



# **SCHEME FOR FINANCING SCHOOLS**

**2022-23**

# **CONTENTS**

(Updated May 2022)

*This contents page is hyperlinked; therefore click on the relevant heading to go to that section.*

## **SECTION 1: Introduction**

- 1.1 The Funding Framework
- 1.2 The Role of the Scheme
- 1.2.1 Application of the Scheme to the Authority and Maintained Schools
- 1.3 Publication of the Scheme
- 1.4 Revision of the Scheme
- 1.5 Delegation of Financial Powers to the Head Teacher
- 1.6 Maintenance of Schools

## **SECTION 2: Financial Controls**

- 2.1.1 Application of Financial Controls to Schools
- 2.1.2 Provision of Financial Information and Reports
- 2.1.3 Payment of Salaries; Payment of Bills
- 2.1.4 Control of Assets
- 2.1.5 Accounting Policies (Including Year-End Procedures)
- 2.1.6 Writing Off Of Debts
- 2.2 Basis of Accounting
- 2.3 Submission of Budget Plans
- 2.3.1 Submission of Financial Forecasts
- 2.4 School Resource Management
- 2.5 Virement
- 2.6 Audit: General
- 2.7 Separate External Audits
- 2.8 Audit of Voluntary and Private Funds
- 2.9 Register of Business Interests
- 2.10 Purchasing, Tendering and Contracting Requirements
- 2.11 Application of Contracts to Schools
- 2.12 Central Funds and Earmarking
- 2.13 Spending For the Purposes of the School
- 2.14 Capital Spending From Budget Shares
- 2.15 Notice of Concern
- 2.16 Schools Financial Value Standards (SFVS)
- 2.17 Fraud

## **SECTION 3: Instalments of Budget Share; Banking Arrangements**

- 3.1 Frequency of Instalments
- 3.2 Proportion of Budget Share Payable at Each Instalment
- 3.3 Interest Clawback
- 3.3.1 Interest on Late Budget Share Payments
- 3.4 Budget Shares for Closing Schools
- 3.5 Bank and Building Society Accounts
- 3.5.1 Restrictions on Accounts
- 3.6 Borrowing by Schools
- 3.7 Other Provisions

# **CONTENTS**

(Updated May 2022)

*This contents page is hyperlinked; therefore click on the relevant heading to go to that section.*

## **SECTION 4: The Treatment of Surplus and Deficit Balances Arising in Relation to Budget Shares**

- 4.1 Right to Carry Forward Surplus Balances
- 4.2 Controls on Surplus Balances
- 4.3 Interest on Surplus Balances
- 4.4 Obligation to Carry Forward Deficit Balances
- 4.5 Planning for Deficit Balances
- 4.6 Charging of interest on Deficit Balances
- 4.7 Writing off Deficits
- 4.8 Balances of Closing and Replacement Schools
- 4.9 Licensed Deficits
- 4.10 Loan Schemes
- 4.10.1 Credit Union Approach

## **SECTION 5: Income**

- 5.1 Income from Lettings
- 5.2 Income from Fees and Charges
- 5.3 Income from Fund-Raising Activities
- 5.4 Income from the Sale of Assets
- 5.5 Administrative Procedures for the Collection of Income
- 5.6 Purposes for which Income may be used

## **SECTION 6: The Charging of School Budget Shares**

- 6.1 General Provision
- 6.1.1 Charging of Salaries at Actual Cost
- 6.2 Circumstances in which Charges may be made

## **SECTION 7: Taxation**

- 7.1 Value Added Tax (VAT)
- 7.1.1 Construction Industry Taxation Scheme (CIS)

## **SECTION 8: The Provision of Services and Facilities by the LA**

- 8.1 Provision of Services from Centrally Retained Budgets
- 8.2 Provision of Services Bought Back from the LA using Delegated Budgets
- 8.2.1 Packaging
- 8.3 Service Level Agreements

## **SECTION 9: Pensions**

- 9.1 Teachers' Pensions
- 9.2 Local Government Pension Scheme (LGPS)

