

**PEOPLE SERVICES**

**SCHEME  
FOR  
FINANCING  
SCHOOLS  
2023 – 24**

April 2023

## **SCHEME FOR FINANCING SCHOOLS**

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## GENERAL EXPLANATION

1. In this Scheme reference to **the local authority** and **the Authority** shall mean Enfield Borough Council.
2. In this Scheme, the expression **Governing Body** shall be deemed to include reference to a Committee or Sub-Committee acting in accordance with delegated authority on behalf of the Governing Body.
3. A school's **budget share** is its share of the Individual Schools Budget determined in accordance with the local schools' funding formula.
4. A school's **delegated budget** in any particular financial year is its budget share for that financial year, together with any accumulated balance (whether a balance in hand or a deficit) brought forward from the previous financial year, and any earmarked or other allocations made during the year from the central contingencies or other items for which budget provision has initially been retained centrally.
5. The **Act** is the Schools Standards and Framework Act 1998
6. The latest **Regulations** are the School and Early Years Finance (England) Regulations 2022. The Regulations require the Scheme to deal with the following:
  - (a) Carry forward from one funding period to another of surpluses and deficits arising in relation to schools' budget shares.
  - (b) Amounts which may be charged against schools' budget shares.
  - (c) Amounts received by schools which may be retained by their governing bodies and the purposes for which such amounts may be used.
  - (d) The imposition, by or under the Scheme, of conditions which must be complied with by schools in relation to the management of their delegated budgets and of sums made available to governing bodies by the Authority which do not form part of delegated budgets, including conditions prescribing financial controls and procedures.
  - (e) Terms on which services and facilities are provided by the Authority for schools maintained by them.
  - (f) The payment of interest by or to the Authority.
  - (g) The times at which amounts equal in total to the school's budget share are to be made available to governing bodies and the proportion of the budget share to be made available at each such time.
  - (h) The virement between budget heads within the delegated budget.
  - (i) Circumstances in which the Authority may delegate to the Governing Body the power to spend any part of the Authority's non-schools education budget or schools budget in addition to those set out in section 49(4)(a) to (c) of the 1998 Act.
  - (j) The use of delegated budgets and of sums made available to a Governing Body by the Authority, which do not form part of delegated budgets.
  - (k) Borrowing by governing bodies.
  - (l) The banking arrangements that may be made by governing bodies.

- (m) A statement as to the personal liability of governors in respect of schools' budget shares having regard to section 50(7) of the 1998 Act.
- (n) A statement as to the allowances payable to governors of a school which does not have a delegated budget in accordance with the Scheme made by the Authority for the purposes of section 519 of the 1996 Act.
- (o) The keeping of a register of any business interests of the governors and the head teacher.
- (p) The provision of information by and to the Governing Body.
- (q) The maintenance of inventories of assets.
- (r) Plans of a Governing Body's expenditure.
- (s) A statement as to the taxation of sums paid or received by a Governing Body.
- (t) Insurance.
- (u) The use of delegated budgets by governing bodies so as to satisfy the Authority's duties imposed by or under the Health and Safety at Work etc Act 1974.
- (v) The provision of legal advice to a Governing Body.
- (w) Funding for child protection issues.
- (x) How complaints by persons working at a school or by school governors about financial management or financial propriety at the school will be dealt with and to whom such complaints should be made.
- (y) Expenditure incurred by a Governing Body in the exercise of the power conferred by section 27 of the 2002 Act.

# **1 INTRODUCTION**

## **1.1 THE FUNDING FRAMEWORK**

The School Standards & Framework Act 1998 ('the Act') sets out the financial framework for funding maintained schools.

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. The regulations made are set out in the Schools & Early Years Regulations.

### **1.1.1 THE SCHEME FOR FINANCING SCHOOLS**

The financial relationship between maintained schools and the Authority is covered by this Scheme. It sets out the principles underpinning the financial controls within which delegation to schools operates.

The Scheme is made in accordance with section 48 of the Act. This section, and associated Regulations, sets out what must be included in the Scheme. The Scheme, and any subsequent revisions, must be approved by the Schools Forum or Secretary of State who has powers to modify or impose Schemes.

More detailed financial requirements are applied by the Scheme but do not form part of this published version. These are contained in the schools' Finance Manual which provides separate detailed guidance for schools on these matters.

It should be noted that Section 48(3) of the Act states that where there is an inconsistency between this Scheme and any other Authority rules or regulations relating to funding and financial management, the terms of this Scheme prevail. The Scheme has, therefore, been prepared so that it is consistent with the principles set out in the introduction, with the Authority's broader financial management framework and acknowledges the role of governing bodies having their own statutory functions and freedoms. The Scheme, therefore, is a framework within which both the Authority and schools are required to carry out their financial responsibilities.

### **1.1.2 THE BUDGET FRAMEWORK**

Under this legislation, LAs determine for themselves the size of their schools' budget and their non-schools education budget – although the Authority must allocate its entire Dedicated Schools Grant (DSG) to the Schools Budget.

The categories of expenditure which fall within the two budgets are prescribed under regulations made by the Secretary of State, but included within the two, taken together, is all expenditure, direct and indirect, on 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.

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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).

Full details of the expenditure are detailed in the annual financial statement produced by the Authority (see section 1.1.5 below).

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).

### **1.1.3 THE FUNDING FORMULA**

LAs must distribute the ISB to maintained schools using the funding formula. The formula must be in accordance with regulations made by the Secretary of State under the Act. The formula is used to calculate each school's Budget Share.

### **1.1.4 DELEGATED BUDGETS**

The budget share for each school is delegated to the Governing Body, unless the school is a new school which has not yet received a delegated budget, or the right to the delegated budget has been suspended in accordance with section 51 of the Act. This section empowers the LA to suspend a school's right to a delegated budget if the provisions of this Scheme (or any 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 by a school 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 Act), but in that case there is no right of appeal.

Subject to any provisions of the Scheme, the Governing Body may spend budget shares for the purposes of their school, or for any other additional purposes prescribed by the Secretary of State in regulations made under s.50. Section 50 has been amended to provide that amount 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.

