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## **SECTION 1. INTRODUCTION**

### **1.1 The funding framework**

The funding framework which replaces Local Management of Schools is based on the legislative provisions in sections 45-53 of the School Standards and Framework Act 1998.

Under this legislation, local authorities determine for themselves the size of their Schools Budget and LA Budget – although at a minimum a local authority must appropriate its entire Dedicated Schools Grant (DSG) to their Schools Budget. The categories of expenditure which fall within the two budgets are prescribed under regulations made by the Secretary of State, but included within the two, taken together, is all expenditure, direct and indirect, on an authority's maintained schools except for capital and certain miscellaneous items. Local authorities may centrally retain funding in the Schools Budget for purposes defined in regulations made by the Secretary of State under s.45A of the Act. The amounts to be retained centrally are decided by the authority concerned, subject to any limits or conditions (including gaining the approval of their School Forum or the Secretary of State in certain instances) as prescribed by the Secretary of State. The balance of the Schools Budget left after deduction of centrally retained funds is termed the Individual Schools Budget (ISB). Expenditure items in the LA budget must be retained centrally (although earmarked allocations may be made to schools).

Local authorities must distribute the ISB amongst their maintained schools using a formula which accords with regulations made by the Secretary of State, and enables the calculation of a budget share for each maintained school. This budget share is then delegated to the governing body of the school concerned, unless the school is a new school which has not yet received a delegated budget, or the right to a delegated budget has been suspended in accordance with s.51 of the Act. The financial controls within which delegation works are set out in a scheme made by the authority in accordance with s.48 of the Act and approved by the Secretary of State. All revisions to the scheme must also be approved by the Secretary of State, who has power to modify schemes or impose one.

Subject to provisions of the scheme, governing bodies of schools may spend budget shares for the purposes of their school. They may also spend budget shares on any additional purposes prescribed by the Secretary of State in regulations made under s.50.

An authority may suspend a school's right to a delegated budget if the provisions of the school financing scheme (or rules applied by the scheme)

have been substantially or persistently breached, or if the budget share has not been managed satisfactorily. There is a right of appeal to the Secretary of State. A school's right to a delegated budget share may also be suspended for other reasons (s.17 of the SSAF Act 1998) but in that case there is no right of appeal.

Each authority is obliged to publish each year a statement setting out details of its planned Schools Budget and LA Budget, showing the amounts to be centrally retained, the budget share for each school, the formula used to calculate those budget shares, and the detailed calculation for each school. After each financial year the authority must publish a statement showing out-turn expenditure at both central level and for each school, and the balances held in respect of each school.

The detailed publication requirements for financial statements are set out in regulations, but each school must receive a copy of each year's budget and out-turn statements so far as they relate to that school or central expenditure.

Regulations also require a local authority to publish their scheme and any amendments to it in a manner they determine.

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

Brighton & Hove supports the principle of working in partnership with its schools as a means of securing maximum benefit for the children of Brighton & Hove.

The scheme sets out the financial relationship between the Authority and its schools. The scheme requirements relate to financial management and associated issues, binding on both the Authority and on schools.

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

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

## **1.3 Publication of the scheme**

A copy of the scheme will be made available via the Schools Finance section of "BEEM" and will also be published on the Brighton & Hove City Council website so that it is accessible to the general public.

## **1.4 Revision of the scheme**

All proposed revisions must be submitted to the schools forum for approval by members of the forum representing maintained schools. Where the schools forum does not approve them or approves them subject to modifications which are not acceptable to the authority, the authority may apply to the Secretary of State for approval. It is also possible for the Secretary of State to make directed revisions to schemes after consultation. Such revisions become part of the scheme from the date of the direction.

### **1.5 Delegation of powers to the headteacher**

The governing body has overall responsibility for the resources allocated to the school. The governors may choose to delegate some of their responsibilities for financial management and control to a finance committee or to the headteacher.

Governing bodies are advised to delegate responsibility for day-to-day financial management to the headteacher and staff, including the right to incur and authorise expenditure and the right to vire sums from one budget heading to another, up to an agreed limit. The governing body should receive regular reports on the school's financial position.

Governing bodies may wish to delegate some or all of its financial powers to the headteacher, and must record its decision (and any revisions) in the minutes of the governing body. Such decisions by the governing body will be subject to any requirements of regulations to be made under section 38 of the Act, and Schedule 11 thereto.

It is the responsibility of the headteacher to produce the annual / multi-year budget plan and for the Governors to approve the plan within the time scales set out by the Authority. Any amendments to the plan must be notified, and approved by the Governors at the relevant Governing body meetings.

### **1.6 Maintenance of Schools**

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

## **SECTION 2. FINANCIAL CONTROLS**

### **2.1 General**

Under existing legislation the Council may impose financial conditions relating to the exercise of delegated powers under Schemes of Local Financial Management. The Section 151 Officer is responsible for the proper administration of the Council's financial affairs. To enable the Section 151 Officer to carry out these duties, governing bodies must provide such information as requested within any timescale set for the provision.

The governing body of a school with delegated management powers must, in the exercise of these powers, take into account any financial regulations and standing orders laid down by the LA, which may be amended by the Council from time to time, except in so far as these regulations and standing orders are inconsistent with the provisions of this scheme. In framing these financial regulations the LA has sought to achieve an appropriate balance between a school's freedom to exercise delegated authority and the need for accountability and control over the use of public funds.

Schools must not only abide in the management of their delegated budgets by the LA's requirements on financial controls and monitoring in the scheme, but also those requirements that are referred to in the scheme but operate with it – e.g. Finance Guidance on “BEEM”.

A model scheme for the delegation of governing bodies' financial powers and duties to others is included in the Brighton & Hove Finance Guidance (available via “BEEM”).

#### **2.1.1 Application of financial controls to schools and governing body responsibilities**

Governing bodies are responsible for the operation of financial processes in their schools and colleges and in order to fulfil this duty they shall ensure that adequate operational controls are in place.

The Section 151 Officer has duties under Section 151 of the Local Government Act 1972 and Section 114 of the Local Government Finance Act 1988. He/she is responsible for the proper administration of the Council's financial affairs and is required to report where he/she believes the authority, a committee, governing body or officer is likely to make a decision which would lead to unlawful expenditure or is likely to cause a loss or deficiency or if the authority's expenditure is likely to exceed significantly the available resources. To enable the Section

151 Officer to carry out these duties governing bodies must provide such information as requested within any timescale set for the provision.

The financial regulations set out in this section, are issued to assist governing bodies in carrying out their responsibilities. If governing bodies wish to seek to implement different procedures then provided the Section 151 Officer is satisfied that all necessary controls are met such procedures may be agreed. Further guidance is provided within the Brighton & Hove Finance Guidance on “BEEM”.

Where a governing body delegates powers to a committee of governors or to staff in accordance with a scheme of delegation, a record indicating appropriate authorisation of such delegation shall be maintained by the governing body. Where the governing body has allocated powers to heads, principals and other staff these shall be exercised in accordance with the Financial Regulations.

- Budgetary Control Responsibility

Governing bodies shall be responsible for managing and directing resources to achieve the objectives of the school/college plan. This will involve monitoring of expenditure and income and the regular review of performance. Expenditure should not be incurred if it cannot be met within the budget share. If a governing body is of the opinion that a budget will be or is likely to be overspent it must inform the Section 151 Officer accordingly. If overspendings do occur these will be deducted from the following year's budget.

- Administration of delegated budgets

The administrative arrangements for delegated budgets will be based on individual school bank accounts with the exception of payment of salaries, wages, rates and other central items of expenditure and income. The emphasis will be on the maximum degree of local autonomy consistent with accountability for the expenditure of local funds. The financial regulations of the Council are applied to schools as if the governing body were a Chief Officer of the Council.

- Central accounting systems

Central accounting systems, financial accounts and supporting records shall be determined by the Section 151 Officer in accordance with the Accounts and Audit Regulations. It shall be the responsibility of the Section 151 Officer to ensure that such accounts and systems are kept up to date. The Section 151 Officer shall be consulted on other systems so that proper links are maintained with the central systems.