## **SECTION 10: Private Finance Initiative (PFI) Schemes**

## **SECTION 11: Insurance**

- 11.1 Insurance Cover

# **CONTENTS**

(Updated May 2022)

*This contents page is hyperlinked; therefore click on the relevant heading to go to that section.*

## **SECTION 12: Miscellaneous**

- 12.1 Right of Access to Information
- 12.2 Liability of Governors
- 12.3 Governors' Expenses
- 12.4 Responsibility for Legal Costs
- 12.5 Health and Safety
- 12.6 Right of Attendance for Director of Finance
- 12.7 Special Educational Needs
- 12.8 Interest on Late Payments
- 12.9 Whistleblowing
- 12.10 Child Protection
- 12.11 Redundancy/ Early Retirement Costs

## **SECTION 13: Responsibility for Repairs and Maintenance**

## **SECTION 14: Community Facilities**

**ANNEX A:** List of Maintained Schools (to which this scheme applies as at May 2022)

## **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 Board 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 Boards 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 as 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:

<https://www.brent.gov.uk/the-council-and-democracy/budgets-and-spending/section-251-statements#purpose>

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 April 2022, 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**

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 Board and Head Teacher at every Brent maintained school prior to seeking approval from the Schools Forum.

The members of the Schools Forum representing maintained schools will submit all proposed revisions to the schools forum for approval. 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 Boards 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 Board meeting.

The 3-year budget shall be proposed by the Head Teacher and agreed and set by the Governing Board. It is recommended that a committee of the Governing Board, such as a Finance / Resources Committee, completes the budget preparation work and ratification but the approval of the budget cannot be delegated to a committee. The budget must be approved at a meeting of the full Governing Board 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 Boards 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/ Resources Committee and subsequently to the full Governing Board for approval prior to submission to Brent.
- The Governing Board should ensure that the Head Teacher reports progress on a regular basis to the full Governing Board or a Finance/ Resources Committee of the Governing Board.
- 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 largely 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 Board 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 Board.
- 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 Board 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 Board 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 Board should establish a charging policy for the provision of goods and services. The Head Teacher is responsible to the Governing Board 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 Board.
- 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 Board should agree an appropriate level of petty cash and the Head Teacher is responsible to the Governing Board 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 Board). 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 monthly Summary Trial Balance and Cumulative Expense Analysis (or equivalent), a quarterly budget monitoring report showing clearly the forecasted year end position and monthly VAT returns in the format prescribed by the LA. 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 Best Brent.

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 the LA is not receiving any of the required returns 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 because of a school's none 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 purpose 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 consider 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 individual responsible for performing the check certifies the inventory.

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 Director of Finance 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 Director of Finance 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 Board 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 Board and recorded in the minutes of the meeting. This cannot be delegated to a committee of the Governing Board.

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 Board must notify and obtain approval from Director of Finance 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 if 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 an 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 Board, no later than 1<sup>st</sup> June each year. The LA would however consider it good practice for Governing Boards 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 Board 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. The LA issues a Budget Approval form each year, which needs to be signed by the Head Teacher and the Chair of Governors. An extract of the minutes of the Governing Board meeting can also be submitted for further evidence.

### **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 each quarter 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. Schools Resource Management**

Schools must seek to achieve effective management of resources 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 Boards 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 Board 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 Board 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 Board 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 Board 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 auditor appointed by the Governing Board, as minuted in Governing Board minutes should carry out an audit of these funds annually. The audit must be completed within three months

of the end of each financial year. In the interests of accountability, the auditor should not be an employee and should be independent of the school with no association to the fund. A qualified accountant who will provide a certificate in accordance with published professional standards must audit funds in excess of £20k. Funds below £20k does not need to be audited by a qualified accountant, but must be audited by a suitable individual familiar with the principles of accountancy. A report of the audit must be submitted to the Governing Board.

