secretary of State for approval.

### **1.5. Delegation of Financial Powers to the Head Teacher**

Governing Bodies should consider the extent to which they wish to delegate their financial powers to the Head Teacher, and must record their decision (and any revisions to that decision) in the minutes of the Governing Body meeting.

The Head Teacher and Governing Body are responsible for producing an annual budget plan for each financial year which must be approved by the Governing Body or by a sub-committee of the Governing Body and submitted to the LA by the deadline set by the LA.

Whilst Brent has no desire to impose uniformity on schools, the following are suggestions on the levels of delegation that should be considered:

- To ensure the effective management of resources, Governing Bodies are advised to delegate the responsibility for day to day financial management to the Head Teacher, subject to the establishment of appropriate arrangements for the exercise of that delegated authority.
- The Head Teacher should present the first formal budget plan for each financial year to the Finance Committee and subsequently to the full Governing Body for approval prior to submission to Brent.
- The Governing Body should ensure that the Head Teacher reports progress on a regular basis to the full Governing Body or a finance committee of the Governing Body.
- Financial limits should be defined for the authorisation of orders, invoices and virements between budget heads by the Head Teacher. The level of these limits will depend to a large extent on the size of the school budget and the pattern of expenditure. The limits should not inhibit day to day financial management, but should not place undue responsibility on the Head Teacher.
- The Head Teacher is responsible to the Governing Body for the maintenance of financial controls within the school. The Head Teacher should ensure that the financial controls are maintained in the absence of key staff and should ensure that all staff are adequately trained. The Head Teacher should be responsible for amending and updating financial procedures in line with Audit, Brent or government recommendations. Such changes should be reported back to the Governing Body.
- The Head Teacher should ensure that recommendations arising from Internal Audit reports are addressed in accordance with the agreed action plan and that all reports are reviewed by the Governing Body or relevant sub-committee.
- The Head Teacher should oversee the administration of the personnel function within the school and ensure that an adequate division of duties exists.
- The Head Teacher should ensure that effective procedures exist for the backing up of computer-based systems and that they are followed. The Head Teacher should also ensure that adequate security measures are in place to protect financial data.
- The Head Teacher should liaise with the LA, its agents or insurers over matters relating to insurance, and report back to the Governing Body on important issues.

- The Head Teacher should ensure that stocks are secure, maintained at a reasonable level or independently stock-checked on a periodic basis. Valuable items should also be secured and checked regularly.
- The Governing Body should establish a charging policy for the provision of goods and services. The Head Teacher is responsible to the Governing Body for carrying out this policy and accounting for the income generated. Discretion over the provision of goods and services should lie with the Head Teacher in consultation with the Governing Body.
- The Head Teacher should ensure the security of money held on the premises and ensure that such money is banked on a weekly basis. If money is not banked daily, then money should be held securely and should not exceed insurance limits e.g. in a safe or a locked drawer.
- The Governing Body should agree an appropriate level of petty cash and the Head Teacher is responsible to the Governing Body for the proper management of the petty cash.

### **1.6. Maintenance of Schools**

The LA is responsible for maintaining the schools covered by the scheme, and this includes the duty of defraying all the expenses of maintaining them (except in the case of a voluntary aided school where some of the expenses are, by statute, payable by the Governing Body). Part of the way a LA maintains its schools are through the funding system put in place under s.45 – s.53 of the Act.



## **SECTION 2: FINANCIAL CONTROLS**

### **2.1. General Procedures**

#### **2.1.1. Application of Financial Controls to Schools**

In managing their delegated budgets schools must abide by the LA's requirements on financial controls and monitoring as contained in this scheme and the Schools Financial Regulations.

#### **2.1.2. Provision of Financial Information and Reports**

Schools are required to provide the LA with details of anticipated and actual expenditure and income, in a form determined by the LA and by the deadlines set by the LA which will be issued annually in the year end closing of accounts guidance. The format provided by the LA will take account of Consistent Financial Reporting (CFR) framework.

In addition, schools are required to submit a monthly FIN1 return (bank reconciliation), a termly budget monitoring report showing clearly the forecasted year end position and quarterly VAT returns in the format prescribed by the LA. Where schools are experiencing cashflow difficulties, they may submit monthly VAT returns to help with management of their cashflow. For schools in deficit, budget monitoring reports are required each month. These must all be reviewed and signed by the Head Teacher in a timely manner and all supporting/backing documents should be submitted at the same time as the return.

The timetable for the submission of all financial returns will be notified to schools via the Schools Extranet.

The LA will discharge its monitoring role and ensure that schools are effectively managing the resources delegated to them by the monitoring of these returns and by the review of internal audit reports.

In the event that any of the required returns are not being received by the LA in a timely manner, the LA reserves the right to send in their officers to provide the required information, which may also result in a *Note of Concern* issued as set out in section 2.15 below.

#### **2.1.3. Payment of Salaries; Payment of Bills**

Schools are responsible for the correct payment of all salaries, bills and relevant taxes relating to its budget share unless the LA has agreed to perform this on behalf of the school through a separate service level agreement.

Schools should ensure that payments for invoices are made within 30 days of the invoice date. This is both a central government and an LA policy. Where an invoice is disputed, the query should be raised with the supplier as soon as known. The invoice should subsequently be cleared promptly for payment once the query has been resolved or a credit note has been received. All invoices should be cleared, or queries raised, prior to long holiday periods.

Any costs including penalties, legal or administrative costs incurred as a result of a school's non or late payment of bills or salaries are chargeable to the school's budget share.

#### **2.1.4. Control of Assets**

Inventories must be maintained by all schools. The inventories must contain an adequate description of furniture, fittings, equipment, plant and machinery and other moveable non capital assets held for the purposes of the school, including items purchased, donated, leased or on loan/hired from other schools or other sources.

Asset registers are useful both as a deterrent to theft (through the annual checks) but also as a prime document in the event of an insurance claim. The importance of keeping records and ensuring their accuracy should therefore be acknowledged by schools.

DfE guidance suggests that all items which have a purchase price above £1,000 (ex VAT) should be included in the inventory. However, Brent strongly suggests that schools record all items above £100. This guidance is notwithstanding any specific requirements relating to the retention of records for areas such as grant conditions, insurance or leases. Head Teachers should use their discretion in deciding whether to include items of a lesser value, although a register must be kept in some form for such items. Schools should give particular consideration to recording 'portable and desirable' items (e.g. digital cameras) that may fall below the recommended levels referred to above.

Head Teachers should keep a separate record of inventory items taken off the school premises. Head Teachers are responsible for the control and proper use of all items on the inventory and for arranging that a check is carried out at not greater than annual intervals to ensure that all items are accounted for. Head Teachers should ensure that the inventory is certified by the individual responsible for performing the check.

Head Teachers are responsible for ensuring that proper records are kept in relation to the accounts and custody of any stocks and stores in the school for which the Chief Finance Officer requires such controls to be established.

Head Teachers are responsible for maintaining proper security for all buildings, stocks, stores, furniture, vehicles, equipment, plant, money, sensitive data etc. under their control. Keys to safes and similar receptacles shall be carried on the person of those responsible at all times; the loss of any such keys must be reported to the Strategic Director of Children & Young People without delay.

#### **2.1.5. Accounting Policies (including Year End Procedures)**

The Chief Finance Officer is responsible for determining the LA's accounting policies. Each Head Teacher is responsible for ensuring that these policies are adhered to and applied consistently in units' accounts. The underlying principles include:

- The accounts should be a fair presentation of the school's financial position and transactions in respect of that financial year.
- Income and expenditure should relate to the services provided in the same accounting period (the financial year). In revenue accounts, provision must be made for income and expenditure earned/used irrespective of when the amounts are actually paid or received.
- The accounts should be prepared on a prudent basis with income only being included to the extent that it is likely to be received; proper allowance should be made for all known liabilities and losses.

Schools must abide by the procedures issued annually by the LA for the year end closing of accounts procedures and other accounting policies.

- The year end procedures are set out in the Schools Closing Guidance issued every year in January which includes a closedown timetable which must be adhered to.
- The financial information system of the LA will be the statutory accounts for each school and will be used to assess financial performance.
- Head Teachers must ensure that accounting procedures and financial records are maintained accurately and kept up to date.

#### **2.1.6. Writing off of Debts**

Debts in respect of income due to the schools delegated budget and collected by them which are found to be irrecoverable, may be written off only by resolution of the Governing Body in accordance with the Schools Financial Regulations. The write-off of property, i.e. stocks and surplus assets, should be treated in the same way. All write-offs should be initiated by a written report from the Head Teacher, and should be formally considered and approved by the full Governing Body and recorded in the minutes of the meeting. This cannot be delegated to a committee of the Governing Body.

The amount of any debt written-off will be borne by the delegated budget of the school to which the income would have been due. All appropriate budgets/forecasts should be amended to reflect this.

Where the invoice exceeds £1k the Governing Body must notify and obtain approval from Chief Finance Officer before writing off the debt. Any proposed write-off that exceeds £3k will also be reported to the LA's Cabinet. All requests for approval must be submitted to the Schools' Finance Team.

All write-offs must be correctly recorded in the accounts, by reversal of the original income transaction. All documentation relating to the write-off and approval of this should be retained by the school. No property that has been written-off can be sold or otherwise disposed of.

### **2.2. Basis of Accounting**

Schools are free to use any accounting software they choose, providing any reports are submitted to the LA in the required format, and provided that they meet the costs of modification to provide output required by the LA. Schools may therefore account for expenditure and income during the financial year on their internal systems using either a cash or accruals basis. Reports submitted to the authority in accordance with this scheme must however be amended, where necessary, at the year end to an accruals basis in order to comply with the LA's requirements.

### **2.3. Submission of Budget Plans**

Each school is required to submit a formal budget plan approved by the Governing Body, no later than 1<sup>st</sup> June each year. The LA would however consider it good practice for Governing Bodies to agree their budget plan prior to the start of the new financial year.

The budget plan must show the school's intentions for expenditure in the current and the following two financial years, and details of any assumptions made underpinning the budget plan. In determining the budget plan, schools are required to take into account any estimated

surplus or deficit at the previous financial year end to 31<sup>st</sup> March. The budget plan should be a numerical reflection of the school's development plan (SDP) and should be prepared to reflect the full year effect of decisions made in the current year, the estimated effect of pupil number increases and decreases and any other development issues.

The Governing Body is not permitted to set a budget which plans for a cumulative deficit at the end of any of the financial years, except where the LA has authorised such a budget.

The format of the budget plan and any supporting documents shall comply with the budget template provided and the *Budget Preparation Guidelines* issued by the LA each year, which takes into account the Consistent Financial Reporting (CFR) framework and the desirability of compatibility with that.

Evidence of approval must be submitted at the same time as the budget plan. A Budget Approval form is issued by the LA each year which needs to be signed by the Head Teacher and the Chair of Governors. An extract of the minutes of the Governing Body meeting can also be submitted for further evidence.

The LA will supply schools with all income and expenditure data which it holds which is necessary to efficient planning by schools and an annual plan showing when this information will be available.

### **2.3.1.Submission of Financial Forecast**

As part of budget management, schools are required to undertake regular forecasts of outturn against budget. Schools are required to provide a full year forecast as at the end of September and December as part of the budget monitoring submissions to the Schools Finance Team.

These forecasts will be used to confirm if schools are undertaking effective financial planning and to identify any potential budgetary problems in future years. In addition, these will be used as evidence to support the LA's assessment of the Schools Financial Value Standards (SFVS).

### **2.4. Efficiency and Value for Money**

Schools must seek to achieve efficiencies and value for money, to optimise the use of their resources and to invest in teaching and learning. Schools must do so whilst taking into account the LA's purchasing, tendering and contracting requirements outlined in section 2.10.

Head Teachers and governors are required to determine how to secure better value for money for their school. There are significant variations between similar schools, and so it is important for schools to review their current expenditure, compare it to other schools and think about how to make improvements.

Given that school's delegated budgets account for a very high proportion of LA spending, it is important that schools are able to demonstrate that they are following best value principles in their expenditure.

## **2.5. Virement**

A virement is the transfer of funds from one budget line to another. It is an administrative exercise that provides a degree of flexibility in spending a budget to deal with changing circumstances and/or unexpected developments.

Provided overall spending is contained within the total delegated budgets, schools may vire freely between budget heads in the expenditure of their budget share. However there needs to be appropriate control arrangements established, and Governing Bodies are advised to establish criteria for virements and financial limits above which the approval of the governors is required, in their Schemes of Delegation. Decisions should be recorded in Governing Body minutes.

## **2.6. Audit: General**

All maintained schools fall within both the internal and external audit regime determined by the LA, and schools are required to co-operate with both of these.

The LA's maintained schools will be the subject of regular internal audit to review the management of the school's finances and its stewardship of public money on behalf of the LA. Internal audit of schools will be based on a rolling programme, it is expected that each school will be subject to an internal audit review approximately once every 2-3 years.

Schools must allow internal and external auditors access, for the purpose of programmed internal audit or adhoc investigations, to such premises, documents and assets, as the auditors consider necessary. The school staff must provide auditors with any explanations they consider necessary.

The Head Teacher should consider and respond promptly to recommendations in audit reports and report to the Governing Body on the results of audits and any actions required by the school.

The Head Teacher should immediately notify the internal auditors and the Schools Finance team of any suspected irregularities involving fraud, bribery, theft or corruption of cash, stores, stocks or any other property held for the purposes of the school or in any other way affecting school finances or any breach of financial regulations.

## **2.7. Separate External Audits**

In instances where a school wishes to seek an additional source of assurance at its own expense, a Governing Body is permitted to spend funds from its budget share to obtain external audit certification of its accounts, separate from any LA internal or external audit process. Where a school chooses to seek such an additional audit it does not remove the requirement that the school must also be subject to and co-operate with the LA's internal and external auditors. In the event of a difference of opinion between the LA's external auditors and a Governing Body appointed auditor, the views of the LA's external auditor will prevail.

## **2.8. Audit of Voluntary and Private Funds**

Schools are also required to provide annual audit certificates to the LA's internal auditors in respect of voluntary and private funds held by them together with the accounts of any trading

organisations which they control. A school refusing to provide audit certificates to the LA as required by this scheme is in breach and the LA may choose to take action on that basis.

Both voluntary and private funds come under the definition of *non-official funds* or *school funds*. Such funds are those funds which do not contain official monies/ delegated funding from the LA and is controlled wholly or in part by the Head Teacher by reason of his/her employment by the school. Although such funds are not public money, parents and other benefactors are entitled to the same standards of stewardship in regard to them.

An audit of these funds should be carried out annually by an auditor appointed by the Governing Body, as minuted in Governing Body minutes. In the interests of accountability, the auditor should not be an employee and should be independent of the school. A report of the audit must be submitted to the Governing Body.

Governors have responsibility for the oversight of the management of these funds. The Head Teacher should be held accountable for the good management of these funds. It is therefore recommended that governors should be kept informed about these funds, and therefore in addition to the annual report received, governors should also receive interim reports. These reports should include details of income received, major items of expenditure and the balance of the funds, supported by certified reconciliations.

Official (delegated funding) and non-official (voluntary and private funds) should never be mixed. Any income which properly relates to the school's delegated budget should not be credited to a non-official fund.

Voluntary and private funds are not eligible to reclaim VAT on expenditure, unless separately registered for VAT.

## **2.9. Register of Business Interests**

The Governing Body of each school must have in place a register that lists for each member of the Governing Body, the Head Teacher and staff:

- any business interests they or any member of their immediate family have;
- details of any other educational establishments that they govern;
- any relationships between school staff and members of the governing body.

The register must be kept up to date with notification of changes and through annual review of entries, or when a new governor is appointed or elected. This also needs to be done when the term of office of an existing governor expires and he/she is re-appointed/re-elected, and should be made available for inspection by governors, staff, parents and the LA. This register must be published on a publicly accessible website.

Declaration of any interests, including pecuniary, should be raised as a standing agenda item at every full Governing Body and finance committee meeting and such declarations should be minuted.

Governors, the Head Teacher and any member of staff must refrain from the decision making process or taking any action where they or any member of their immediate family has a business or pecuniary interest.

Further guidance can be found with the Register of Business & Personal Interest form.



## **2.10. Purchasing, Tendering and Contracting Requirements**

Schools are required to abide by the LA's financial regulations and standing orders in purchasing, tendering and contracting matters, including leasing. This includes a requirement to assess in advance, where relevant, the health and safety competence of contractors, taking account of the LA's policies and procedures. Nothing within these requirements shall be construed as requiring schools to:

- a) do anything incompatible with any of the provisions of this Scheme for Financing Schools, or any statutory provision, or any EU Procurement Directive;
- b) seek LA officer countersignature for any contract for goods or services;
- c) select suppliers only from an approved list;
- d) seek fewer than three tenders or quotations in respect of any contract with a value exceeding £25,000, subject to specific listed exceptions.

The Governing Body/ Head Teacher must ensure that they consider quality, economy and efficiency when purchasing supplies, goods, equipment, services and works.

Although Governing Bodies are empowered to enter into contracts in their own right (Education Act 2002, Paragraph 3 of Schedule 1), and also may do so where they have a clear statutory obligation (e.g. contracts made by Aided or Foundation Schools for the employment of staff), in most cases they do so on behalf of the LA as maintainer of the School and the owner of the funds in the budget share. It is a particular government requirement that all Schools shall approve and abide by both Financial Regulations and Contract Procedure Rules. In Brent, the Scheme for Financing Schools requires all Schools to adopt the corporate models of these governance documents, which have been formulated to account for the particular financial and operational arrangements that exist within Schools.

All procurement by schools maintained by the LA must therefore comply with EU Public Procurement Legislation (the Public Contracts Regulations 2015), the LA's Financial Regulations and Contract Standing Orders. Each Head Teacher shall maintain and supply the Chief Finance Officer with such information as is required for corporate compliance with these rules.

An electronic version of the LA's Constitution encompassing the Financial Regulations and Contract Standing Orders can be obtained here: <http://www.brent.gov.uk/your-council/about-brent-council/council-structure-and-how-we-work/our-constitution/>

The table below sets out different categories of contract, depending on the value of the contract (over the life of the contract, including any possible extension) for Supplies, Services and Works.

### **Contract Value**

It is a mandatory requirement to estimate a contract value at the start of a procurement. The value of the contract must be calculated over the entire length of the contract, including any period of extension(s) anticipated.

Supplies & Services		Works	
Very Low Value Contract	→ £0 < £24,999	Very Low Value Contract	→ £0 < £24,999
Low Value Contract	→ £25,000 < £172,513	Low Value Contract	→ £25,000 < £249,999
Medium Value Contract	→ £172,514 < £249,999	Medium Value Contract	→ £250,000 < £499,999
High Value Contract	→ > £250,000	High Value Contract	→ > £500,000
<b>EU Threshold Values:</b> <u>Supplies &amp; Services (excluding Schedule 3 Services)</u> from 1 <sup>st</sup> January 2014 > £172,514 <u>Schedule 3 Services</u> from 1 <sup>st</sup> April 2015 > £650,000		<b>EU Threshold Values:</b> <u>Works</u> from 1 <sup>st</sup> January 2014 > ££4,322,012	

*A Schedule 3 Service is defined as those social, educational and other specific services listed in Schedule 3 of the Public Contracts Regulations 2015.*

- **Very Low Value Contract** – No formal procurement procedures apply to Very Low Value Contracts, except the requirement to secure best value. The best way for schools to demonstrate value for money is either by seeking three competitive written quotes, using an Approved List (where one exists), or using the Online Market Place. Whilst the use of these procedures is not mandatory, it is however a mandatory requirement to keep an auditable record to demonstrate how value for money has been achieved.
- **Low Value Contract** – Schools are required to seek at least three written quotations from potential providers and record the quotes sought and/or obtained for audit and probity purposes. Alternatively the contract may be procured through the Online Market Place. Alternatively the contract may be procured through the Online Market Place.
- **Medium Value Contract** – Schools are required to undertake a competitive tendering exercise. This tendering exercise must be commenced by placing a contract notice (advert) in OJEU (Official Journal of the EU) if the Public Contract Regulations 2015 apply in full to the procurement. For all tender exercises, it is necessary to advertise on Contracts Finder (a web-based facility operated by or on behalf of the Cabinet Office) and publish a public notice on the London Tenders Portal. Please refer to the Schools Financial Regulations for further detail.
- **High Value Contract** – Schools must seek and obtain Cabinet approval before the procurement process is started. In seeking Cabinet approval to tender, the Governing Body shall address the pre-tender considerations set out in the LA's Contract Standing Order 89, to include details of the criteria for evaluation and award. The tender exercise will be as for Medium Value Contracts. Following receipt and evaluation of bids, further



Cabinet authority should be sought to award the contract. .

When valuing a rolling contract with no defined termination date, the contract should be valued over a period of 48 months.

The fact that the LA has let a contract in accordance with the Public Contract Regulations 2015 does not automatically mean that the school is a party to the contract or able to access the contract's supplies, services or works. For the purposes of EU Public Procurement Directives schools are viewed as discrete units and therefore have to be specifically named (individually or as a class) to benefit from a LA let contract. As discrete units, schools can consider collaboration arrangements not only with the LA, but also with other schools in the area, e.g. via the use of framework agreements, joint procurements, etc. to realise economies of scale.

For further details please refer to Brent's Schools Finance Regulations 2015-16.

### **2.11. Application of Contracts to Schools**

Although Governing Bodies are empowered under paragraph 3 of Schedule 1 to the Education Act 2002 to enter into contracts, in most cases they do so on behalf of the LA as maintainer of the school and the owner of the funds in the budget share.

Other contracts may be made solely on behalf of the Governing Body when the Governing Body has clear statutory obligations – for example, contracts made by aided or foundation schools for the employment of staff.

Schools have the right to opt out of LA arranged contracts. Schools are only bound into LA arranged contracts through scheme provisions. Without such cover they are free to leave a LA arranged contract at any time. Schools will be bound by any internal contract they have freely entered into with the LA.

### **2.12. Central Funds and Earmarking**

The LA can make sums available to schools from central funds, in the form of allocations which are additional to and separate from the schools' budget shares. Such allocations will be subject to conditions setting out the purpose or purposes for which the funds may be used: and while these conditions need not preclude virement (except, of course, where the funding is supported by a specific grant which the LA itself is not permitted to vire), this should not be carried to the point of assimilating the allocations into the school's budget share. This will also include allocations for pupils with statements of Special Educational Need.

Such earmarked funding from centrally retained funds can only be spent on the purposes for which it is given, or on other budget heads for which earmarked funding is given, and is not vired into the budget share. Schools must be able to demonstrate that this requirement has been complied with in their accounts.

Any earmarked funds must be returned to the LA if not spent within any period stipulated by the LA over which schools are allowed to use the funding.

Under no circumstances will the LA deduct interest from schools in relation to payments of devolved specific grants.

### **2.13. Spending for the purposes of the school**

Governing Bodies are free (in accordance with s.50(3) of the Act) to spend budget shares *for the purposes of the school* to include pupils at other maintained schools, academies and community facilities, subject to regulations made by the Secretary of State and any provisions of the scheme.

By virtue of s.50(3A) (which came into force on 1<sup>st</sup> April 2011), amounts spent by Governing Bodies on community facilities or services under s.27 of the Education Act 2002 will be treated as if spent for any purposes of the school to include pupils on roll at other maintained schools, academies and community facilities.

Governing Bodies may not incur expenditure from the school budget for purposes which are properly the responsibility of other agencies.

### **2.14. Capital Spending from Budget Shares**

Governing Bodies can use their budget shares to meet the cost of capital expenditure on the school premises. This includes expenditure by the Governing Body of a voluntary aided school on work which is their responsibility under paragraph 3 of Schedule 3 of the Act.

Capital expenditure is money spent to acquire, improve or upgrade physical assets such as buildings and machinery which provides benefits for a period exceeding one year. This may include work on the school site, playing fields, buildings, vehicles or other equipment.

The LA applies a de-minimis limit of £5,000, below which items of expenditure are not capitalised. If the expected capital expenditure from the budget share in any one year is expected to exceed £25,000 in Primary and Special Schools or £50,000 in Secondary Schools, the Governing Body must notify the LA prior to committing funds and take into account any advice from the Strategic Director of Children & Young People as to the merits of the proposed expenditure.

Where the premises are owned by the LA or have voluntary controlled status, then the Governing Body should seek the consent of the LA to the proposed works, but such consent by the LA can only be withheld on health and safety grounds. This includes the extension of buildings, any internal or external alterations to existing buildings, the construction of new buildings and any external works impacting on play areas or playing fields.

These provisions ensure compliance with the current School Premises Regulations and the DfE Construction Standards, and health and safety regulations. In addition, these provisions will not affect expenditure from any capital allocation made available by the LA outside the delegated budget share.

### **2.15. Notice of Concern**

The LA may issue a *Notice of Concern* to the Governing Body of any school it maintains where, in the opinion of the Chief Finance Officer and the Strategic Director of Children & Young People, the school has failed to comply with any provisions of the scheme, or where actions need to be taken to safeguard the financial position of the LA or the school.

Such a notice will set out the reasons and evidence for it being made and may place on the Governing Body restrictions, limitations or prohibitions in relation to the management of funds delegated to it. These may include:

- Insisting that relevant staff undertake appropriate training to address any identified weaknesses in the financial management of the school;
- Insisting that an appropriately trained/qualified person chairs the finance committee of the Governing Body;
- Placing more stringent restrictions or conditions on the day to day financial management of a school than the scheme requires for all schools – such as the provision of monthly budget monitoring reports to the LA which clearly shows current income and expenditure and a projected full year forecast;
- Insisting on monthly financial monitoring meetings at the school attended by LA officers;
- Requiring a Governing Body to buy into the LA's Schools Finance packages and services;
- Imposing restrictions or limitations on the manner in which a school manages extended school activity funded from within its delegated budget share – for example by requiring a school to submit income projections and/or financial monitoring reports on such activities.

The notice will clearly state what these requirements are and the way in which and the time by which such requirements must be complied with in order for the notice to be withdrawn. It will also state the actions that the LA may take where the Governing Body does not comply with the notice.