- School accounting systems

Governing bodies are responsible for the operation of financial

processes within their schools or colleges and in consultation with the Section 151 Officer shall ensure that adequate operational controls are in place.

Governing bodies shall maintain full and accurate records in order to supply the Chief Finance Officer and the Director of Children's Services (DCS) with such financial and statistical information as they may require in order to make full and accurate reports to the Council.

Governing bodies shall ensure that the principles of internal control within all operations are maintained at least to a standard required by the Section 151 Officer. Advice can be sought from the Section 151 Officer. In particular, the following principles shall be observed in connection with accounting systems:

(a) the duties of providing information regarding sums due to or from the Council and of calculating, checking and recording those sums shall be separated as completely as possible from the duty of collecting or disbursing them;

(b) officers charged with the duty of examining and checking the accounts of financial transactions shall not themselves be engaged in any of these transactions.

Governing bodies shall consult with the Section 151 Officer in the development of any financial systems whether computerised or manual.

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

Schools are required to provide the Authority with details of actual monthly income and expenditure by no later than the end of the month following that in which the expenditure is incurred, with such information on school's expenditure as is needed for the purposes of reclaiming VAT expenditure.

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

The payment of all salaries, wages, pensions, compensation and other emoluments to all employees or former employees shall be made by the Section 151 Officer or under arrangements approved by him/her.

Where the payments are made by the Section 151 Officer, governing bodies shall notify him/her as soon as they are aware and in such form as he/she may require of all matters affecting such payments including appointments, resignations, retirements, suspensions or dismissals or any change of circumstances affecting remuneration.

Governing bodies shall maintain a record of authorised officers, and their signatures, able to certify relevant pay documents and time records on their behalf in a form acceptable to the Section 151 Officer. Copies of the lists shall be sent to the Section 151 Officer.

All payments for goods, supplies and services should be supported by an invoice or proper account. These will be checked in the school or college concerned before certification by the governing body or authorised officer. The definition of Certification by authorised officers' is referred to in detail in the Finance Guidance on "BEEM".

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

- Security of Assets

Governing bodies shall ensure that proper security is maintained at all times for all vehicles, buildings, furniture, equipment, stocks, stores, cash, information and records etc. under his/her control. Maximum limits for cash held shall be agreed with the Section 151 Officer, having regard to the Council's insurance cover, and must not be exceeded.

- Inventory requirement of assets

Governing Bodies shall keep an inventory of all items of furniture, equipment, vehicles and plant in a form approved by the Section 151 Officer, in a format provided to schools in the Finance Guidance on "BEEM". Schools are free to determine their own arrangements for keeping a register of assets worth less than £1,000. They must keep a register in some form. The inventory record, whether manual or computerised, shall be a permanent and continuous record that should be checked and certified correct annually by the responsible manager. Where appropriate, security marking shall be used.

- Recording Requirements of stocks and stores

Governing Bodies are responsible for the receipt, care, safe custody and issue of stocks and stores. Stores records shall be kept in a form agreed by the Section 151 Officer. The Section 151 Officer shall be entitled to check stores and other similar assets and Governing Bodies shall supply him/her with such information as he/she requires in relation to stores for the accounting, costing, insurance and financial records of the Council.

- Removal of Property

(a) The Council's property shall not be removed from the school otherwise than in accordance with the ordinary course of business or used otherwise than for the school purposes except in accordance with specific directions issued by the governing body. All equipment etc. removed from the school premises shall be recorded in a register and shall be duly authorised.

(b) Where property is removed for an authorised purpose, and only if appropriate insurance cover has been obtained, full details and authorisation should be properly recorded (e.g. in a loans book) to enable its identification. Authorised purposes might include the use of portable computer equipment away from the office and also equipment used for home-based working.

- Independent checks of stocks and stores

Governing bodies shall arrange for periodic independent checks and verification of stocks and recorded stores, at least once a year. Deficiencies up to £500 may be written-off by governing bodies. Deficiencies of between £500 and £2,500 may be written-off by governing bodies after consultation with the Section 151 Officer. The write-off of deficiencies in excess of £2,500 shall only be authorised by the appropriate Sub-Committee of the Policy and Resources Committee.

- Write off /disposal of stock

Where equipment or materials become unusable or obsolete, the governing body may arrange for it to be written-off in accordance with instructions issued by the Section 151 Officer. Where equipment or materials have a scrap or resale value, disposal shall be at the best price obtainable following the procedure for disposal issued by the Section 151 Officer. Income arising from the sale of assets provided by the Council or from funds retained centrally by the Council shall be returned to the Council. Income arising from the sale of assets purchased out of delegated budgets shall be retained by the governing body.

- Disposal of LA land/buildings

For LA controlled schools no disposal of land and/or buildings shall take place except on the recommendation of the Policy and Resources Committee after due consideration of a report from the Council's officers, including the Section 151 Officer.

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

Schools must provide to the Section 151 Officer details as requested and by given dates on all matters relating to year-end procedures.

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

The write-off of debts up to £1,000 may be authorised by governing. Debts between £1,000 and £2,500 may be written-off by the governing bodies after consultation with the Section 151 Officer and Solicitor to the Council. The write-off of debts in excess of £2,500 shall only be authorised by the appropriate Sub-Committee of the Policy and Resources Committee. The governing body shall maintain a record of

debts written-off.

## **2.2 Basis of Accounting**

Reports and accounts furnished to the LA must be on an accruals basis.

## **2.3 Submission of budget plans**

In each financial year, governing bodies shall submit to the Section 151 Officer and Director of Children's Services (DCS), by 1<sup>st</sup> March, a draft management plan and budget consistent with the budget share and estimated carryforward from the previous financial year. Schools must supply a final budget plan, in a format requested by the Section 151 Officer, no later than 31<sup>st</sup> May, which incorporates the budget share and agreed carryforward (deficit or surplus) from the previous financial year and any other budget or income due to the school. The plan shall show its intentions for income and expenditure, details of staffing requirements, and the assumptions underpinning the budget plan. Governing bodies must not plan on a deficit unless this has been licensed by the Local Authority.

The LA must supply schools with all school income and expenditure data it holds which is necessary to efficient planning by schools, and supply schools with an annual statement showing when this information will be available at times through the year.

Revised budget plans may be requested by the LA or submitted by the governing body not more than four times per year.

The LA must supply schools with all income and expenditure data it holds which is necessary to efficient planning by schools.

Governing bodies shall provide the Section 151 Officer with a termly schedule of any variations to their budget plan in excess of £10,000.

### **2.3.1 Provision of multi-year budget information**

The LA requires schools to submit a financial forecast covering each year of a three year period for which schools have been notified of provisional budget shares.

Not only will these forecasts reflect the priorities within the School Improvement Plan it will also confirm that schools are undertaking effective financial planning. This may form part of the evidence required to support the LA's responsibility for declaring their schools' adherence to the Schools Financial Value Standard and/or used in conjunction with the LA's balance control mechanism.

## 2.4 School Resource Management

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

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

## 2.5 Virements

Within their budget share, governing bodies have freedom to transfer sums between budget heads. Where other sums have been "earmarked" or allocated to individual schools/colleges for specific objectives, the governing bodies may not use these funds for other purposes.

## 2.6 Audit

- General

In accordance with delegated powers and Accounts and Audit Regulations, the Section 151 Officer shall maintain adequate and effective arrangements for the internal audit of the Council's accounting records and control systems, to operate in accordance with the Auditing Practices Board's (or other relevant) auditing guidelines.

Internal and External Auditors appointed by the Section 151 Officer shall, in pursuance of their duties, have the authority under Accounts and Audit Regulations to:

(i) enter, at any time Council premises and land for audit purposes;

(ii) access, at any time, all documents and records relating to any financial and other transactions of the Council;

(iii) require any employee of the Council to produce cash, stores or any other property of the Council or produce the property of persons for whom the Council is responsible which is under his/her control.