### **1.1.5 PUBLICATION OF INFORMATION**

The Authority is obliged, under s251 of the Apprenticeships, Skills, Children and Learning Act 2009, 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. At the end of each financial year the Authority must publish a statement showing outturn (actual) expenditure.

Both statements are published on a public website in a format specified in directions issued by the Secretary of State.

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Regulations also require the 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.

Enfield's information can be found on the [Council Website](#).

## **1.2 THE ROLE OF THE SCHEME**

As stated in 1.1 above this Scheme covers the requirements relating to financial management and other associated issues and is 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 Pupil Referral Units maintained by the Authority, whether they are situated in the area of the authority or situated elsewhere. It does not apply to academies, free schools, schools situated in the authority's area, which are maintained by another authority. The schools maintained by Enfield are listed in Annex A.

## **1.3 PUBLICATION OF THE SCHEME**

This Scheme must be published on a website which is accessible to members of the public, headteachers and Governing Bodies of all schools covered by the Scheme. Enfield's Scheme is available on the [Council's Website](#).

All proposed revisions to the Scheme will be submitted to the Schools Forum for approval by the members of the Forum representing maintained schools. Any approved revisions to the Scheme will be notified to each school.

## **1.4 REVISION OF THE SCHEME**

Any proposed revisions to the Scheme will be the subject of consultation with all schools and other interested parties.

Revisions may be proposed at the direction of the Secretary of State or may be initiated by the Authority.

All revisions are subject to approval by the Schools Forum. Where the Schools Forum does not approve the revisions 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 FINANCIAL DELEGATION OF POWERS TO THE HEADTEACHER**

The headteacher has overall executive responsibility for the school's activities and is accountable to the Governing Body for the financial management of the school. The headteacher should ensure that the Governing Body is provided with financial advice, that proper and adequate financial systems and controls are in place and that accounts and financial reports are duly submitted to the Governing Body and the Authority. Therefore,

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the relative roles of the Governing Body, its committees, the headteacher and other staff must be defined in writing by each school.

Governing Bodies are required to consider and confirm the extent to which it wishes to delegate its powers to the headteacher and must record its decision (and any revisions to that decision) in the minutes of the Governing Body. Such decisions by a Governing Body will be subject to any requirements of the Secretary of State contained in regulations made under s.38 of the Act and Schedule 11 thereto. (s38 of the Act covers the general responsibility of a governing body for the conduct of a school and Schedule 11 the membership and proceedings etc. of governing bodies.)

It is a matter for each Governing Body to consider and approve:

- its own requirements for a Scheme of Delegation within the school.
- the first formal budget plan (Working Budget) of each financial year.

A Guidance paper on 'Schemes of Delegation' for schools is included in the Finance Manual.

## **1.6 MAINTENANCE OF SCHOOLS**

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

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## 2. FINANCIAL REQUIREMENTS & AUDIT

### 2.1 FINANCIAL PROCEDURES

#### 2.1.1 Application of Financial Controls to Schools

Enfield Borough Council, like other major bodies and companies in both the public and private sectors, has to regulate the financial affairs of the Council in terms of formal Regulations and Standing Orders. In managing their delegated budgets schools, it must abide by not only the requirements embodied in this Scheme but also by the Authority's requirements on financial controls and monitoring as set out in the following documents:

- Statutory Financial Regulations for Schools
- Finance Manual for Schools which incorporates accounting practice for schools
- Council's Procurement Rules

#### 2.1.2 Provision of Financial Information & Reports

Accurate and timely financial reporting is an indication of good financial management. Where schools fail to meet the reporting timetables, they are likely to fall short of the Schools Financial Value Standard (SFVS). A repetition of failure to meet reporting requirements, particularly if it affects statutory deadlines, e.g. final accounts, VAT, National Insurance, pensions etc, would be a reason to issue a notice of concern, or even suspension of delegated management.

All funding within the school budget is accounted as the Authority's expenditure. The Scheme therefore requires the Authority to implement arrangements for the monitoring and proper use of public funds appropriate to a Scheme of delegated financial responsibility to school Governing Bodies. These arrangements must also enable schools' income and expenditure to be integrated into the Authority's financial framework.

The Governing Body is required to ensure that the school maintains an adequate local accounting system on an approved accounting package. The Authority has nominated the school records as the prime accounting records. The local system at the school, and all financial documents held, are part of the Authority's accounts and are subject to the same inspection conditions.

All schools are required to submit the following financial returns (also see section 2.3).

##### Quarterly financial monitoring

Schools must provide the Authority with quarterly reports of income and expenditure, together with a forecast year-end position, in a format specified by the LA. There may be occasions when the Authority notifies a school that, due to its financial position, monthly financial returns are required.

##### VAT

Schools are required to submit by the 22<sup>nd</sup> of each month a return for VAT purposes in a format specified by the Authority from information generated by the school's financial computerised systems, together with a bank reconciliation statement. The procedures and information required for the monthly returns are set out in the Finance Manual.

##### Year End

At year-end, a summary of the school's records must be made available, in a format specified by the Authority, to upload to the LA's financial system (SAP). Any supplementary information requested for use in the LA's accounts must be supplied as

well as a copy of the school's financial data file. To simplify this process, the LA will use the Consistent Financial Reporting accounting structure to populate SAP system.

Guidance on these requirements is contained in the Finance Manual and the year-end documentation.

### 2.1.3 Control of Assets

#### Assets Other than Land and Buildings

Schools are required to maintain an Asset Register containing details of significant equipment, capital items and inventory of all moveable non-capital assets that are portable, valuable and desirable. Schools are free to determine their own arrangements for keeping a register of assets worth less than £1,000; however, a school must keep a register in some form.

The Asset Register should include the following information:

- a) Date of acquisition
- b) Description of the asset, including serial number or unique identification mark
- c) Cost (excluding VAT)
- d) Details of leasing arrangements including the source of funding
- e) Location of asset
- f) Record of disposal or write off

Schools should ensure that:

- the Registers are kept up to date;
- procedures are in place to ensure items are added to the Registers when invoices are processed;
- all items are marked, visibly and permanently, as school property;
- at least once each year, an independent stock check is carried out on all items recorded;
- significant discrepancies are reported to the Governing Body.