The rationale for issuing a notice and determining the requirements included within it, are to safeguard the financial position of the LA or the school. Where the LA issues a *Notice of Concern*, the notice will be withdrawn once the Governing Body has complied with the requirements it imposes. The circumstances in which a notice may be issued would include:

- Schools in deficit, where the school has failed to take appropriate and timely action to address the deficit and to follow the requirements of a licenced deficit, and to keep the LA informed on the progress in achieving the deficit recovery plan submitted;
- Schools having consistently high carry forward balances, with no relevant plans for using these;
- Schools failing to complete the SFVS as required;
- Schools with limited or nil assurance audit opinions who have failed to take appropriate and timely action regarding the issues identified in relation to financial management within the audit report issued.

Any dispute between the LA and the school issued with a *Notice of Concern*, regarding any aspect of the notice, will be referred to the LA's Chief Finance Officer for resolution.

## **2.16. Schools Financial Value Standard (SFVS)**

All LA maintained schools (including nursery schools and PRUs that have a delegated budget) must demonstrate compliance with the SFVS and complete the assessment form on an annual basis. It is for the school to determine at what time in the year they wish to complete the form.

Governors must demonstrate compliance through the submission of the SFVS assessment form signed by the Chair of Governors. The form must include a summary of remedial actions with a clear timetable, ensuring that each action has a specified deadline and an

agreed owner. *Governors must monitor the progress of these actions to ensure that all actions are cleared within specified deadlines.*

All maintained schools with a delegated budget must submit the form to the LA before 31<sup>st</sup> March each year.

## **2.17. Fraud**

All schools must have a robust system of controls to safeguard themselves against fraudulent or improper use of public money and assets.

The Governing Body and Head Teacher must inform all staff of school policies and procedures related to fraud and theft, the controls in place to prevent them; and the consequences of breaching these controls. This information must also be included in induction for new school staff and governors.

Where a Head Teacher or Governing Body becomes aware of any type of fraud, suspected fraud or attempted fraud, this must be reported to the LA's Chief Finance Officer via the Audit & Investigations Service.

## **SECTION 3: INSTALMENTS OF THE BUDGET SHARE; BANKING ARRANGEMENTS**

The LA has adopted the CIPFA Code of Practice for Treasury Management.

For the purposes of this section, the budget share includes any place-led funding for special schools and PRUs.

### **3.1. Frequency of Instalments**

The centrally funded PRUs, as non-bank account schools, may draw on their entire budget shares from the start of the financial year, and will not be subject to the instalment arrangements.

For all other schools, the annual sum allocated to each school's bank account will be the total of its individual school's budget. From April 2013 all schools are required to administer their own payroll – schools administering their own payroll shall be advanced their delegated budget on a monthly basis.

### **3.2. Proportion of Budget Share payable at each Instalment**

Schools will receive their monthly payments as follows:

- By 1<sup>st</sup> April – 1/36<sup>th</sup>;
- By 15<sup>th</sup> of each month (April to February) – 1/12<sup>th</sup>;
- By 15<sup>th</sup> March – 1/12<sup>th</sup> minus 1/36<sup>th</sup>.

Where schools are experiencing cashflow difficulties and require a different monthly profile, this shall be requested on the Cash Advance Request form to the Schools Finance Team. If such a change results in Brent incurring a loss of interest, then an interest charge will apply as described in 3.3.

Top up payments for pupils with high needs will be made with budget share for pupils on roll as at the end of December and termly in arrears for in year changes that occur from 1<sup>st</sup> January unless alternative arrangements have been agreed with the provider.

### **3.3. Interest Clawback**

Where the LA's normal proportion of budget share instalments are being used, there will be no deduction made from the school budget share instalments for the estimated loss of interest. However, where a school has requested a variation to the standard monthly payment profile, the LA reserves the right to apply an interest charge to the last payment in March, in relation to the loss of interest incurred by the LA in making funds available in advance.

The interest clawback will be calculated using the Bank of England base rate for each day during the relevant time period. School will be notified in advance of the amount of any clawback, with full supporting calculations as confirmation.

#### **3.3.1. Interest on Late Budget Share Payments**

The LA will add interest to late payments of budget share instalments, where such late payment is the result of an LA error. The interest calculation will be the same as the Interest Clawback calculations, i.e. the Bank of England base rate at the relevant period, calculated on the number of days for which the instalment was delayed.

### **3.4. Budget Shares for Closing Schools**

The budget shares of schools for which approval for discontinuation has been secured, will be made available until closure on a monthly basis net of estimated pay costs, if the LA deems this to be appropriate.

### **3.5. Bank and Building Society Accounts**

All maintained schools have external bank accounts into which their budget share instalments (as determined by other provisions) are paid. Schools are allowed to retain all interest payable on their bank accounts and shall be subject to any bank charges arising.

If a school did not previously have an external bank account and then opens one, the LA will, if the school desires, transfer immediately to the account an amount agreed by both the school and the LA as the estimated surplus balance held by the LA in respect of the school's budget share, on the basis that there will then be a subsequent correction when accounts for the relevant year are closed.

#### **3.5.1. Restrictions on Accounts**

Where a school wishes to change its banking arrangements, it must notify the Strategic Director of Children & Young People of the new arrangements before they come into effect. The LA must approve all new banking arrangements, but no reasonable proposals will be refused. In particular, if a school wishes to change to another bank, the approval of the LA must be sought. This is to protect the school's resources from investment in an inappropriate institution and again refusal will only occur in exceptional circumstances. Any reasonable banking arrangements will be approved automatically. The LA's Treasury Management policy requires that only the following banks and their group members can be used for schools banking arrangements: HSBC, Barclays, Lloyds, RBS and Nationwide Building Society.

Schools may have accounts for budget share purposes which are in the name of the school rather than the LA. However, if a school has such an account, it is required that the account mandate shows that the LA is the owner of the funds in the account and is entitled to receive statements. The LA should also be able to take control of the account if the school's right to a delegated budget is suspended by the LA. Budget share funds paid by the authority and held in school accounts remain LA property until spent (s.49(5) of the Act).

School governors who are not members of staff must not be signatories to any school bank account containing LA provided funds but LA employees and school employees (including employee governors) can be signatories, subject to the principle of division of duties being met.

### **3.6. Borrowing by Schools**

Governing Bodies may borrow money *only with the written permission of the Secretary of State*, and the LA must be notified in advance by any school of its intention to make such application since the LA's own credit requirement would be likely to be reduced to compensate. Governing Bodies may however choose to use any scheme that has been approved by the Secretary of State for use by schools, without prior approval by the LA.

Currently the only scheme with such approval is the Salix loan scheme which is designed to support energy saving.

The restrictions on borrowing include overdraft facilities, credit cards and finance leases. The use of procurement cards is encouraged, as they can be a useful means of facilitating electronic purchasing and will enable schools to benefit from significant discounts.

Operating Leases are permitted with the prior approval of the LA Chief Finance Officer. Any such requests should be made in the first instance to the Schools Finance Team who will request approval from the relevant delegated officer.

The above does not, however, apply to Trustees and Foundations, whose borrowing, as private bodies, makes no impact on Government accounts. These debts may not be serviced directly from the delegated budgets, but schools are free to agree a charge for a service which the Trustees or Foundation are able to provide as a consequence of their own borrowing. Governing Bodies do not act as agents of the LA when repaying loans.

This provision does not apply to loan schemes run by the LA, which includes licensed deficits and capital loans.

### **3.7. Other Provisions**

#### **Keeping Balances**

Schools will be allowed to retain delegated budget income and pay directly into their respective bank accounts.

#### **Accounting for Non-Official funds**

Where a Head Teacher or a member of staff, by virtue of his/her official position, is responsible for money or goods which are the property of a school's non-official fund:

- Monies and goods belonging to the non-official funds must be separate from other monies or goods;
- Monies and goods are properly recorded separately as belonging to the non-official fund;
- An auditor with suitable qualifications should be appointed to independently verify these funds, with audited annual accounts being submitted to governors.



## **SECTION 4: THE TREATMENT OF SURPLUS AND DEFICIT BALANCES ARISING IN RELATION TO BUDGET SHARES**

### **4.1. Right to Carry Forward Surplus Balances**

Schools will carry forward from one financial year to the next any shortfall in expenditure relative to the school's budget share for the year plus/minus any balance brought forward from the previous year. Surplus balances are however subject to restrictions shown in 4.2 below. Any deficits must be the subject of licensed deficits as explained in 4.4 below.

Where a school transfers into the London Borough of Brent from another LA, its brought forward balance on the first day of its operation under its new LA shall be equal to its carry forward balance on the last day of its operation under its previous LA.

### **4.2. Controls on Surplus Balances**

Surplus balances held by schools as permitted under this scheme are subject to the following restrictions:

- a) The LA shall calculate by 31<sup>st</sup> May each year the surplus balance, if any, held by each school as at the preceding 31<sup>st</sup> March. For this purpose the balance will be the recurrent balance as defined in the Consistent Financial Reporting Framework (CFR);
- b) The LA shall deduct from the calculated balance any amounts for which the school has a prior year commitment to pay from the surplus balance, and any unspent grants for the previous financial year where the grant conditions allow carry forward to a future financial year;
- c) The LA shall then deduct from the resulting sum any amounts which the Governing Body of the school has declared to be assigned for specific purposes permitted by the LA, and which the LA is satisfied are properly assigned. To count as properly assigned, amounts must not be retained beyond the period stipulated for the purpose in question, without the consent of the LA. In considering whether any sums are properly assigned the LA may also take into account any previously declared assignment of such sums but may not take any change in planned assignments to be the sole reason for considering that a sum is not properly assigned;
- d) If the result of steps a-c is a sum greater than 5% of the current year's Budget Share for secondary schools, 8% for primary and special schools, or £10,000 (where that is greater than either percentage threshold), then the LA will consider the excess balances by review and may recommend the clawback of any excessive surplus or direct the use of these funds within the school for specific purposes in future financial years.

Funds deriving from sources other than the LA will be taken into account in this calculation if paid into the budget share account of the school, whether under provisions in this scheme or otherwise. The total of any amounts deducted from schools' budget shares by the LA under this provision will be applied to the Schools Budget of the LA.

The LA has regard to the principle that schools should be moving towards greater autonomy, should not be constrained from making early efficiencies to support their medium-term budgeting in a tighter financial climate, and should not be burdened by bureaucracy. The mechanism will therefore only be focused on those schools which have built up significant excessive uncommitted balances and/or where some level of redistribution would support improved provision across a local area. Any such redeployment of funds would only be considered with the agreement and approval of the Schools Forum.



To assist the LA in carrying out its financial monitoring role, schools are asked to complete the Surplus Balances Breakdown form when requested by the LA annually, on the use the school intends to make of any surplus balances, in cases where the total balance exceeds 5% for secondary schools or 8% for primary and special schools. Relevant evidence must be submitted to support this response and may comprise of minutes to Governing Body meetings, three year school development plans (SDPs), or any other relevant information. Any surpluses should be earmarked for specific future needs to ensure that pupils benefit from a planned approach to spending that does not deprive them of required educational resources in any given year.

#### **4.3. Interest on Surplus Balances**

No interest will be paid to schools on balances held by the LA on their behalf. Interest generated by schools' own bank accounts will be retained by the school.

#### **4.4. Obligation to Carry Forward Deficit Balances**

Revenue deficit balances held by schools as permitted under this scheme, must be carried forward.

#### **4.5. Planning for Deficit Balances**

Schools that are not currently in deficit must not plan for a deficit under any circumstances. See 4.9 below.

#### **4.6. Charging of Interest on Deficit Balances**

The LA will not charge interest on deficit balances.

#### **4.7. Writing Off Deficits**

The LA cannot and will not write off the deficit balance of any school.

#### **4.8. Balances of Closing and Replacement Schools**

When a school closes any cumulative balance (whether surplus or deficit) reverts to the LA. This cannot be transferred as a balance to any other school, even where the school is a successor to the closing school, except that a surplus transfers to an academy where a school converts to academy status under s.4(1)(a) of the Academies Act 2010. However, where the closure is purely a technicality to enable the merger of an Infant and Junior school, the LA's funding formula will enable a sum equal to the combined closing balances of the Infant and Junior schools to be allocated as the opening balance of the new school.

#### **4.9. Licensed Deficits**

Schools should only apply for a Licensed Deficit in exceptional circumstances where they cannot set a balanced budget without seriously impacting on the educational provision at the school.

The purpose of the Licensed Deficit process is to enable schools to:

- Identify and acknowledge the problem;
- Agree with the LA a plan of action and to monitor progress against this plan;
- Take strategic action to improve the long term financial situation at the school;
- Balance their budget over a period of time – maximum three years.

The Licensed Deficit process is used by the LA to provide schools with an appropriate level of challenge and support to help them set a balanced budget or, if this is not achievable, to prepare a recovery plan that sets out the action the school will take to achieved a sustainable balanced financial position over an agreed period of time. The LA will not therefore unreasonably reject an application for a Licensed Deficit and will consider the following in reaching a decision:

- The nature of the circumstances which gave rise to the deficit and specifically whether they could have been foreseen;
- The school's track record in financial management;
- The robustness of the deficit recovery plan and the appropriateness of the timescales proposed;
- Any other mitigating circumstances.

To apply for a Licensed Deficit:

- A school must complete a Licensed Deficit Application & Agreement Form, which must be signed by the Head Teacher and the Chair of Governors;
- This must be accompanied by a detailed deficit recovery plan which includes staffing details.

A licensed deficit must receive approval from the Chief Finance Officer and the Strategic Director of Children & Young People, or there representatives, and therefore the following conditions must be met:

- A licensed deficit will only be agreed where circumstances affecting the school have changed in ways that could not be reasonably foreseen and the school needs a period in excess of one financial year to enact a reduction in its annual level of expenditure or an increase in its annual level of income sufficient to eliminate the deficit;
- The maximum length of time over which a school can plan to come out of deficit, will be three years;
- Progress against this plan will be reviewed each month by the Schools Finance Team through budget monitoring reports and/or monthly update meetings with the school;
- A recovery plan must be formally revisited each year with the submission of budgets – but the plans submitted must be reduced by the length of time the school has already been in deficit – e.g. the recovery plan submitted in Year 2 of a licensed deficit should be for no longer than 2 years;
- Under no circumstances will the period of recovery by extended and schools will therefore need to adjust their plans accordingly if the financial position of the school worsens during this period;
- The school will be subject to all conditions set out in the Licensed Deficit application form.

Please see refer to the *Deficit Recovery Plan – Guidance for Schools* for further information.

#### **4.10. Loan Schemes**

##### **Schools Loans Scheme – Improvement Projects**

Schools may seek approval from the LA for planned building improvement work (i.e. meeting suitability and/or sufficiency needs rather than condition) to be financed under this section of the School Loans Scheme ("Improvement Projects"). All Improvement Projects will require the approval of the Strategic Director of Children & Young People and the Chief Finance Officer. Please refer to the Annex B for further details and application forms.

### Cash Advances

Schools that apply for a cash advance due to cashflow difficulties will be offered a loan with a formal repayment plan where the repayment crosses financial years or where the amount requested exceeds £100k. Please refer to the *Cash Advance – Guidance for Schools* for further information.

#### **4.10.1. Credit Union Approach**

Schools may wish to group together to utilise externally held balances for a credit union approach to loans. Where schools choose to operate in such a way then they must provide the LA with audit certificates.

## **SECTION 5: INCOME**

Schools will normally retain any income earned by the school, except in certain specified circumstances.

### **5.1. Income from Lettings**

Schools will retain all income from the letting of the school premises, which would normally accrue to the LA unless a clause in a specific joint use or Private Finance Initiative (PFI) specifically precludes this.

Schools may cross-subsidise lettings for community and voluntary use with income from other lettings, provided the Governing Body is satisfied that this will not interfere to a significant extent with the performance of any duties imposed on them by the Education Acts, including the requirement to conduct the school with a view to promoting high standards of educational achievement and there is no net cost to the budget share. However, schools should have regard to directions issued by the LA as to the use of school premises.

Income from lettings of school premises should not be payable into non-official funds (voluntary or private funds) held by the school.

### **5.2. Income from Fees and Charges**

Schools will retain income from fees and charges except where a service is provided by the LA from centrally retained funds. However, schools should have regard to any policy statements on charging produced by the LA.

Income from boarding charges is collected on behalf of the LA and should not exceed that needed to provide board and lodging for the pupils concerned.

### **5.3. Income from Fund-Raising Activities**

Schools will retain income from fund-raising activities.

Where such activities have created a charge against the school budget, this charge must be reimbursed first, before the balance of income is credited to any non-official fund.

### **5.4. Income from the Sale of Assets**

Schools will retain the proceeds of sale of assets except in cases where the asset was purchased with non-delegated funds (in which case it will be for the LA to decide whether the school should retain the proceeds), or the asset concerned is land or buildings forming part of the school premises and is owned by the LA.

### **5.5. Administrative Procedures for the Collection of Income**

All income received by schools must be banked promptly and in its entirety.

Procedures should be approved by the Governing Body which ensure adequate monitoring and reconciliation of income due and received. Income due to the school must identify VAT, where appropriate. All VAT income received must be itemised correctly for HM Revenue and Customs purposes.

No personal cheques may be cashed out of money received and under no circumstances must amounts due to the LA be paid into non-official funds temporarily or permanently.

Schools operating their own school meals provision should ensure that income received and expenditure incurred are appropriately accounted for separately in the school's accounting system, and not applied to the accounts net.

Schools are reminded to take account of VAT advice and liaise with the LA's Senior Finance Officer (Tax) Officer with regards to charging VAT on lettings, any services that lead to fees and charges, and the VAT implications of funding raising activities and the sale of assets.

#### **5.6. Purposes for which Income may be used**

Income from the sale of assets purchased with delegated funds may only be spent for the purposes of the school.

## **SECTION 6: THE CHARGING OF SCHOOL BUDGET SHARES**

### **6.1. General Provision**

The budget share of a school may be charged by the LA without the consent of the Governing Body *only* in circumstances expressly permitted by the scheme in 6.2 below. The LA will consult with the relevant schools as to the intention to so charge, and will notify schools when it has been done.

Schools are reminded that the LA will not act unreasonably in exercise of this scheme, as the LA may be then subject of a direction under s.496 of the Education Act 1996.

Should a school wish to challenge such a charge they must set out their objections in writing to the Strategic Director of Children & Young People, submitted via the Schools Finance Team, who will make the final decision.

For the avoidance of doubt, the LA may de-delegate funding for permitted services without the express permission of the Governing Body, provided this has been approved by the appropriate phase representatives of the Schools Forum.

#### **6.1.1.Charging of Salaries at Actual Cost**

The LA must charge salaries of school based staff to school budget shares at actual cost.

### **6.2. Circumstances in which Charges may be made**

Charges may be made to the budget share of a school by the LA, without the consent of the school, in the following circumstances:

- 6.2.1. Where premature retirement costs have been incurred without the prior written agreement of the LA to bear such costs (the amount chargeable being only the excess over any amount agreed by the LA).
- 6.2.2. Other expenditure incurred to secure resignations where the school had not followed LA advice.
- 6.2.3. Awards by courts and industrial tribunals against the LA, or out of court settlements, arising from action or inaction by the Governing Body contrary to the LA's advice.
- 6.2.4. Expenditure by the LA in carrying out health and safety work or capital expenditure for which the LA is liable where funds have been delegated to the Governing Body for such work, but the Governing Body has failed to carry out the required work.
- 6.2.5. Expenditure by the LA incurred in making good defects in building work funded by capital spending from budget shares, where the premises are owned by the LA or the school has voluntary controlled status.
- 6.2.6. Expenditure incurred by the LA in insuring its own interests in a school where funding has been delegated but the school has failed to demonstrate that it has arranged cover at least as good as that which would be arranged by the LA.
- 6.2.7. Recovery of monies due from a school for services provided to the school, where a dispute over the monies due has been referred to a disputes procedure set out in a service level agreement and the result is that monies are owed by the school to the LA.
- 6.2.8. Recovery of penalties imposed on the LA by the Board of Inland Revenue, the Contributions Agency, HM Revenue and Customs, Teachers' Pensions, the Environment Agency or other regulatory authorities as a result of school negligence.

- 6.2.9. Correction of LA errors in calculating charges to a budget share (e.g. pension deductions).
- 6.2.10. Additional transport costs incurred by the LA arising from decisions by the Governing Body on the length of the school day, and failure to notify the LA of non-pupil days resulting in unnecessary transport costs.
- 6.2.11. Legal costs which are incurred by the LA because the Governing Body did not accept the advice of the LA (see also section 11).
- 6.2.12. Costs of necessary health and safety training for staff employed by the LA, where funding for training had been delegated but the necessary training not carried out.
- 6.2.13. Compensation paid to a lender where a school enters into a contract for borrowing beyond its legal powers, and the contract is of no effect.
- 6.2.14. Cost of work done in respect of teacher pension remittance and records for schools using non-LA payroll contractors, the charge to be the minimum needed to meet the cost of the LA's compliance with its statutory obligations.
- 6.2.15. Costs incurred by the LA in securing provision specified in a statement of SEN where the Governing Body of a school fails to secure such provision despite the delegation of funds in respect of low cost high incidence SEN and/or specific funding for a pupil with High Needs.
- 6.2.16. Costs incurred by the LA due to submission by the school of incorrect data.
- 6.2.17. Payments in respect of National Non Domestic Rates and Insurance where the LA has incurred the expenditure on behalf of the school and has not received reimbursement.
- 6.2.18. Costs incurred by the LA in obtaining and verifying statutory information that schools are legally obliged to provide but have failed to submit by the due deadline.
- 6.2.19. Recovery of amounts spent from specific grants on ineligible purposes.
- 6.2.20. Costs incurred by the LA as a result of the Governing Body being in breach of the terms of a contract.
- 6.2.21. Costs incurred by the LA or another school as a result of a school withdrawing from a cluster arrangement, for example where this has funded staff providing services across the cluster.
- 6.2.22. Costs incurred by the LA as a result of failure to comply with pension regulations.

## **SECTION 7: TAXATION**

### **7.1. Value Added Tax**

In order to be able to utilise the LA's ability to reclaim VAT on expenditure relating to non-business activity, schools will need to submit a quarterly return to the Schools Finance Team. Schools experiencing cashflow difficulties may submit monthly returns where this has been agreed with the Schools Finance Team. All amounts so reclaimed will be passed back to the school.

Schools must comply with the tax legislation and should follow the procedures set out in any relevant procedure issued by the Finance Department with regard to the following matters:

- Recording and reclaiming of VAT;
- Deduction of income tax in relation to staff employed in schools;
- Construction Industry Taxation Scheme (CIS).

Schools are responsible for their own unofficial funds and these do not fall under the scope of the LA's VAT registration.

### **7.2. Construction Industry Tax Scheme (CIS)**

Schools must abide by the procedures issued by the LA in connection with CIS.



## **SECTION 8: THE PROVISION OF SERVICES AND FACILITIES BY THE LA**

### **8.1. Provision of Services from Centrally Retained Budgets**

The LA will determine on what basis services from centrally retained funds will be provided to schools. The definition of services includes existing Premature Retirement Compensation (PRC) and redundancy payments, which may not ordinarily be thought of as services.

However, the LA will not discriminate in its provision of services on the basis of categories of schools except where funding has been delegated to some schools only, or such discrimination is justified by differences in statutory duties.

### **8.2. Provision of Services Bought back from the LA using Delegated Budgets**

The term of any arrangement with a school to buy services or facilities from the LA will be limited to a maximum of three years from the date of the agreement, and periods not exceeding five years for any subsequent agreement relating to the same services. However, schemes may contain an extension to five and seven years respectively for contracts for supply of catering services.

Services and facilities provided for which expenditure is not retainable centrally by the LA under Regulations made under section 45A of the Act, shall be offered at prices which are intended to generate income which is no less than the cost of providing those services. The total cost of the service will be met by the total income, even if schools are charged differentially.

Centrally arranged services such as premises and liability insurance and Capita SIMS licences, are excluded from these requirements.

#### **8.2.1. Packaging**

The LA may provide any services for which funding have been delegated. Where the LA is offering the service on a buy-back basis, this will be provided in a way which does not unreasonably restrict schools' freedom of choice among the services available. Where practicable this will include provision on a service-by-service basis as well as packages of services.

### **8.3. Service Level Agreements**

Service level agreements must be in place by 1<sup>st</sup> April to be effective for that financial year, and schools must have at least one month to consider the terms of agreements. All agreements must be entered via purchase on BESTBrent ([www.bestbrent.co.uk](http://www.bestbrent.co.uk)).

If services or facilities are provided under a service level agreement, whether free or on a buy-back basis, the terms of any such agreement, starting on or after the inception of the scheme will be reviewed at least every three years if the agreement lasts longer than that.

Services, if offered at all by the LA, will be available on a basis which is not related to an extended agreement, as well as on the basis of such agreements. However, where services are provided on an ad hoc basis they may be charged for at a different rate than if provided on the basis of an extended agreement.

Centrally arranged premises and liability insurance are excluded from these requirements as these limitations may be impractical for insurance purposes.

#### **8.4. Teachers' Pensions**

In order to ensure that the performance of the duty on the LA to supply Teachers Pensions with information under the Teachers' Pensions Regulations 1997, the following conditions are imposed on the LA and Governing Bodies of all maintained schools covered by this Scheme in relation to their budget shares.

The conditions only apply to Governing Bodies of maintained schools that have not entered into an arrangement with the LA to provide payroll services.

A Governing Body of any maintained school, whether or not the employer of the teachers at such a school, which has entered into any arrangement or agreement with a person other than the LA to provide payroll services, shall ensure that any such arrangement or agreement is varied to require that person to supply salary, service and pensions data to the LA which the LA requires to submit its annual return of salary and service to Teachers' Pensions and to produce its audited contributions certificate. The LA will advise schools each year of the timing, format and specification of the information required. A Governing Body shall also ensure that any such arrangement or agreement is varied to require that Additional Voluntary Contributions (AVCs) are passed to the LA within the time limit specified in the AVC scheme. The Governing Body shall meet any consequential costs from the school's budget share.