- Irregularities affecting income

i) Immediately an officer suspects an irregularity affecting income, expenditure, cash, stores or any other resources of the Council, or a matter arises that involves or is suspected to involve any other irregularity or illegality, it is the officer's duty to report the matter to the

senior finance manager in the school or college, or if not appropriate, to the head/principal or ultimately the governing body of the school or college.

ii) Immediately a governing body suspects an irregularity affecting income, expenditure, cash, stores or any other resources of the Council, or a matter arises that involves or is suspected to involve any other irregularity or illegality, it is the governing body's duty to report the matter to the Section 151 Officer. The Section 151 Officer shall take such steps as are necessary by way of investigation and report.

The governing bodies are responsible for ensuring that all employees are informed of the Council's Anti-fraud and Corruption Strategy.

## **2.7 Separate external audits**

Governing bodies are allowed to spend from their budget share to obtain an external audit certification of its accounts, separate from any LA internal or external audit process. Any external audit commissioned by the school would have to take into account the status of the school as a spender of LA funds.

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

Governing bodies shall notify the Section 151 Officer of the existence of all such funds.

Governing bodies are responsible for ensuring that all voluntary funds, where money and/or assets are handled by an employee in the course of their employment or office held which have not been issued by the Council, are properly administered and that they are audited under arrangements approved by the Section 151 Officer, and to provide audit certificates in respect of these funds, and of the accounts of any trading organisations controlled by the school.

Where cash is held in a bank account or building society or such similar arrangements a record must be maintained accordingly by the governing body. Cheques issued in respect of these accounts must not be pre-signed.

Voluntary funds must be accounted for separately from Council funds.

## **2.9 Register of business interests**

Governing bodies are required to establish a register which lists for each member of the governing body and the headteacher, any business interests they or any member of their immediate family have;

- details of any other educational establishments that they govern;
- any relationships between school staff and members of the

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

The authority may issue more detailed guidance on the maintenance of such a register to keep the register up to date with notification of changes through annual review of entries, and to make the register available for inspection by governors, staff and parents and the Council.

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

All schools are required to abide by the Authority's financial regulations and standing orders in purchasing, tendering and contracting matters.

a) All contracts and agreements entered into, by Schools/Colleges Governing Bodies with Delegated Budgets shall conform to the Council's Standing Orders relating to Contracts, unless prior approval of the Council is obtained. Any request for approval to an exception from Standing Orders should be made in writing to the Solicitor to the Council. This should include a requirement to assess in advance, where relevant the health and safety competence of contractors, taking account of the LAs' policies and procedures.

b) Governing Bodies shall comply with European Commission Directives and United Kingdom Regulations relating to public procurement.

c) All contracts subject to the Local Government Act 1988 and/or any subsequent legislation relating to the provisions therein shall be dealt with in accordance with the provisions of that Act and/or any subsequent legislation.

- Financial Limits:

### a) Contracts Valued at Less Than £25,000

(i) Where the Governing Body or appropriate Chief Officer estimates a contract value is likely to be less than £25,000 and there are suitable Framework Arrangements available, those Framework Arrangements shall be used. Where no Framework Arrangements are available competitive quotations in writing on the basis of Most Economically Advantageous Tender should be sought, or a commercial negotiation with one preferred Contractor may take place. In the latter case the Governing body or appropriate Chief Officer certifies that the Council

shall receive best value and shall certify that Procurement Guidance has been followed and that the Council shall receive best value.

(ii) Contracts with an estimated total value not exceeding £25,000 shall be evidenced in writing in simple cases by the receipt of written quotations from Contractors or by sending orders to Contractors under Framework Arrangements.

(iii) Although the tendering procedures for Contracts not exceeding a total value of £25,000 are less formal than for Contracts of greater amounts, Governing Body or appropriate Chief Officer should at all times bear in mind the need to seek best value and be able to demonstrate that they have obtained value for money.

**b) Contracts Exceeding £25,000 and Not Exceeding £250,000**

(i) Where the appropriate Governing Body or appropriate Chief Officer estimates a Contract value is likely to be between £25,000 and £250,000 and a List is available then at least four competitive tenders in writing shall be sought from Contractors on the relevant List or other source. (If there are no available Lists, an approved tender procedure shall be used in accordance with procurement guidelines). Where criteria additional to price are to be used in evaluation, these must be set out in the invitation to tender. At least two bona fide tenders must be received and the Most Economically Advantageous Tender accepted.

(ii) Contracts with an estimated value between £25,000 and £250,000 shall be evidenced in writing in simple cases by the receipt of a written quotation and the delivery of an official order form.

**c) Contracts Exceeding £250,000**

(i) Where the Governing Body estimates a Contract is likely to exceed £250,000, then the Governing Body must contact the appropriate Council Chief Officer to assist in the tender process. Where one or other of the Lists is available, then at least five tenders will be sought from Contractors on the relevant List. (In the absence of Lists being available an approved tender procedure shall be used in accordance with procurement guidelines). Where criteria additional to price are to be used in evaluation, these must be set out in the invitation to tender. At least two tenders must be received and the Most Economically Advantageous Tender must be accepted.

(ii) In the case of Contracts with an estimated value over £250,000 the Contract shall be in a form approved by the Head of Law of the Council and shall be given under the Common Seal of the Council.

(iii) Where the estimated value of the contract is such that the Council

is required by law to comply with the EU Public Procurement Directives the requirements thereof shall be complied with. Governing Bodies are to contact the appropriate LA Chief Officer to assist in this procedure.

(iv) Decisions relating to the Contract process for Contracts exceeding the thresholds for the EU Public Procurement Directives shall be made by Chief Officers in consultation with either: -

(a) the Procurement Strategy Manager, for goods and services Contracts.

(b) the Assistant Director, Property and Design for works Contracts.

- Operational Leasing/contract hire arrangements

Operational leasing/contract hire arrangements for equipment may be undertaken by governing bodies provided the Section 151 Officer is satisfied that the method of finance is appropriate for the asset concerned and that the best terms available have been secured. Governing bodies must ensure that the charges stemming from such arrangements can be accommodated within their budget shares for the current and future years.

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

Schools can opt out of any LA arranged contract at the end of the contract life. However, if a school has agreed to participate in such a contract then they are bound by the contract until it comes to an end.

Although governing bodies are empowered under paragraph 3 of schedule 10 of the School Standards and Framework Act 1988 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. Some contracts may be solely on behalf of the governing body, when the governing body has a clear statutory obligation, for example, contracts made by aided schools for employment of staff.

## **2.12 Central funds and earmarking**

The LA may make sums available to schools from central funds, in the form of allocations which are additional to and separate from the schools' budget shares. These allocations may be subject to conditions setting out the purpose or purposes for which the funds may be used. The LA is entitled to require earmarked funds to be returned to the LA if not spent in year, or within the period over which schools are allowed to use the funding if different.

The LA will not make any deduction of interest costs from payments to schools of devolved specific or special grants.

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

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

## **2.14 Capital spending from budget shares**

Governing bodies may use their budget share to meet the cost of capital expenditure on school premises, however for expenditure on projects with an aggregate value of £20,000 or over then schools must seek advice on the use of school budget shares for capital purposes. This includes expenditure by the governing body of a voluntary aided school on work which is their responsibility under paragraph 3 of Schedule 3 of the SSAF Act 1998. (Refer to Finance Guidance on "BEEM" for further details).

For all expected capital expenditure from the budget share, which are on projects outside the LA's Capital Programme the governing body must notify the LA and take into account any advice from the authority as to the merits of the proposed expenditure. Where the premises are owned by the LA, or the school has voluntary controlled status, then the governing body should seek the consent of the LA to the proposed works, but such consent can be withheld only on health and safety grounds.

## **2.15 Notice of Concern**

The authority may issue a notice of concern to the governing body of any school it maintains where, in the opinion of the Chief Finance Officer and the Director of Children's Services (DCS), 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 local authority or the school.

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

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

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

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

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

All local authority maintained schools (including nursery schools and Pupil Referral Units (PRUs) that have a delegated budget) must demonstrate compliance with the Schools Financial Value Standard (SFVS) and complete the assessment form on an annual basis. It is for the school to determine at 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 local authority before the end of the financial year.