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 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. Any expenditure, such as staffing costs, which properly relates to the school's delegated budget, should not be paid from the 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 Board of each school must have in place a register that lists for each member of the Governing Board, 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 Board.

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 Board and Finance/ Resources 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 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 Board/ Head Teacher must ensure that they consider quality, economy and efficiency when purchasing supplies, goods, equipment, services and works.

Although Governing Boards are empowered to enter into contracts in their own right (Education Act 2002, Paragraph 3 of Schedule 1), and 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 Standing Orders. 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 Public Contracts Regulations 2015 and the Concession Contracts Regulations 2016 (referred to elsewhere herein as "procurement Legislation"), the LA's Financial Regulations and Contract Standing Orders. Each Head Teacher shall maintain and supply the Director of Finance with such information as is required for corporate compliance with these rules.

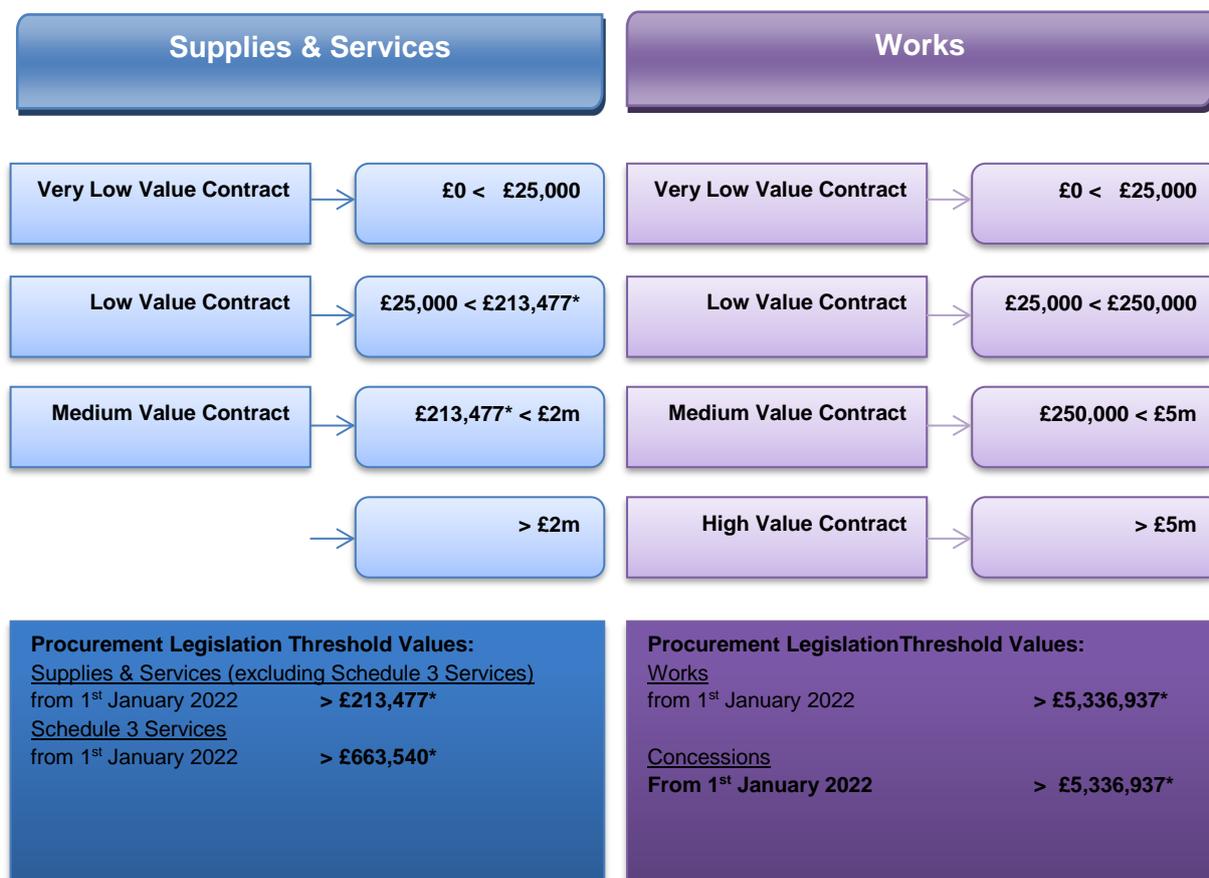
An electronic version of the LA's Constitution encompassing the Financial Regulations and Contract Standing Orders can be obtained here: [Agenda for Constitution on Friday 7 January 2022 \(brent.gov.uk\)](https://www.brent.gov.uk/agenda-for-constitution-on-friday-7-january-2022)