A Governing Body of any maintained school which directly administers its payroll shall supply salary, service and pensions data to the LA which the LA requires to submit its annual return of salary and service to Teachers' Pensions and to produce its audited contributions certificate. The LA will advise schools each year of the timing, format and specification of the information required from each school. A Governing Body shall also ensure that Additional Voluntary Contributions (AVCs) are passed to the LA within the time limit specified in the AVC scheme. The Governing Body shall meet any consequential costs from the school's budget share.

## **SECTION 9: PFI SCHEMES**

*This section will only apply if and when a Facilities Management (FM) PFI scheme comes into operation.*

The LA shall have the power to issue regulations from time to time relating to PFI projects. Amongst other issues these may deal with the reaching of agreements with the Governing Bodies of schools as to the basis of charges to schools' budget shares relating to such schemes; and the treatment of monies withheld from contractors due to poor performance. Such variations may be scheme variations and require approval.

## **SECTION 10: INSURANCE**

### **10.1. Insurance Cover**

Where funds for insurance are delegated to any school, the LA may require the school to demonstrate that cover relevant to an LA's insurable interests, under a policy arranged by the Governing Body, is at least as good as the relevant minimum cover arranged by the LA if the LA makes such arrangements, either paid for from central funds or from contributions from schools' delegated budgets - see 6.2.6. The LA will have regard to the actual risks which might reasonably be expected to arise at the school in question in operating this requirement, and not apply an arbitrary minimum level of cover for all schools.

Head Teachers must give prompt notification to the Chief Finance Officer via the Insurance Team, of all new risks, properties, or vehicles which are required to be insured by the LA, and any alternations affecting existing insurances. Head Teachers must also notify promptly of any loss, liability, damage or other event likely to lead to an insurance claim.

## **SECTION 11: MISCELLANEOUS**

### **11.1. Right of Access to Information**

In addition to specific requirements elsewhere within this scheme, Governing Bodies must also supply all financial and other information that might reasonably be required to enable the LA to satisfy itself as to the school's management of its delegated budget share, or the use made of any central expenditure by the LA (e.g. earmarked funds) on the school.

### **11.2. Liability of Governors**

Schools are reminded that the Governing Body is a corporate body, and because of the terms of s.50(7) of the Act, governors of maintained schools will not incur personal liability in the exercise of their power to spend the delegated budget share provided they act in good faith. An example of behaviour that is not in good faith is the carrying out of fraudulent acts.

### **11.3. Governors' Expenses**

The LA may delegate to the Governing Body of a school yet to receive a delegated budget, funds to meet governors' expenses. In order for an individual governor to make a claim the Governing Body must formally adopt a Governor Allowances (Scheme of Paying) Policy. The LA will set the amount of such allowances.

Under section 50(5) of the Act, only allowances in respect of purposes specified in regulations made under s.19 of the Education Act 2002 may be paid to governors from a school's delegated budget share. Payment of any other allowances is forbidden. Schools must not make payments of expenses duplicating those paid by the Secretary of State to additional governors appointed by him to schools under special measures.

### **11.4. Responsibility for Legal Costs**

Costs of legal actions (including costs awarded against the LA) which are incurred by the Governing Body, although the responsibility of the LA as part of the cost of maintaining the school, unless they relate to the statutory responsibility of voluntary aided school governors for buildings, may be charged to the school's budget share unless the Governing Body acts in accordance with the advice of the LA. If there is a potential conflict of interest between the LA and the Governing Body, the school should seek independent legal advice.

Please refer to section 6. The effect of this is that a school cannot expect to be reimbursed with the cost of legal action against the LA itself (although there is nothing to stop an LA making such reimbursement if it believes this to be desirable or necessary in the circumstances).

These costs referred to do not include the costs of seeking legal advice.

### **11.5. Health & Safety**

In expending the school's budget share, Governing Bodies shall have due regard to duties placed on the LA in relation to health and safety, and the LA's policy on health and safety matters in the management of the budget share.

### **11.6. Right of Attendance for Chief Finance Officer**

Governing Bodies must permit the Chief Finance Officer of the LA (or any officer of the LA nominated by the Chief Financial Officer) to attend meetings of the Governing Body at which any agenda items are relevant to the exercise of his or her responsibilities. (The Chief Finance Officer's attendance will normally be limited to items which relate to issues of probity or overall financial management; such attendance will not be regarded as routine). Wherever practical, the LA shall give prior notice of such attendance.

### **11.7. Special Educational Needs**

Schools are required to use their best endeavours in spending their budget share to secure the special educational needs of their pupils who require such support. Schools must also ensure that they meet all the requirements of the SEN Code of Practice.

As this is a statutory requirement, the LA reserves the right to suspend delegation if a breach of this requirement occurs and the situation is deemed serious enough to warrant such action.

### **11.8. Interest on Late Payments**

Schools are required to ensure compliance at all times with legislation in relation to interest on late payments.

The *Late Payment of Commercial Debts (Interest) Act 1998* introduced a statutory right for businesses to claim interest on the late payment of commercial debts. Late payment is defined as being payment received after the contract's credit period has expired, or the credit period in accordance with trade custom and practice. Where no credit period is stated in a contract, the Act sets a default of 30 days from delivery of either the invoice for payment or of the goods/service, whichever is later. The rate of interest is the official dealing rate of the Bank of England (the base rate) +8%. The base rate used is that on the day on which the contract states that payment is to be made. If the purchaser does not pay the interest, the supplier can pursue the claim through the courts. It is therefore imperative that all invoices are paid within the time laid down in the credit terms to avoid incurring any additional costs.

### **11.9. 'Whistleblowing'**

Where a school employee or governor wishes to complain about the financial management or financial propriety at the school this should be carried out in accordance with the school's Whistleblowing Policy and Procedures. The school is strongly advised to adopt the LA's Whistleblowing Policy & Procedures. All concerns will be treated in confidence and will be investigated by a delegated representative of the Chief Finance Officer.

### **11.10. Child Protection**

Governing Bodies must allow staff to attend child protection case conferences and other relevant events where the LA requires it in order to fulfil its statutory duty. Funding relating to supply cover and training costs for child protection is already part of the provision contained in the weighted pupil element of the formula, and the costs in relation to these will therefore be borne by the school.

### **11.11. Redundancy/Early Retirement Costs**

The 2002 Education Act sets out how premature retirement and redundancy costs should normally be funded.

The default position is that premature retirement costs must be charged to the school's delegated budget, while redundancy costs must be charged to the LA's budget except in locally determined circumstances.

The LA will not fund under the following circumstances, in line with DfE guidance:

- If the school is making staffing reductions which the LA does not believe are necessary to either set a balanced budget or meet the conditions of a licensed deficit;
- If the staffing reductions arise from a deficit caused by factors within the school's control;
- If the school has a surplus balance with no agreed plan for its use;
- If the school has refused to engage with the LA's redeployment policy;
- If the school is acting outside the LA's policy and does not act on LA advice given;
- If the school has decided to offer more generous terms than the authority's policy, the LA will not fund the excess.

Please refer to the Schools Redundancy Funding Policy for further information, and for details on how to apply for this.

## **SECTION 12: RESPONSIBILITY FOR REPAIRS AND MAINTENANCE**

### **12.1. Funding**

All funding for repairs and maintenance is delegated to schools as part of the school budget share.

### **12.2. Defining Capital**

Only capital expenditure is retained by the LA. For these purposes, expenditure may be treated as capital only if it fits the definition of capital used by the LA for financial accounting purposes in line with the CIPFA Code of Practice on LA accounting.

The de-minimus level the LA uses for the definition between capital and revenue in the financial accounts is £5,000. Therefore items of less than £5,000 will not be considered capital expenditure.

### **12.3. Voluntary Aided (VA) Schools**

VA governors will continue to be eligible for grant from the DfE in respect of their statutory responsibilities and in addition they will have responsibility for other repair and maintenance items on the same basis as Community and Foundation schools. VA governor responsibilities are set out in full detail in the DfE document *Voluntary Aided and Special Agreement Schools – Determination of Financial Liability*.

For VA schools, the liability of the LA for repairs and maintenance (albeit met by delegation of funds through the budget share) is the same as for other maintained schools. However, eligibility for capital grant from the Secretary of State for capital works at VA schools depends on the de minimis limit applied by DfE to categorise such work, not the de minimis limit used by the LA.



## **SECTION 13: COMMUNITY FACILITIES**

### **13.1. Introduction**

Schools which choose to exercise the power conferred by s.27(1) of the Education Act 2002 to provide community facilities will be subject to a range of controls. First, regulations made under s.28 (2), if made, can specify activities which may not be undertaken at all under the main enabling power. Secondly, the school is obliged to consult its authority and have regard to advice from the LA. Thirdly, the Secretary of State issues guidance to Governing Bodies about a range of issues connected with exercise of power, and a school must have regard to that.

However, under s28(1), the main limitations and restrictions on the power will be those contained in the maintaining LA's scheme for financing schools made under s.48 of the Act as amended by paragraph 2 of Schedule 3 to the Education Act 2002. This amendment extended the coverage of schemes to include the exercise of powers of Governing Bodies to provide community facilities.

Schools are therefore subject to prohibitions, restrictions and limitations in the scheme for financing schools.

This part of the scheme does not extend to joint-use agreements: transfer to control agreements, or agreements between the authority and schools to secure the provision of adult and community learning.

### **13.2.**

As with Budget Share funds, mismanagement of community facilities funds can be grounds for suspension of the right to a delegated budget.

### **13.3. Consultation with the LA – Financial Aspects**

The Governing Body is required to consult the LA and have regard to advice from the LA in relation to any proposed arrangement for community facilities, as required by s.28(4) of the Education Act 2002.

### **13.4.**

Schools are likely to benefit from informal contacts and advice from relevant officers with required professional expertise well before the formal consultation commences. It would also be helpful to all parties if schools gave the LA notice of their intent in advance of the formal consultation itself.

Formal consultation with the LA will commence when the full consultation material has been submitted in writing. The response period will begin from receipt of the full material.

Details of funding agreements with third parties must be sent to the LA for its comments as part of the consultation process and will be subject to the same time frame for response.

### **13.5.**

Brent will provide formal advice in writing within a maximum period of 6 weeks.

Schools should subsequently inform the LA of the action taken, or proposed to be taken, in response to the advice given by the LA.

### **13.6. Funding Agreements – LA Powers**

The provision of community facilities in many schools may be dependent on the conclusion of a funding agreement with a third party which will either be supplying funding or supplying funding and taking part on the provision. A very wide range of bodies and organisations may potentially be involved.

### **13.7.**

Any funding agreements with third parties (as opposed to funding agreements with the LA itself) should be submitted to the LA for comment and advice. Such draft agreements should form part of the consultation with the LA. Schools must take regard to this advice.

Although the LA has no power of veto, if an agreement is concluded without the agreement of the LA or against its wishes and the LA considers it to be seriously prejudicial to the interests of the school or the LA, this may constitute grounds for suspension of the right to a delegated budget.

As a general principle, the LA would suggest that most schemes should put the onus for meeting expenditure on the third party and that the school just has a share of any profit for allowing their premises to be used. That keeps it simple and minimises and possible calls on LA and school resources if things go wrong.

### **13.8. Other Prohibitions, Restrictions and Limitations**

The Governing Body should endeavour to protect the financial interests of the LA. The LA may require that in a specific instance of use of the community facilities power, the Governing Body concerned shall make arrangements to protect the financial interest of the LA. Arrangements for protection may include the setting up of a limited company formed for the purpose or obtaining indemnity insurance for risks associated with the project in question, as specified by the LA.

### **13.9.**

S.28 provides that the exercise of the community facilities power is subject to prohibitions, restrictions and limitations in the *Scheme for Financing Schools*. The LA respects and welcomes the right of schools to provide community facilities. Schools are however reminded that they must not discriminate on the grounds of race, nationality or ethnic origin or disability on the terms that they offer out halls and rooms to members of the public or in respect of any contract they enter into with third parties for the provision of community facilities. Governors of schools must not provide community facilities, whether for payment or not, to any individuals or groups which are racist or sexist or otherwise oppressive or whose aims would be counter to the policies on equality and diversity of their school or of the LA. Governors should take particular care not to provide facilities to individuals or groups whose aims are counter to the well being of children or young people.

### **13.10. Other Prohibitions, Restrictions and Limitations**

Schools must provide the LA every six months with a summary statement, in a form determined by the LA, showing the income and expenditure to the school arising from the facilities (actual for previous six months, estimate for the following six months).

#### **13.11.**

If the LA has cause for concern, it may require these statements every three months.

#### **13.12. Audit**

The school must grant access to their records and provide information connected to the community facilities for the purposes of both internal and external audit and any investigation conducted by the LA of relevant income and expenditure.

#### **13.13.**

In concluding funding agreements with other persons pursuant to the exercise of the community facilities power, schools must ensure that such agreements contain adequate provision for access by the LA or its auditors to the records and other property of those persons held on the school premises, or held elsewhere insofar as they relate to the activity in question, in order for the authority to satisfy itself as to the propriety of expenditure on the facilities in question.

#### **13.14. Treatment of Income and Surpluses**

Schools may keep all net income derived from the facilities, except where otherwise agreed with a funding provider.

#### **13.15.**

Schools can also carry forward retained net income from one financial year to the next and either add it to any Budget Share surplus or retain it as a separate surplus for the community facility.

If the school is a community or community special school and the LA ceases to maintain it, any surplus from community facilities will revert to the LA.

#### **13.16. Health & Safety**

Health and safety requirements of the main scheme are extended to the facilities.

#### **13.17.**

The Governing Body are responsible for the costs of securing Disclosure and Barring Service (DBS previously carried out by CRB) clearance for all adults involved in community activities taking place during the school day. Governing Bodies would be free to pass on such costs to a funding partner as part of an agreement with that partner.

#### **13.18. Insurance**

The Governing Body must ensure adequate insurance arrangements are made for insurance against risks arising from the exercise of the community facilities power, taking professional advice as necessary.

#### **13.19.**

The LA can carry out its own assessment of the insurance arrangements made by the school and if it judges those arrangements to be inadequate, make arrangements itself and charge the resultant cost to the school.

**13.20. Taxation**

Schools can only make use of the LA's VAT reclaim facility on expenditure on community facilities when this is from LA funds and not expenditure from other funds. Advice should be obtained from the LA's VAT officer.

**13.21.**

If any member of staff employed by the school or LA in connection with community facilities at the school and is paid from funds held in a school's own bank account (whether a separate account is used for community facilities or not), the school is likely to be held liable for payment of income tax and National Insurance, in line with HMRC rules.

**13.22.**

Schools must abide by the procedures issued by the LA in connection with CIS.

**13.23. Banking**

The school must either keep separate bank accounts for Budget Share and community facilities or have adequate internal control to ensure adequate separation of funds.

**13.24.**

The requirements in relation to banks, requirements for signing of cheques etc. will be the same as for the Budget Share account

**13.25.**

Schools are reminded that they cannot borrow money without the written consent of the Secretary of State. This requirement does not however extend to monies lent by the maintaining LA.

## **ANNEX A – LIST OF MAINTAINED SCHOOLS** (at 1<sup>st</sup> September 2015)

### **NURSERY (4)**

COLLEGE GREEN  
CURZON CRESCENT  
FAWOOD  
GRANVILLE PLUS

### **PRIMARY (55)**

ANSON  
BARHAM  
BRAINTCROFT  
BRENTFIELD  
BYRON COURT  
CARLTON VALE INFANTS  
CHALKHILL  
CHRIST CHURCH BROND CE  
CONVENT OF J&M RC INFANTS  
DONNINGTON  
ELSLEY  
FRYENT  
FURNESS  
HARLESDEN  
ISLAMIA  
JOHN KEBLE CE  
KILBURN PARK JUNIORS  
KINGSBURY GREEN  
LEOPOLD  
LYON PARK INFANTS  
LYON PARK JUNIORS  
MALOREES INFANTS  
MALOREES JUNIORS  
MICHAEL SOBELL SINAI  
MITCHELL BROOK  
MORA  
MOUNT STEWART INFANTS  
MOUNT STEWART JUNIORS  
NEWFIELD  
NORTHVIEW  
OAKINGTON MANOR  
OLIVER GOLDSMITH  
OUR LADY OF GRACE RC INFANTS  
OUR LADY OF GRACE RC JUNIORS  
OUR LADY OF LOURDES RC  
PARK LANE  
PRESTON PARK

PRINCESS FREDERICA CE  
ROE GREEN INFANTS  
ROE GREEN JUNIORS  
SALUSBURY  
ST JOSEPH'S RC  
ST JOSEPH'S RC INFANTS  
ST JOSEPH'S RC JUNIORS  
ST MARGARET CLITHEROW RC  
ST MARY MAGDALEN'S RC  
ST MARY'S CE  
ST MARY'S RC  
ST ROBERT SOUTHWELL RC  
STONEBRIDGE  
TORAH TEMIMAH  
UXENDON MANOR  
WEMBLEY  
WYKEHAM

### **SECONDARY (3)**

JFS  
NEWMAN  
ST GREGORY'S RC

### **SPECIAL (3)**

MANOR DAY  
PHOENIX ARCH  
THE VILLAGE

### **PRUS (2)**

Ashley College  
Brent River College





**SCHEME FOR FINANCING SCHOOLS:**

# **SCHOOLS FINANCIAL REGULATIONS**

**2015-16**

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(Updated July 2015)

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## **ANNEX A: List of Maintained Schools**

(to which this scheme applies as at September 2015)

## **A. INTRODUCTION**

### **A.1 What These Regulations Cover**

- A.1.1 These regulations form part of the Scheme of Delegation, and apply to all schools that have a delegated budget under the School Standards and Framework Act 1998. These regulations supplement the Brent Scheme for Financing Schools, s.43 – 53 of the School Standards and Framework Act 1998 and s. 14 to the Act as approved by the Secretary of State. It also ensures that schools comply with the requirements of s.151 of the Local Government Act 1972, Contract Procedure Rules, and the Accounts and Audit Regulations.
- A.1.2 The objective of these regulations is to specify a number of procedures and key control measures which ensure the public accountability and high standards of financial integrity to be exercised in the use of public funds and in reducing financial risk.
- A.1.3 The regulations therefore cover the following fundamental areas of financial management and control:
- Setting, monitoring and controlling the revenue budget;
  - Accounting responsibilities;
  - Income and Expenditure controls;
  - Risk management and control of resources;
  - Procurement;
  - Retention of documents.
- A.1.4 The regulations also identify the responsibilities of the Chief Finance Officer, Governing Bodies, Head Teachers and all relevant staff in schools. The Chief Finance Officer's responsibilities in relation to schools are mainly exercised through the Schools Finance Team. The Schools Finance Team is therefore the first and primary point of contact on all financial matters.
- A.1.5 For the purposes of this document, the Chief Finance Officer is the officer appointed by the LA in accordance with s.151 of the Local Government Act 1972.

### **A.2 Application of These Regulations**

- A.2.1 These regulations must be followed by all Governing Bodies and school officers of schools maintained by Brent, whether they are directly employed, contracted, employed through an agency or volunteer in their conduct of financial and related matters.
- A.2.2 Failure to comply with these regulations may constitute misconduct and lead to formal disciplinary action.

- A.2.3 A list of schools maintained by Brent at September 2015, and therefore covered by these regulations, is included in Annex A.

### **A.3 Responsibilities**

- A.3.1 The following describes the overall framework and the main roles and responsibilities in respect of these regulations. This is not an exhaustive list and there are also likely to be some overlap in roles. Ultimately all Governing Bodies and school officers are responsible for complying with all regulations.

- A.3.2 In discharging their duties and responsibilities all school officers must comply with Brent's Scheme for Financing Schools and any associated regulations including these, and where appropriate financial procedures and standing orders. Where there is inconsistency between these, the relevant Acts shall prevail.

- A.3.3 Under the Scheme of Financing Schools, schools do not have any power to borrow money, including no power to enter into any type of lease purchase arrangements.

A.3.4 The Chief Finance Officer:

- is the responsible officer for the proper administration of the financial affairs of the LA under s.151 of the Local Government Act 1972;
- is required to approve all accounting procedures, systems and records of the LA, including schools, under his s.151 duties and the Accounts and Audit Regulations;
- is therefore responsible for reviewing these regulations and reporting any breaches to the Cabinet or Full Council;
- puts in place financial standards and practices across the LA including schools, to deliver a framework for financial control, provide accurate, timely and consistent monitoring information, and sound advice on financial decisions to be made by officers and members;
- has the right to attend (or a delegated officer) any meeting of a Governing Body to provide advice or report on major financial matters which in his opinion affects the probity and regularity of the LA's financial activities.

The Chief Finance Officer's statutory responsibility for the administration of the LA's affairs cannot be overridden by anything in a Scheme of Delegation or in any set of financial procedures.

Further details of roles and responsibilities are set out in Part 4 of the Constitution <http://www.brent.gov.uk/your-LA/about-brent-LA/LA-structure-and-how-we-work/our-constitution/>

### A.3.5 Other Officers

#### A.3.5.1 The Schools Finance Team:

- is the main point of contact for all financial matters;
- collates financial information;
- monitors implementation of the financial control framework;
- supports the Governing Body, Head Teachers and school finance officers in their financial responsibilities; and
- provides assurance to the Chief Finance Officer, Strategic Director of Children & Young People and Members that adequate controls exist to produce sound financial administration.

#### A.3.5.2 The Audit & Investigations Service:

- provides the LA's internal audit function and anti-fraud services;
- assists the Chief Finance Officer and Strategic Director of Children & Young People to discharge their statutory duties;
- provides Head Teachers with advice and guidance on the system of internal control;
- is responsible for investigations into financial irregularities across all LA services, including schools.

### A.3.6 Governing Bodies:

- are responsible for the overall financial management of delegated school budgets. Although some powers can be delegated to Head Teachers with formal approval, the Governing Body will retain overall responsibility for any actions taken;
- must maintain a written record where their powers have been delegated to members of staff;
- shall provide the LA with any reasonable information for the effective discharge of the LA duties and responsibilities;
- should ensure that all existing and new employees of the school are informed of their responsibilities under financial regulations and are familiar with these documents;
- should ensure that all financial regulations or contracts and award procedures are followed by everyone in the school;
- should ensure that relevant records are maintained and retained;
- must consult with the Chief Finance Officer on any matter which is liable to materially affect the finances of the LA, before any provisional or other commitment is incurred or a bid for external funding is made;
- are responsible for securing value for money and compliance with the principles of best value in relation to their activities.

#### A.3.7 Head Teachers:

- must ensure that their school promotes, enacts and monitors adherence to the necessary financial control framework and keeps spending within budget, indicating where necessary, conflicts between current service policy and plans and resource allocation;
- are required to keep accurate financial records, comply with the financial control framework and take timely action to keep spend within budget.

*The Governing Body may delegate some of its powers to Head Teachers, but the Governing Body shall retain responsibility for the actions. Many of the requirements of the Governing Body within these regulations may therefore apply to Head Teachers instead, where the relevant powers have been delegated to them.*

#### A.3.8 Schools' Finance Officers:

- collate the financial information about their school;
- provide financial advice to the Governing Body and the Head Teacher of their school;
- provide financial information to the Schools Finance Team;
- support Head Teachers in their financial responsibilities;
- help to implement the financial control framework;
- ensure sound financial administrative systems are in place.

In practice this may be a School Business Manager, Bursar or Finance Officer.

### A.4 **Application of Changes**

A.4.1 Changes to these regulations may be necessary from time to time to ensure relevance and consistency with the Financial Procedure Rules in the context of a school environment. Any changes required will only be implemented after:

- the agreement of the Chief Finance Officer and the Strategic Director of Children & Young People;
- consultation with the Schools Forum;
- the approval of the LA's Cabinet.

### A.5 **Other Guidance**

A.5.1 These regulations are supplemented by, and should be read in conjunction with:

- Technical Standards setting out more detailed requirements for financial arrangements, which may change from time to time;
- Guidance notes on financial management practice which may be issued periodically by the Chief Finance Officer or delegated officers – usually by the Schools Finance Team;
- Schools Finance Manual;
- Budget Preparation Guidelines issued annually;
- Schools Closing Guidance issued annually;
- The Scheme for Financing Schools updated annually.

## **B. BUDGET MANAGEMENT**

*A Budget is the numerical representation of an action plan for a specified time period. In the context of a school, this is a numerical statement of the school's development plan (SDP) – a numerical statement of the school's policy, aims, objectives and strategies in financial terms.*

### **B.1 The Importance of Effective Budget Management**

- B.1.1 Budget management ensures that resources are used for their intended purposes and that these resources are properly accounted for. Each school is expected to manage their own expenditure within the budget allocated to them to ensure that the school does not overspend against this. Regular reporting of income and expenditure against approved budgets ensures that governors are aware of, and highlights situations where, any actions may be required to ensure spending remains within the budget allocation.

### **B.2 Budgetary Role**

- B.2.1 The Governing Body shall be responsible for approving a 3 year budget each year and ensuring that the budget plan is a numerical reflection of the school's SDP and fully reflects the estimated effect of pupil changes and any development decisions.
- B.2.2 The Governing Body shall be responsible for reporting without delay to the Schools Finance Team where it appears that the total budget for the school may be exceeded, and taking appropriate action to bring the budget back into balance.
- B.2.3 The Head Teacher shall be responsible for maintaining a proper system of budgetary control and preparing all estimates for submission to the Governing Body, Chief Finance Officer and Strategic Director of Children & Young People. These functions shall be discharged in accordance with any guidelines or Codes of Practice issued from time to time by the Chief Finance Officer and the Strategic Director of Children & Young People.
- B.2.4 Neither the Governing Body, an individual Governor, nor the Head Teacher shall commit the school to any expenditure for which there is not sufficient budget provision or which will cause an overall budget deficit.

### **B.3 Setting the Budget**

*The budget is the school's SDP in numerical form and therefore should be a reflection of the school's policies, aims and actions to be implemented in the duration of the budget period.*

- B.3.1 Each school shall be given a budget share calculated in accordance with the formula for funding schools, before the beginning of the financial year.