## **2.17 Fraud**

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

The governing body and head teacher must inform all staff of school policies and procedures related to fraud and theft, the controls in place to prevent

them; and the consequences of breaching these controls. This information must also be included in induction for new school staff and governors.

### **3. INSTALMENTS OF BUDGET SHARE; BANKING ARRANGEMENTS**

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

#### **3.1 Frequency of instalments**

The LA will make available to schools a proportion of its budget share in instalments. These will primarily be in April and September but if there are significant changes to the school budget plan later in the year it is possible that a further advance adjustment can be made between September and March.

Any school may request its budget share instalments on a monthly basis, but this request must be made at least one month prior to the start of the relevant financial year. Top up payments for pupils with high needs will be made on a monthly basis unless alternative arrangements have been agreed with the provider.

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

The amount of budget share payable will be based on schools "local" items e.g. excluding centrally paid employee payroll costs, rates and other centrally funded expenditure and income. It will be calculated as follows:-

First instalment      April : An estimated percentage of what each school is likely to spend on "local" items for the year.

Second instalment    September : Following receipt of the schools authorised correct budget plan the actual local items will be calculated. The estimated instalment will then be deducted from the actual local items to give the next instalment. This may be an addition to the bank account or if the first instalment was too high then a deduction will be made from the bank account. There will also be an adjustment for the over/under advance from the previous financial year.

Where monthly instalments are made, schools may opt for instalments of their total budget share only where they are paying their own staff from their own bank account, thus opting out of the Council's corporate payroll contract.

This methodology will apply in calculating instalments for those on a monthly basis, i.e. gross.

### **3.3 Interest clawback (discount factor)**

As schools have interest earning bank accounts with budget shares paid in instalments, an amount equal to the estimated interest lost by the LA in making available the budget share in advance will be deducted at the time of the instalment. This is known as the discount factor. The rate of interest will be at a set percentage below current bank base rates.

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

Interest will be recalculated on any late budget share payment as a result of an error by the LA. The calculation will be the same as in paragraph 3.3

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

The budget shares for closing schools will be calculated and advanced in instalments in the same way as above. There may be a need to change the dates of the instalments depending upon when the school is closing.

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

The LA operates a corporate bank contract for all non-LA banking activity. Schools are encouraged to join the corporate contract due to the favourable and competitive terms negotiated. Schools may, however, opt to choose another bank, provided procedures for appointing a bank comply with the council's standing orders relating to the letting and control of contracts.

If a school chooses a bank (or building society) which is not the corporate bank contract, the approval of the Section 151 Officer will be required prior to the opening of any accounts by the school with that bank.

The costs incurred in selecting and appointing a bank other than the corporate bank contract will be met from the relevant school's budget share.

Details of bank accounts outside the corporate bank contract should be sent to the LA at the time the accounts are opened, but at least two months prior to the commencement of the financial year in which the accounts will be operational. The details supplied will be used for the payment of budget share instalments and will be held for information and audit purposes.

In the event that a school chooses not to join the corporate bank contract the school will be responsible for ensuring the terms and

conditions of the banking contract are consistent and appropriate to the needs of the school and for the security of the budget share.

A school may only change its bankers with effect from 1<sup>st</sup> April each year. The LA will require 4 months written notice from the school of withdrawal from the corporate bank contract.

The interest clawback provisions outlined in section 3.3 above will also apply to schools outside the corporate bank contract. For these schools the amount of clawback will be greater to compensate the LA for the cash flow costs of releasing the full budget share instalments to a bank outside the corporate bank contract. The calculation of the cash flow will be based on the Base Rate determined under the corporate bank contract at the time the budget share instalments are made.

All charges and costs associated with schools banking are to be met from the relevant school's budget share, irrespective of whether the bank account is operated under the corporate bank contract or not.

Schools operating accounts within the corporate bank contract will receive interest on credit balances at a rate determined by the council. For schools operating accounts outside the corporate bank contract the payment of interest on credit balance will be subject to the terms and conditions negotiated between the school and the relevant bank.

Where a school has satisfied the LA and opened an external bank account, the LA will, if the school desires, immediately transfer to the account an amount agreed by both the school and LA as the estimated surplus balance held by the LA on behalf of the school's budget share, on the basis that there is then a subsequent correction when accounts for the relevant year are closed.

### **3.5.1 Restrictions on accounts**

Accounts for school budget share purposes will be in the name of the school rather than the LA. However the account mandate should provide that the LA is the owner of the funds in the account; that it is entitled to receive statements; and that it can take control of the account if the school's right to a delegated budget is suspended by the LA.

If a school chooses to operate an account outside of the corporate bank contract the school will be responsible for ensuring the terms and conditions of the banking contract are consistent and appropriate to the needs of the school and for the security of the budget share. The bank must also be approved by the Council's Treasury Management Team.

### **3.6 Borrowing by schools**

Governing bodies may borrow money only with the written permission of the Secretary of State. This permission may be delegated to the LA but is not at present. The Secretary of State's general position is that schools will only be granted permission for borrowing in exceptional circumstances. From time to time, however, the Secretary of State may introduce limited schemes in order to meet broader policy objectives. Schools can use any scheme that the Secretary of State has said is available to schools without specific approval, currently including the Salix scheme, which is designed to support energy saving.

Schools can use procurement cards, as these cards can be a useful means of facilitating electronic purchase.

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

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

### **3.7 Other provisions**

- Trust Funds

All trust funds shall, wherever possible, be in the name of the Council or approved nominees. All officers acting as trustees by virtue of their official position shall deposit all securities etc. relating to the trust with the Solicitor to the Council unless the deed otherwise provides.

## **4. THE TREATMENT OF SURPLUSES AND DEFICIT BALANCES ARISING IN RELATION TO BUDGET SHARES**

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

Schools are allowed to carry forward from one financial year to the next any surplus balance in expenditure relative to the school's budget share for the year. This balance will be added to the schools budget share in the financial year following the surplus.

### **4.2 Reporting on and control of the use of surplus balances**

Surplus balances held by schools as permitted under this scheme are subject to the following restrictions with effect from 1 April 2007:

- the authority shall calculate by 31 May each year the surplus balance, if any, held by each school as at the preceding 31 March. For this purpose the balance will be the recurrent balance as defined in the Consistent Financial Reporting Framework;
- the authority shall deduct from the calculated balance any amounts for which the school has a prior year commitment to pay from the surplus balance;
- the authority shall then deduct from the resulting sum any amounts which the governing body of the school has declared to be assigned for specific purposes permitted by the authority, and which the authority 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 Authority. In considering whether any sums are properly assigned the Authority 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.
- 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 authority shall consider making a deduction from the current year's budget share of an amount equal to the excess. This mechanism should have 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. This mechanism should, therefore, be focused on only those schools which have built up significant excessive uncommitted balances and /or where some level of redistribution would support improved provision across a local area.

Funds deriving from sources other than the authority 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.

Funds held in relation to a school's exercise of powers under s.27 of the Education Act 2002 (community facilities) will not be taken into account unless added to the budget share surplus by the school as permitted by the authority.

The total of any amounts deducted from schools' budget shares by the authority under this provision are to be applied to the Schools Budget of the authority.

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

No interest will be accrued on either positive or negative balances held by the Authority on behalf of schools.

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

Schools will be required to carry forward from one financial year to the next any deficit balance in expenditure relative to the school's budget share for the year. This balance will be deducted from the school's budget share in the financial year following the deficit. Any school that finds itself in a budget deficit may contact Schools Finance to help address any problems that may arise in re-scheduling deficit budgets.

#### **4.5 Planning for deficit balances**

- Schools may not plan for a deficit budget unless otherwise approved by the LA.
- The Secretary of State has directed that with effect from 31<sup>st</sup> March 2021, schools must submit a recovery plan to the LA when their revenue deficit rises above 5% at 31<sup>st</sup> March of any year. (Local Authorities may set a lower threshold than 5% if they wish).