Staff who are responsible for, or are entrusted with school property, have a duty of care and must take all reasonable precautions to ensure their safe custody.

Assets funded by the Authority, as defined in the Finance Manual, must not be sold, destroyed or disposed of without the authority of the Governing Body, who must inform the Director of Education of any disposals and the proceeds. As there are difficulties with leased assets, schools should consult the Finance Manual before proceeding. The Governing Body is responsible for determining value for money in asset disposals.

Items of school property must not be removed from school premises without the appropriate delegated authority. The school must keep a record of any loan and the record updated when the asset is returned. Staff may take assets home but the position relating to insurance must be clarified and explained to staff before any assets are removed from school premises. Where assets are on loan for extended periods or on a regular basis to a member of staff, a benefit in kind may be deemed to have arisen which will have tax implications for the individual concerned and proper use of public funds.

#### Land and Buildings

Regarding the disposal of land and buildings, the procedures will be determined according to who currently owns the assets, the responsibility of the Secretary of State to safeguard the disposal of assets purchased or improved using public funds and the interests of the LA where the LA is the owner or former owner of the assets.

The ownership of school land and buildings under the new framework is set out below:

- a) Community Schools - assets are owned by the Authority.
- b) Voluntary Aided Schools - assets are owned by the trustees except where the Authority continues to own certain subsidiary premises such as facilities for the provision of meals.
- c) Foundation Schools - assets are owned by the Governing Body where there is no foundation constituted or by the trustees where the school forms or joins a new foundation.

#### **2.1.4 Accounting Policies (Including Year - End Procedures)**

All relevant accounting policies and procedures are included within the Finance Manual and the year-end booklet. They are there to ensure all parties concerned are protected and that public money is responsibly managed.

##### **Computer system**

The Governing Body is required to ensure that the school maintains an adequate local accounting system using an approved accounting package which is compatible with LA requirements. If the school changes the finance software, then the school must use the Enfield Chart of Accounts to set up the new system. The procedure for this is set out in the Finance Manual. The LA must receive a copy of the school's software data file at the year end. The computerised financial records must be regularly backed up.

#### **2.1.5 Writing Off Debts**

The Governing Body may write off debts owed to the school up to a value of £500. Individual debts above that level, but not exceeding £2,500, may be written off with the approval of the Director of Education. All debts above £2,500 may only be written off with the additional approval of the Director of Education and the Executive Director Resources. For reporting arrangements and write off requests, please refer to the Finance Manual.

## **2.2 BASIS OF ACCOUNTING**

The Scheme does not impose a basis of accounting on schools' internal systems. However, returns to the LA should be done on a cash basis i.e. what the school has actually paid or received during that period.

## **2.3 SUBMISSION OF THREE YEAR EXPENDITURE PLANS**

The Authority will supply schools with the school income and expenditure data to enable schools to plan effectively for the next three years. Budget plans should be prepared as realistically as possible. It is expected for schools to review their position during the year.

The school may save/earmark funds for specific future projects. There is an expectation that such funds should be for the benefit of current pupils and should not be at the expense of current provision. Such funds should be clearly documented as part of the strategic improvement and financial plans.

Schools must not plan for a deficit in the current financial year but, if it seems unavoidable, guidance on setting a deficit budget at section 4.4 must be followed.

The Governing Body must send its three year budget plans to the LA by the May half term. The budget plan must be submitted in the format provided by the LA. The school must submit an electronic copy of the budget plan and, separately, a scanned signed copy of the budget plan agreed by the Governing Body. Each school will also need to

send details of the assumptions underpinning the expenditure plan. The assumptions should evidence how the budget plan integrates with the school's strategic plan for raising standards and attainment and how the budget links with the curriculum and improvement plans.

Schools must take full account of the actual or forecast year end surplus/deficit from the previous financial year in their budget plan.

The school's formal three-year budget plan must be approved by the Governing Body. If the responsibility for formulating and approving the three-year budget plans has been delegated to a Committee in the school's Scheme of Delegation and Organisational Structure, then these may be submitted to the Authority to meet the statutory deadline. However, this is subject to the three-year budget plans being presented and endorsed at the next Governing Body meeting. The Chair of Governor must confirm to the Authority that the budget has been endorsed by the Governing Body as agreed by the Committee.

If the three year plan shows a deficit in future years, the documents and minutes must be annotated by the phrase "The Governing Body is aware of the future year deficit as shown on this plan and will take remedial action to address the deficit".

#### **2.4 EFFICIENCY AND VALUE FOR MONEY**

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

It is for the Headteacher and the Governing Body to determine and evidence at school level how to secure better value for money.

#### **2.5 VIREMENT**

A Governing Body or Committee / Headteacher with delegate authority may vire freely between budget allocations made from the schools budget share but must ensure that appropriate control arrangements are in place.

#### **2.6 AUDIT GENERAL**

A review of the internal financial controls of all schools within the Authority will be carried out on a regular basis. The frequency of audits will be dependent on risk, for example:

- Schools perceived to pose a greater risk will be subject to more regular audits focusing on the risks identified.
- Schools assessed as lower risk will be selected on a sample basis for audit each year. Any audit will include a review of the information submitted to the Authority.

All schools should receive some form of internal audit coverage at least once every four to five years. The scope and timing of each school's audit will be agreed with the school. All reports will be discussed and cleared with the Headteacher or other nominated person prior to the issue of the final report. The final report will include timelines for implementing agreed actions to mitigate any risks identified.

The following escalation process has been agreed:

- Findings from the internal audit will be reported to the Council's Assurance Board and the General Purposes Committee.
- Follow up emails and/or visits will be undertaken by the Internal Audit team in accordance with the target dates agreed within the report.

- If it is deemed that insufficient responses have been received and/or unsatisfactory progress has been made in implementing the agreed actions, Internal Audit will follow this up with the Director of Education. Any actions undertaken as a result will be reported to the Assurance Board.

In his determination of any non-compliance, the Director of Education will consider whether the Headteacher and/or the Chair of Governors should attend a future Assurance Board meeting to advise the Board of the action being taken by their school to address the findings from the internal audit report.