- B.3.2 The 3 year budget shall be proposed by the Head Teacher and agreed and set by the Governing Body. Budgets must be produced in accordance with the Budget Preparation Guidelines issued annually. The format for submission of the 3 year budget plan and the requirements for supporting documents and evidence of approval are also provided annually at the same time and schools must also comply with these. The Governing Body is not permitted to set a budget which plans for a cumulative deficit at the end of any of the financial years, except where the LA has authorised such a budget.
- B.3.3 The Head Teacher shall submit the approved budget to the Schools Finance Team by 1<sup>st</sup> June each year, along with the required supporting documents and evidence of approval. Any extension to the deadline can only be granted in exceptional circumstances because of particular difficulties.
- B.3.4 The school's Finance Officer shall enter the approved submitted budget plan on to the school's computerised financial system within a month of its approval, and ensure that the budget is fixed on the system. This will allow an audit trail for any changes made during the year, which should be appropriately approved and documented.

#### **B.4 Monetary Limits**

*The monetary limit of a school is the amount of money available to spend.*

- B.4.1 The inclusion of money in the school's budget approved by the Governing Body shall authorise the Head Teacher to spend up to that sum plus any available school balance brought forward from previous years. The Head Teacher is not authorised to exceed the approved budget.
- B.4.2 Each Head Teacher shall deliver the curriculum and other school services within the resources agreed.

#### **B.5 Budget Virements**

*A virement is the transfer of funds from one budget line to another. It is an administrative exercise that provides a degree of flexibility in spending a school's budget, and allows for changing circumstances and/or unexpected developments.*

- B.5.1 The Governing Body may agree to transfer resources between budgets provided they follow the advice provided by the Chief Finance Officer and Strategic Director of Children & Young People.
- B.5.2 The Governing Body is advised to establish appropriate criteria for virements and financial limits in their Schemes of Delegation, above which the approval of the Governing Body is required. Any such decisions should be recorded in the Governing Body minutes.

- B.5.3 Where additional funds have been allocated to a school for a specific purpose, they shall only be used for that purpose.

## **B.6 Budget Monitoring**

*Budget Monitoring is the examining of the school's monthly spend and income against the budget that has been set.*

*It is important that schools undertake regular budget monitoring, as this:*

- is essential for effective financial management;*
- allows Governing Bodies and Head Teachers to maintain financial control by reviewing the current position and taking any remedial action necessary;*
- is a requirement under the Schools Financial Value Standards (SFVS);*
- enables reasons for significant variances to be established/investigated and reported;*
- may highlight forecasted overspends and ensure that senior management are able to decide upon a course of action and reassess priorities in the SDP where necessary.*

- B.6.1 Once a budget is agreed, the Governing Body and subject to the school's Scheme of Delegation, the Head Teacher and other staff, must ensure that it is strictly monitored.
- B.6.2 The Governing Body shall be responsible for setting performance measures linked to the SDP and reviewing progress and outcomes for the resources allocated.
- B.6.3 The Governing Body and the Head Teacher must be able to demonstrate that the budgets devolved to the school have been spent on the purposes for which they were delegated.
- B.6.4 The Head Teacher shall provide termly budget monitoring returns to the Schools Finance Team in the format requested. These returns must have been reviewed and signed by the Head Teacher and shall clearly show the income and expenditure to date against the approved budget, and a forecasted year end position. For schools that are in deficit, budget monitoring reports shall be submitted to the Schools Finance Team termly.
- B.6.5 Although budget monitoring returns are required termly to the Schools Finance Team, schools are strongly advised that these should be completed and reviewed and signed by the Head Teacher at least monthly. These should also be submitted to the Governing Body or a sub-committee of the Governing Body, at least termly or half-termly. The format and frequency of submission to the Governing Body shall be determined by the Governing Body, but must clearly show the necessary full year forecasts to facilitate decisions.
- B.6.6 The Head Teacher shall submit a monthly FIN1 return (bank reconciliation) to Schools Finance Team in the format requested. These returns provide assurance that appropriate banking controls are in place, and must be reviewed and signed by



the Head Teacher in a timely manner. All supporting/backing documents must be submitted to the Schools Finance Team at the same time as the return.

## **B.7 Budget Control**

*Budget control is a continual process enabling the school to review and adjust its budget plans during the financial year. It also provides a mechanism to hold budget holders accountable for defined elements of the budget. By identifying and explaining variances against budgetary targets, the school can identify changes in resource requirements at the earliest opportunity.*

*The key controls for managing and controlling the revenue budget are:*

- All elements of budgeted expenditure and income are allocated to a named budget holder;*
- Budget holders accept accountability for their budget allocations and the level of service to be delivered;*
- Budget holders adhere to the approved procedures for the ordering and certifying for payment the purchase of goods and services used in the provision of their service and for the collection of income;*
- Income and expenditure is completely, accurately and promptly recorded and accounted for;*
- Service delivery performance levels are monitored in conjunction with financial performance and that necessary action is taken to align service outputs and budget resources.*

- B.7.1 Each Governing Body shall be responsible for maintaining a proper system of budgetary control.
- B.7.2 Strict financial discipline must be maintained and once decisions have been made on the budget for a year, the Head Teacher must seek to ensure that the budget plan is met.
- B.7.3 The Governing Body shall make arrangement to ensure that significant variances from approved budgets are investigated and reported by Head Teachers regularly.
- B.7.4 Each Governing Body shall determine the extent of powers that are to be delegated to the Head Teacher in respect of financial delegation.
- B.7.5 The Governing Body and Head Teacher must complete the DfE's Schools Financial Value Standard (SFVS) and submit to the Schools Finance Team by 31<sup>st</sup> March each year.

## **B.8 Budget Overspends**

*An overspend occurs when the school has spent more than is available to spend.  
An overspend may occur on individual budget heads.*

- B.8.1 Overspends in school budgets are not acceptable. An overspend must be dealt with by decisive action of some kind, even if this means changing policy, service levels, and staffing levels.
- B.8.2 The Governing Body and the Head Teacher shall take responsibility for their school budgets and shall examine their own capacity to fund new proposals or overspends.
- B.8.3 Each Head Teacher must notify the Schools Finance Team immediately if it appears that their overall budget is likely to overspend because approved expenditure is forecasted to be exceeded or income will not be achieved.
- B.8.4 The Head Teacher will need to detail the action being proposed to rectify the overspend. This shall include specific and costed proposals, and any service implications must be fully stated. If details are not provided, then the action will not be regarded as satisfactory by the Chief Finance Officer or the Strategic Director of Children & Young People.
- B.8.5 Each Governing Body shall ensure that their school does not have a deficit balance except in exceptional circumstances with prior permission through a licensed deficit approval. This process is detailed in the Licensed Deficit Policy. The Governing Body shall ensure that any deficit balance at the year end is carried forward to the new financial year and taken into account in spending plans.

## **B.9 Budget Underspends**

*An underspend occurs when a school doesn't use all the resources available for the school.*

- B.9.1 Schools shall carry forward any unspent balance of their budget share at the year end.
- B.9.2 The Governing Body shall monitor underspends carefully to ensure that the funds available to spend are being used effectively towards the educational outcomes of pupils.

## **B.10 Withdrawal of Delegation**

*The Governing Body of a school has delegated powers in relation to schools finances. This means that although these funds are owned by the LA, the responsibility for looking after these funds appropriately falls to the Governing Body. Withdrawal of Delegation means that the LA withdraws the powers from a Governing Body to look after these funds, and takes control of the school's finances.*

- B.10.1 Where a school has a delegated budget, the Strategic Director of Children & Young People and the Chief Finance Officer retains the right to suspend delegation, giving one month's notice, where it is considered that the Governing Body:
- has substantially or persistently failed to comply with any requirements of the borough's Scheme for Financing Schools;
  - is not managing the expenditure satisfactorily.
- B.10.2 Financial delegation shall be withdrawn immediately in the event of gross mismanagement of school resources on the part of the Governing Body and/or Head Teacher.
- B.10.3 Where financial delegation has been withdrawn, this shall be reviewed annually.

## **C. LEASING, LOANS & FINANCIAL ARRANGEMENTS**

### **C.1 General Requirements**

- C.1.1 In order to ensure compliance with the prudential framework, the Governing Body may not enter into any leasing agreements or any other loan or financing arrangements for the acquisition of property, vehicles, plant or equipment without the prior written consent of the Chief Finance Officer.
- C.1.2 The Governing Body may not borrow money without the written permission of the Secretary of State. The LA must be notified in advance by any school of its intention to make such an application.
- C.1.3 This however does not fully apply to trusts and foundations provided that these debts are not serviced from the school's delegated budgets. In this instance, the Governing Body is not acting as an agent of the LA in repaying these debts.

### **C.2 Leasing**

*A lease is a contract where a party being the owner of an asset (lessor), provides the asset for use to a school through a rental agreement for a defined period of time.*

*A finance lease is a leasing contract in which the school takes ownership of the asset and is responsible for all maintenance and insurance, but pays for the asset over a period of time. This is effectively a borrowing agreement.*

*An operating lease is a leasing contract in which the ownership for an asset remains with the lessor and they remain responsible for maintenance, insurance and repairs. This is effectively a rental agreement.*

- C.2.1 The Governing Body shall not legally enter into any finance leasing arrangement, as this would constitute borrowing.
- C.2.2 The Governing Body may enter into operating leases only with the written permission of the Chief Finance Officer. Any such requests must be made in the first instance to the Schools Finance Team who will make the appropriate approval request from the relevant delegated officer.
- C.2.3 The Governing Body must take the relevant due diligence before submitting to the Schools Finance Team for approval. Any application to enter into a leasing agreement shall be approved by the Governing Body. The Governing Body shall firstly satisfy itself that the Schools Contract Procedure Rules have been fully complied with and that the proposed leasing agreement represents value for money.

### **C.3 Loans**

*A loan is a form of borrowing, usually cash. This is usually repaid over a period of time, subject to interest.*

- C.3.1 The Governing Body cannot legally enter into any type of external loan agreement.
- C.3.2 This provision however does not apply to loan schemes that have been approved by the Secretary of State. Currently only the Salix loan scheme has such approval.
- C.3.3 This provision also does not apply to loan schemes run by the LA, such as licensed deficits and capital loans.

### **C.4 Credit Cards and Other Financial Arrangements**

*A credit card is a card authorising purchases on credit, chargeable at a predetermined interest rate.*

*An overdraft is an amount that can be spent when there are no funds available in a bank account, and therefore constitutes a form of borrowing.*

*A procurement card is similar to a debit card, allowing schools to make purchases against funds within a bank account.*

- C.4.1 The restriction on borrowing also includes the use of overdraft facilities and credit cards.
- C.4.2 School bank accounts are not permitted to go overdrawn at any time, and overdraft facilities may not be negotiated. Where schools are experiencing cashflow difficulties, schools should refer the Cash Advance Policy.
- C.4.3 The Governing Body is encouraged to use procurement cards as an alternative means of facilitating electronic purchasing, and to allow schools to benefit from significant discounts. Procurement cards should be used and monitored in the same manner as debit cards - refer to section *F.6: Money and Banking* for further details on compliance.

## **D. ACCOUNTING RESPONSIBILITIES**

*Proper accounting records are one of the ways in which the LA discharges its responsibility of stewardship of public resources. The LA has a statutory responsibility to prepare its annual accounts to present fairly its operations during the year.*

### **D.1 Accounting Systems and Procedures**

- D.1.1 The Governing Body is free to use any accounting software they choose, providing they can produce reports in the format required by the LA and other agencies.
- D.1.2 Where the Governing Body plans to change the financial system in use, the Governing Body is required to inform the Schools Finance Team of the change. Schools are strongly advised to only change systems at the beginning of a financial year and to consult with the Schools Finance Team and Audit and Investigations Service prior to implementation.
- D.1.3 Each Governing Body shall establish a scheme of authorisation identifying officers authorised to act on their behalf with respect to payments, income collection and placing of orders, showing limits to their authority.
- D.1.4 The Governing Body shall regularly review their accounting systems to ensure that they report outputs in a timely, accurate, clear and convenient manner which is readily understood by users.
- D.1.5 The Governing Body shall be responsible for ensuring that officers involved in operating accounting systems and undertaking financial procedures receive proper assessment of their financial skills and learning and development needs. This will ensure that the school is not exposed to any administrative or financial risk due to insufficient training or skills, or in the event of the absence of key staff.
- D.1.6 The Governing Body shall ensure all funds are properly accounted for and are only spent on the purposes for which they were established.

### **D.2 Accounting Policies**

- D.2.1 The Chief Finance Officer is responsible for determining the LA's accounting policies. Each Governing Body and Head Teacher, subject to delegation, is responsible for ensuring that these policies are adhered to and applied consistently in the school's accounts.
- D.2.2 All accounting policies shall ensure that:
  - accounts are a fair presentation of the school's financial position and the transactions in respect of that financial year;
  - income and expenditure relate to the services provided in the same financial year, and that provision is made for income and expenditure earned/used irrespective of when the amounts are actually paid or received;

- accounts are prepared on a prudent basis with income only being included to the extent that it is likely to be received, and that proper allowance is made for all known liabilities and losses.
- D.2.3 The Schools Finance Team will prepare and issue to all schools annually a Budget Preparation Guidelines and Schools Closing Guidance which will detail all year end reporting requirements as specified by the Chief Finance Officer and the Strategic Director of Children & Young People. Each Governing Body is responsible for ensuring compliance with these.
- D.2.4 Other accounting and financial guidance will be issued from time to time as required via circulars on the Schools Extranet. Each Governing Body and Head Teacher must ensure that they access and act on these documents.

### **D.3 Accounting Records**

- D.3.1 The Governing Body are required to maintain and securely hold complete and accurate accounting records of all the financial transactions under their control, and ensure that there is a audit trail leading from income/expenditure through to the accounting statements.
- D.3.2 The Governing Body shall ensure that VAT, Income Tax and other statutory additions and deductions are properly calculated and accounted for on all transactions where appropriate, and must supply the LA with such details of statutory additions/deductions as are required to meet the appropriate accounting requirements and enable the submission of statutory returns.
- D.3.3 The Governing Body shall ensure that all journal entries (adjustments to the accounts) are properly documented to incorporate adequate explanatory narrative and are cross-referenced to proper working papers. These should be signed by the originator.
- D.3.4 The Governing Body shall ensure that all public funds, grants or donations received by the school, and all associated expenditure, is accounted for appropriately within the CFR framework. Earmarked expenditure shall be clearly identified within budget records and only used for approved purposes, and the CFR framework shall be fully complied with.
- D.3.5 The Governing Body shall ensure that all accounts are supported by full documentation, which is retained for inspection for a period complying with the rule on retention of documents as detailed in *K: Retention of Documents*. Where documents or records fall due for disposal this shall be undertaken with due regard to confidentiality and Data Protection legislation, according to the nature of the documents or records being disposed of.
- D.3.6 The Governing Body shall ensure that adequate procedures are in place to enable accounting records to be reconstructed in the event of system failures.

- D.3.7 The Governing Body shall ensure that key reconciliation procedures are carried out on a regular basis and shall provide evidence as required by the Chief Finance Officer and/or the Strategic Director of Children & Young People. As a minimum:
- All bank accounts must be reconciled monthly and signed for confirmation of review.
  - All accounts, including debtors and creditors, must be reconciled on a monthly basis and at the end of each financial year.
  - Unofficial funds must be accounted for in accordance with the Scheme for Financing Schools.

#### **D.4 Final Accounts – Year End Requirements**

- D.4.1 The Chief Finance Officer is responsible for ensuring that the annual statement of accounts is prepared in line with the requirements of the 2011 Accounts and Audit Regulations, the current Code of Practice on Local Authority Accounting in the UK and the Audit Commission Act 1998, except where specifically stated in the Statement of Accounting Policies.
- D.4.2 The Governing Body shall be responsible for producing detailed final accounts after the end of each financial year (1<sup>st</sup> April to 31<sup>st</sup> March) produced in accordance with codes of practice and agreed timetables and shall provide such information as is required by the Chief Finance Officer and the Strategic Director of Children & Young People to meet statutory accounting requirements.
- D.4.3 The Governing Body shall reconcile and close its accounts and submit its Consistent Financial Reporting (CFR) return by the notified deadline each year, duly authorised by the Head Teacher subject to delegation from the Governing Body.
- D.4.4 The Governing Body shall ensure that year end accounts are produced in accordance with the accruals accounting concept, unless otherwise notified as part of the request for information.
- D.4.5 The Governing Body must maintain full supporting documentation and audit trail to justify all figures contained in their accounts and be able to present for internal and external audit as required.



## **E. INCOME AND EXPENDITURE CONTROLS**

### **Income**

*Income may be derived both from the provision of supplies and services to customers and from contributions and grants. Income can be a vulnerable asset and effective collection systems ensure that all income due is identified and that all collections are receipted, banked and properly accounted for. It is preferable to obtain income in advance of supplying goods or services as this improves the school's cashflow and avoids the time and cost of administering debts.*

### **E.1 Income – General**

- E.1.1 The Governing Body is responsible for setting a charging policy, conditions of hire and scale of charges for school supplies and services. Where applicable, The Governing Body shall consider the introduction of charges where no charge previously existed. The Governing Body and Head Teacher shall review their charges at least annually. Such reviews shall ensure that the costs incurred by the school are recovered.
- E.1.2 The Governing Body is responsible for the:
- collection of all income due to the school in respect of services provided by that school;
  - safe custody of all income;
  - effective recovery action;
  - establishment of performance management systems to monitor the recovery of income;
  - maintaining all records relating to income collection and debt write-offs.
- E.1.3 The Governing Body shall ensure that income is collected prior to or at the point of delivery of service. Where invoices are issued for the collection of debts these shall be issued promptly and all action taken for recovery of that debt.
- E.1.4 The Governing Body shall ensure the appropriate charging of VAT.
- E.1.5 The Governing Body shall ensure that all income received on behalf of the school is paid into the appropriate bank account without delay. Cash shall be held in a secure place until cashed. All income shall be banked intact – third party and personal cheques must not be cashed from money held on behalf of the school.
- E.1.6 The Governing Body shall ensure that a numbered receipt is issued for all items of income collected on behalf of the school. A copy of all receipts must be kept and all forms of receipts must be treated as controlled stationery, i.e. numbered and kept in a secure place with all issues recorded. All receipts must be properly accounted for and accounts reconciled on a regular basis. Any major discrepancies in income collected against that banked must be immediately investigated and notified to the Audit and Investigations Service.

## **E.2 Income – Bad Debts/Write Offs**

*A bad debt is an amount owed to the school which is found to be irrecoverable and needs to be written off.*

- E.2.1 The Governing Body is responsible for the write-off of debt, property, stock and surplus assets. All write offs should be initiated by a written report from the Head Teacher, and should be formally considered and approved by the full Governing Body, and recorded in the minutes of the meeting. This cannot be delegated to a sub-committee of the Governing Body.
- E.2.2 The Governing Body must notify and obtain approval from the Chief Finance Officer before writing off any debt exceeding £1k. Debts exceeding £25k will also be reported to the LA's Cabinet.
- E.2.3 The delegated budget of the school shall bear the amount of any debt written off, and all appropriate budgets/forecasts shall be amended to reflect this.
- E.2.4 All documentation and evidence relating to the write off must be retained by the school and must be available for inspection by internal and external audit where required.

### **Expenditure**

*Public money should be spent with demonstrable probity and in accordance with the LA's policies. The LA's procedures should help to make sure that services can receive value for money in their purchasing arrangements.*

## **E.3 Expenditure – General**

- E.3.1 The Governing Body and the Head Teachers are responsible for ensuring that all expenditure under their control is incurred lawfully, is within budget provision and that the best value has been obtained in procuring goods and services.
- E.3.2 The Governing Body shall ensure that there are effective internal controls over the payment process. There must be a clear division of duties between placing orders, authorising payments and signing cheques/payment authorisations. The Governing Body must keep a record of the officers responsible for these functions and the limits of their authority.
- E.3.3 The Governing Body shall ensure that the following principles apply to the allocation of duties in order to safeguard financial propriety.
  - The duty of providing information regarding sums due to or from the school and of calculating, checking and recording these sums shall be separated as completely as possible from the duty of collecting or disbursing them.
  - Employees charged with the duty of examining and checking the accounts of cash transactions, shall not themselves be engaged in any of these transactions.

- The procedures in place and the responsibility of officers should be in writing and available for examination.
- E.3.4 The Governing Body shall ensure that there is a system of authorising payment from bank accounts, which is sufficient to prevent fraudulent or inaccurate payments being made.
- E.3.5 The Governing Body shall maintain an up-to-date list of authorised staff to sign official orders, certify invoices for payment, petty cash claims, timesheets and payroll changes. This list should include specimen signatures and clearly identify the limits of the each signatory's authority.
- E.3.6 Every governor and school officer must declare any links or personal interests which they have with purchasers, suppliers and/or contractors if they are engaged in contractual or purchasing decisions on behalf of the school. This must be declared at the start of joining followed by annually.
- E.3.7 The Governing Body shall ensure that only costs relating to the school's delegated budget are charged to the school. The LA however reserves the right to make additional charges in particular circumstances as detailed in 6.2 of the Scheme for Financing Schools.

#### **E.4 Expenditure – Orders**

- E.4.1 The Governing Body shall ensure that official orders are issued for all work, goods or services to be supplied to the school. Official orders are not required for utilities, i.e. the supply of gas, electricity, telephone or water supplies, or periodical payments such as rent and petty cash purchases. These must however be paid based on actual readings, at least once a year.
- E.4.2 The Governing Body shall take appropriate steps to ensure value for money in the purchasing of all goods and services and must comply with the procurement regulations – see section *G: Procurement and Contracts*.
- E.4.3 The Governing Body shall ensure that authorisation of official orders are made by officers authorised to do so. A copy of each official order shall be retained. Any subsequent variation or amendment to an order shall be made only by those staff authorised to sign orders and should be noted on the copy of the order.
- E.4.4 The Governing Body shall ensure that the function of placing an order (i.e. determining the supplier and issuing a physical order for the supply) should, as far as possible be separated from the function of receiving and inspecting the supply.
- E.4.5 The Governing Body should be satisfied that a contractor is technically competent and has sufficient financial standing to carry out the work or produce the work, goods and services to the required quality, before placing any contracts or orders for work to be undertaken.

- E.4.6 The Governing Body must ensure that:
- unique pre-numbered official orders are used for all goods and services (except for supplies of utilities and periodical payments such as rent and petty cash purchases);
  - orders are only used for goods and services provided to the school and not by individuals for obtaining goods and services for their private use.
- E.4.7 The Governing Body must ensure that ordering books are treated as controlled stationery and are retained securely when not in use.
- E.4.8 School officers authorising orders must be satisfied that:
- the goods and services ordered are appropriate and needed;
  - the purchase is necessary for the educational purposes of the school;
  - adequate budgeting exists;
  - the necessary quotations or tenders for the purchase have been sought and retained.
- E.4.9 The Governing Body and Head Teacher shall ensure that work is not sub-divided to avoid compliance with regulations, i.e. to avoid the obtaining of adequate quotations or tenders.

## **E.5 Expenditure – Paying Invoices**

- E.5.1 The Governing Body shall make arrangements for the payment of properly authorised accounts. No payment shall be made unless supported by an invoice or payment request.
- E.5.2 The Governing Body shall ensure that there is a clear division of responsibility between placing orders and paying invoices and those authorising payment and signing cheques must be satisfied that the expenditure is valid.
- E.5.3 School officers authorising payment shall firstly satisfy themselves that such sums are legally and properly payable, and that budgetary provision exists to cover the payment.
- E.5.4 The Governing Body must put in place arrangements which ensure that:
- invoices are matched to orders raised. This should be done as soon as possible as this is the school's protection against any dispute;
  - the goods/services delivered or work carried out agree with the order and delivery note (where applicable) in respect of quality, quantity and price;
  - invoices are checked properly in order for payment, are arithmetically correct and include the appropriate VAT details;
  - payments are only made on originals or authorised copy invoices, and are not made on photocopies and faxed invoices;
  - a certification slip or payment stamp is used to demonstrate that all the appropriate checks have been carried out;
  - all payments are authorised;

- any goods returned or unsatisfactory services are recorded on the delivery note and the copy order at the time to ensure they are not paid for in error;
- no payment for goods and services are made until they have been received;
- the invoice has not previously been paid;
- the invoice is properly coded;
- appropriate entries will be made in accounting records.

E.5.5 The Governing Body shall ensure that a register of periodic (regular) payments is kept to ensure that payments are made accurately and by the due date. Periodic payments are those made for rents, ground rents for many years, or petty cash purchases.

## **E.6 Expenditure – Payroll**

*Employee costs are the largest item of expenditure in schools. It is therefore important that there are appropriate controls in place to make sure that payments are made only where they are due and that payments accord with the individual's contract of employment.*

E.6.1 The Governing Body shall ensure that:

- payments are only authorised to bona fide employees or former employees;
- payments are only made where there is a valid entitlement;
- conditions and contracts of employment are correctly applied;
- employees' names listed on the payroll are checked at least monthly to verify accuracy and completeness;
- there is an effective system of checking and authorising payroll forms;
- all appropriate payroll records and supporting documentation are retained for the appropriate period.

E.6.2 The Governing Body is responsible for ensuring that suitable arrangements are in place for payroll administration. It is essential that the Governing Body ensures that sufficient controls are in operation to prevent fraudulent or erroneous payments.

E.6.3 The Governing Body shall ensure that all emoluments to staff are only effected through payroll systems. This includes the payment of all salaries, wages, pensions, compensation, car mileage claims, other emoluments and the deductions from salaries for tax, superannuation and other deductions to and/or from all employees and former employees of the school shall be made through the payroll. For best practice, all claims in respect of public transport and subsistence costs should be made through the payroll, and not paid directly from petty cash or by cheque.

E.6.4 The Governing Body is under a duty to ensure that all appointments, resignations, absences, overtime or other circumstances affecting the salary, wage or emoluments of an employee in their school are acted upon immediately.

E.6.5 The Governing Body must ensure that all appointments are in accordance with appropriate grades and scales of pay, are consistent with agreed arrangements and that adequate budget provision is available.