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

Deficit balances will be deducted from the school's available budget for the financial year and any interest owed or due to the school will be calculated in accordance with section 3.3.

#### **4.7 Writing off deficits**

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

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

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

In the case of a school closure, any balance (whether surplus or deficit) reverts to the LA; it cannot be transferred as a balance to any other school(s), even where the school(s) is a successor to the closing school. Extra funds may however be provided to the new school(s) to effectively recognise the surplus or deficit of the preceding school(s). The amount of extra funding for a new school(s) may be reduced to recognise the deficit of a preceding school(s); but it is not permissible for a sum equal to the deficit to be set against any 'normal' funding of the new school – that is the elements of funding it would receive anyway if it was not new.

Where a school converts to academy status under section 4 (1) (a) of the Academies Act 2010 the surplus balance of the closing school will transfer to the Academy.

#### **4.9 Licensed deficits**

Schools that have no deficit balance are allowed to plan for a deficit budget only in line with section 4.5, within the following parameters:-

- a. the maximum length over which schools may return to a zero balance is two financial years.
- b. the purpose for which the deficit arrangement is used for, must be agreed between the school and the Director Children's Services (DCS) and Section 151 Officer.
- c. i. for Nursery, Primary and Special Schools the maximum size of deficit is to be no greater than 25% of the budget share for the financial year or £250,000 (whichever is the lower), and the minimum size of deficit is 1% of the budget share
- ii. for Secondary Schools the maximum size of deficit is to be no

greater than 20% of the budget share for the financial year or £500,000 (whichever is the lower), and the minimum size of deficit is 1% of the budget share

d. the maximum proportion of the collective balances held by the LA which will be used to back the arrangement is 100%

e. the Director of Children's Services (DCS) and Section 151 Officer must agree to any such arrangements or agreed exceptions to the above parameters.

#### **4.10 Loan schemes**

The LA does not at present operate a loan scheme using the schools balances. The only loans available to schools are shown below:

- The LA allows schools to spread the cost of funding redundancy and/or early retirement costs (see Annex B paragraph b).
- The LA offers schools a method of funding capital projects via a capital loan, also known as unsupported borrowing.

#### **4.11 Credit union approach**

Schools may wish to group together to utilise external balances for a credit union approach to loans. If the LA does not act as the administrator of the scheme, then an external audit certificate must be obtained.

## **5. INCOME**

### **5.1 Income from lettings**

Schools are allowed to retain income from lettings of school premises, and such income should not be payable into voluntary or private funds held by the school, subject to alternative provisions arising from any joint use or PFI agreements. Schools where able to, can cross-subsidise lettings from community or voluntary use with income from other lettings, provided the governing body is satisfied 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. Schools should have regard to directions issued by the LA as to the use of school premises, as permitted under the School Standard and Framework Act 1998 for various categories of schools. 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 are allowed to retain income from fees and charges, except where a service is provided by the LA from centrally retained funds. However schools should have regard to any policy statements on charging issued by the LA.

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

Schools are allowed to retain income from fund raising activities.

### **5.4 Income from sales and assets**

Schools are allowed to retain the proceeds of sale of assets except in the cases where the asset was purchased with non-delegated funds (in which case it should 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**

Governing bodies shall be responsible for ensuring that all income is accurately accounted for and promptly collected. An officer authorised to raise an account shall not be permitted to amend or cancel accounts raised by him/her.

Cheques must not be cashed out of money held on behalf of the Council. On handing cash to another person, all officers shall ensure that they receive a suitable receipt.

Each officer who banks money must enter on the paying in slip the amount of each cheque and sufficient information to identify the transaction and enter on the reverse of each cheque sufficient detail to identify the establishment. Any VAT applying to income must be separately identified.

All receipt forms, books, tickets and other such items shall be ordered and issued in a form approved by the Section 151 Officer who shall be satisfied as to the arrangements for their control.

### **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.

## **6. THE CHARGING OF SCHOOL BUDGET SHARES**

### **6.1 General provision**

The budget share of a school may be charged by the LA without the consent of the governing body only in circumstances permitted by the scheme (as below). The LA will inform the school as to the intention to charge, and notify schools when it has been done.

#### **6.1.1 Charging of salaries at actual cost**

The LA will charge the actual salary costs of school-based staff to school budget shares.

### **6.2 Circumstances in which charges may be made**

The following are examples in which charges may be made:-

6.2.1 Where premature retirement costs have been incurred without 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 (see Annex B).

6.2.3 Awards by courts and industrial tribunals against the LA arising from action or inaction by the governing body contrary to the LA's advice.

6.2.4 Expenditure by the LA in carrying out health and safety work or capital expenditure for which the LA is liable where funds have been delegated to the governing body for such work, but the governing body has failed to carry out the required work.

6.2.5 Expenditure by the LA incurred in making good defects in building work funded by capital spending from budget shares, where the premises are owned by the LA or the school has voluntary controlled status.

6.2.6 Expenditure by the LA incurred in making good defects in building work funded by capital spending from budget shares, where the premises are owned by the LA or school has voluntary controlled status.

6.2.7 Recovery of monies due from a school for services provided to the school, where a dispute over the monies due has been referred to

a disputes procedure set out in a service level agreement and the result is that monies are owed by the school to the LA.

6.2.8 Recovery of penalties imposed on the LA by the Board of Inland Revenue, the Contributions Agency, HM Revenue and Customs, Teachers' Pensions, the Environment Agency or other regulatory authorities as a result of school negligence.

6.2.9 Corrections of LA errors in calculating charges to budget share (e.g. pension deductions).

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

6.2.11 Legal costs which are incurred by the LA because the governing body did not accept the advice of the LA.

6.2.12 Costs of necessary health and safety training for staff employed by the LA, where funding for training has 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 Authority's compliance with its statutory obligations.

6.2.15 Costs incurred by the LA in securing provision specified in an Education Health and Care Plan (EHCP) where the governing body of a school fails to secure such provision despite the delegation of funds in respect of low cost high incidence SEN and/or specific funding for a pupil with High Needs.

6.2.16 Costs incurred by the LA due to submission by the school of incorrect data.

6.2.17 Recovery of amounts spent from specific funding streams on ineligible purposes.

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

6.2.19 Costs incurred by the Authority or another school as a result of a school withdrawing from a cluster arrangement, for example where this

has funded staff providing services across the cluster.

## **7. TAXATION**

### **7.1 Value Added Tax**

Schools should follow the procedures issued by the Authority in order to be able to utilise the Authority's ability to reclaim VAT on expenditure relating to non-business activity. Any amounts so reclaimed will be passed back to the school.

Any amounts reclaimed in error due to incorrect information from the school, or failure to follow procedures resulting in a charge from the HMRC, will be charged to the school.

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

Schools must comply with the current procedures issued by the authority in connection with CIS (schools should refer to the Schools Finance Guidance on "BEEM").

## **8. THE PROVISION OF SERVICES AND FACILITIES BY THE AUTHORITY**

### **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 LA must not discriminate in its provision of services on the basis of categories of schools except where (a) funding has been delegated to some schools only or (b) such discrimination is justified by differences in statutory duties in cases where this would be allowable under the school and early years finance regulations or the dedicated schools grant (DSG) conditions of grant.

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

For any agreements with schools starting on or after 1<sup>st</sup> April 1999 to buy services or facilities from the LA the maximum length of the agreement will be three years, from the inception of the scheme or the date of the agreement, whichever is the later, and periods not exceeding five years for any subsequent agreement relating to the same services. However, for contracts for the supply of catering services an extension to five and seven years respectively may apply, following consultation with schools.

When a service is provided for which expenditure is not retainable centrally by the LA under Regulations made under section 46 of the Act, it must 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 must be met by the total income, even if schools are charged differently.

#### **8.2.1 Packaging**

The LA is required to provide any services for which funding has been delegated, and where the LA is offering the service on a buyback basis, it will be provided in such a way which does not unreasonably restrict schools' freedom of choice among the services available. Notice periods are shown in on "BEEM".