Schools are also required to comply with the requirements of the LA's external audit arrangements and provide access to the school's records for both internal and external auditors

## **2.7 SEPARATE EXTERNAL AUDITS**

In addition to the processes outlined in 2.6 above, schools can use their delegated budget share to obtain external audit certification of their accounts, separate from the LA internal or external audit process.

Internal Audit may provide additional consultancy and advice on request. The cost of this service will be charged to the school budget. Internal Audit will provide the cost of this service prior to commencement.

## **2.8 AUDIT OF VOLUNTARY AND PRIVATE FUNDS**

If schools have money available from sources other than the ISB, which they may use for their general benefit. If such funds are controlled by an employee because of his or her position at the school, but do not pass through the schools and thereafter the Authority's accounts, are regarded as "unofficial funds". The Local Government Act 1972 states that a local authority may require any of its staff to account for all money and property committed to their charge and to produce the relevant supporting documents. For Section 151 Officer (the Authority's CFO) to fulfil this responsibility, this requirement is extended to include all staff at all schools.

These accounts must be maintained and supporting documents (e.g., receipts) held for all transactions, including an "audit trail". Reporting arrangements must be formalised. Best practice requires the reporting of annual accounts.

In a format advised by the Authority, schools must report to the LA the amount held in all their voluntary and private accounts together with details of when the accounts were last audited.

A school refusing to provide audit certificates to the Authority in line with the Scheme is in breach of the Scheme and will require the Authority to take action. Access to the accounts of such funds by other agencies is a matter for them. Any other requirement as to audit of such funds is a matter for those making the funds available, and any Charity Commission requirements.

Further details are included within the Finance Manual.

## **2.9 REGISTER OF BUSINESS INTERESTS**

The Governing Body and school staff have a responsibility to avoid any conflict between their business and personal interests, and the affairs and the interests of the school. A register of business interests must be maintained for both Governors and staff with significant financial responsibilities (as specified in the School's Scheme of Delegation).

The register must include all business interests such as directorships, shareholdings, and other appointments of influence within a business or other organisation which may have dealings with the school. The disclosures should also include business interests of relatives and other individuals who may exert influence. Schools should ensure the register is up to date and complete, with notification of changes and through annual review of entries, includes all Governors and relevant staff and in this regard signed and dated nil returns are also required.

The school's website should include an up-to-date register of business interest with details of when and why it was updated. The register must also be available for inspection by Governors, staff and parents, and the LA and the information on Governors made available on a publicly accessible website.

Detailed guidance is available in the Finance Manual.

## 2.10 PURCHASING, TENDERING AND CONTRACTING REQUIREMENTS

### 2.10.1 Each school should comply with the LA's financial regulations and standing orders in purchasing, tendering and contracting.

These are consistent with current statutory provisions and UK regulations.

The provisions do not require LA approval for individual schools entering into large value contracts that are to be funded from school's resources. Schools must abide with the full tendering obligations and requirements for those contracts above the Public Contract Regulations 2015 thresholds to avoid any threat of legal action.

The threshold for obtaining quotes or formal tenders are as follows:

Estimated Contract Value	Tendering Requirements	Method of completion of contract
Up to £25,000	At least one written quotation must be received. Where practicable an eligible quotation from a local supplier must be sought. Best value must be obtained and framework and other corporate agreements, where they exist, are used. (Schools must retain sufficient evidence to demonstrate compliance).	Use of Purchase Order.
Contracts from £25,000 to £100,000	At least three written quotations must be received. A quotation from a local supplier must be sought. Where three written quotes are not received then authority to proceed must be sought as VFM may not be demonstrated at the relevant authority within the school.  Best value must be obtained and framework and other Council agreements, where they exist, are considered and used. <i>(Schools must retain sufficient evidence to demonstrate compliance and best value, (an oral quotation is not acceptable).</i>	Use of Purchase Order or Standard Contract for more complex requirements
Contracts above £100,000 to PCR threshold * (for supplies and services) or above £500,000 (for works)	At least five written quotations must be received. At least two quotations from a local supplier must be sought. If less than five quotes are received, approval must be sought from the Governing Body or Committee with delegated authority to ensure VFM. The decision must be recorded and all documentation supporting the decision retained.  In all cases at least 5 Contractors should be invited to Quote (for works) or Tender, unless there is an overriding business or legal justification then a waiver of the contract procedural rules to continue with the contract process must be presented and agreed with the Governing Body. The decision must be recorded in the minutes of the Governing Body or Finance Committee if responsibility has been delegated and all documentation supporting the decision retained.	Up to <u>£500,000</u> : Signature on Standard Contract or sealed by Legal Services if required  Over <u>£500,000</u> : Sealed by Legal

	<i>(Schools must retain sufficient evidence to demonstrate compliance and best value, (an oral quotation is not acceptable).</i>	Services
Above the PCR threshold	Follow Public Contracts Regulations 2015 approved routes to market	Up to £500,000: Signature on Standard Contract or sealed by Legal Services if required.  Over £500,000: Sealed by Legal Services

N.B Where the Governing Body is considering a waiver, just because the school likes the current provider, is not a good reason for approval. The Governing Body should approve any waiver on a clear criterion based on best value principles. Aggregation of spend must be considered, where continuous spend over time will take the number of quotations into the PCR threshold.

**2.10.2** In assessing which threshold to apply, the total value of the contract must be used including VAT. The total value should be over the term (length) of the contract including any potential extensions.

If the purchase involves recurrent transactions for the same type of items, then the contract value is the total value of those transactions over the contract period, including any allowable extension periods. Where the total contract value over the full duration of the contract (not just the annual value) is uncertain, then to establish an estimated value the monthly payment should be multiplied by 48.

**2.10.3** Where relevant, schools are required to assess in advance, the health and safety competence of contractors. Schools must take account of the LA's policies and procedures on such matters as detailed in the Health & Safety Guidelines for Schools (Control of Contractors). This must be in line with the public contract regulations.