- E.6.6 The Governing Body is responsible for ensuring that only authorised payments are made. In particular, effective authorisation procedures are needed in respect of new starters, leavers, absences and variations to pay. They should include a proper division of duties between staff authorising payments and those checking payroll output. In no circumstances may a member of staff authorise or process a transaction in relation to their own remuneration.
- E.6.7 The Governing Body are responsible for ensuring that all data is input correctly to the payroll system and that all deadlines are met.
- E.6.8 The Governing Body shall ensure that settlement of any loans is agreed when completing the leaving notice.
- E.6.9 The Governing Body shall determine an appropriate staffing establishment in consultation with the Head Teacher, having due regard for available financial resources and the likely demand for teaching resources over the coming years.
- E.6.10 Where a school's payroll is provided by another payroll provider other than the school, the Governing Body shall ensure that:
- all appropriate payroll records are maintained and updated in respect of income tax, national insurance, statutory sick pay and pension contributions;
  - all relevant payments are made by the payroll provider in respect of HMRC, Teachers' Pension Agency (TPS) and other bodies for which deductions from gross pay are made;
  - the payroll provider has in place appropriate insurance cover to indemnify the school against any loss arising from error or fraud during processing of the school payroll.

## **E.7 Expenditure – Petty Cash**

- E.7.1 The Governing Body is responsible for funding their petty cash imprest accounts out of their bank accounts.
- E.7.2 The Governing Body shall ensure that petty cash is properly accounted for and reconciled on a monthly basis (also taking into account VAT where applicable). Head Teachers shall review and sign these.
- E.7.3 School officers administering petty cash must ensure that expenditure conforms to the legal and justifiable tests as for general expenditure. Proof of expenditure must be obtained and retained in all cases and documentation must be retained in accordance with general expenditure items. Where appropriate an official receipted VAT invoice must be obtained.
- E.7.4 The Governing Body must make adequate arrangements:
- for the safe custody of cash held;

- to ensure the float is never used to cash personal cheques or to make personal loans;
- to ensure the prompt recording of transactions;

## **E.8 Expenditure – Capital**

*Capital expenditure is money spent to acquire, improve or upgrade physical assets such as buildings and machinery which provides benefits for a period exceeding one year. This may include work on the school site, playing fields, buildings, vehicles or other equipment.*

- E.8.1 Capital expenditure generally falls outside the Scheme for Financing Schools. However, capital expenditure may be financed from delegated budgets. Where the school charges elements of expenditure relating to capital works, to its budget share, these financial regulations shall apply. These financial regulations shall not apply to expenditure which is the responsibility of the diocesan boards or other funding agencies.
- E.8.2 The Governing Body shall ensure that items below £5,000 are not capitalised, in line with the Scheme for Financing Schools.
- E.8.3 The Governing Body must notify the LA prior to committing funds in excess of £25,000 for primary or special schools, or £50,000 for secondary schools, and take into account any advice from the Strategic Director of Children & Young People as to the merits of the proposed expenditure.
- E.8.4 The Governing Body shall seek the consent of the LA, where the premises are owned by the LA, for the extension of buildings and any external works that will impact on play areas or playing fields.

## **Income & Expenditure**

### **E.9 Taxation**

- E.9.1 It is the responsibility of the Chief Finance Officer to make arrangements for the completion of all returns to the HM Revenue & Customs (HMRC). Head Teachers must provide information to the Chief Finance Officer in the format and timetable required in order to meet these responsibilities.
- E.9.2 The Governing Body is responsible for VAT on expenditure and income. A number of school services attract VAT, which must be passed on to customers and separately accounted for. For details of items attracting VAT, the rates to be applied and the specific accounting arrangements are detailed in Brent's VAT Guide for Schools.
- E.9.3 The majority of payments made to suppliers and contractors will be subject to VAT. In these cases an original VAT invoice must always be obtained. A supplier not



registered for VAT is not entitled to charge VAT. VAT invoices must contain certain information, details of, which are set out in VAT Guide for Schools. This booklet also set out a number of practical guidelines, which must be observed.

- E.9.4 Heavy penalties will be imposed on the LA if it submits incorrect VAT returns. Any penalties resulting from an incorrect declaration will be charged to the school concerned.
- E.9.5 The Governing Body must submit a quarterly return to the Schools Finance Team providing details of VAT charged and paid. These returns will be in a format notified by the Chief Finance Officer and must be submitted within specified timescales.
- E.9.6 Payments to subcontractors for work of a construction nature are subject to HMRC Construction Industry Scheme (CIS) special verification and reporting rules. Schools are exempt where a contract is between the school/governing body and the subcontractor (not with the LA). This means the school can pay the subcontractor direct and do not have to report details of payments made for construction operations under the Construction Industry Scheme (CIS). However, where there is work of construction nature on a school and the contract is between the subcontractor and the LA, in this case invoices are paid and reported for CIS purposes by the LA.
- E.9.7 The Governing Body shall ensure that all payments to employees and former employees of salaries and wages, including London Weighting, overtime, fees, commissions, bonuses, performance related pay, contract additions, leased car allowances, honoraria, sickness payments (including SSP and SMP), holiday pay, pensions compensation, other emoluments and other taxable and/or superannuable payments are made through the school's payroll system. These must not be paid out of petty cash, or through the school's payment systems. This is essential to ensure that all statutory deductions and pension contributions are correctly made and paid over.
- E.9.8 The Governing Body shall ensure that all payments to self-employed persons employed by schools, as consultants or temporary workers, are treated with extreme care. The Governing Body is responsible for assessing employment status in respect of any service providers engaged with the school. In practice this may be an individual providing services such as teaching, lecturing, coaching, consulting, training, etc.
- Where the individual concerned represents a bona fide company, the payment should be made directly to the company.
  - Where it is not possible to determine employment status, the school shall seek advice from the LA's Senior Finance Officer (Tax).
  - If there is any doubt, the person must be paid through the payroll.



## **F. RISK MANAGEMENT AND CONTROL OF RESOURCES**

*Risk Management is the process of defining risks that threaten a school, understanding how to handle them and averting the danger in an efficient and cost-effective manner. Good risk management ultimately saves time, assets, income and other important resources, and prevents the risk of loss, fraud and liabilities.*

### **F.1 Risk Management and Insurance**

F.1.1 The Chief Finance Officer is responsible for the preparation and promotion of the LA's risk management policy statement.

F.1.2 The Chief Finance Officer, or under arrangements approved by him, shall effect all insurance, subject to any liability imposed on the LA by statute or other legal obligation.

F.1.3 The Governing Body shall be responsible for ensuring that assets under their control have appropriate insurance cover within the overall guidance issued and must review on an annual basis the level of risk cover required.

F.1.4 The Governing Body shall:

- ensure that adequate risk management controls are implemented, monitored and reviewed;
- notify the Chief Finance Officer and the Strategic Director of Children & Young People immediately of any loss, liability or damage that may lead to a claim against the school;
- notify the Chief Finance Officer and Strategic Director of Children & Young People of all new risks, properties or vehicles that require insurance and of any alternations affecting existing insurances;
- consult with the Chief Finance Officer and the Solicitor to the LA on any terms or any indemnity that the LA is requested to enter into on behalf of the school.

F.1.5 When considering how much liability insurance to ask for from a provider, the Governing Body must ask these three questions first:

- a) What is the worst that could go wrong?
- b) How much would that cost to fix?
- c) Who should be responsible for such costs?

When these are answered, the amount of liability insurance to request will be easy to work out on a case-by-case basis. Governing Bodies should contact the Insurance team for advice and guidance if required.

F.1.6 The Governing Body shall ensure that all individuals or bodies who make lettings applications confirms that they have adequate insurance arrangements by signing an appropriate Lettings Terms and Conditions form before the application is accepted. A copy of this document shall be retained by the school.

- F.1.7 The Governing Body shall ensure that all school officers that make use of private vehicles in the course of their duties, have arranged appropriate business use cover and such cover is evidenced by the production of certificates of insurance.

## **F.2 Internal Controls**

*Internal Controls include policies and procedures that:*

- *pertain to the maintenance of accurate and reasonably detailed records;*
- *provide reasonable assurance that transactions are properly recorded and authorised;*
- *safeguard assets.*

- F.2.1 The Chief Finance Officer shall make arrangements for the production and publications of an annual independent statement on internal control and risk management.

- F.2.2 The Governing Body and Head Teacher shall ensure that:
- adequate systems of internal control are established, adhered to, tested and reviewed in order to be confident in the areas set out in the annual assurance matrix;
  - staff have a clear understanding of the consequences of lack of control and knowledge of Financial Regulations.

- F.2.3 The Governing Body shall put in place appropriate measures to achieve effective internal financial controls. These may include:
- Adequate operation of budgetary control and accounting systems;
  - Adequate supervision;
  - Physical safeguarding of property and staff;
  - Segregation of duties;
  - Maintenance of local information systems;
  - Adherence to authorisation and approval process.

## **F.3 Schools Financial Value Standard (SFVS)**

*The SFVS is a self-assessment of the school by the Governing Body on the effectiveness of their financial management. The SFVS will inform the LA program of internal audit and auditors will have access to the standard and will check whether the schools self-assessment is in line with their own judgement. Auditors will report any major discrepancies to the Chief Finance Officer and the Strategic Director of Children & Young People.*

- F.3.1 The Governing Body shall comply with the DfE Schools Financial Value Standard (SFVS) by the completion and submission of the self-assessment to the LA.
- F.3.2 The Governing Body shall ensure that the SFVS is completed, signed by the Chair of Governors and submitted to the Schools Finance Team prior to 31<sup>st</sup> March each year.

- F.3.3 Where schools fail to complete the self-assessment by 31<sup>st</sup> March, the LA may take the following action:
- Issue a notice of concern;
  - Publish the names of schools who did not submit the assessment in time or not at all;
  - Withdraw financial delegation.

#### **F.4 Audit Requirements**

- F.4.1 The Chief Finance Officer will ensure that a strategic and annual audit plan is prepared by the Head of Audit and Investigations which takes account of the characteristic and relative risks of the activities involved. The Chief Finance Officer is responsible for ensuring that adequate arrangements are made for the effective delivery of this plan. Audit visits shall examine accounting, financial and operational aspects of school activity.
- F.4.2 The Chief Finance Officer will ensure that the Strategic Director of Children & Young People, the Head Teacher and Chair of Governors receive suitable reports setting out the findings of all internal and external audit reports of a school.
- F.4.3 The Chief Finance Officer, or authorised representative including external auditors, shall have authority to:
- enter any municipal building, land or area where records relating to any activity of the LA, its partners, contractors or any body partly or wholly funded by the LA, are, or may be, held. This includes maintained schools. If necessary they can conduct searches of those areas, including cabinets, workspaces, desks, for the purposes of locating documents or other material relevant to any matter under investigation. Where necessary they can remove and examine IT equipment.
  - access all records, data, computer systems, correspondence and any other source of information relating to any matter under examination and remove any documents and records as deemed necessary. This will include documentation held by schools in respect of organisations that are partners of the school or are providing services on behalf of the school.
  - request and receive such explanations as are considered necessary concerning any matter under examination.
  - request any person holding or controlling cash, stores or any other school property to produce such items for examination. These may be removed as deemed necessary.

For the avoidance of doubt, the authority detailed above includes both foundation and voluntary aided schools, and any other establishment operated within the LA's accounts.

In relation to rights of access, the Chief Finance Officer and his representatives are expected to have a personal responsibility to observe the highest standards of confidentiality and personal integrity.

- F.4.4 The Governing Body must:
- ensure that the Head Teacher and other school officers respond promptly to recommendations in both internal and external audit reports;
  - ensure that agreed actions arising from the audit recommendations are carried out in a timely and efficient fashion;
  - monitor the reasons for any failure by the Head Teacher or other school officers to implement those audit recommendations.
- F.4.5 The Governing Body shall maintain a risk register for services and projects within the school, informed by regular reviews and assessments of risks and to identify and document actions to mitigate those risks.
- F.4.6 The Governing Body must ensure that new systems for maintaining financial records, or significant changes to such systems, are discussed with the Schools Finance Team and the Audit and Investigations Service prior to implementation.

## **F.5 Financial Irregularities**

*Any matter that arises which involves, or is thought to involve, irregularities concerning cash, stores or other property of the LA or any suspected financial irregularity in the exercise of the functions of the LA. This includes anything that can detrimentally affect the LA's interests.*

- F.5.1 Every school officer has a duty to report any suspected breach of financial regulations, irregularity or suspected irregularity as soon as the matter is identified, to the Head Teacher or the Governing Body, or if circumstances dictate, directly to the Audit and Investigations Service.
- F.5.2 The Governing Body shall ensure that the LA's Whistleblowing Policy is fully distributed and made available to all school officers and governors for reference. This policy applies equally to all school officers and ensures that officers can report their concerns in confidence. The LA has a statutory duty, under the Public Interest Disclosure Act 1998, to protect whistle-blowers from recrimination. Details of the policy can be found on the Schools Extranet or can be obtained from the Schools HR Team or the Audit and Investigation Service.
- F.5.3 The Governing Body has a duty to notify the Chief Finance Officer immediately of any suspected fraud, theft, irregularity, improper use or misappropriation of the LA's property or resources. Pending investigation and reporting, the Governing Body should take all necessary steps to prevent further loss and to secure records and documentation against removals or alteration.
- F.5.4 The Governing Body must keep a service based register of gifts and gratuities received by officers. Offers, gifts or inducements for favour shall be declined, fully recorded by the school officer or governor and reported and minuted at the next meeting of the Governing Body. This requirement does not extend to minor items of stationery such as calendars, pens, etc.

## **F.6 Money and Banking**

- F.6.1 The Governing Body must ensure that adequate security arrangements exist for the holding of cash including controlling access to safes and other receptacles. Cash holdings should be kept to a minimum at all times.
- F.6.2 The Governing Body shall maintain such bank accounts as it, in consultation with the Chief Finance Officer and the Strategic Director of Children & Young People, considers necessary for the efficient operation of the school's finances under arrangements approved by the Chief Finance Officer.
- F.6.3 The Governing Body is responsible for approving the authorised signatories to all bank accounts within their school and for ensuring that there is more than one signatory.
- F.6.4 The Governing Body shall ensure that all transfers between accounts, unless undertaken automatically by the school's bank to optimise investment funds, are authorised in writing by the Head Teacher.
- F.6.5 The Governing Body ensure that all any income relating to delegated public funds are not, at any point, paid into or accounted for by voluntary or non-public funds held by the school.
- F.6.6 The Governing Body shall make arrangements with the bank to provide statements of account, together with supporting documentation, at pre-determined intervals. To enable the LA's statutory accounts to be closed on a proper basis it is essential that a statement is obtained showing the position at the close of business on 31<sup>st</sup> March, or the last banking day prior to the 31<sup>st</sup> March.
- F.6.7 The Governing Body are responsible for the effective management of cash flow through their bank accounts.
- F.6.8 The Governing Body shall ensure that all school bank accounts are administered effectively and reconciled to the school's accounting system at least on a monthly basis. This includes investment accounts, bonds and any monies held on deposit with approved banks and building societies and sourced by public funds. The reconciliation shall be reviewed by the Head Teacher and evidenced in writing.
- F.6.9 The Governing Body shall maintain a cash book and other records of all transactions passing through those bank accounts and shall ensure that such records are balanced and reconciled at periods of no less than one month and that prompt action is taken on any discrepancy.
- F.6.10 Imprest and petty cash bank accounts must not be overdrawn at any time. The Governing Body must ensure that their bank account(s) remain in credit.

- F.6.11 School officers shall not use their own private bank accounts for the purposes of making payments or banking income relating to the school.

## **F.7 Property, Stock and Equipment**

- F.7.1 The Chief Finance Officer shall maintain an appropriately valued asset register of all the LA's land and buildings.
- F.7.2 The Governing Body must maintain an inventory of valuable goods and equipment. The inventory must be kept in a secure place and should include:
- All items with a value over £1,000 (the LA strongly suggests that all items over £100 should be included);
  - All items with a value under £1,000 if they may be regarded as portable, desirable items that are susceptible to unauthorised removal;
  - A full description of the items including a note of any security markings and identification numbers etc.
- F.7.3 The Governing Body should ensure that a comprehensive inventory check is carried out at intervals of no more than twelve months. These checks shall be evidenced in writing and the Head Teacher shall certify that checks have been undertaken to their satisfaction. A copy of the certified inventory should be presented to the Governing Body.
- F.7.4 All assets should be held in the name of the LA or school and not in the name of individual officers or their post titles. It is important that valuable items are held in a secure environment commensurate with the value of the items and the cost of security. Large cash holdings should be kept in a suitable locked safe. Keys should be kept in a secure place or retained by the key-holder at all times. All officers should be aware that many documents such as cheque books, savings books, securities and order pads are the equivalent of cash and must be treated accordingly. It is not acceptable to leave safes unlocked during working hours or to leave cash holdings in unlocked desk drawers or filing cabinets. The LA's insurance policy may be invalidated if appropriate security measures are not taken.
- F.7.5 The Governing Body is responsible for maintaining the security at all times of all land, buildings, stores, equipment and other property under their control. Head Teachers must ensure that land and buildings are adequately secured to prevent against unauthorised access or possession. Where the Governing Body feels that special security arrangements are required it should consult the Chief Finance Officer and/or the Strategic Director of Children & Young People.
- F.7.6 The Governing Body shall be responsible for the care and custody of the stores held in their school, which should not be held in excess of economic requirements.
- F.7.7 The Governing Body and Head Teacher shall annually review their use of property for the purpose of identifying surplus or inefficient properties.

- F.7.8 The Governing Body shall make arrangements for a periodical test check of stocks under their control by a person independent of the 'store-keeper' and shall ensure that all stocks are checked at least once in each financial year.
- F.7.9 Designated school officers shall maintain a record of all stocks and stores in a form approved by the Chief Finance Officer.
- F.7.10 The Governing Body shall provide the Strategic Director of Children & Young People with such information as required on stocks and stores for accounting purposes.
- F.7.11 The Strategic Director of Children & Young People shall ensure that where it is necessary to hold property on behalf of a member of the public or another third party, an itemised inventory is maintained of all such items. Each Governing Body shall make secure arrangements for such property and shall arrange for periodical checks by a person other than the employee responsible for the custody of the property.
- F.7.12 The Governing Body shall ensure that where school officers are required to take assets or equipment home, this shall be properly recorded on the inventory.

## **F.8 Sale of Assets**

*Land and buildings cannot be disposed of other than in accordance with LA procedures.*

- F.8.1 Where the Governing Body determines that any asset with a resale value is surplus to requirements must record that fact in writing giving the reason. A disposal file must be held by all schools for this and all other relevant information concerning the disposal, and kept for future inspection.
- F.8.2 The Governing Body must ensure that a member of school staff who determines that an asset is surplus to requirements or is involved in the disposal must never attempt to purchase it or take it for themselves. There must be a clear separation of duties.
- F.8.3 The Governing Body must appoint a single person responsible for disposal whose name must be clearly identified in the disposal file. They should be instructed in writing on the disposal and will be accountable to the Governing Body and the Head Teacher for ensuring that disposal is for the best price reasonably obtainable.
- F.8.4 The Governing Body shall ensure that all paperwork in connection with the disposal is kept in the disposal file. The file should be kept for a period of six years after the disposal. The file shall include at least:
- the Head Teacher's written record declaring the asset surplus, and instructions to the person appointed as responsible for the disposal;
  - the independent valuation;



- the advertisement;
- the offers made; and
- the receipt.

F.8.5 The Governing Body shall ensure all assets for disposal with a value exceeding £500 are subject to independent valuation and/or disposed of by way of either:

- competitive bids following advertisement;
- auction;
- or both.

This will ensure that the best price reasonably obtainable is achieved.

F.8.6 The Governing Body shall ensure that where the estimated value of the asset is less than £500, an independent valuation is obtained, provided that the person giving the valuation is qualified to judge, is clearly identified in the disposal file, and is properly independent.

F.8.7 The Governing Body shall ensure that all assets are offered to other schools before members of staff or the public. Information about the assets available should be circulated to all schools and with adequate time allowed for them to make a bid. A sale may proceed to any person offering at or above the valuation. If there is competition, the sale should be to the highest bidder.

F.8.8 The Governing Body shall ensure that where the estimated value of the asset exceeds £500, it is advertised in such a way as to facilitate bids by other schools and potential purchasers outside the LA. Sale should proceed by way of submission of written bids, which name the purchaser. The sale may proceed to the highest bidder, unless this does not reflect the proper value of the asset.

F.8.9 The Governing Body shall ensure that official receipts are issued for income received. Moneys must be received and properly accounted for by someone who has not been involved in the disposal.

F.8.10 The Governing Body must ensure the disposal is recorded on the school's inventory.



## **G. PROCUREMENT AND CONTRACTS**

*Under the International Financial Reporting Standards (IFRS) contracts (works, supplies or services) may contain “embedded leases” that need to be disclosed. Contracts that require the use of specific assets (as defined by IFRS) are at risk and may contain such leases. These leases may not be visible or apparent and so contracts must be assessed by the Chief Finance Officer before being signed.*

*Leasing, loans and financial arrangements have their own specific approval process outside of the LA’s Contract Standing Orders and as such are contained within Section C.*

*An electronic version of the LA’s Constitution encompassing the Financial Regulations and Contract Procedure Rules can be obtained here:*

*<http://www.brent.gov.uk/your-council/about-brent-council/council-structure-and-how-we-work/our-constitution/>*

*For the purposes of Contract Standing Order 100 schools shall substitute reference to ‘Democratic Services Manager’ to ‘Head Teacher and/or Chair of Governors.’*

- G.1 All procurement on behalf of the LA must, where applicable, comply with EU Public Procurement Legislation (the Public Contracts Regulations 2015), the LA’s Financial Regulations and Contract Standing Orders.
- G.2 The Governing Body shall maintain and supply the Chief Finance Officer with such information as is required for corporate compliance with these rules.
- G.3 The Governing Body has a duty to ensure that appropriate steps are taken to procure contracts in accordance with the procurement procedures set out in the LA’s Contract Standing Orders and Financial Regulations, in order to ensure compliance with the law and achieve value for money. This includes assessing the value of the contract, over the life of the contract including any possible extensions.

The chart below sets out different categories of contracts depending on the value of the contract (over the life of the contract, including any possible extension) for Supplies, Services and Works.

### **Contract Value**

It is a mandatory requirement to estimate a contract value at the start of a procurement. The value of the contract must be calculated over the entire length of the contract, including any period of extension(s) anticipated.

Supplies & Services		Works	
Very Low Value Contract	£0 < £24,999	Very Low Value Contract	£0 < £24,999
Low Value Contract	£25,000 < £172,513	Low Value Contract	£25,000 < £249,999
Medium Value Contract	£172,514 < £249,999	Medium Value Contract	£250,000 < £499,999
High Value Contract	> £250,000	High Value Contract	> £500,000
<b>EU Threshold Values:</b> <u>Supplies &amp; Services (excluding Schedule 3 Services)</u> from 1 <sup>st</sup> January 2014 > £172,514 <u>Schedule 3 Services</u> from 1 <sup>st</sup> April 2015 > £650,000		<b>EU Threshold Values:</b> <u>Works</u> from 1 <sup>st</sup> January 2014 > ££4,322,012	

*A Schedule 3 Service is defined as those social, educational and other specific services listed in Schedule 3 of the Public Contracts Regulations 2015.*

- **Very Low Value Contract** – Although there are no formal procurement procedures for Very Low Value Contracts, the Governing Body must secure best value. The Governing Body is advised that the easiest way to demonstrate best value is either to seek three competitive written quotes, to use an Approved List (where one exists), or to use the Online Market Place. This is not however mandatory, but it is mandatory to keep an auditable record to demonstrate compliance and value for money.
- **Low Value Contract** – The Governing Body must seek at least three written quotations from potential providers and retain the quotes sought and/or obtained, or contracts must be procured through the Online Market Place.
- **Medium Value Contract**– The Governing Body must undertake a competitive tendering exercise. This tendering exercise must be commenced by placing a contract notice (advert) in OJEU (Official Journal of the EU) if the Public Contract Regulations 2015 apply in full to the procurement. For all tender exercises, it is necessary to advertise on Contracts Finder (a web-based facility operated by or on behalf of the Cabinet Office) and publish a public notice on the London Tenders Portal. Where a Governing Body elects to utilise the LA's e-Tendering system to advertise and run the procurement, they must then comply with Contract Standing Order 101 (e-Tendering and e-Auctions).
- **High Value Contract** – The Governing Body shall obtain approval from the Cabinet before the procurement process is started. In seeking Cabinet approval to tender, the Governing Body shall address the pre-tender considerations set

out in the LA's Contract Standing Order 89, to include details of the criteria for evaluation and award. The tender exercise will be the same as for Medium Value Contracts. Following receipt and evaluation of bids, further Cabinet authority should be sought to award the contract.

- G.4 The Governing Body shall ensure that when valuing a rolling contract with no defined termination date, the contract is valued over a period of 48 months.
- G.5 The Chair of Governors and the Head Teacher shall make appropriate arrangements for the receipt and opening of tenders that ensure that each tenderer is treated fairly and equally and the LA's interests are protected. Unless the LA e-Tendering system is used, tenders shall be addressed to the Head Teacher and remain in their custody until the time appointed for opening.
- G.6 For **High Value Contracts**, unless the LA e-Tendering system is used, tenders shall be addressed to the Chair of Governors or the Head Teacher and the tender shall remain in their custody until the time for opening. Tenders for contracts with this value must also be opened and tender details recorded by the Chair of Governors or the Head Teacher and one other officer.
- G.7 Subject to compliance with the EU Procurement Legislation, in cases of extreme urgency, e.g., where there is an immediate danger to life, limb or property, competitive tenders need not be invited in order to deal with the immediate urgent situation provided that advice is sought from the LA's Chief Legal Officer.
- G.8 Subject to compliance with the EU Procurement Legislation, where schools consider that there are good operational and/or financial reasons for not procuring and/or awarding a contract in accordance with Contract Standing Orders or Financial Regulations, a report should be submitted to the Cabinet seeking approval not to comply in these respects.
- G.9 The LA's Chief Legal Officer and the Chief Finance Officer or his representative must be invited to be advisers to all Tender Panels for evaluation of High Value Contracts, i.e. contracts for services or supplies with a value in excess of £250,000 and works with a value in excess of £500,000.
- G.10 The Governing Body shall maintain a record of all tenders invited and received by them and of all contracts entered into on behalf of the LA and shall record the reasons for non-acceptance of a tender or the rejection of a contractor who has not been included in a tender short-list.
- G.11 The Governing Body shall ensure that no contract subject to the full application of the EU Regulations is awarded without the mandatory 10 days standstill period being complied with.
- G.12 The Governing Body shall ensure that where a contract exceeds £500,000 in value, or is likely to exceed that amount, it shall be contained in a formal document executed under seal.