A brief overview of the LA's Financial Regulations and Contract Standing Orders is provided below however, the Governing Board must be mindful of referring to and complying the full requirements contained in the LA's Constitution, which may be amended from time to time. Further details are also contained in the Brent's Schools Finance Regulations 2022/23.

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.



\* When calculating the estimated value of the contract to determine whether the requirements of the Procurement Legislation apply, the contract value estimation should be **inclusive of VAT** (where applicable) from 1 January 2022. The figures in the table above which are not marked with an asterisk are exclusive of VAT. When valuing contracts the Governing Board will need to be conscious of VAT levels and whether the services, supplies or works attract standard rate VAT (currently 20%), attract some other rates or are exempt or outside the scope of VAT. Advice on VAT is available from the LA's VAT officer.

\*\*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** – The Governing Board must undertake a competitive tendering exercise. Before commencing the tender exercise, formal approval to tender shall be sought from the Governing Board (or Head Teacher where the Governing Board has delegated this responsibility). In seeking approval to tender, a report shall be submitted to the Governing Board or Head Teacher as the case may be, which addresses 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 tendering exercise must be advertised on Contracts Finder, the Cabinet Office facility for advertising tenders. Where the Public Contract Regulations 2015 or the Concession Contracts Regulations 2016 apply in full to the procurement, a contract notice (advert) must be placed in Find a Tender (the new UK E-notification service which has replaced OJEU for the publication of notices in relation to the procurement of contracts over the relevant Thresholds) as well as on Contracts Finder. Where a Governing Board 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). Following receipt and evaluation of tenders, approval for the award of contract shall be sought from the Governing Board (or Head Teacher where the Governing Board has delegated this responsibility) by way of a report setting out the outcome of the tender process and evaluation
- **High Value Contract** – Schools must seek and obtain the LA's Cabinet approval before the procurement process is started. In seeking the LA's Cabinet approval to tender, the Governing Board 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 requirements for the tender exercise will be as for Medium Value Contracts as set out above. Following receipt and evaluation of bids, further Cabinet authority must be sought prior to awarding the contract.

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

The Governing Board shall consider whether a contract should be subdivided into lots and if a decision is decided not to subdivide contract into lots, shall record the reason for such decision in writing. Contracts must not however be subdivided into lots to avoid competitive tendering. The estimated value of contracts split into lots shall be calculated using the total value of all lots.

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 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 2022/23.

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

Although Governing Boards 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 Board when the Governing Board 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. 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 Boards 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 Boards 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 Boards 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 Boards can use their budget shares to meet the cost of capital expenditure on the school premises. This includes expenditure by the Governing Board 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 Board must notify the LA prior to committing funds. In addition, 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 Board 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 (England) Regulations 2012, the Workplace (Health, Safety and Welfare) Regulations 1992, the Regulatory Reform (Fire Safety) Order 2005, the Equality Act 2010, and the Building Regulations 2010. 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 Board of any school it maintains where, in the opinion of the Director of Finance 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 Board 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/ resources committee of the Governing Board;
- 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 Board 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 Board 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 Board 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 Director of Finance 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 Board 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 Board becomes aware of any type of fraud, suspected fraud or attempted fraud, this must be reported to the LA's Director of Finance 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**

For all maintained 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 and from 2017, schools will be required to pay their own Apprenticeship levy under HMRC issued guidelines – 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 budget share payment consisting of Schools Block and High Needs block as follows:

- Primary, Secondary, Special and PRU schools:
  - 1/12th by the 15th of each month – April to March;
- Nurseries
  - 1/12th by the 1st of each month – April to March.