### **8.3 Service level agreements**

Notice periods are shown on "BEEM". Schools must either choose to opt for the service for the required period of time or choose not to buy

back the service. Those schools choosing not to buy back in to a service will need to make their own arrangements to provide the service.

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

Other services, if offered at all by the LA, may be available on a basis which is not related to an extended agreement, as well as on the basis of such agreements.

Where these services are provided on an ad hoc basis they may be charged for at a different rate than if provided on the basis of an extended agreement.

The exclusion to the above agreements is for centrally arranged premises liability insurance, as the limitations envisaged may be impracticable for insurance purposes.

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

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

The conditions only apply to governing bodies of maintained schools that have not entered into an arrangement with the Authority to provide payroll services.

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

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

## **9. PFI CLAUSES**

### **9.1 PFI (Private Finance Initiative) clauses**

The LA is committed to investigating all opportunities which may present themselves within the PFI framework, and will consult upon and obtain approval for appropriate scheme variations.

## **10. INSURANCE**

### **10.1 Insurance cover**

If the funding for insurance is delegated to any school, the LA may require the school to demonstrate that cover relevant to an LA's insurable interests, under a policy arranged by the governing body, is at least as good as the relevant minimum cover arranged by the LA if the LA makes such arrangements, either paid for from central funds or from contributions from schools' delegated budgets. The LA must have regard to the actual risks which might reasonably be expected to arise at the school in question in operating such a requirement, rather than applying an arbitrary level of cover for all schools (also see paragraph 6.2.6).

### **10.2 Risk Protection Arrangement**

LA maintained schools may join the Secretary of State's Risk Protection Arrangement (RPA) instead of taking out Insurance, for risks covered by the RPA. Schools may do this individually when any insurance contract of which they are part expires. All primary and/or secondary maintained schools may join the RPA collectively by agreeing through the Schools Forum to de-delegate funding.

## **11. MISCELLANEOUS**

### **11.1 Right of access to information**

Governing bodies as required must supply all financial and other information which might be reasonably required to enable the Authority to satisfy itself as to the school's management of its delegated budget share, or the use made of any capital expenditure by the Authority on the school.

### **11.2 Liability of governors**

The governing body of a school is a corporate body, and because of the terms of s.50(7) of the School Standards & Framework Act 1988 (SSAF), governors of maintained schools will not incur personal liability in the exercise of their power to spend the delegated budget share provided they act in good faith.

An example of behaviour which is not in good faith is the carrying out of fraudulent acts. Breaches of the scheme are not in themselves failures to act in good faith; neither is rejection of LA advice as to financial management.

### **11.3 Governors expenses**

Where a school does not yet have a delegated budget the LA can delegate such funds as to meet governors' expenses.

Under schedule 11 of the School Standards and Framework Act 1998, only allowances in respect of purposes specified in regulations may be paid to governors from a school's delegated budget share. No other allowances may be paid. Schools are also barred from payment of expenses duplicating those paid by the Secretary of State to additional governors appointed by him to schools under special measures.

### **11.4 Responsibility of legal costs**

Legal costs incurred by the governing body, although the responsibility of the LA as part of the cost of maintaining the school unless they relate to the statutory responsibility of aided school governors for buildings, may be charged to the school's budget share unless the governing body acts in accordance with the advice of the Authority.

Should there be a conflict of interest between the LA and the governing body, the governing body should obtain independent legal advice from a solicitor experienced in the law of education, as it would be

inappropriate for the lawyers advising the LA to also advise the governing body; (the costs of which will be borne from the schools own budget share).

### **11.5 Health and Safety**

In expending the school's budget share, the governing body should have regard to duties placed on the LA in relation to health and safety.

The Health & Safety at Work etc Act 1974 imposes general duties on all employers, employees, the self-employed and those who have control over workplaces to ensure that places of work and work activities conducted within them are safe and without risk to health for employees and non-employees using them and anyone else who may be affected by them.

### **11.6 Right of attendance for Chief Finance Officer**

The Chief Finance Officer, the Director of Children's Services (DCS), or their representatives shall have the right to attend meetings of governing bodies to give advice or report on major management matters affecting the school's delegated budget, in relation to the school's budget plan, previous patterns of spending, present or proposed expenditure, the operation of appropriate controls, and on matters of probity. Unless it is impracticable to do so the LA should give notice of such attendance.

### **11.7 Special Educational Needs**

Schools are required to use their best endeavours in spending the budget share, to secure that the special educational needs of their pupils are met.

### **11.8 Interest on late payments**

Under statutory requirements, suppliers can charge interest on late payments for goods and services, any schools being charged are liable for the costs and must be paid out of the schools budget share.

### **11.9 'Whistleblowing'**

For persons working at a school or school governors who wish to complain about financial management or financial propriety at the school, the appropriate guidance and requirements of the procedure to be followed is be contained in section 26 of the schools Personnel Handbook.

### **11.10 Child Protection**

Schools are required to release staff to attend Child Protection case conferences and other related events. The LA does not fund any payments to schools to meet the costs, schools would have to finance any costs from existing resources.

#### **11.11 Redundancy/early retirement costs**

The 2002 Education Act sets out how premature retirement and redundancy costs should normally be funded. If the authority proposes to depart from this, then the scheme should contain a provision setting out the circumstances in which exceptions will be made. If the authority proposes to make local arrangements in accordance with the act, then the scheme should contain a provision setting out how this will work.

Further guidance is provided at Annex B.

## **12. RESPONSIBILITY FOR REPAIRS AND MAINTENANCE**

The LA delegates funding directly to schools for repairs and building / grounds maintenance.

Only capital expenditure is retained by the LA, and will only be treated as capital if it fits the definition of capital as used by the authority in line with the CIPFA Code of Practice on local authority accounting.

For voluntary aided schools, the liability of the authority for repairs and maintenance (albeit met by delegation of funds through the budget share) is the same as for other maintained schools, and no separate list of responsibilities is necessary for such schools. However, eligibility for capital grant from the Secretary of State for capital works at voluntary aided schools depends on the de minimis limit applied by DfE to categorise such work.

## **13. COMMUNITY FACILITIES**

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### **13.1 Introduction**

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

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However, under s.28(1), the main limitations and restrictions on the power will be those contained in the maintaining authority's scheme for financing schools made under section 48 of the School Standards and Framework Act 1998. Paragraph 2 of Schedule 3 to the Education Act 2002 extends the coverage of schemes to the powers of governing bodies to provide community facilities.

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

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

13.2 The budget share of a school may not be used to fund community facilities – either start-up costs or ongoing expenditure - or to meet deficits arising from such activities. The mismanagement of community facilities funds can be grounds for suspension of the right to a delegated budget.

Consultation with the authority – financial aspects

13.3 Section 28(4) of the Education Act 2002 requires that before exercising the community facilities power, governing bodies must consult the authority, and have regard to advice given to them by their authority.

13.4 The scheme should have a provision which reminds schools of the requirement to seek authority advice and sets out a procedure for doing so. That may include reasonable requirements as to timeliness and the amount of information which schools should supply in seeking authority advice.

13.5 The provision should also bind the authority itself to provide advice within a reasonable time. It may include a requirement for schools to inform authorities what action has been taken following authority advice.

#### Funding agreements – authority powers

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

13.7 The scheme should include a provision describing the authority's requirements in relation to funding agreements with third parties (as opposed to funding agreements with the authority itself). The authority may impose a requirement that any such proposed agreement should be submitted to the authority for its comments; and may impose a time requirement for doing so to give the authority adequate notice. However, the scheme may not impose a right of veto for the authority on such agreements, either directly or through requiring a right to countersign the agreement. If the third party requires authority consent to the agreement for it to proceed, such a requirement and the method by which authority consent is to be signified is a matter for that third party, not for the scheme.

#### Other prohibitions, restrictions and limitations

13.8 Although the scheme should not give a right of veto either to funding agreements with third parties, or for other proposed uses of the community facilities power, the scheme may make provision for the authority to require that in a specific instance of use of the community facilities power by a governing body, the governing body concerned must make arrangements to protect the financial interests of the authority by either carrying out the activity concerned through the vehicle of a limited company formed for the purpose, or by obtaining indemnity insurance for risks associated with the project in question, as specified by the authority.