- G.13 Every school officer has a legal and personal duty to notify the Chief Executive in writing immediately if they discover that the school has entered or intends to enter into a contract in which he or she has a direct or indirect pecuniary interest. Further guidance on this matter can be sought from the LA's Chief Legal Officer.

## **H. INVESTMENTS AND TRUST FUNDS**

- H.1 The Governing Body shall ensure that all investments of money under the school's control are made in the name of the school where legally possible.
- H.2 The Governing Body shall ensure that all securities that are the property of, or in the name of, the school are held in custody under safe arrangements previously made or agreed by the Strategic Director of Children & Young People.
- H.3 The Governing Body shall ensure that all trust funds held by the school are, where legally possible, in the name of the school.
- H.4 The Governing Body shall ensure that all officers acting as trustees by virtue of their official position deposits all securities, certificates and similar documents relating to the trust in accordance with prior arrangements approved by the Strategic Director of Children & Young People subject to advice from the Chief Finance Officer unless any trust deed otherwise provides.

## **I. CUSTODY OF THIRD PARTY PROPERTY**

- I.1 The Governing Body shall ensure that where it becomes necessary to hold property on behalf of a member of the public or other third party, an itemised inventory is maintained of all such items.
- I.2 The Governing Body shall make secure arrangements for the custody of such property, including cash, and shall arrange for periodic checks by a person other than the employee responsible for its custody.

## **J. ESTATES**

- J.1 The LA's Chief Legal Officer shall have custody of all title deeds and shall make secure arrangements for their custody.
- J.2 The Governing Body shall ensure that where a school proposes to build another building, the matter is referred to the LA's Chief Legal Officer for advice as to the legal effect of the transaction.

## **K. RETENTION OF DOCUMENTS**

- K.1 The following items must be retained indefinitely or during the whole of the school's possession of the relevant asset and for twelve years afterwards:
- Property deeds, contracts and leases relating to land and buildings in the ownership or occupation of the LA or Governing Body.
  - Share certificates, stocks, bonds and other securities together with any appropriate contracts of purchase or sale.
  - Guarantees, indemnities, insurance policies.
- K.2 All other contracts carried out under the seal of the LA must be retained for twelve years after completion of the contract.
- K.3 LAs are required by statute to retain all accounting documents for a minimum of six years plus the current tax year. The statute of limitations for contracts not under seal applies for six years after completion of the contract. In addition HM Revenue & Customs may inspect documents for periods of six years. Officers can be held personally liable where documents required are not available. In order to give effect to these requirements the following documents must be retained for a minimum of six years plus the current tax year:
- All accounting documents including invoices, contract certificates, paid cheques, bank statements;
  - Debtor accounts, income receipts and associated documents;
  - All contracts not under seal for works, goods or services (six years after completion of the contract);
  - All tender and related documents (six years after completion of the contract);
  - Details of salaries, wages and superannuation payments including particulars of pay calculations, copy payslips, P60 documents.
- K.4 The Governing Body shall consult with the Audit and Investigations Service before copying documents not previously copied or before using a new method, to ensure such methods would be accepted for evidence purposes.
- K.5 The Governing Body shall nominate a member of school staff to make safe arrangements for the storage and review of information. All records must be properly indexed to allow efficient recovery.

## **L. NON-OFFICIAL FUNDS**

*A non-official fund refers to both voluntary and private funds which do not contain official money or delegated funding from the LA. It is controlled wholly or in part by the Head Teacher by reason of their employment by the school.*

These Financial Regulations as a whole does not apply to non-official funds, but the Governing Body is advised to ensure similar standards of accounting are exercised in relation to these funds to ensure an effective control framework.

The following regulations however do apply.

- L.1 The Governing Body shall ensure that non-official funds are never mixed with official (delegated) funds. The Governing Body shall ensure that any income which properly relates to the school's delegated budget is not credited to a non-official fund.
- L.2 The Governing Body shall arrange for voluntary and any other non-public funds to be the subject of an annual independent audit by an auditor appointed by the Governing Body. The auditor shall not be an employee, and shall be independent of the school.
- L.3 The Head Teacher shall ensure that a report of the annual audit is submitted to the Governing Body for review.
- L.4 The Governing Body shall provide annual audit certificates to the LA's internal auditors in respect of voluntary and private funds held by the school.
- L.5 The Governing Body shall ensure its oversight of the management of non-official funds by regularly reviewing reports on income received, major items of expenditure, the balance of the funds, and certified reconciliations.
- L.6 The Governing Body shall not use non-official funds to make overtime payments to school officers or for payment of fees to school officers carrying out additional work as part of their normal school duties.
- L.7 The Governing Body shall not reclaim VAT on non-official funds, unless the fund is separately registered for VAT.

## **M. INFORMATION SYSTEMS**

- M.1 The Governing Body shall retain overall responsibility for data protection, and the school shall be registered under the Data Protection Act 1998.
- M.2 All school officers shall take adequate steps to keep personal records up-to-date and secure in accordance with the terms of the Data Protection Act 1998. This requirement shall also extend to the secure disposal of obsolete records.
- M.3 The Governing Body shall ensure that where CCTV systems are in use at the school for the purposes of preventing and detecting crime, that the Data Protection Act registration shall reflect this purpose.
- M.4 The Governing Body shall ensure that all computer systems employed by the school is adequately secured against unauthorised access and use. Such measures may include:
- Appropriate physical location of equipment and locking of rooms when not in use;
  - Establishment of appropriate system users according to their job descriptions and responsibilities;
  - Use of appropriate and regularly updated passwords to prevent unauthorised access;
  - Use of screensavers and time-out routines to prevent unauthorised access and viewing of data on screen.
- M.5 The Governing Body shall ensure that rigorous procedures exist to secure a regular back-up of data and systems held on computers. Back-up media shall be appropriately secured and should be held remotely from the computers to which they relate. This may include securing off-site copies. Back-up and restore routines shall be regularly tested to ensure that data and systems can be restored if necessary.
- M.6 The Governing Body shall establish a disaster recovery plan which considers the recovery of records and data in the event of a serious incident such as fire. Where possible this plan shall be tested to ensure that school business shall continue as far as is possible. These arrangements shall cover not only reconstitution of records but also the prompt sourcing of appropriate replacement equipment, and ensuring that manual records are stored in as secure a manner as possible.
- M.7 The Governing Body shall ensure that adequate systems exist for the detection and prevention of infection from computer viruses. Such defences shall be subject to regular update, and the Head Teacher shall ensure that such procedures exist which prevent staff from using computers, which are thought to be infected.



## **ANNEX A – LIST OF MAINTAINED SCHOOLS** (at 1<sup>st</sup> September 2015)

### **NURSERY (4)**

COLLEGE GREEN  
CURZON CRESCENT  
FAWOOD  
GRANVILLE PLUS

### **PRIMARY (55)**

ANSON  
BARHAM  
BRAINTCROFT  
BRENTFIELD  
BYRON COURT  
CARLTON VALE INFANTS  
CHALKHILL  
CHRIST CHURCH BROND CE  
CONVENT OF J&M RC INFANTS  
DONNINGTON  
ELSLEY  
FRYENT  
FURNESS  
HARLESDEN  
ISLAMIA  
JOHN KEBLE CE  
KILBURN PARK JUNIORS  
KINGSBURY GREEN  
LEOPOLD  
LYON PARK INFANTS  
LYON PARK JUNIORS  
MALOREES INFANTS  
MALOREES JUNIORS  
MICHAEL SOBELL SINAI  
MITCHELL BROOK  
MORA  
MOUNT STEWART INFANTS  
MOUNT STEWART JUNIORS  
NEWFIELD  
NORTHVIEW  
OAKINGTON MANOR  
OLIVER GOLDSMITH

OUR LADY OF GRACE RC INFANTS  
OUR LADY OF GRACE RC JUNIORS  
OUR LADY OF LOURDES RC  
PARK LANE  
PRESTON PARK  
PRINCESS FREDERICA CE  
ROE GREEN INFANTS  
ROE GREEN JUNIORS  
SALUSBURY  
ST JOSEPH'S RC  
ST JOSEPH'S RC INFANTS  
ST JOSEPH'S RC JUNIORS  
ST MARGARET CLITHEROW RC  
ST MARY MAGDALEN'S RC  
ST MARY'S CE  
ST MARY'S RC  
ST ROBERT SOUTHWELL RC  
STONEBRIDGE  
TORAH TEMIMAH  
UXENDON MANOR  
WEMBLEY  
WYKEHAM

### **SECONDARY (3)**

JFS  
NEWMAN  
ST GREGORY'S RC

### **SPECIAL (3)**

MANOR DAY  
PHOENIX ARCH  
THE VILLAGE

### **PRUS (2)**

Ashley College  
Brent River College



Department  
for Education

# **Schemes for financing schools**

**Statutory guidance for local authorities**

**August 2015**

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# Summary

## About this guidance

This is Issue 7 of statutory guidance from the Department for Education for local authorities on schemes for financing schools. It relates to Section 48 of the [School Standards and Framework Act 1998](#), and Schedule 14 to the Act.

Local authorities are required to publish schemes for financing schools setting out the financial relationship between them and the schools they maintain. The guidance lists the provisions which a local authority's scheme must, should or may include. Schemes need not follow the format used in this guidance.

In making any changes to their schemes, local authorities must consult all schools in their area and receive the approval of the members of their schools forum representing maintained schools. Local authorities must take this guidance into account when they revise their schemes, in consultation with the schools forum.

## Expiry or review date

This guidance will be reviewed annually and updated when necessary.

## What legislation does this guidance refer to?

- Section 48 of the [School Standards and Framework Act 1998](#), and Schedule 14 to the Act
- [School and Early Years Finance \(England\) Regulations 2014](#)

## Who is this guidance for?

This guidance is for local authorities.

## **Changes from Issue 6 of this guidance**

References below are to the section number in Issue 6 (February 2014) of this guidance. There have also been some minor amendments to the wording intended to provide additional clarity.

### **Directed revisions 2015**

2.9: Requirement for maintained schools to publish a register of the business interests of their governors, along with any relationships with staff.

3.6: Clarification that borrowing includes the use of finance leases and is not allowable, with the exception of certain schemes approved by the Secretary of State. Currently only Salix loans have such approval.

## The outline scheme

References throughout this statutory guidance to:

“the Act” are to the School Standards and Framework Act 1998;

“the authority” means the local authority; and

“the Regulations” are to the School and Early Years Finance (England) Regulations 2014 made under the Act.

The Regulations state that schemes must deal with the following matters:

1. The carrying forward from one funding period to another of surpluses and deficits arising in relation to schools’ budget shares.
2. Amounts which may be charged against schools’ budget shares.
3. Amounts received by schools which may be retained by their governing bodies and the purposes for which such amounts may be used.
4. The imposition, by or under the scheme, of conditions which must be complied with by schools in relation to the management of their delegated budgets and of sums made available to governing bodies by the authority which do not form part of delegated budgets, including conditions prescribing financial controls and procedures.
5. Terms on which services and facilities are provided by the authority for schools maintained by them.
6. The payment of interest by or to the authority.
7. The times at which amounts equal in total to the school’s budget share are to be made available to governing bodies and the proportion of the budget share to be made available at each such time.
8. The virement between budget heads within the delegated budget.
9. Circumstances in which a local authority may delegate to the governing body the power to spend any part of the authority’s non-schools education budget or schools budget in addition to those set out in section 49(4)(a) to (c) of the 1998 Act.
10. The use of delegated budgets and of sums made available to a governing body by the local authority which do not form part of delegated budgets.
11. Borrowing by governing bodies.
12. The banking arrangements that may be made by governing bodies.

13. A statement as to the personal liability of governors in respect of schools' budget shares having regard to section 50(7) of the 1998 Act.
14. A statement as to the allowances payable to governors of a school which does not have a delegated budget in accordance with the scheme made by the authority for the purposes of section 519 of the 1996 Act.
15. The keeping of a register of any business interests of the governors and the head teacher.
16. The provision of information by and to the governing body.
17. The maintenance of inventories of assets.
18. Plans of a governing body's expenditure.
19. A statement as to the taxation of sums paid or received by a governing body.
20. Insurance.
21. The use of delegated budgets by governing bodies so as to satisfy the authority's duties imposed by or under the Health and Safety at Work etc Act 1974.
22. The provision of legal advice to a governing body.
23. Funding for child protection issues.
24. How complaints by persons working at a school or by school governors about financial management or financial propriety at the school will be dealt with and to whom such complaints should be made.
25. Expenditure incurred by a governing body in the exercise of the power conferred by section 27 of the 2002 Act.

# **Section 1: Introduction**

## **1.1 The Funding Framework**

The scheme should have an introductory section which describes the main features of the new funding framework.

A specimen description is at Annex A. This may be amended, added to or replaced by a different version, but the scheme should aim for at least this level of detail. In particular, it should be made clear where the funding formula and details of centrally retained expenditure are set out, since these will no longer be in the scheme.

## **1.2 The role of the scheme**

The scheme should contain a paragraph which explains the role of the scheme itself.

This should explain that the scheme sets out the financial relationship between the authority and the maintained schools which it funds. It should make it clear that the scheme contains requirements relating to financial management and associated issues, binding on both the authority and on schools.

### **1.2.1 Application of the scheme to the authority and maintained schools**

As a description of its institutional coverage, the scheme should state that it applies in respect of all community, nursery, voluntary, foundation, community special or foundation special schools and pupil referral units (PRUs) maintained by the authority. The schools which the authority will be maintaining should be listed for information in an annex to the scheme.

The scheme applies to all community, nursery, special, voluntary, foundation (including trust), foundation special schools and PRUs maintained by the authority, whether they are situated in the area of the authority or situated elsewhere. It does not apply to schools situated in the authority's area which are maintained by another authority. Nor does it apply to academies.

## **1.3 Publication of the scheme**

The publication requirements are contained in the Regulations. They make clear that, as a minimum, the scheme must be published on a website which is accessible to the general public and that any revised version must be published by the date the revisions come into force, together with a statement that the revised scheme comes into force on that date.



## **1.4 Revision of the scheme**

The scheme should contain a statement that any proposed revisions to the scheme will be the subject of consultation with the governing body and the head teacher of every school maintained by the authority before they are submitted to the schools forum for their approval.

All proposed revisions must be submitted to the schools forum for approval by members of the forum representing maintained schools. Where the schools forum does not approve them or approves them subject to modifications which are not acceptable to the authority, the authority may apply to the Secretary of State for approval.

## **1.5 Delegation of powers to the head teacher**

The scheme should require the governing body to consider the extent to which it wishes to delegate its financial powers to the head teacher, and to record its decision (and any revisions) in the minutes of the governing body.

The scheme should state the responsibilities of the head teacher and governing body in respect of the annual budget plan; the first formal budget plan of each financial year must be approved by the governing body, or by a committee of the governing body.

It is open to the authority to suggest to schools what might be a desirable level of delegation to head teachers, but the scheme must not seek to impose any particular level of delegation.

## **1.6 Maintenance of schools**

The scheme should have a provision stating:

The local authority is responsible for maintaining the schools covered by the scheme, and this includes the duty of defraying all the expenses of maintaining them (except in the case of a voluntary school where some of the expenses are, by statute, payable by the governing body). Part of the way an authority maintains schools is through the funding system put in place under sections 45 to 53 of the School Standards and Framework Act 1998.

## **Section 2: Financial controls**

### **2.1 General procedures**

#### **2.1.1 Application of financial controls to schools**

The scheme should contain a general provision requiring schools, in the management of their delegated budgets, to abide by the authority's requirements on financial controls and monitoring, not only those in the scheme but also those requirements contained in more detailed publications referred to in the scheme.

The authority's requirements can differ for schools with their own bank accounts (see section 3).

#### **2.1.2 Provision of financial information and reports**

The scheme should contain a provision requiring schools to provide the authority with details of anticipated and actual expenditure and income, in a form and at times determined by the authority. However, the scheme should not require submission of such details more often than once every three months except for those connected with tax or banking reconciliation - unless the authority has notified the school in writing that in its view the school's financial position requires more frequent submission or the school is in its first year of operation. The scheme should also make clear that the restriction to a minimum 3 month interval does not apply to schools which are part of an on-line financial accounting system operated by the authority.

The form determined by the authority for submission of information should so far as possible take account of the Consistent Financial Reporting framework and the desirability of compatibility with that framework.

This is different from a requirement for annual budget plans (see 2.3).

#### **2.1.3 Payment of salaries; payment of bills**

The scheme may have a provision which applies separately published administrative procedures for these. Those procedures will vary according to the position on delegation of funds and any buyback of services which is in place.

#### **2.1.4 Control of assets**

The scheme should have a provision requiring each school to maintain an inventory of its moveable non-capital assets, in a form to be determined by the authority, and setting out the basic authorisation procedures for disposal of assets. However, schools should be

free to determine their own arrangements for keeping a register of assets worth less than £1,000. They should keep a register in some form.

Although authorities can determine the form of inventory for items above the £1,000 threshold, they may instead determine simply that schools should follow guidance, rather than a rigid format.

### **2.1.5 Accounting Policies (including year-end procedures)**

The scheme should have a provision requiring schools to abide by procedures issued by the authority for this.

### **2.1.6 Writing off of debts**

The scheme may authorise governing bodies to write off debts up to a stipulated level, with brief details of the procedure to be followed for larger debts.

## **2.2 Basis of accounting**

The scheme may contain a provision requiring that reports and accounts furnished to the authority be on either a cash or accruals basis; but the scheme must not seek to impose either system on schools' internal systems.

The intention behind this provision is to ensure that although authorities should be able to have reports furnished on the basis they need, they should not be able to dictate to schools how they organise their accounts. This means in particular that schools should be able to use what financial software they wish, provided they meet any costs of modification to provide output required by the authority.

## **2.3 Submission of budget plans**

The scheme should contain a provision requiring each school to submit a plan to the authority by a stipulated date showing its intentions for expenditure in the current financial year and the assumptions underpinning the budget plan. The provision may require the submission of revised plans throughout the year.

The scheme should also contain a provision binding the authority to supply schools with all school income and expenditure data which it holds which is necessary to efficient planning by schools, and supply schools with an annual statement showing when this information will be available at times through the year.

The scheme should contain a provision which allows schools to take full account of estimated deficits/surpluses at the previous 31 March in their budget plan.

The form determined by the authority for submission of budget plans should so far as possible take account of the Consistent Financial Reporting framework and the desirability of compatibility with that.

Authorities may insert in their schemes a requirement that provisional budget plans be submitted by a certain date; but these should be differentiated from the formal budget plan which should not be required before 1 May.

The school's formal annual budget plan must be approved by the governing body or a committee of the governing body.

The stipulated date for the initial submission of the plan should not be earlier than 1 May or later than 30 June. The intervals at which revisions may be required should not be more often than once every 3 months.

The format of the plan should be specified by the authority in a separate publication. Authorities may wish to give guidance to schools on assumptions likely to be the same for all schools eg on inflation.

### **2.3.1 Submission of Financial Forecasts**

The authority may require schools to submit a financial forecast covering each year of a multi-year period for which schools have been notified of budget shares beyond the current year.

Authorities should consider the extent to which such forecasts may be used for more than just confirming schools are undertaking effective financial planning or not. For instance: they could be used as evidence to support the authority's assessment of Schools Financial Value Standards and/or used in support of the authority's balance control mechanism. However, the requirement to submit a financial forecast should not place undue burdens on schools and should be proportionate to need. In requesting such forecasts authorities should state the purposes for which they intend to use this forecast: such a forecast may be used in conjunction with an authority's balance control mechanism.

## **2.4 Efficiency and Value for Money**

The scheme must include the following provision, which imposes a requirement on schools to achieve efficiencies and value for money, to optimise their resources and invest in teaching and learning, taking into account the purchasing, tendering and contracting requirements outlined in section 2.10.

Schools must seek to achieve efficiencies and value for money, to optimise the use of their resources and to invest in teaching and learning, taking into account the Authority's purchasing, tendering and contracting requirements.

It is for heads and governors to determine at school level how to secure better value for money.

There are significant variations in efficiency between similar schools, and so it is important for schools to review their current expenditure, compare it to other schools and think about how to make improvements.

## **2.5 Virement**

The scheme should contain a provision allowing schools to vire freely between budget heads in the expenditure of their budget shares.

## **2.6 Audit: General**

The scheme should contain a provision which places schools within an audit regime determined by the authority as regards internal audit, and the authority's external audit regime as determined by the Audit Commission, and requires them to co-operate with it.

Authorities should ensure that the wording of the general audit provision includes a requirement to provide access to the school's records for both internal and external auditors.

The scheme may provide for different authority audit arrangements for schools having their own bank account, compared with non-bank account schools.

## **2.7 Separate external audits**

The scheme should contain a provision which specifically allows a governing body to spend funds from its budget share to obtain external audit certification of its accounts, separate from any authority internal or external audit process.

There is no expectation by the Secretary of State that routine annual external audit at school level of budget share expenditure should be a usual feature of the funding system; merely that schools should not be prevented from seeking an additional source of assurance at their own expense.

The authority's audit regime may include sample visits to schools by the authority's external auditors. There is no need to specifically allow for this in the scheme since the general provision at 2.6 covers it.

## **2.8 Audit of voluntary and private funds**

A scheme should contain a provision requiring schools to provide audit certificates in respect of voluntary and private funds held by schools and of the accounts of any trading organisations controlled by the school.

The purpose of such a provision is to allow the authority to satisfy itself that public funds are not being misused. Authorities must not seek to impose through the scheme a right to audit such funds themselves or otherwise access the accounts of private funds. The Department does not believe that such access is required, or that the scheme can bestow it. A school refusing to provide audit certificates to the authority as required by the scheme is in breach of the scheme and the authority can take action on that basis. Access to the accounts of such funds by other agencies is a matter for them. Any other requirement as to audit of such funds is a matter for those making the funds available, and any Charity Commission requirements.

## **2.9 Register of business interests**

The scheme must contain a provision which requires the governing body of each school to have a register which lists for each member of the governing body and the head teacher:

Any business interests they or any member of their immediate family have;

Details of any other educational establishments that they govern;

Any relationships between school staff and members of the governing body;

And to keep the register up to date with notification of changes and through annual review of entries, to make the register available for inspection by governors, staff and parents, and the authority and to publish the register, for example on a publicly accessible website.

The authority may issue more detailed guidance on the maintenance of such a register.

## **2.10 Purchasing, tendering and contracting requirements**

The scheme should contain a provision which requires schools to abide by the authority's financial rules and standing orders in purchasing, tendering and contracting matters. This should include a requirement to assess in advance, where relevant, the health and safety competence of contractors, taking account of the authority's policies and procedures. However, the scheme should also contain a provision which has the effect of disapplying from schools any provision of those rules and/or standing orders which would require them:

- to do anything incompatible with any of the provisions of the scheme, or any statutory provision, or any EU Procurement Directive
- to seek LA officer countersignature for any contracts for goods or services for a value below £60,000 in any one year
- to select suppliers only from an approved list
- or would permit schools to seek fewer than three tenders or quotations in respect of any contract with a value exceeding £10,000 in any one year, subject to specific listed exceptions

A scheme may invite schools to nominate suppliers for inclusion on lists of approved suppliers.

The intention is to ensure that schools do not have to be subjected to unreasonable requirements as to authority counter-signature or use of an approved list, but also ensures that they should obtain at least three tenders or quotations for orders above a certain threshold.

Authorities may issue lists of approved suppliers; but schools must not be compelled either directly or indirectly to use them. Authorities may wish to point out the advantages of using lists of approved suppliers, eg assurance on health and safety issues.

The fact that an authority contract has been let in accordance with EU procurement procedures does not in itself make it possible to bind a school into being part of that contract. For the purposes of the Procurement Directives schools are viewed as discrete units.

The countersignature requirement should be applied sensibly by authorities and schools alike, avoiding attempts to artificially aggregate or disaggregate orders to avoid or impose the requirement.

## **2.11 Application of contracts to schools**

The scheme should contain a provision which makes clear the right of schools to opt out of authority arranged contracts

The scheme should include a provision which makes clear that although governing bodies are empowered under paragraph 3 of schedule 1 to the Education Act 2002 to enter into contracts, in most cases they do so on behalf of the authority as maintainer of the school and the owner of the funds in the budget share. (This is the main reason for allowing authorities to require authority counter-signature of contracts exceeding a certain value). The provision should also however make clear that other contracts may be made solely on behalf of the governing body, when the governing body has clear statutory obligations – for example, contracts made by aided or foundation schools for the employment of staff.

## 2.12 Central funds and earmarking

The scheme must contain a general provision authorising the authority to make sums available to schools from central funds, in the form of allocations which are additional to and separate from the schools' budget shares. The scheme should stipulate that such allocations should be subject to conditions setting out the purpose or purposes for which the funds may be used: and while these conditions need not preclude virement (except, of course, where the funding is supported by a specific grant which the authority itself is not permitted to vire), this should not be carried to the point of assimilating the allocations into the school's budget share.

Such allocations might, for example, be sums for SEN or other initiatives funded from the central expenditure of an authority's Schools Budget or other authority budget.

The scheme should contain a requirement that such earmarked funding from centrally retained funds is spent only on the purposes for which it is given, or on other budget heads for which earmarked funding is given, and is not vired into the budget share. There should be an accounting mechanism for schools to be able to demonstrate that this requirement has been complied with.

The authority may include a requirement that earmarked funds must be returned to the authority if not spent within any period stipulated by the authority over which schools are allowed to use the funding.

The scheme should include a provision barring the authority from making any deduction, in respect of interest costs to the authority, from payments to schools of devolved specific grant.