The Early Years block is paid by the Early Years Team every mid-term.

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. 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 LA suspends the school's right to a delegated budget. 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.

The Head teacher and the school Governing Board must approve staff user rights where a school opts to use electronic banking facilities. Schools governors who are not members of staff must not be permitted to have online access to the school bank accounts containing LA provided funds.

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

Governing Boards 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.

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.

If the schools opt to use credit cards or charge cards, no interest should be incurred by the school, with balances fully cleared on a monthly basis.

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

However, the above does 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 budgets, but schools are free to agree a charge for a service which the Trustees or Foundation are able to provide because of their own borrowing. Governing Boards 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 Provision**

#### 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 Board 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 nursery, 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 and 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. Therefore, the mechanism will 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 Board 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 – maximum three years.

The Licensed Deficit process is used by 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. 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 Director of Finance and the Strategic Director of Children & Young People, or their 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 be 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.

A school that sets a deficit budget mid-year will be required to apply for a licenced deficit and 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 Director of Finance.

#### 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 Schools Finance Team 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. The Governing Board 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. However, where land is held by a charitable trust, it will be for the school's trustees to determine the use of any income generated by the land.

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

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

Income from boarding charges are 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.

The Governing Board should approve the procedures, 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.

The personal cheques can't be cashed out of money received and under no circumstances; amounts due to the LA must 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 Analyst (Tax) concerning 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 Board *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 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 Board, provided the appropriate phase representatives of the Schools Forum have approved this.

#### **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 there is good reason to charge this to the school.
- 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 Board 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 Board for such work, but the Governing Board 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 LA owns the premises 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 because 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 Board 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 Board 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 Board 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 Board 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 monthly return to the Schools Finance Team. All amounts 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 based on categories of schools except where this would be permitted under the School and Early Years Finance Regulations or the dedicated schools grant conditions of grant.

### **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.

## **SECTION 9: PENSIONS**

### **9.1. 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 Boards of all maintained schools covered by this Scheme in relation to their budget shares.

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

A Governing Board 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 monthly 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 Board shall also ensure that any such arrangement or agreement is varied to require that Additional Voluntary Contributions (AVCs) are passed to the appropriate AVC provider in the time limit specified in the AVC scheme. The Governing Board shall meet any consequential costs from the school's budget share.

A Governing Board 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 Board shall also ensure that Additional Voluntary Contributions (AVCs) are passed to the appropriate AVC provider within the time limit specified in the AVC scheme. The Governing Board shall meet any consequential costs from the school's budget share.

For the avoidance of doubt the overall legal responsibility for these activities rest with the school, regardless of whether the payroll provider delivers the work.

<b>Payments of monies due</b>	Monthly contributions – on time and the correct amount, broken down by bands for employee, employer and additional contributions
<b>Monthly contribution reconciliation (MCR)</b>	Supply MCR report in time for submission to Teachers' Pensions and in an agreed secure format.  Errors identified to be cleared within 1 week of notification by LA.

	This process will change during the year because Teachers pensions will be replacing the existing MDC return with the MCR in April 2022. Further communications will be provided separately.
<b>End of Year Certificate</b>	This to be supplied to LA by the 30 April in the format notified by the LA
<b>Response to other queries raised</b> There are times where the LA may need to confirm with you missing information on a Teacher's record that is needed to ensure correct calculation of benefit.	2 weeks from notification by the Brent Pensions Team. If unable to respond in 2 weeks then inform the Brent Pensions of the delay

## 9.2. Local Government Pension Scheme (LGPS)

This section in the Scheme for Financing Schools to clarify the roles and responsibilities of the Scheme Manager (LB Brent) and Scheme Employers (maintained schools). In addition, it will ensure the services provided by the Scheme Manager are equitable and transparent and it will assist employers in the provision of necessary data.