## **2.11 APPLICATION OF CONTRACTS TO SCHOOLS**

Schools will be consulted on, and invited to participate in, Council wide contracts for the provision of goods and services. This includes both contracts with external suppliers under competitive tendering procedures and internal arrangements with the Council's DSOs, or buyback arrangements for services delegated to schools.

Once a school has given, in writing, a commitment to participate in such a contract or trading arrangement, it is expected that the school will be bound to the final contract / trading arrangement for its length.

Should the school, however, decide to opt out of such a contract / trading arrangement during its life, the LA retains the right to make additional charges to the school if such action results in any loss to the LA for the remainder of the contract period.

Although Governing Bodies are empowered under paragraph 3 of schedule 1 to the Education Act 2002 to enter into contracts, in most cases they do so on behalf of the LA as maintainer of the school and the owner of the funds in the budget share. However, other contracts may be made solely on behalf of the Governing Body, when the Governing Body has clear statutory obligations e.g. contracts made by aided or foundation schools for the employment of staff.

## 2.12 CENTRAL FUNDS & EARMARKING

The Authority may make sums available to schools, from centrally held resources, in the form of allocations which are additional to and separate from schools' budget shares and will be either shown separately on the School Budget for the year or notified individually.

Such allocations will be the subject of conditions which will be notified individually. The funds will be earmarked i.e. must only be used for specific purposes. Schools should ensure that they have appropriate accounting mechanisms in order to be able to demonstrate that expenditure has been incurred only for the purpose intended. The Authority may require unspent earmarked funds to be returned at the end of the year.

The Authority will not make any deductions, in respect of interest costs incurred, from payments to schools of devolved specific or special grant.

## 2.13 SPENDING FOR THE PURPOSES OF THE SCHOOL

Section 50 (3) of the Act empowers the Governing Body to spend its budget share as it sees fit for the purposes of the school, and for any other purposes, which may be prescribed in regulations by the Secretary of State. By virtue of section 50(3A) (which comes into force on 1st April 2011), amounts spent by governing bodies on community facilities or services under section 27 of the Education Act 2002 will be treated as if spent for any purposes of the school.

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

However, these powers to spend is subject to any provisions included in the Scheme (e.g. capital spending detailed in section 2.14 below) and LAs are able to impose their own restrictions on this freedom, arising from local circumstances.

A Governing Body wishing to provide extended services must consult with the Authority to ensure a strategic approach to potential programmes. Schools must submit detailed proposals to the Authority so that an assessment can be undertaken of its financial and management viability. The proposals must include, at the very least:

- (i) a charging policy, including a review of charging under existing PFI projects (if applicable);
- (ii) a 3 year business plan showing anticipated costs and revenue, with additional information relating to the planned use of any excess revenue;
- (iii) a demonstration of the sources of funding and contingency arrangement if planned revenue declines;
- (iv) details of any planned capital projects.

Schools must use specific coding for extended schools' activities, which must be self-financing.

Schools must abide by the Authority's requirements on financial controls and monitoring set out at paragraph 2.1.1 and any others requirements included in this Scheme.

## 2.14 CAPITAL SPENDING FROM BUDGET SHARES

The Scheme does not preclude governing bodies from using their budget shares to fund the cost of capital expenditure on their school premises. This may also include the liability



of Governing Bodies of Voluntary Aided schools to meet the cost of their responsibilities under paragraph 3 of Schedule 3 of the School Standards and Framework Act 1998. All expenditure that the Governing Body wants to treat as capital must meet the capital criteria as defined in the Consistent Financial Reporting guidance.

Where schools wish to fund new capital expenditure in full from delegated budgets, the Director of Education should be notified of proposals in all instances so that:

- where the expenditure exceeds £20,000 in primary and special schools, and £30,000 in secondary schools in any one year, the Director of Education can advise on the merits of the proposed expenditure in terms of the provision of education at the school.
- where the premises are owned by the LA, the Director of Education and Executive Director Resources can advise as to the technical aspects of the planned works
- the Director of Education can consider the funding of any additional revenue costs arising from the project within the Individual Schools Budget, where this is the case.
- the Executive Director Resources can correctly record the expenditure in the LA's accounts.

All capital expenditure incurred by the Authority on its schools and in meeting the LA liability of Schemes at Voluntary Aided Schools, must be recorded in the LA's central accounts and reported as part of the Authority's overall capital programme, however the expenditure is actually financed. The Finance Manual sets out the circumstances in which schools will have some responsibility for capital expenditure and the process schools should follow.

## **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 Director of Education and the Executive Director Resources, the school has failed to comply with any provisions of the Scheme, or where actions need to be taken to safeguard the financial position of the LA or the school.

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

- insisting that relevant staff undertake appropriate training to address any identified weaknesses in the financial management of the school;
- insisting that an appropriate 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 LA;
- insisting on regular financial monitoring meetings at the school attended by the Authority's officers;
- requiring a Governing Body to buy into the LA's financial support services 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 LA may take where the Governing Body does not comply with the notice.

## 2.16 SCHOOLS FINANCIAL VALUE STANDARD (SFVS)

All maintained schools and Pupil Referral Units (PRUs) are required to demonstrate compliance with the Schools Financial Value Standard (SFVS) and complete and submit the online assessment and data analysis on an annual basis. Schools must submit the form to the LA by the end of the Autumn term. With the SFVS submission, the following documents must also be included:

- a schedule detailing related party transactions;
- a financial report from the Integrated Financial Planning tool (ICFP).
- Schools receiving a budget share must submit all three documents to the Authority annually by 31st December.

Governing bodies must demonstrate compliance through the submission of the SFVS online assessment form by ensuring the Chair of Governors is copied into the form submitted to the Authority. 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.

The documents will be assessed and used to inform the Audit programme for the following financial year.

It is recommended that the ICFP financial report is updated with each quarterly return to assess the impact of progress on items on the action plan.

## 2.17 FRAUD

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

The Governing Body and Headteacher 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.

All staff and Governors with responsibility for financial management should undertake fraud awareness training.

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

#### **3.1 ACCESS TO SCHOOL BUDGET SHARES**

The following sections cover frequency of instalments, the proportion of the budget share payable at each instalment, VAT and arrangements for interest clawback, where applicable.