## 2.13 Spending for the purposes of the school

Although s.50(3) allows governing bodies to spend budget shares for the purposes of the school, this is subject to regulations made by the Secretary of State and any provisions of the scheme. As well as the various standard provisions LAs may wish to propose their own restrictions on this freedom, arising from local circumstances. By virtue of section 50(3A) (which came into force on 1st April 2011), amounts spent by governing bodies on community facilities or services under section 27 of the Education Act 2002 will be treated as if spent for any purposes of the school.

Under s.50(3)(b) the Secretary of State may prescribe additional purposes for which expenditure of the budget share may occur. He has done so in the School Budget Shares (Prescribed Purposes)(England) Regulations 2002 (SI 2002/378), which have been amended by the School Budget Shares (Prescribed Purposes)(England)(Amendment) Regulations 2010 (SI 2010/190). These allow schools to spend their budgets on pupils who are on the roll of other maintained schools or academies.



## 2.14 Capital spending from budget shares

The scheme should contain a provision specifically allowing governing bodies to use their budget shares to meet the cost of capital expenditure on the school premises. This includes expenditure by the governing body of a voluntary aided school on work which is their responsibility under paragraph 3 of Schedule 3 of the Act. However the authority may if it wishes stipulate that if there is expected capital expenditure from the budget share the governing body must notify the authority; and that it must take into account any advice from the Director of Children's Services as to the merits of the proposed expenditure if it exceeds the figure of £15,000 (or some higher sum). The scheme may specify that if the premises are owned by the authority, or the school has voluntary controlled status, then the governing body should seek the consent of the authority to the proposed works, but such consent can be withheld only on health and safety grounds.

The reason for these provisions is to help ensure compliance with the current School Premises Regulations and DfE Construction Standards, and health and safety legislation.

Where any cash values appear in schemes authorities will be able to apply in due course to vary the scheme so as to raise them if warranted by changing price levels.

These provisions would not affect expenditure from any capital allocation made available by the authority outside the delegated budget share.

## 2.15 Notice of concern

The scheme should include a provision that allows the authority to issue a notice of concern to any of its maintained schools. Model text is provided below but alternative wording could be used, including any additional conditions, prohibitions or limitations a local authority considers to be relevant in support of a notice of concern.

The authority may issue a notice of concern to the governing body of any school it maintains where, in the opinion of the Chief Finance Officer and the Director of Children's Services, the school has failed to comply with any provisions of the scheme, or where actions need to be taken to safeguard the financial position of the authority or the school.

Such a notice will set out the reasons and evidence for it being made and may place on the governing body restrictions, limitations or prohibitions in relation to the management of funds delegated to it.

These may include:

- insisting that relevant staff undertake appropriate training to address any identified weaknesses in the financial management of the school
- insisting that an appropriately trained/qualified person chairs the finance committee of the governing body

- placing more stringent restrictions or conditions on the day to day financial management of a school than the scheme requires for all schools – such as the provision of monthly accounts to the authority
- insisting on regular financial monitoring meetings at the school attended by authority officers
- requiring a governing body to buy into an authority's financial management systems
- imposing restrictions or limitations on the manner in which a school manages extended school activity funded from within its delegated budget share – for example by requiring a school to submit income projections and/or financial monitoring reports on such activities

The notice will clearly state what these requirements are and the way in which and the time by which such requirements must be complied with in order for the notice to be withdrawn. It will also state the actions that the authority may take where the governing body does not comply with the notice.

The purpose of this provision is to enable a local authority to set out formally any concerns it has regarding the financial management of a school it maintains and require a governing body to comply with any requirements it deems necessary. The principal criterion for issuing a notice, and determining the requirements included within it, must be to safeguard the financial position of the authority or school.

It should not be used in place of withdrawal of financial delegation where that is the appropriate action to take; however, it may provide a way of making a governing body aware of the authority's concerns short of withdrawing delegation and identifying the actions a governing body should take in order to improve their financial management to avoid withdrawal.

Where an authority issues a notice of concern the scheme should provide for the notice to be withdrawn once the governing body has complied with the requirements it imposes.

In placing this provision in their scheme, an authority may wish to consider the way in which a dispute between it and the school it is issuing a notice to regarding any aspect of the notice may be resolved.

## **2.16 Schools Financial Value Standard (SFVS)**

All local authority maintained schools (including nursery schools and pupil referral units (PRUs) that have a delegated budget) must demonstrate compliance with the Schools Financial Value Standard (SFVS) and complete the assessment form on an annual basis. It is for the school to determine at which time of the year they wish to complete the form.

Governors must demonstrate compliance through the submission of the SFVS assessment form signed by the Chair of Governors. The form must include a summary of remedial actions with a clear timetable, ensuring that each action has a specified deadline and an agreed owner. **Governors must monitor the progress of these actions to ensure that all actions are cleared within specified deadlines.**

All maintained schools with a delegated budget must submit the form to the local authority before 31 March 2013 and annually thereafter.

## 2.17 Fraud

All schools must have a robust system of controls to safeguard themselves against fraudulent or improper use of public money and assets.

The governing body and head teacher must inform all staff of school policies and procedures related to fraud and theft, the controls in place to prevent them and the consequences of breaching those controls. This information must also be included in the induction for new school staff and governors.

## **Section 3: Instalments of the budget share; banking arrangements**

Authorities having adopted the CIPFA Code of Practice for Treasury Management in Local Authorities may wish to refer in the scheme to the fact that they have done so.

For the purposes of this section, Budget Share includes any place-led funding for special schools or pupil referral units.

### **3.1 Frequency of instalments**

The scheme should contain a provision which sets out the frequency with which the budget share will be made available to governing bodies. This should be at least once a term. Furthermore, the scheme should require the authority to make available budget share instalments on a monthly basis to schools which so request it; but the request should be made prior to the start of the relevant financial year. Top up payments for pupils with high needs should be made on a monthly basis unless alternative arrangements have been agreed with the provider.

Some authorities have asked why there should be budget share instalments for schools with no bank accounts. Section 50(2) of the Act provides that authorities shall make budget shares available at times and in such a manner as prescribed by the scheme. Some authorities do make funds available on a termly basis even if there is no bank account. If an authority wishes to provide that in effect a non-bank account school may draw on its entire budget share from the start of the year (although in practice this would not happen), it should say so in the scheme.

If an authority is administering payroll for a school, the authority can ask the school concerned to consider whether it actually needs to take up the option, granted under the scheme (see 3.2), of receiving funds gross of salary costs.

### **3.2 Proportion of budget share payable at each instalment**

The scheme should make clear on what basis the proportion of the budget share will be made available to schools, both in relation to the inclusion of estimated pay costs and any weighting which means that instalments are not of equal size. Where monthly instalments are made available, the scheme should allow schools to opt for instalments of the total budget share to be made available to them by payment into a school bank account, although budget shares net of estimated pay costs can be offered monthly as well. The scheme should also set out the way in which the authority will calculate the initial estimate of pay costs. This can be different for different sizes of school or for primary and secondary schools, but may not differentiate between categories of school except where the estimate takes account of information supplied by individual schools.

Any differential weighting of termly or monthly instalments is a matter for authority discretion provided the weighting is reasonable.

Schemes may make different provisions as to frequency and proportion of instalments for schools with bank accounts and those without.

### **3.3 Interest clawback**

The scheme may provide for the authority to deduct from budget share instalments an amount equal to the estimated interest lost by the authority in making available the budget share in advance. Where such provision is made the scheme should explain the justification for a clawback and clearly show the calculation basis of the deduction, taking account of the frequency options offered by the scheme.

The precise methodology for clawback calculations is for the authority to determine; any reasonable basis will be approved provided it is simple to understand and does not go further than recovering lost interest. Where the whole budget share is to be paid into accounts on a monthly basis, payment at a date close to that on which salaries are due will act to reduce loss of interest.

See paragraph 2.12 above re devolved grants.

#### **3.3.1 Interest on late budget share payments**

The scheme should include a provision requiring the authority to add interest to late payments of budget share instalments, where such late payment is the result of authority error. The interest rate used should be that used for clawback calculations or if no such clawback mechanism is in place, at least the current Bank of England base rate.

### **3.4 Budget shares for closing schools**

The scheme may provide for budget shares of schools for which approval for discontinuation has been secured, to be made available until closure on a monthly basis net of estimated pay costs, even where some different basis was previously used.

### **3.5 Bank and building society accounts**

The scheme should permit all maintained schools to have external bank accounts into which their budget share instalments (as determined by other provisions) are paid. The scheme should also provide that where schools have such accounts they shall be allowed to retain all interest payable on the account unless they choose to have an account within an authority contract which makes other provision.

Authorities may provide that schools without bank accounts cannot have one until any deficit balance is cleared; and that any school requesting a bank account at a later date shall not be able to have one until any deficit is cleared.

Schemes should include a provision stipulating that if a school opens an external bank account the authority must, if the school desires, transfer immediately to the account an amount agreed by both school and authority as the estimated surplus balance held by the authority in respect of the school's budget share, on the basis that there is then a subsequent correction when accounts for the relevant year are closed.

Schemes can require all schools to have such accounts, but there is no expectation that this would normally be the case.

Bank accounts as referred to here do not include imprest accounts, although there is nothing to prevent authorities offering imprest accounts to schools as an alternative.

### **3.5.1 Restrictions on accounts**

The scheme should specify which banks or building societies accounts may be held with for the purpose of receiving budget share payments. The approved list should be consistent with the authority's Treasury Management policy.

The scheme should allow schools to have accounts for budget share purposes which are in the name of the school rather than the authority. However, if a school has such an account the scheme should require that the account mandate provides that the authority is the owner of the funds in the account; that it is entitled to receive statements; and that it can take control of the account if the school's right to a delegated budget is suspended by the authority.

The authority can continue to have arrangements negotiated with certain banks whereby the accounts are in the name of the authority but specific to each school, and offer such arrangements to schools.

Budget share funds paid by the authority and held in school accounts remain authority property until spent (s.49(5) of the Act)

Schemes may contain a provision restricting the signatories for bank accounts, but such provisions should allow at least authority employees and school employees to be signatories.

Such a provision should not be limited to authority employees only, because this is not practicable for foundation or aided schools. Schemes may bar governors who are not members of staff from being signatories.

The scheme should not contain provisions restricting the use of direct debits or standing orders for a bank account operated by a school, except where the account is part of an authority contract.

### **3.6 Borrowing by schools**

The scheme should contain a provision reminding schools that governing bodies may borrow money (which includes the use of finance leases) only with the written permission of the Secretary of State. The Secretary of State's general position is that schools will only be granted permission for borrowing in exceptional circumstances. From time to time, however, the Secretary of State may introduce limited schemes in order to meet broader policy objectives. The scheme must contain a provision that allows schools to use any scheme that the Secretary of State has said is available to schools without specific approval, currently including the [Salix](#) scheme, which is designed to support energy saving.

Schemes may explicitly bar schools from using credit cards and overdrafts, which are regarded as borrowing. However, they should encourage the use of procurement cards by schools, as these cards can be a useful means of facilitating electronic purchase.

The restrictions do not apply to Trustees and Foundations, whose borrowing, as private bodies, makes no impact on Government accounts. These debts may not be serviced directly from the delegated budget, but schools are free to agree a charge for a service which the Trustees or Foundation are able to provide as a consequence of their own borrowing. Governing bodies do not act as agents of the authority when repaying loans.

This provision does not apply to loan schemes run by the authority (see section 4.10).

Please contact the Department via our website contact form [www.education.gov.uk/contactus](http://www.education.gov.uk/contactus) if you have any queries about school borrowing.

### **3.7 Other provisions**

Schemes may apply separate detailed rules and guidance in respect of other aspects of banking arrangements, provided no aspect of those rules and guidance conflicts with the scheme's own requirements.

Such additional rules and guidance may relate in particular to types of account as well as operating procedures.

## **Section 4: The treatment of surplus and deficit balances arising in relation to budget shares**

### **4.1 Right to carry forward surplus balances**

The scheme must contain a provision which allows schools to carry forward from one financial year to the next any shortfall in expenditure relative to the school's budget share for the year plus/minus any balance brought forward from the previous year. The scheme should explain the basis on which the amount of any balance to be transferred to a school's bank account would be calculated on a provisional basis for a school having a new bank account, and the date by which the transfer would occur, pending a later reconciliation.

The amount of a surplus balance would be shown in the relevant out-turn statement published in accordance with directions given by the Secretary of State under s.251 of the Apprenticeships, Skills, Children and Learning Act 2009 (although there may be commitments against any figure shown in such a statement).

### **4.2 Controls on surplus balances**

The scheme may contain a mechanism to clawback excess surplus balances. Any mechanism should have regard to the principle that schools should be moving towards greater autonomy, should not be constrained from making early efficiencies to support their medium-term budgeting in a tighter financial climate, and should not be burdened by bureaucracy. The mechanism should, therefore, be focused on only those schools which have built up significant excessive uncommitted balances and/or where some level of redistribution would support improved provision across a local area.

### **4.3 Interest on surplus balances**

Schemes must contain a provision which makes it clear whether balances held by the Authority on behalf of schools will attract interest. If such balances do attract interest the scheme itself may show the basis of calculation, or there may be reference to separate guidance issued from time to time.

### **4.4 Obligation to carry forward deficit balances**

The scheme must contain a provision which has the effect of carrying forward deficit balances, by providing for deficits to be deducted from the following year's budget share (see also 4.8)



The deficit balance would be shown on the out-turn statement published in accordance with directions given by the Secretary of State under s.251 of the Apprenticeships, Skills, Children and Learning Act 2009 (although this might be shown gross of committed expenditure and therefore appear lower than would otherwise be the case).

## **4.5 Planning for deficit budgets**

The scheme may preclude any planning for deficits; or it may allow schools to plan for deficits only in certain approved circumstances (see 4.9)

## **4.6 Charging of interest on deficit balances**

The scheme may contain a provision permitting the authority to charge interest on deficit balances. If so the basis on which interest is charged must be made clear in the scheme itself.

## **4.7 Writing off deficits**

The scheme should contain a provision which makes it clear that the authority cannot write off the deficit balance of any school.

If an authority wishes to give assistance towards elimination of a deficit balance this should be through the allocation of a cash sum, from the authority's schools budget (from a centrally held budget specified for the purpose of expenditure on special schools and pupil referral units in financial difficulty or, in respect of mainstream maintained schools, from a de-delegated contingency budget where this has been agreed by Schools Forum).

## **4.8 Balances of closing and replacement schools**

The scheme should contain a provision which makes it clear that when a school closes any balance (whether surplus or deficit) reverts to the authority; it cannot be transferred as a balance to any other school, even where the school is a successor to the closing school, except that a surplus transfers to an academy where a school converts to academy status under section 4(1)(a) of the Academies Act 2010.

## **4.9 Licensed deficits**

An authority may include in its scheme provision for an arrangement whereby schools are allowed to plan for a deficit budget. Such an arrangement is normally funded by the collective surplus of school balances held by the authority on behalf of schools (although it is open to an authority with no such surplus to make alternative arrangements if it can do so within the relevant local authority finance legislation). Although such a provision

may refer to other guidance on the operation of the deficit arrangement, the scheme itself should specify the following:

- the maximum length over which schools may repay the deficit (ie reach at least a zero balance), with appropriate mechanism to ensure that the deficits are not simply extended indefinitely. The maximum length allowed should not exceed three years
- the purposes for which the deficit arrangement may be agreed
- the maximum size of the deficits which may be agreed (this may be by reference to the size of the budget share or in cash terms or some combination)
- the maximum proportion of the collective balances held by the authority which will be used to back the arrangement
- the role of the Director of Children's Services and the Chief Finance Officer of the Authority in agreeing any arrangements for individual schools

It is open to a LA to extend such an arrangement by inviting schools holding balances in external bank accounts to use some or all of those balances to back the arrangement. If so the scheme should make clear the basis on which this would occur.

Balances held by a school in an external bank account remain the property of the authority (if made available by the authority initially) and therefore may legally be taken into account by the authority in assessing the total level of loans which it might wish to make to schools. However, the Secretary of State believes that it is right that schools be asked to give a view as to whether the authority should take them into account in this way, and that this provides assurance for the authority as well as schools.

Under a licensed deficit scheme the only effect on budget and out-turn statements is that in the latter, the balance goes into deficit because expenditure is at a higher level than the budget share, but this deficit reduces to zero by the end of the repayment period because the school has to constrain its expenditure to effect the repayment. No 'payment' to the school is recorded.

## **4.10 Loan schemes**

It is open to an authority to include in its scheme a form of loan arrangement for schools which does not operate by way of a licensed deficit but rather by way of actual payments to schools or expenditure by the authority in respect of a particular school on condition that a corresponding sum is repaid from the budget share. If so, the same parameters for the arrangement should appear in the scheme as listed at 4.9 above for licensed deficits.

Again, an authority may wish to invite schools with balances in external accounts to use some or all of those balances to back a loan scheme, and the scheme should make clear on what basis this would occur.

If there is a loans scheme on this basis the authority must show in its budget statements the amount centrally retained for what would be a devolved payment to schools, and the payment should appear in the out-turn statements.

#### **4.10.1 Credit union approach**

In some areas, as an alternative if no other scheme is available, schools may wish to group together to utilise externally held balances for a credit union approach to loans. If so the authority should include provision in its scheme to require audit certification, if the authority does not itself act as administrator of the arrangement.

## **Section 5: Income**

The basic principle to which schemes should adhere is that schools should be able to retain income except in certain specified circumstances.

### **5.1 Income from lettings**

The scheme should contain a provision which allows schools to retain income from lettings of the school premises which would otherwise accrue to the authority, subject to alternative provisions arising from any joint use or PFI/PPP agreements. The scheme should expressly allow schools to cross-subsidise lettings for community and voluntary use with income from other lettings, provided the governing body is satisfied that this will not interfere to a significant extent with the performance of any duties imposed on them by the Education Acts, including the requirement to conduct the school with a view to promoting high standards of educational achievement. However, schools should be required to have regard to directions issued by the authority as to the use of school premises, as permitted under the Act for various categories of schools.

Income from lettings of school premises should not normally be payable into voluntary or private funds held by the school.

### **5.2 Income from fees and charges**

The scheme should contain a provision allowing schools to retain income from fees and charges except where a service is provided by the authority from centrally retained funds. However, schools should be required to have regard to any policy statements on charging produced by the authority. Income from boarding charges is collected on behalf of the authority and should not exceed that needed to provide board and lodging for the pupils concerned.

### **5.3 Income from fund-raising activities**

The scheme should contain a provision which makes it clear that schools are allowed to retain income from fund-raising activities.

### **5.4 Income from the sale of assets**

The scheme should contain a provision which allows schools to retain the proceeds of sale of assets except in cases where the asset was purchased with non-delegated funds (in which case it should be for the authority to decide whether the school should retain the proceeds), or the asset concerned is land or buildings forming part of the school premises and is owned by the authority.

The retention of proceeds of sale for premises not owned by the authority will not be a matter for the scheme.

## **5.5 Administrative procedures for the collection of income**

The scheme may have a provision which applies separate rules on this to schools, but only for income which accrues to the authority (e.g. where a school has contracted with the council meals service).

The authority may wish to take advice from its local VAT Business Advice Centre as to whether schools should charge VAT on lettings and on the services which lead to fees and charges, and on the VAT implications of fund raising activities and sale of assets.

## **5.6 Purposes for which income may be used**

The scheme may have a provision that income from sale of assets purchased with delegated funds may only be spent for the purposes of the school.

## Section 6: The charging of school budget shares

### 6.1 General provision

The scheme should contain a provision which allows the budget share of a school to be charged by the authority without the consent of the governing body **only** in circumstances expressly permitted by the scheme, and requires authorities to consult schools as to the intention to so charge, and notify schools when it has been done.

Schemes may provide for a disputes procedure for such charges.

Although the right of authorities to protect their financial position from liabilities caused by the action or inaction of governing bodies by charging budget shares is well established, the government is anxious to ensure that schools are clearly aware of the circumstances in which this may happen. Schemes must therefore list the circumstances in which such charging is permitted. The main ones are given below: authorities may add others or omit some if they consider them unnecessary. It may be useful to remind schools that the authority cannot act unreasonably in the exercise of any power given by the scheme, or it may be the subject of a direction under s.496 of the Education Act 1996.

For each of these circumstances the authority would have to be able to demonstrate that the authority had necessarily incurred the expenditure now charged to the budget share. This means that where the authority cannot incur a liability because the statutory responsibility rests elsewhere, no charging is possible. Therefore the position on charging will vary between categories of school.

In some cases the ability to charge budget shares depends on the authority having given prior advice to the governing body. Authorities need to ensure that they have taken steps that enable them to give advice whenever possible, and will wish to remind schools of this.

For the avoidance of doubt, local authorities may de-delegate funding for permitted services without the express permission of the governing body, provided this has been approved by the appropriate phase representatives of the Schools Forum.

#### 6.1.1 Charging of salaries at actual cost

The scheme should have a provision which requires the authority to charge salaries of school-based staff to school budget shares at actual cost.

## 6.2 Circumstances in which charges may be made

- 6.2.1 Where premature retirement costs have been incurred without the prior written agreement of the authority to bear such costs (the amount chargeable being only the excess over any amount agreed by the authority);
- 6.2.2 Other expenditure incurred to secure resignations where the school had not followed authority advice;
- 6.2.3 Awards by courts and industrial tribunals against the authority, or out of court settlements, arising from action or inaction by the governing body contrary to the authority's advice

Awards may sometimes be against the governing body directly and would fall to be met from the budget share. Where the authority is joined with the governing body in the action and has expenditure as a result of the governing body not taking authority advice, the charging of the budget share with the authority expenditure protects the authority's position.

Authorities should ensure in framing any such advice that they have taken proper account of the role of aided school governing bodies.

- 6.2.4 Expenditure by the authority in carrying out health and safety work or capital expenditure for which the authority is liable where funds have been delegated to the governing body for such work, but the governing body has failed to carry out the required work;
- 6.2.5 Expenditure by the authority incurred in making good defects in building work funded by capital spending from budget shares, where the premises are owned by the authority or the school has voluntary controlled status;
- 6.2.6 Expenditure incurred by the authority in insuring its own interests in a school where funding has been delegated but the school has failed to demonstrate that it has arranged cover at least as good as that which would be arranged by the authority;

See also 10.1. The authority itself needs to consider whether it has an insurable interest in any particular case.

- 6.2.7 Recovery of monies due from a school for services provided to the school, where a dispute over the monies due has been referred to a disputes procedure set out in a service level agreement, and the result is that monies are owed by the school to the authority;
- 6.2.8 Recovery of penalties imposed on the authority by the Board of Inland Revenue, the Contributions Agency, HM Revenue and Customs, Teachers' Pensions, the Environment Agency or other regulatory authorities as a result of school negligence.

6.2.9 Correction of authority errors in calculating charges to a budget share (eg pension deductions)

Before applying any such provision the authority should consider whether it is reasonable to do so. If the error dates back several years it may be questionable whether such charging is reasonable.

6.2.10 Additional transport costs incurred by the authority arising from decisions by the governing body on the length of the school day, or failure to notify the authority of non-pupil days resulting in unnecessary transport costs.

6.2.11 Legal costs which are incurred by the authority because the governing body did not accept the advice of the authority (see also section 11).

6.2.12 Costs of necessary health and safety training for staff employed by the authority, where funding for training had been delegated but the necessary training not carried out.

6.2.13 Compensation paid to a lender where a school enters into a contract for borrowing beyond its legal powers, and the contract is of no effect.

6.2.14 Cost of work done in respect of teacher pension remittance and records for schools using non-authority payroll contractors, the charge to be the minimum needed to meet the cost of the authority's compliance with its statutory obligations;

6.2.15 Costs incurred by the authority in securing provision specified in a statement of SEN where the governing body of a school fails to secure such provision despite the delegation of funds in respect of low cost high incidence SEN and/or specific funding for a pupil with High Needs;

6.2.16 Costs incurred by the authority due to submission by the school of incorrect data;

6.2.17 Recovery of amounts spent from specific grants on ineligible purposes;

6.2.18 Costs incurred by the authority as a result of the governing body being in breach of the terms of a contract.

6.2.19 Costs incurred by the authority or another school as a result of a school withdrawing from a cluster arrangement, for example where this has funded staff providing services across the cluster.



## **Section 7: Taxation**

### **7.1 Value Added Tax**

The scheme should include a provision which summarises the procedure schools should follow in order to be able to utilise the authority's ability to reclaim VAT on expenditure relating to non-business activity. The provision should stipulate that amounts so reclaimed will be passed back to the school.

The provision would normally refer to more detailed separate guidance. Detailed guidance issued by the authority should make clear what the normal timescale for reimbursement is.

HM Revenue and Customs have agreed that VAT incurred by schools when spending any funding made available by the authority is treated as being incurred by the authority and qualifies for reclaim by the authority. This does not include expenditure by the governors of a voluntary aided school when carrying out their statutory responsibilities to maintain the external fabric of their buildings. See also section 13 – community facilities.

Authorities may find it useful to consult local VAT business advice centres on issues regarding VAT reimbursement.

### **7.2 CIS (Construction Industry Taxation Scheme)**

The scheme should contain a provision requiring schools to abide by procedures issued by the authority in connection with CIS.

## **Section 8: The provision of services and facilities by the authority**

### **8.1 Provision of services from centrally retained budgets**

The scheme should contain a provision which makes it clear that it is for the authority to determine on what basis services from centrally retained funds will be provided to schools. The provision should be drawn in a way that clearly encompasses existing PRC and redundancy payments, which may not ordinarily be thought of as services.

The scheme should contain a provision barring the authority from discriminating in its provision of services on the basis of categories of schools except where such discrimination is justified by differences in statutory duties.

### **8.2 Provision of services bought back from the authority using delegated budgets**

The scheme should contain a provision limiting the term of any arrangement with a school to buy services or facilities from the authority to a maximum of three years from the date of the agreement, and periods not exceeding five years for any subsequent agreement relating to the same services. However, schemes may contain an extension to five and seven years respectively for contracts for supply of catering services.

There is no minimum period, although arrangements lasting less than two years may well be uneconomic.