The Regulations in relation to administration of the Pension Fund are contained in the Local Government Pension Scheme Regulations 2013. This sets out the legal and regulatory responsibilities of the Scheme Manager and Scheme Employers in delivering a high quality administration service to its scheme members. The Pensions Regulator, a public body sponsored by the Secretary of State for Work and Pensions to regulate work-based Pensions, enforces these regulations.

Local Pensions Partnership Administration (LPPA), a pension service provider for the LGPS and other public sector pension funds, provides day-to-day administration of the Brent Pension Fund. The Scheme Manager retains a small in house team that is responsible for contract management of the LPP and other complex queries.

For Maintained Schools, the table below sets out the main employer responsibilities, with regards to the provision of data. The service level agreement with your payroll provider will determine who actually carries out these activities. Therefore, the table below can be a useful guide when having discussions with your payroll provider to clarify who does what. For the avoidance of doubt the overall legal responsibility for these activities rest with the school, regardless of whether the payroll provider delivers the work.

<b>Payments of monies due</b>	Monthly contributions – on time and the correct amount, broken down by employee, employer and additional contributions
<b>End of year error rates</b> Examples of end of year errors <ul style="list-style-type: none"> <li>• A missing joiner Form</li> <li>• A missing leaver Form</li> <li>• A missing change of hours</li> <li>• A missing notification of absence</li> <li>• Return from absence</li> </ul>	Respond to errors within 10 working days of notification.  If you are unable to respond in ten working days then inform the LPP of the likely time

<ul style="list-style-type: none"> <li>• Missing additional contributions</li> <li>• Significantly low/high pensionable remuneration compared to the previous year with no explanation as to the reason</li> </ul>	<p>frame that you can respond in and advise Brent Pensions of the delay</p>
<p><b>Submission of year end return</b></p>	<p>You must submit your year-end return by 30th April each year.</p> <p>If you are unable to submit your year-end return then inform the LPP of the likely time frame that you can provide it and the reason why and advise Brent Pensions of the delay</p> <p>NB: this process will be change to a monthly return in autumn 2022/23. Further communications and training will be provided to employers prior to the change.</p>
<p><b>Response to other queries raised</b> There are times where the LPP may need to confirm with you that a member's record is correct before issuing them with a benefit calculation. It is these types of queries that we are referring to.</p>	<p>2 weeks from notification by the LPP. If unable to respond in 2 weeks then inform the LPP of the likely timeframe that you can respond in and advise Brent Pensions of the delay</p>
<p><b>On-line access Employer LPP portal "YourFund"</b></p>	<p>Use of online forms for all relevant tasks</p> <p>NB: The "YourFund" portal will be replaced with a new employer portal in 2022/23. Further communications and training will be provided to employers prior to the change.</p>
<p><b>Submission of joiners/leavers</b></p>	<ul style="list-style-type: none"> <li>• Notification of joiners within 1 month of joining the scheme</li> <li>• Notification of leavers within 1 month of leaving the scheme</li> <li>• Notification of retirement within 1 month prior to the last day of service</li> </ul>
<p><b>Notification of other changes during employment</b></p>	<p>Relevant changes e.g. change of hours, absence notification online within 1 month of the event</p>
<p><b>Notification of proposed outsourcing of contracts</b></p>	<p>The LA requires advance notice of any potential outsourcing of contracts where a new admission agreement is required.</p>

## **SECTION 10: 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 Boards 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 11: INSURANCE**

### **11.1. 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 Board, is at least as good as the relevant minimum cover arranged by the LA if the LA makes such arrangements, paid for from central either 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, and arbitrary minimum level of cover for all school.

Head Teachers must give prompt notification to the Director of Finance 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 12: MISCELLANEOUS**

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

In addition to specific requirements elsewhere within this scheme, Governing Boards 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.