The arrangement for allocating budget shares to each school will depend upon on whether the school:

- a) is part of the Authority's HSBC banking contract;
- b) all other schools.

All delegated and devolved resources will be advanced to schools and inclusive of pay costs.

##### **3.1.1 ARRANGEMENTS FOR ADVANCES TO SCHOOLS**

###### **(a) Delegated Budget Share – Advances to Schools**

All schools will receive their budget share and VAT monthly in twelve equal instalments starting from April; with reference to the pay date of the schools' monthly paid employees. Top up payments for pupils with high needs will be made monthly unless an alternative arrangement has been agreed with the school.

For all schools, the advances will be made two days before the staff pay day. Advances are made to schools without cash flow deductions.

A school may request an advance to be increased by bringing forward resources from a future instalment due to be made later in the same financial year. This will assist those schools with temporary cashflow needs arising from major developments at the school and can be arranged following a written request to the Executive Director Resources.

###### **(b) Delegated Budget Share – Advances for Schools with Planned Licensed Deficits**

Where the Authority has a rolling credit agreement supported by an agreed licensed or deficit recovery plan and cashflow statement with individual schools, the schools will receive a cash advance to cover the cash deficit as detailed in the plan and cashflow statement. The interest charge on the amount of the credit agreement will be deducted from the school's advance payment on a monthly basis.

When schools are in a position to repay some of their credit agreement due to an improved financial position, they should notify the School Finance Team in writing of the amount to be repaid and this will be adjusted via the next appropriate advance.

A condition of the rolling credit agreement is that the school holds all their funds in an HSBC bank account for the full financial year

###### **(c) Recovery of Overpaid Advances**

When it is necessary to recover overpaid advances from schools, for example for prior year adjustments, VAT, rates, exclusions and the EFA, this will be done by deducting the amount to be repaid from the next monthly advance. If this is insufficient, then any remaining balance will be deducted from subsequent monthly advances. If there are still sums due to be repaid

by schools after the March advance has been made, an invoice will be raised on the school prior to the end of the financial year.

### **3.1.2 VAT REIMBURSEMENTS**

VAT reimbursements will be dealt with through a percentage add-on to advances to allow schools to pay VAT on invoices without cash flow implications. At the year end the Authority will reconcile the amount advanced for VAT with the amount paid out and received by the school. Any required adjustment will be made in the new financial year. Where schools are owed a significant amount of VAT during the year, they can contact the Authority's Finance Team and an interim reimbursement can be made through the advances.

### **3.1.3 DEDUCTIONS FOR CENTRALLY INCURRED EXPENDITURE**

Advances to schools will be made without deductions for centrally incurred expenditure or for services provided to schools by the Authority under service level agreements.

### **3.2 INTEREST ON LATE BUDGET SHARE PAYMENTS**

The Authority will add interest to late payments of budget share instalments, where such late payment is the result of an error by the Authority.

### **3.3 BANKING ARRANGEMENTS**

All maintained schools in Enfield have bank accounts. Schools can retain all interest earned on their accounts.

#### **3.3.1 RESTRICTIONS ON ACCOUNTS**

Schools can use any High Street Bank or major Building Society. Alternatively, the Authority's own bankers (HSBC) offer a specific scheme for Enfield schools.

All bank accounts must have the London Borough of Enfield and the school name as part of the description. Budget share funds paid by the authority and held in school accounts remain authority property until spent (section 49(5) of the act).

### **3.4 BORROWING BY SCHOOLS**

#### **3.4.1** Governing Bodies may borrow money (which includes the use of finance leases) only with the written permission of the Secretary of State. The Secretary of State's general position is that schools will only be granted permission for borrowing in exceptional circumstances. From time to time, however, the Secretary of State may introduce limited schemes in order to meet broader policy objectives.

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

#### **3.4.2** In addition, Governing Bodies may not enter into any leasing arrangement without first obtaining the Authority's approval to the agreement. This is to ensure there are no implications for the Authority's overall capital resources.

- 3.4.3** Governing Bodies cannot use interest bearing credit cards or store credit facilities for purchases on behalf of the school.
- 3.4.4** The use of charge cards, including business cards connected to the school's bank account for purchases related to the schools delegated budget, is not considered to infringe the borrowing restrictions imposed on schools only if the balance on the account is cleared in full within the month and there is no interest charged. It is viewed that these cards can be a useful means of facilitating electronic purchases. The maximum limit recommended for these cards held by a school is £10,000.

In reaching a decision on the use of business cards, the Governing Body must:

- ensure purchases are made in line with the requirements of the Scheme of Delegation;
- consider the potential risk;
- review whether the schools has appropriate controls in place to guard against any misuse,
- record and agree its decision on the use and limits set for each card.

Guidance on this is included in the Finance Manual.

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

### **4.1 RIGHT TO CARRY FORWARD SURPLUS BALANCES**

Schools may carry forward from one financial year to the next any shortfall in expenditure relative to the school's budget share for the year plus/minus any balance brought forward from the previous year.

Any underspend against the total resources available, as determined upon the closure of the year's accounts and reported in statements published under Section 251 of the Apprenticeships, Skills, Children and Learning Act 2009, will accrue automatically to the school and will be added to the school's budget share for the following year.

Schools Forum will determine from time to time how to apply any policy for managing school balances in accordance with DfE guidance

### **4.2 REPORTING ON THE INTENDED USE OF SURPLUS BALANCES AND THE RECYCLING OF SURPLUS BALANCES**

Governing Bodies are required to report on the intended use of balances where the total accumulated balances exceed 5% and £100k of that financial year's budget share. The criteria for retaining balances above these limits are as follows to:

- a. support prior year's financial commitments that have not been charged to the accounts by the preceding 31 March,
- b. fund specific purposes as assigned by the Governing Body and permitted by the Authority, as detailed below, 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.

NB: This last provision is intended to ensure that schools can build up reserves towards projects but cannot defer implementation indefinitely.