13.9 Section 28 provides that the exercise of the community facilities power is subject to prohibitions, restrictions and limitations in the scheme for financing schools. The authority may if it wishes propose other scheme provisions of that nature which they believe necessary. The restrictions should only be in existence if they are necessary to safeguard the financial position of the authority or school, or to protect pupil welfare or education.

#### Supply of financial information

13.10 The scheme may contain a provision requiring schools which exercise the community facilities power to provide the authority every six months with a summary statement, in a form determined by the authority, showing the income and expenditure for the school arising from the facilities in question for the previous six months and on an estimated basis, for the next six months.

13.11 The scheme may contain a provision which allows the authority, on giving notice to the school that it believes there to be cause for concern as to the school's management of the financial consequences of the exercise of the community facilities power, to require such financial statements to be supplied every three months and, if the authority sees fit, to require the submission of a

recovery plan for the activity in question.

Financial information relating to community facilities will be included in returns made by schools under the Consistent Financial Reporting (CFR) Framework, and these should be relied upon by authorities as their main source of information for the financial aspects of community facilities. However, the CFR timetable is such that authorities are likely to want supplementary information in order to ensure that schools are not at financial risk. (Schedule 15 of the Act provides that mismanagement of funds spent or received for community facilities is a basis for suspension of the right to delegation of the budget share).

These provisions do not preclude the insertion of other provisions in specific funding agreements between schools and the authority as to the financial reporting requirements arising from the funding in question.

#### Audit

13.12 The scheme should contain a provision which requires the school to grant access to the school's records connected with exercise of the community facilities power, in order to facilitate internal and external audit of relevant income and expenditure.

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

#### Treatment of income and surpluses

13.14 The scheme should contain a provision which allows schools to retain all net income derived from community facilities except where otherwise agreed with a funding provider, whether that be the authority or some other person.

13.15 The scheme should contain a provision which allows the school to carry such retained net income over from one financial year to the next as a separate community facilities surplus.

#### Health and safety

13.16 The scheme should contain a provision which extends any health and safety provisions of the main scheme to the community facilities power.

13.17 The scheme should contain a provision which places on the governing body responsibility for the costs of securing Disclosure Barring service (DBS) clearance for all adults involved in community activities taking place during the school day. Governing bodies would be free to pass on such costs to a funding partner as part of an agreement with that partner.

## Insurance

13.18 The scheme should include a provision which makes it clear that it is the responsibility of the governing body to ensure adequate arrangements are made for insurance against risks arising from the exercise of the community facilities power, taking professional advice as necessary. The scheme may require that the school seek the authority's advice before finalising any insurance arrangement for community facilities.

*In principle, the insurance issues arising from use of the community facilities power are the same as those which already arise from non-school use of school premises. However, a school proposing to provide community facilities should, as an integral part of its plans, undertake an assessment of the insurance implications and costs, seeking professional advice if necessary.*

13.19 The scheme should include a provision which empowers the authority to undertake its own assessment of the insurance arrangements made by a school in respect of community facilities, and if it judges those arrangements to be inadequate, make arrangements itself and charge the resultant cost to the school.

*Such a provision is necessary in order for the authority to protect itself against possible third party claims.*

## Taxation

13.20 The scheme should contain a provision which makes it clear that schools should seek the advice of the authority and the local VAT office on any issues relating to the possible imposition of Value Added Tax on expenditure in connection with community facilities, including the use of the local authority VAT reclaim facility.

13.21 The scheme should contain a provision reminding schools that if any member of staff employed by the school or authority in connection with community facilities at the school is paid from funds held in a school's own bank account (whether a separate account is used for community facilities or not) the school is likely to be held liable for payment of income tax and National Insurance, in line with HM Revenue and Customs rules.

13.22 The scheme should contain a provision requiring schools to follow authority advice in relation to the Construction Industry Scheme where this is relevant to the exercise of the community facilities power.

## Banking

13.23 The scheme should contain a provision setting out the requirements of the authority as to the banking arrangements which schools should make in connection with the community facilities power.

13.24 The scheme may also contain provisions relating to the banks which may be used, signing of cheques, the titles of bank accounts, the contents of bank account mandates, and similar matters. The general approach to these matters should mirror those in the main part of the scheme,

13.25 The scheme should contain a provision reminding schools that they must not borrow money without the written consent of the Secretary of State. This requirement does not extend to monies lent to schools by their maintaining authority.

## **ANNEX A**

### **THE FUNDING FRAMEWORK: MAIN FEATURES**

The funding framework which replaces Local Management of Schools is set out in the legislative provisions in sections 45-53 of the School Standards and Framework Act 1998.

Under this legislation, local authorities determine for themselves the size of their schools budget and their non-schools education budget – although at a minimum an authority must appropriate its entire Dedicated Schools Grant to their schools budget. The categories of expenditure which fall within the two budgets are prescribed under regulations made by the Secretary of State, but included within the two, taken together, is all expenditure, direct and indirect, on an authority's maintained schools except for capital and certain miscellaneous items. Authorities may deduct funds from their schools budget for purposes specified in regulations made by the Secretary of State under s.45A of the Act (the centrally retained expenditure). The amounts to be deducted for these purposes are decided by the authority concerned, subject to any limits or conditions (including gaining the approval of their Schools Forum or the Secretary of State in certain instances) as prescribed by the Secretary of State. The balance of the schools budget left after deduction of the centrally retained expenditure is termed the Individual Schools Budget (ISB). Expenditure items in the non-schools education budget must be retained centrally, (although earmarked allocations may be made to schools).

Authorities must distribute the ISB amongst their maintained schools using a formula which accords with regulations made by the Secretary of State, and enables the calculation of a budget share for each maintained school. This budget share is then delegated to the governing body of the school concerned, unless the school is a new school which has not yet received a delegated budget, or the right to a delegated budget has been suspended in accordance with s.51 of the Act. The financial controls within which delegation works are set out in a scheme made by the authority in accordance with s.48 of the Act and regulations made under that section. All proposals to revise the scheme must be approved by the Schools Forum, though the authority may apply to the Secretary of State for approval in the event of the forum rejecting a proposal or approving it subject to modifications that are not acceptable to the authority.

Subject to any provision made by or under the scheme, governing bodies of schools may spend such amounts of their budget shares as they think fit for any purposes of their school\* and for any additional purposes prescribed by the Secretary of State in regulations made under s.50 of the Act. (\*Section 50 has been amended to provide that amounts spent by a governing body on providing community facilities or services under section 27 of the Education

Act 2002 are treated as if they were amounts spent for the purposes of the school (s50(3A) of the Act.)

An authority may suspend a school's right to a delegated budget if the provisions of the authority's financial scheme (or rules applied by the scheme) have been substantially or persistently breached, or if the budget share has not been managed satisfactorily. A school's right to a delegated budget share may also be suspended for other reasons (schedule 17 to the Act)

Each authority is obliged to publish each year a statement setting out details of its planned Schools Budget and other expenditure on children's services, showing the amounts to be centrally retained and funding delegated to schools.

The detailed publication requirements for financial statements are set out in directions issued by the Secretary of State.

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

## ANNEX B

### RESPONSIBILITY FOR REDUNDANCY AND EARLY RETIREMENT COSTS

- This section is the DfE guidance (Schools in Brighton & Hove through the January 2017 Schools Forum have decided they do not wish this section to apply to them. The wording for Schools in Brighton & Hove is shown separately)

This guidance note summarises the position relating to the charging of voluntary early retirement and redundancy costs. It sets out what is specified in legislation and provides some examples of when it might be appropriate to charge an individual school's budget, the central Schools Budget or the local authority's non-schools budget.