The scheme should contain a provision which requires that when a service is provided for which expenditure is not retainable centrally by the authority under the Regulations made under section 45A of the Act, it should be offered at prices which are intended to generate income which is no less than the cost of providing those services. The total cost of the service should be met by the total income, even if schools are charged differentially.

This provision complements the implied requirements of the regulations on central retention of funds. It is recognised that absolute break-even or profit is not always achievable over fixed financial years: it is for the authority to show during audit tests that the charging policy can reasonably be expected to avoid central subsidy of services.

#### **8.2.1 Packaging**

The scheme should contain a provision to the effect that any service which an authority is providing on a buyback basis must be offered in a way which does not unreasonably restrict schools' freedom of choice among the services available, and where practicable,

this will include provision on a service-by-service basis as well as in packages of services.

This provision would not prevent authorities offering packages of services which offer a discount for schools taking up a wider range of services; but authorities are encouraged to offer services singly as well as in combination.

### **8.3 Service level agreements**

The scheme should provide that service level agreements must be in place by a certain date to be effective for the following financial year, and that schools must have at least a month to consider the terms of agreements.

The scheme should contain a provision which stipulates that if services or facilities are provided under a service level agreement - whether free or on a buyback basis - the terms of any such agreement starting on or after the inception of the scheme will be reviewed at least every three years if the agreement lasts longer than that.

The scheme should explicitly provide that services, if offered at all by the authority, will be available on a basis which is not related to an extended agreement, as well as on the basis of such agreements.

Where services are provided on an ad hoc basis they may be charged for at a different rate than if provided on the basis of an extended agreement.

The scheme should specifically exclude centrally arranged premises and liability insurance from these requirements as to service supply, as the limitations envisaged may be impracticable for insurance purposes.

### **8.4 Teachers' Pensions**

The scheme should provide that governing bodies of schools which provide payroll services should submit an annual return of salary and service to the authority. Governing bodies should also ensure that details of Additional Voluntary Contributions (AVCs) are passed to the authority within the time limit showed in the AVC scheme. The standard text for this is:

In order to ensure that the performance of the duty on the authority to supply Teachers Pensions with information under the Teachers' Pensions Regulations 1997, the following conditions are imposed on the authority and governing bodies of all maintained schools covered by this Scheme in relation to their budget shares.

The conditions only apply to governing bodies of maintained schools that have not entered into an arrangement with the authority to provide payroll services.

A governing body of any maintained school, whether or not the employer of the teachers at such a school, which has entered into any arrangement or agreement with a person other than the authority to provide payroll services, shall ensure that any such arrangement or agreement is varied to require that person to supply salary, service and pensions data to the authority which the authority requires to submit its annual return of salary and service to Teachers' Pensions and to produce its audited contributions certificate. The authority will advise schools each year of the timing, format and specification of the information required. A governing body shall also ensure that any such arrangement or agreement is varied to require that Additional Voluntary Contributions (AVCs) are passed to the authority within the time limit specified in the AVC scheme. The governing body shall meet any consequential costs from the school's budget share.

A governing body of any maintained school which directly administers its payroll shall supply salary, service and pensions data to the authority which the authority requires to submit its annual return of salary and service to Teachers' Pensions and to produce its audited contributions certificate. The authority will advise schools each year of the timing, format and specification of the information required from each school. A governing body shall also ensure that Additional Voluntary Contributions (AVCs) are passed to the authority within the time limit specified in the AVC scheme. The governing body shall meet any consequential costs from the school's budget share.

## Section 9: PFI/PPP

An authority may wish to insert into its scheme other provisions relating to PFI/PPP projects. Amongst other issues these might deal with the reaching of agreements with the governing bodies of schools as to the basis of such charges; and the treatment of monies withheld from contractors due to poor performance.

Among PFI/PPP provisions may be one which formally sets out the power of the authority to charge to the school's budget share amounts agreed under a PFI/PPP agreement entered into by the governing body of a school.

## **Section 10: Insurance**

### **10.1 Insurance cover**

The scheme should contain a provision which stipulates that if funds for insurance are delegated to any school, the authority may require the school to demonstrate that cover relevant to an authority's insurable interests, under a policy arranged by the governing body, is at least as good as the relevant minimum cover arranged by the authority if the authority makes such arrangements, either paid for from central funds or from contributions from schools' delegated budgets. The scheme must require the authority to have regard to the actual risks which might reasonably be expected to arise at the school in question in operating such a requirement, rather than applying an arbitrary minimum level of cover for all schools.

(see also 6.2.6)

## **Section 11: Miscellaneous**

### **11.1 Right of access to information**

As well as specific requirements listed above, the scheme may require governing bodies to supply all financial and other information which might reasonably be required to enable the authority to satisfy itself as to the school's management of its delegated budget share, or the use made of any central expenditure by the authority (eg earmarked funds) on the school.

### **11.2 Liability of governors**

The scheme should contain a provision which points out that because the governing body is a corporate body, and because of the terms of s.50(7) of the Act, governors of maintained schools will not incur personal liability in the exercise of their power to spend the delegated budget share provided they act in good faith.

An example of behaviour which is not in good faith is the carrying out of fraudulent acts. Breaches of the scheme are not in themselves failures to act in good faith; neither is rejection of authority advice as to financial management.

### **11.3 Governors' expenses**

The scheme should have a provision which allows the authority to delegate to the governing body of a school yet to receive a delegated budget, funds to meet governors' expenses.

Governing bodies would not normally have discretion in the amounts of such allowances, which would be set by the authority.

Under section 50(5) of the Act, only allowances in respect of purposes specified in regulations made under section 19 of the Education Act 2002 may be paid to governors from a school's delegated budget share. The scheme should contain a provision forbidding payment of any other allowances. Schools should also be barred from payment of expenses duplicating those paid by the Secretary of State to additional governors appointed by him to schools under special measures.

For schools with delegated budgets, authorities may publish (separately from the scheme) a guide to what it considers to be reasonable expenses.

## **11.4 Responsibility for legal costs**

The scheme may contain a provision pointing out that legal costs incurred by the governing body (although the responsibility of the authority as part of the cost of maintaining the school unless they relate to the statutory responsibility of voluntary aided school governors for buildings) may be charged to the school's budget share unless the governing body acts in accordance with the advice of the authority.

See also section 6. The effect of this is that a school cannot expect to be reimbursed with the cost of legal action against the authority itself (although there is nothing to stop an authority making such reimbursement if it believes this to be desirable or necessary in the circumstances).

The costs referred to are those of legal actions, including costs awarded against an authority; not the cost of legal advice provided.

A scheme should explain the procedure which schools should follow in obtaining legal advice where there is a conflict of interest between the authority and the governing body.

This does not mean that a special procedure should be established; but governing bodies should be made aware of the potential problems that may arise and how they may resolve these.

## **11.5 Health and Safety**

The scheme should include a provision requiring governing bodies, in expending the school's budget share, to have due regard to duties placed on the authority in relation to health and safety, and the authority's policy on health and safety matters in the management of the budget share.

## **11.6 Right of attendance for Chief Finance Officer**

The scheme should require governing bodies to permit the Chief Finance Officer of the authority, or any officer of the authority nominated by the Chief Finance Officer, to attend meetings of the governing body at which any agenda items are relevant to the exercise of her or his responsibilities.

The Chief Finance Officer's attendance should normally be limited to items which relate to issues of probity or overall financial management; such attendance should not be regarded as routine. The authority should give prior notice of such attendance unless this is impracticable.



## **11.7 Special educational needs**

Authorities may wish to insert a provision requiring schools to use their best endeavours in spending the budget share, to secure the special educational needs of their pupils. Although this is anyway a statutory requirement, the existence of such a scheme provision would make it possible to suspend delegation where a situation is serious enough to warrant it (this would not normally relate to an individual pupil).

## **11.8 Interest on late payments**

Interest on late payments: the terms of the scheme cannot affect statutory requirements now introduced on this matter; but authorities may wish to include a reminder in their schemes.

## **11.9 ‘Whistleblowing’**

Schemes should contain a provision requiring authorities to set out in the scheme the procedure to be followed by persons working at a school or school governors who wish to complain about financial management or financial propriety at the school, and how such complaints will be dealt with.

## **11.10 Child protection**

The Authority should insert a provision explaining about the need to release staff to attend child protection case conferences and other related events, and whether the Authority makes any payments to schools to help meet costs.

## **11.11 Redundancy / early retirement costs**

The 2002 Education Act sets out how premature retirement and redundancy costs should normally be funded. If the authority proposes to depart from this, then the scheme should contain a provision setting out the circumstances in which exceptions will be made. Further guidance is provided at Annex B.

## Section 12: Responsibility for repairs and maintenance

12.1 The scheme should include a statement showing the categories of work which governing bodies must expect to finance from their budget.

12.2 Authorities should delegate funding for repairs and maintenance to schools. Only capital expenditure is to be retained by authorities. For these purposes, expenditure may be treated as capital only if it fits the definition of capital used by the local authority for financial accounting purposes in line with the CIPFA Code of Practice on local authority accounting. Schemes should state any de minimis limit the authority intends to use for the definition of capital and revenue in assigning responsibility for types of work. Where authorities do use de minimis limits for what expenditure is treated as capital and what is revenue in their financial accounts, the same de minimis limits should be used in defining what is delegated.

Some authorities may wish to consider whether the level of the de minimis limit they use in defining the capital/revenue split provides an appropriate fit between the level of revenue funding the authority actually provides to schools for repairs and maintenance and the level of Devolved Capital the school receives.

For instance, an authority may have a relatively high de minimis limit, above a school's current allocation of one or two year's Devolved Capital. But if the authority does not supply adequate revenue funding to provide the realistic option of the school meeting large revenue repair costs, the school may, as a result have difficulty in addressing a need either through revenue (because there is not enough) or through capital (because the works are defined as revenue). This might be resolved through lowering the de minimis limit.

12.3 For voluntary aided schools, the liability of the authority for repairs and maintenance (albeit met by delegation of funds through the budget share) is the same as for other maintained schools, and no separate list of responsibilities is necessary for such schools. However, eligibility for capital grant from the Secretary of State for capital works at voluntary aided schools depends on the de minimis limit applied by DfE to categorise such work, not the de minimis limit used by the authority.

**There is no obligation on authorities to include a list of illustrative examples provided the way in which expenditure is treated as capital or non-capital is explained.**

## **Section 13: Community facilities**

- 13.1 The scheme should contain an introductory section which describes the manner in which the scheme relates to the power to provide community facilities.

A specimen description is at Annex C. This may be amended, but the end result should be that schools are clear how and why any use of the power is subject to the scheme provisions.

- 13.2 The scheme may have a provision which explains that mismanagement of community facilities funds can be grounds for suspension of the right to a delegated budget.

The provision mentioned at 13.2 is discretionary because the power to suspend delegation, and the procedure to be used, arise from primary legislation, not the scheme itself.

### **Consultation with the authority – financial aspects**

- 13.3 Section 28(4) of the Education Act 2002 requires that before exercising the community facilities power, governing bodies must consult the authority, and have regard to advice given to them by their authority.

- 13.4 The scheme should have a provision which reminds schools of the requirement to seek authority advice and sets out a procedure for doing so. That may include reasonable requirements as to timeliness and the amount of information which schools should supply in seeking authority advice.

- 13.5 The provision should also bind the authority itself to provide advice within a reasonable time. It may include a requirement for schools to inform authorities what action has been taken following authority advice.

Authorities should not levy a charge for advice.

See 13.6 with regard to funding agreements.

### **Funding agreements – authority powers**

- 13.6 The provision of community facilities in many schools may be dependent on the conclusion of a funding agreement with a third party which will either be supplying funding or supplying funding and taking part on the provision. A very wide range of bodies and organisations are potentially involved.

- 13.7 The scheme should include a provision describing the authority's requirements in relation to funding agreements with third parties (as opposed to funding agreements with the authority itself). The authority may impose a requirement that any such proposed agreement should be submitted to the authority for its comments; and may

impose a time requirement for doing so to give the authority adequate notice. However, the scheme may not impose a right of veto for the authority on such agreements, either directly or through requiring a right to countersign the agreement. If the third party requires authority consent to the agreement for it to proceed, such a requirement and the method by which authority consent is to be signified is a matter for that third party, not for the scheme.

The Secretary of State does not consider that it is appropriate for authorities to have a general power of veto for these agreements. However, the scheme may remind schools that if an agreement has been or is to be concluded against the wishes of the authority, or has been concluded without informing the authority, which in the view of the authority is seriously prejudicial to the interests of the school or the authority, that may constitute grounds for suspension of the right to a delegated budget.

## **Other prohibitions, restrictions and limitations**

13.8 Although the scheme should not give a right of veto either to funding agreements with third parties, or for other proposed uses of the community facilities power, the scheme may make provision for the authority to require that in a specific instance of use of the community facilities power by a governing body, the governing body concerned must make arrangements to protect the financial interests of the authority by either carrying out the activity concerned through the vehicle of a limited company formed for the purpose, or by obtaining indemnity insurance for risks associated with the project in question, as specified by the authority.

If the authority has such a provision in its scheme it should operate it in a reasonable fashion, imposing such a requirement only where it has good reason to believe that the proposed project carries significant financial risks.

13.9 Section 28 provides that the exercise of the community facilities power is subject to prohibitions, restrictions and limitations in the scheme for financing schools. The authority may if it wishes propose other scheme provisions of that nature which they believe necessary. The restrictions should only be in existence if they are necessary to safeguard the financial position of the authority or school, or to protect pupil welfare or education.

Such provisions should be as few in number as possible.

## **Supply of financial information**

13.10 The scheme may contain a provision requiring schools which exercise the community facilities power to provide the authority every six months with a summary statement, in a form determined by the authority, showing the income and expenditure for the school arising from the facilities in question for the previous six months and on an estimated basis, for the next six months.

13.11 The scheme may contain a provision which allows the authority, on giving notice to the school that it believes there to be cause for concern as to the school's management of the financial consequences of the exercise of the community facilities power, to require such financial statements to be supplied every three months and, if the authority sees fit, to require the submission of a recovery plan for the activity in question.

Financial information relating to community facilities will be included in returns made by schools under the Consistent Financial Reporting (CFR) Framework, and these should be relied upon by authorities as their main source of information for the financial aspects of community facilities. However, the CFR timetable is such that authorities are likely to want supplementary information in order to ensure that schools are not at financial risk. (Schedule 15 of the Act provides that mismanagement of funds spent or received for community facilities is a basis for suspension of the right to delegation of the budget share).

These provisions do not preclude the insertion of other provisions in specific funding agreements between schools and the authority as to the financial reporting requirements arising from the funding in question.

## **Audit**

13.12 The scheme should contain a provision which requires the school to grant access to the school's records connected with exercise of the community facilities power, in order to facilitate internal and external audit of relevant income and expenditure.

13.13 The scheme should include a provision requiring schools, in concluding funding agreements with other persons pursuant to the exercise of the community facilities power, to ensure that such agreements contain adequate provision for access by the authority to the records and other property of those persons held on the school premises, or held elsewhere insofar as they relate to the activity in question, in order for the authority to satisfy itself as to the propriety of expenditure on the facilities in question.

## **Treatment of income and surpluses**

13.14 The scheme should contain a provision which allows schools to retain all net income derived from community facilities except where otherwise agreed with a funding provider, whether that be the authority or some other person.

13.15 The scheme should contain a provision which allows the school to carry such retained net income over from one financial year to the next as a separate community facilities surplus,

## Health and safety

- 13.16 The scheme should contain a provision which extends any health and safety provisions of the main scheme to the community facilities power.
- 13.17 The scheme should contain a provision which places on the governing body responsibility for the costs of securing Criminal Records Bureau clearance for all adults involved in community activities taking place during the school day. Governing bodies would be free to pass on such costs to a funding partner as part of an agreement with that partner.

## Insurance

- 13.18 The scheme should include a provision which makes it clear that it is the responsibility of the governing body to ensure adequate arrangements are made for insurance against risks arising from the exercise of the community facilities power, taking professional advice as necessary. The scheme may require that the school seek the authority's advice before finalising any insurance arrangement for community facilities.

In principle, the insurance issues arising from use of the community facilities power are the same as those which already arise from non-school use of school premises. However, a school proposing to provide community facilities should, as an integral part of its plans, undertake an assessment of the insurance implications and costs, seeking professional advice if necessary.

- 13.19 The scheme should include a provision which empowers the authority to undertake its own assessment of the insurance arrangements made by a school in respect of community facilities, and if it judges those arrangements to be inadequate, make arrangements itself and charge the resultant cost to the school.

Such a provision is necessary in order for the authority to protect itself against possible third party claims.

## Taxation

- 13.20 The scheme should contain a provision which makes it clear that schools should seek the advice of the authority and the local VAT office on any issues relating to the possible imposition of Value Added Tax on expenditure in connection with community facilities, including the use of the local authority VAT reclaim facility.
- 13.21 The scheme should contain a provision reminding schools that if any member of staff employed by the school or authority in connection with community facilities at the school is paid from funds held in a school's own bank account (whether a separate account is used for community facilities or not) the school is likely to be

held liable for payment of income tax and National Insurance, in line with HM Revenue and Customs rules.

- 13.22 The scheme should contain a provision requiring schools to follow authority advice in relation to the Construction Industry Scheme where this is relevant to the exercise of the community facilities power.

## Banking

- 13.23 The scheme should contain a provision setting out the requirements of the authority as to the banking arrangements which schools should make in connection with the community facilities power.
- 13.24 The scheme may also contain provisions relating to the banks which may be used, signing of cheques, the titles of bank accounts, the contents of bank account mandates, and similar matters. The general approach to these matters should mirror those in the main part of the scheme,
- 13.25 The scheme should contain a provision reminding schools that they must not borrow money without the written consent of the Secretary of State. This requirement does not extend to monies lent to schools by their maintaining authority.

## **Annex A: The funding framework – main features**

The funding framework which replaces Local Management of Schools is set out in the legislative provisions in sections 45-53 of the School Standards and Framework Act 1998.

Under this legislation, local authorities determine for themselves the size of their schools budget and their non-schools education budget – although at a minimum an authority must appropriate its entire Dedicated Schools Grant to their schools budget. The categories of expenditure which fall within the two budgets are prescribed under regulations made by the Secretary of State, but included within the two, taken together, is all expenditure, direct and indirect, on an authority's maintained schools except for capital and certain miscellaneous items. Authorities may deduct funds from their schools budget for purposes specified in regulations made by the Secretary of State under s.45A of the Act (the centrally retained expenditure). The amounts to be deducted for these purposes are decided by the authority concerned, subject to any limits or conditions (including gaining the approval of their Schools Forum or the Secretary of State in certain instances) as prescribed by the Secretary of State. The balance of the schools budget left after deduction of the centrally retained expenditure is termed the Individual Schools Budget (ISB). Expenditure items in the non-schools education budget must be retained centrally (although earmarked allocations may be made to schools).

Authorities must distribute the ISB amongst their maintained schools using a formula which accords with regulations made by the Secretary of State, and enables the calculation of a budget share for each maintained school. This budget share is then delegated to the governing body of the school concerned, unless the school is a new school which has not yet received a delegated budget, or the right to a delegated budget has been suspended in accordance with s.51 of the Act. The financial controls within which delegation works are set out in a scheme made by the authority in accordance with s.48 of the Act and regulations made under that section. All proposals to revise the scheme must be approved by the Schools Forum, though the authority may apply to the Secretary of State for approval in the event of the forum rejecting a proposal or approving it subject to modifications that are not acceptable to the authority.

Subject to any provision made by or under the scheme, governing bodies of schools may spend such amounts of their budget shares as they think fit for any purposes of their school\* and for any additional purposes prescribed by the Secretary of State in regulations made under s.50 of the Act. (\*Section 50 has been amended to provide that amounts spent by a governing body on providing community facilities or services under section 27 of the Education Act 2002 are treated as if they were amounts spent for the purposes of the school (s50(3A) of the Act.)

An authority may suspend a school's right to a delegated budget if the provisions of the authority's financial scheme (or rules applied by the scheme) have been substantially or persistently breached, or if the budget share has not been managed satisfactorily. A



school's right to a delegated budget share may also be suspended for other reasons (schedule 17 to the Act)

Each authority is obliged to publish each year a statement setting out details of its planned Schools Budget and other expenditure on children's services, showing the amounts to be centrally retained and funding delegated to schools. After each financial year the authority must publish a statement showing out-turn expenditure at both central level and for each school, and the balances held in respect of each school.

The detailed publication requirements for financial statements are set out in directions issued by the Secretary of State, but each school must receive a copy of each year's budget and out-turn statements so far as they relate to that school or central expenditure.

Regulations also require a local authority to publish their scheme and any revisions to it on a website accessible to the general public, by the date that any revisions come into force, together with a statement that the revised scheme comes into force on that date.

## Annex B: Responsibility for redundancy and early retirement costs

This guidance note summarises the position relating to the charging of voluntary early retirement and redundancy costs. It sets out what is specified in legislation and provides some examples of when it might be appropriate to charge an individual school's budget, the central Schools Budget or the local authority's non-schools budget.

Section 37 of the 2002 Education Act says:

(4) costs incurred by the local education authority in respect of any premature retirement of a member of the staff of a maintained school shall be met from the school's budget share for one or more financial years except in so far as the authority agree with the governing body in writing (whether before or after the retirement occurs) that they shall not be so met.

(5) costs incurred by the local education authority in respect of the dismissal, or for the purpose of securing the resignation, of any member of the staff of a maintained school shall not be met from the school's budget share for any financial year except in so far as the authority have good reason for deducting those costs, or any part of those costs, from that share.

(6) The fact that the authority have a policy precluding dismissal of their employees by reason of redundancy is not to be regarded as a good reason for the purposes of subsection (5); and in this subsection the reference to dismissal by reason of redundancy shall be read in accordance with section 139 of the Employment Rights Act 1996 (c. 18).

The default position, therefore, is that premature retirement costs must be charged to the school's delegated budget, while redundancy costs must be charged to the local authority's budget. In the former case, the local authority has to agree otherwise for costs to be centrally funded, while in the latter case, there has to be a good reason for it not to be centrally funded, and that cannot include having a no redundancy policy. Ultimately, it would be for the courts to decide what was a good reason, but the examples set out below indicate the situations in which exceptions to the default position might be taken.

Charge of dismissal/resignation costs to delegated school budget:

- If a school has decided to offer more generous terms than the authority's policy, then it would be reasonable to charge the excess to the school
- If a school is otherwise acting outside the local authority's policy
- Where the school is making staffing reductions which the local authority does not believe are necessary to either set a balanced budget or meet the conditions of a licensed deficit

- Where staffing reductions arise from a deficit caused by factors within the school's control
- Where the school has excess surplus balances and no agreed plan to use these
- Where a school has refused to engage with the local authority's redeployment policy

Charge of premature retirement costs to local authority non-schools budget:

- Where a school has a long-term reduction in pupil numbers and charging such costs to their budget would impact on standards
- Where a school is closing, does not have sufficient balances to cover the costs and where the central Schools Budget does not have capacity to absorb the deficit
- Where charging such costs to the school's budget would prevent the school from complying with a requirement to recover a licensed deficit within the agreed timescale
- Where a school is in special measures, does not have excess balances and employment of the relevant staff is being/has been terminated as a result of local authority or government intervention to improve standards

Costs of early retirements or redundancies may only be charged to the central part of the Schools Budget where the expenditure is to be incurred as a result of decisions made before 1st April 2013. Costs may not exceed the amount budgeted in the previous financial year.

It is important that the local authority discusses its policy with its Schools Forum. Although each case should be considered on its merits, this should be within an agreed framework. It may be reasonable to share costs in some cases, and some authorities operate a panel to adjudicate on applications.

A de-delegated contingency could be provided, if Schools Forum agree, to support individual schools where "a governing body has incurred expenditure which it would be unreasonable to expect them to meet from the school's budget share".

For staff employed under the community facilities power, the default position is that any costs must be met by the governing body, and can be funded from the school's delegated budget if the governing body is satisfied that this will not interfere to a significant extent with the performance of any duties imposed on them by the Education Acts, including the requirement to conduct the school with a view to promoting high standards of educational achievement. Section 37 now states:

(7) Where a local education authority incur costs—

(a) in respect of any premature retirement of any member of the staff of a maintained school who is employed for community purposes, or

(b) in respect of the dismissal, or for the purpose of securing the resignation, of any member of the staff of a maintained school who is employed for those purposes,

they shall recover those costs from the governing body except in so far as the authority agree with the governing body in writing (whether before or after the retirement, dismissal or resignation occurs) that they shall not be so recoverable.

(7A) Any amount payable by virtue of subsection (7) by the governing body of a maintained school in England to the local authority may be met by the governing body out of the school's budget share for any funding period if and to the extent that the condition in subsection 7(B) is met.

(7B) The condition is that the governing body are satisfied that meeting the amount out of the school's budget share will not to a significant extent interfere with the performance of any duty imposed on them by section 21(2) or by any other provision of the education Acts.

(8) Where a person is employed partly for community purposes and partly for other purposes, any payment or costs in respect of that person is to be apportioned between the two purposes; and the preceding provisions of this section shall apply separately to each part of the payment or costs.

## **Annex C: Application of schemes for financing schools to the community facilities power**

Schools which choose to exercise the power conferred by s.27 (1) of the Education Act 2002 to provide community facilities will be subject to a range of controls. First, regulations made under s.28 (2), if made, can specify activities which may not be undertaken at all under the main enabling power. Secondly, the school is obliged to consult its authority and have regard to advice from the authority. Thirdly, the Secretary of State issues guidance to governing bodies about a range of issues connected with exercise of the power, and a school must have regard to that.

However, under s.28(1), the main limitations and restrictions on the power will be those contained in the maintaining authority's scheme for financing schools made under section 48 of the School Standards and Framework Act 1998 as amended by paragraph 2 of Schedule 3 to the Education Act 2002. This amendment extended the coverage of schemes to include the exercise of the powers of governing bodies to provide community facilities.

Schools are therefore subject to prohibitions, restrictions and limitations in the scheme for financing schools.

This part of the scheme does not extend to joint-use agreements; transfer of control agreements, or agreements between the authority and schools to secure the provision of adult and community learning.



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