#### Balances Assigned for Specific Purposes

Schools may declare balances to be assigned for specific purposes only within the permitted categories given below. Such declarations must be set out in the minutes of the Governing Body and information on such declarations given to the Authority in a format determined by the Authority. The Authority may take such steps as appropriate to determine that such declarations are properly assigned.

#### Permitted Categories for a maximum of three years\* a reserve to finance planned:

- Capital works for the purposes of the school, as set out in the school development plan.
- Replacement / refurbishment of equipment/purchase of new equipment, as set out in the school development plan.
- Building repairs and maintenance, as set out in the annual maintenance plan.
- Or maintain staffing levels in the short/medium term in the face of changing rolls, as set out in the school development plan.

*\* within each permitted category, the commencement of the time period indicated will be deemed to be the date of the appropriate declaration in the minutes of the Governing Body.*

- c. If schools are projecting surplus balances as at 31 March above 5% and £100k, then these schools are required to seek the written permission of the Authority on the
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retention and use of the surplus balances against the criteria for retaining balances, as detailed above. The request must be submitted to the Authority in the first half of the Spring term preceding the end of the financial year.

If written permission is not sought or is not within the required timescale, then any balances above the percentages stated in the table below will be recycled.

Following a discussion with Education Resources Group, the Authority will confirm if the schools may retain any balances above the stated thresholds.

#### Control of surplus balances

- (a) The Authority shall calculate each year the surplus balance, if any, held by each school as at the preceding 31 March. For this purpose, the balance will be recurrent balance category as defined in the Consistent Financial Reporting Framework;
- (b) Then the prior year's commitments as reported by the school shall be deducted from the calculated surplus balance. This relates solely to financial commitments that the school has entered prior to the end of the financial year, e.g. placed an order, but the goods or services were not received by 31 March and no invoice has been paid, nor an accrual raised;
- (c) Then the amount assigned for specific purposes as reported by the school and permitted by the Authority (as detailed above) shall be deducted from the calculated surplus balances;
- (d) If the result of steps (a) to (c) above is that the school has surplus balances of more than 5% of the current year's budget share, then the amount above these thresholds will be deducted from the current year's budget share.

If the school does not send in their information on surplus balances as required under this Scheme and does not provide the Authority with a reason for not providing the information then any balance above 5% shall be deducted from the current year's budget share.

Funds deriving from sources other than the Authority will be taken into account in this calculation if paid into the budget share of the school, whether under provisions of this Scheme or otherwise.

Funds held in relation to a school's powers under section 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.

Individual schools will continue to have the right to appeal against any decision to recycle their balances. The Schools Forum will consider any appeals. Any balances that are recycled will be added to the Schools Budget in the following financial year.

### **4.3 INTEREST ON SURPLUS BALANCES**

All schools operating local banking arrangements and as such interest will be earned and paid into their accounts directly by their bankers.

### **4.4 OBLIGATION TO CARRY FORWARD DEFICIT BALANCES**

- (a) Schools should not plan for a deficit balance.
- (b) When a school is forecasting a deficit balance at the end of the current financial year, they should discuss the matter with the Council at the earliest opportunity and in advance of Governors approving a deficit budget plan.
- (c) Where the setting of a deficit budget plan for the current financial year seems unavoidable, the procedures are:

- that the school should produce a deficit recovery plan in a format specified by the Authority to clear the deficit within three years in deficit or, in exceptional circumstances, a period agreed with the Authority.
  - The deficit recovery plan must be approved by governors at the same time as the budget plan and both submitted to the Authority by 31 May.
- (d) Where expenditure in any financial year exceeds the budget share, after adjustment for any surplus or deficit carried forward from the previous financial year, the deficit will be carried forward and deducted from the school's following year's budget share.
- (e) In exceptional circumstances, it will be possible to extend the recovery period. Such requests will need to be approved by the Director of Education in consultation with the Executive Director Resources, who will need to be satisfied that the circumstances are indeed exceptional, and that all reasonable action will be taken to clear the deficit at the earliest opportunity. Exceptional circumstances may include managing a temporary reduction in pupil numbers or a situation in which the Governing Body's duty to provide the curriculum would be affected.
- (f) Once the deficit recovery plan has been approved, schools will be required to submit a cashflow statement that support the plan to the Authority. The Authority will then agree a funding agreement to ensure the school's account remains in debit.
- (g) Schools in deficit will be required to close all other external accounts to support their planned deficit. If a school requires a specific external account to remain open whilst in deficit, then this will require the explicit approval of the Director of Education and Executive Director Resources.
- (h) Where the school has a change of circumstances which results in a deviation from the agreed deficit recovery plan, the school must discuss the situation with the Authority at the earliest opportunity.
- (i) In all instances of deficits, including forecast deficits for future years in the three year strategic plan, schools may be required to provide information and/or cooperate with local authority officers with a view to ensure that the deficit is managed and monitored in an appropriate manner.

#### **4.5 CHARGING OF INTEREST ON DEFICIT BALANCES**

Where schools have a credit agreement in place to support a licensed deficit or deficit recovery plan supported by a cash flow statement, the Authority will seek to cover the school's deficit. This is to ensure the school operates within financial regulations.

The interest rate charged for the brokerage service will be base rate plus up to 1%. This charge will be instigated monthly.

Following the agreement with the Executive Directors People and Resources, the interest charge will be adjusted:

- Where an alternative payment schedule has been agreed; or
- To reflect a changed deficit position during the year

#### **4.6 WRITING OFF DEFICITS**

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

The Authority may give assistance towards elimination of a deficit balance this would be through the allocation of a cash sum, from the Authority's Schools Budget either from a centrally held budget specified for 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.

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#### **4.7 BALANCES OF CLOSING AND REPLACEMENT SCHOOLS**

When a school closes or amalgamates, any balances, whether surplus or deficit, reverts to the Authority, except the surplus for a school that converts to academy status under section 4(1)(a) of the Academies Act 2010. It is for the Authority to decide whether the balances from the predecessor schools get transferred to the new school or retained within the Schools Budget.

Regulations made under section 47 of the Act (budget share allocations) makes provision for schools which have the effect of giving them the benefit of additional sums which are equal to or less than the balances of the relevant closing schools.