Section 37 of the 2002 Education Act says:

(4) costs incurred by the local education authority in respect of any premature retirement of a member of the staff of a maintained school shall be met from the school's budget share for one or more financial years except in so far as the authority agree with the governing body in writing (whether before or after the retirement occurs) that they shall not be so met

(5) costs incurred by the local education authority in respect of the dismissal, or for the purpose of securing the resignation, of any member of the staff of a maintained school shall not be met from the school's budget share for any financial year except in so far as the authority have good reason for deducting those costs, or any part of those costs, from that share.

(6) The fact that the authority have a policy precluding dismissal of their employees by reason of redundancy is not to be regarded as a good reason for the purposes of subsection (5); and in this subsection the reference to dismissal by reason of redundancy shall be read in accordance with section 139 of the Employment Rights Act 1996 (c. 18).

The default position, therefore, is that premature retirement costs must be charged to the school's delegated budget, while redundancy costs must be charged to the local authority's budget. In the former case, the local authority has to agree otherwise for costs to be centrally funded, while in the latter case, there has to be a good reason for it not to be centrally funded, and that cannot include having a no redundancy policy. Ultimately, it would be for the courts to decide what was a good reason, but the examples set out below indicate the situations in which exceptions to the default position might be taken.

Charge of dismissal/resignation costs to delegated school budget

- If a school has decided to offer more generous terms than the authority's policy, then it would be reasonable to charge the excess to the school
- If a school is otherwise acting outside the local authority's policy
- Where the school is making staffing reductions which the local authority does not believe are necessary to either set a balanced budget or meet the conditions of a licensed deficit
- Where staffing reductions arise from a deficit caused by factors within the school's control
- Where the school has excess surplus balances and no agreed plan to use these
- Where a school has refused to engage with the local authority's redeployment policy

#### Charge of premature retirement costs to local authority non-schools budget

- Where a school has a long-term reduction in pupil numbers and charging such costs to their budget would impact on standards
- Where a school is closing, does not have sufficient balances to cover the costs and where the central Schools Budget does not have capacity to absorb the deficit
- Where charging such costs to the school's budget would prevent the school from complying with a requirement to recover a licensed deficit within the agreed timescale
- Where a school is in special measures, does not have excess balances and employment of the relevant staff is being/has been terminated as a result of local authority or government intervention to improve standards

Costs of early retirements or redundancies may only be charged to the central part of the Schools Budget where the expenditure is to be incurred as a result of decisions made before 1<sup>st</sup> April 2013. Costs may not exceed the amount budgeted in the previous financial year.

It is important that the local authority discusses its policy with its Schools Forum. Although each case should be considered on its merits, this should be within an agreed framework. It may be reasonable to share costs in some cases, and some authorities operate a panel to adjudicate on applications.

A de-delegated contingency could be provided, if Schools Forum agree, to support individual schools where "a governing body has incurred expenditure which it would be unreasonable to expect them to meet from the school's budget share".

For staff employed under the community facilities power, the default position is that any costs must be met by the governing body, and can be funded from the school's delegated budget if the governing body is satisfied that this will not interfere to a significant extent with the performance of any duties imposed on them by the Education Acts, including the requirement to conduct the school with a view to promoting high standards of educational achievement. Section 37 now states:

(7) Where a local education authority incur costs -  
(a) in respect of any premature retirement of any member of the staff of a maintained school who is employed for community purposes, or  
(b) in respect of the dismissal, or for the purpose of securing the resignation, of any member of the staff of a maintained school who is employed for those purposes, they shall recover those costs from the governing body except in so far as the authority agree with the governing body in writing (whether before or after the retirement, dismissal or resignation occurs) that they shall not be so recoverable.

(7A) Any amount payable by virtue of subsection (7) by the governing body of a maintained school in England to the local authority may be met by the governing body out of the school's budget share for any funding period if and to the extent that the condition in subsection 7(B) is met.

(7B) The condition is that the governing body are satisfied that meeting the amount out of the school's budget share will not to a significant extent interfere with the performance of any duty imposed on them by section 21(2) or by any other provision of the education Acts.

(8) Where a person is employed partly for community purposes and partly for other purposes, any payment or costs in respect of that person is to be apportioned between the two purposes; and the preceding provisions of this section shall apply separately to each part of the payment or costs.

- Schools in Brighton & Hove through the January 2017 Schools Forum have decided they want to follow the following in relation to the Responsibility for Redundancy and Early Retirement Costs

At the January 2017 Schools Forum, school members agreed that they wanted all the costs of any redundancy and early retirement costs, charged directly to their schools budgets. Their decision was based on the fact that they wanted their governing bodies to have the decision making and timing about redundancy and early retirement costs and the most appropriate time for any restructures within those schools, and therefore did not want any redundancy and early retirement decisions made by a panel set up by the LA.

Schools therefore pick up all the costs all redundancy and early retirement costs that they make, within that financial year.

Schools can chose to pay the costs in the relevant financial year in one go, or spread these over a period of up to five financial years. Any on-going quarterly costs of an early retirement from the TPA, will be charged to the schools budget when the invoices from the TPA are received.

The LA has a process by which schools can spread the cost of their redundancy and one off early retirement costs, over a period of up to five years. This is arranged through the finance team and will only be approved once the school sign an agreement, stating that if the school converts to an academy during the timeframe of the period of spreading the costs, then any remaining balance will be repayable before the school converts to an academy.

## **ANNEX C**

### **APPLICATION OF SCHEMES FOR FINANCING SCHOOLS TO THE COMMUNITY FACILITIES POWER**

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

However, under s.28(1), the main limitations and restrictions on the power will be those contained in the maintaining authority's scheme for financing schools made under section 48 of the School Standards and Framework Act 1998 as amended by paragraph 2 of Schedule 3 to the Education Act 2002. This amendment extended the coverage of schemes to include the exercise of the powers of governing bodies to provide community facilities.

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

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

<b>Annex D</b>	
<b>LIST OF SCHOOLS</b>	<b>DfE number</b>
<b>Nursery</b>	
Royal Spa	8461002
Turnerland	8461001
<b>Primary</b>	
Aldrington CE Primary	8463328

Balfour Primary	8462040
Benfield Primary	8462080
Bevendean Primary	8462163
Brackenbury Primary	8462081
Brunswick Primary	8462119
Carden Primary	8462001
Carlton Hill Primary	8462037
Coldean Primary	8462044
Coombe Road Primary	8462007
Cottesmore St.Mary's Primary	8463341
Downs Infant	8462010
Downs Junior	8462009
Elm Grove Primary	8462155
Fairlight Primary	8462165
Goldstone Primary	8462065
Hangleton Primary	8462066
Hertford Infant	8462017
Hertford Junior	8462043
Hove Junior	8462070
Middle Street Primary	8462018
Mile Oak Primary	8462100
Moulsecoomb Primary	8462002
Our Lady of Lourdes RC Primary	8463316
Patcham Infant	8462022
Patcham Junior	8462021
Peter Gladwin Primary	8462114
Queens Park Primary	8462156
Rudyard Kipling Primary	8462164
Saltdean Primary	8462157
St Andrews CE Primary	8463329
St Bartholomews CE Primary	8463305
St Bernadette's RC Primary	8463318
St John the Baptist RC Primary	8463311
St Joseph's RC Primary	8463314
St Luke's Primary	8462026
St Margaret's CE Primary	8463304
St Mark's CE Primary	8463317
St Martin's CE Primary	8463308
St Mary Magdalen RC Primary	8463313
St Mary's RC Primary	8463344
St Nicolas CE Primary	8463333
St Paul's Primary	8463315
St Peter's Community Primary	8462079
Stanford Infant	8462029
Stanford Junior	8462028
West Blatchington Primary	8462093
West Hove Infant	8462096

Westdene Primary	8462036
Woodingdean Primary	8462158
<b>Secondary</b>	
Blatchington Mill	8464067
Cardinal Newman	8464605
Dorothy Stringer	8464016
Hove Park	8464068
Longhill	8464068
Patcham High	8464072
Varndean	8464012
<b>Special</b>	
Downs View	8467006
Hill Park	8467018
Homewood College	8467004
Central Hub Brighton	8461105