### **12.2. Liability of Governors**

Schools are reminded that the Governing Board 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.

### **12.3. Governors' Expenses**

The LA may delegate to the Governing Board 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 Board 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.

### **12.4. Responsibility for Legal Costs**

Costs of legal actions (including costs awarded against the LA) which are incurred by the Governing Board. 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 Board acts in accordance with the advice of the LA. If there is a potential conflict of interest between the LA and the Governing Board, 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.

### **12.5. Health & Safety**

In expending the school's budget share, Governing Boards 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.

### **12.6. Right of Attendance for Director of Finance**

Governing Boards must permit the Director of Finance of the LA (or any officer of the LA nominated by the Director of Finance) to attend meetings of the Governing Board at which any agenda items are relevant to the exercise of his or her responsibilities. (The Director of Finance'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.

### **12.7. 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.

### **12.8. 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.

### **12.9. '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 Director of Finance.

### **12.10. Child Protection**

Governing Boards 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.

### **12.11. 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 13: RESPONSIBILITY FOR REPAIRS AND MAINTENANCE**

### **13.1. Funding**

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

### **13.2. Defining Capital**

Only the LA retains capital expenditure. 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.

### **13.3. 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 14: COMMUNITY FACILITIES**

### **14.1. 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 Boards 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 Boards 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.

### **14.2.**

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

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

Changes made by the Children and Families Act 2014 mean that the Governing Board is no longer required to consult the LA when establishing community facilities under s.27 of the Education Act 2002 and nor do they have to have regard to advice given to them by the LA.

### **14.4.**

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.

### **14.5.**

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.

#### **14.6. 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.

#### **14.7.**

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 possible calls on LA and school resources if things go wrong.

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

The Governing Board 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 Board 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.

#### **14.9.**

S.28 provides that the exercise of the community facilities power be 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. However, schools are 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, 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 wellbeing of children or young people.

#### **14.10. 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).

#### **14.11.**

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

#### **14.12. 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.

#### **14.13.**

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.

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

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

#### **14.15.**

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.

#### **14.16. Health & Safety**

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

#### **14.17.**

The Governing Board is 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 Boards would be free to pass on such costs to a funding partner as part of an agreement with that partner.

#### **14.18. Insurance**

The Governing Board 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.

#### **14.19.**

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.

#### **14.20. 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.

#### **14.21.**

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.

#### **14.22.**

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

#### **14.23. 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.

#### **14.24.**

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

#### **14.25.**

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 May 2022)

### **NURSERY (4)**

COLLEGE GREEN  
CURZON CRESCENT  
FAWOOD  
GRANVILLE PLUS

### **PRIMARY (47)**

ANSON  
BARHAM  
BRENTFIELD  
BYRON COURT  
CARLTON VALE INFANTS  
CHALKHILL  
CHRIST CHURCH BROND CE  
CONVENT OF J&M RC INFANTS  
DONNINGTON  
ELSLEY  
FRYENT  
HARLESDEN  
ISLAMIA  
JOHN KEBLE CE  
KILBURN PARK JUNIORS  
KINGSBURY GREEN  
LEOPOLD  
LYON PARK  
MALOREES INFANTS  
MALOREES JUNIORS  
MITCHELL BROOK  
MORA  
MOUNT STEWART INFANTS  
MOUNT STEWART JUNIORS  
NEWFIELD  
NORTHVIEW  
OLIVER GOLDSMITH  
OUR LADY OF LOURDES RC  
PARK LANE  
PRESTON PARK  
PRINCESS FREDERICA CE  
ROE GREEN INFANTS  
ROE GREEN JUNIORS  
SALUSBURY  
SINAI JEWISH  
ST JOSEPH'S RC  
ST JOSEPH'S RC INFANTS  
ST JOSEPH'S RC JUNIORS  
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 (2)**

JFS  
NEWMAN

### **SPECIAL (1)**

PHOENIX ARCH

### **PRUS (2)**

ASHLEY COLLEGE  
RIVER COLLEGE