The regulations will also provide for the abatement of extra funding for new schools to recognise the deficit of a preceding school but will not allow a sum equal to the deficit to be set against any normal funding for the new school.

#### **4.6.5 LOAN SCHEME**

The Authority will consider, in some circumstances for the school to borrow a sum of money over and above its budget share. The circumstances include:

- major building investments that are consistent with the Asset Management Plan or an agreed priority for capital expenditure;
- works to support the achievement of objectives as identified in the School Development Plan;
- or essential works to comply with legislative / regulatory requirements,
- to acquire a vehicle, plant or equipment, which has a life expectancy of at least three years.

Schools seeking a loan would be required to submit:

- a letter from the Chair of Governors setting out plans for which a loan is sought, and how this contributes to the school's development plan;
- a demonstration that the school would be able to make the loan repayments over the period of the loan from within its financial resources,
- a commitment from the Governing Body that the loan repayment may be made by way of a deduction from the school's budget share.

In these circumstances, the school may borrow a sum that would normally be an amount in excess of the licensed deficit limit set out in paragraph 4.9, up to 10% of the school's delegated budget, although this limit can be extended in exceptional circumstances when the school can demonstrate their ability to repay the loan.

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## **5. INCOME**

In general terms, schools may be able to retain all income unless it refers to the disposal of certain capital assets, or to a PFI/PPP project which is subject to a separate agreement. All income, which would otherwise accrue to the Authority, must be included in the school's revenue accounts. Procedures must be established to ensure income is received on due dates. Guidance on this is included in the Finance Manual.

### **5.1 INCOME FROM LETTINGS**

The Governing Body must approve income scales for the letting of school premises and the use of school facilities in accordance with the school's charging policy. Schools may wish to cross-subsidise lettings for community and voluntary use with income from other lettings, provided the Governing Body is satisfied that this will not interfere to a significant extent with the performance of any duties imposed on them by the Education Acts, including the requirement to conduct the school with a view to promoting high standards of educational achievement. However, schools are required to have regard to directions issued by the Authority as to the use of school premises, as permitted under the Act for various categories of schools. Income from the letting of school premises should be payable into the school's bank account and if it is to be paid into another account then this should be agreed in line with the school's Scheme of Delegation as agreed by the Governing Body.

### **5.2 INCOME FROM FEES AND CHARGES**

Scales of fees and charges must be approved by the Governing Body. In doing so, it should have regard to the Authority policy statements on charging.

### **5.3 INCOME FROM FUND RAISING ACTIVITIES**

Schools can retain all income from fund raising activities.

### **5.4 INCOME FROM THE SALE OF ASSETS (OTHER THAN LAND AND BUILDINGS)**

Income from the sale of assets purchased from delegated funds will be retained by the school and included in its revenue accounts. Income from the sale of assets purchased by the school's private fund will be retained by the school and does not need to be included in the school's revenue accounts. It is for the Authority to decide whether the proceeds of sale of assets purchased from non-delegated Authority funds should be retained by the Authority for the school. The proceeds from the sale of assets funded from Authority capital resources or from the sale of land and buildings owned by the Authority constitute capital receipts which will accrue to the Authority.

The retention of the proceeds from the sale of premises not owned by the Authority is not a matter for this Scheme.

### **5.5 PURPOSES FOR WHICH INCOME MAY BE USED**

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

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## **6.1 GENERAL PROVISION**

**6.1.1** The Authority may make charges against school budget shares without the permission of the school Governing Body when it is able to demonstrate that it has necessarily incurred additional expenditure as a result of the school's actions. This will only be in the circumstances noted in 6.2. In all cases, the Authority will consult with schools on the issues concerned and provide an explanation and justification for the charges made. The Authority will also notify the school when the charge has been made. The process for disputes is outlined in detail in the Finance Manual.

**6.1.2.** The salaries of school-based staff will be charged to school budget shares based on actual salary costs.

## **6.2 CIRCUMSTANCES IN WHICH CHARGES MAY BE MADE**

**6.2.1** Where premature retirement costs have been incurred without the prior written agreement of the Authority to bear such costs (the amount chargeable being only the excess over any amount agreed by the Authority);

**6.2.2** The Authority may de-delegate funding for permitted services without the express permission of the Governing Body, provided this has been approved by the appropriate phase representative of the Schools Forum.

**6.2.3** Other expenditure incurred to secure resignations where the school had not followed Authority advice;

**6.2.4** Awards by courts and industrial tribunals against the Authority, or out of court settlements, arising from action or inaction by the Governing Body contrary to the Authority's advice;

**6.2.5** Expenditure incurred by the Authority in carrying out health and safety work or capital expenditure for which the Authority is liable where funds have been delegated to the Governing Body for such work, but the Governing Body has failed to carry out the required work;

**6.2.6** Expenditure incurred by the Authority in making good defects in building work funded by capital spending from budget shares, where the Authority owns the premises, or the school has voluntary controlled status;

**6.2.7** Expenditure incurred by the Authority in ensuring its own interests in a school where funding has been delegated but the school has failed to demonstrate that it has arranged cover at least as comprehensive as that which would be arranged by the Authority (see also 10);

**6.2.8** Recovery of monies due from a school for services provided to the school, where a dispute over the monies due has been referred to a disputes procedure set out in a Service Level Agreement, and the result is that monies are owed by the school to the Authority;

**6.2.9** Recovery of penalties imposed on the Authority by the Board of Inland Revenue, the Contributions Agency or HM Customs and Excise, Environment Agency, Teachers Pensions or regulatory authorities as a result of school negligence or error;

**6.2.10** Correction of Authority errors in calculating charges to a budget share (e.g. pension deductions). In each case the Authority will consider whether the correction is reasonable and will hold discussions with the Governing Body to that effect;

**6.2.11** Additional transport costs incurred by the Authority arising from decisions by the Governing Body on the length of the school day, and failure to notify the Authority of non-pupil days resulting in unnecessary transport costs;

**6.2.12** Legal costs which the Authority incurs because the Governing Body did not accept the advice of the Authority (see also section 11);

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- 6.2.13** Costs of necessary health and safety training for staff employed by the Authority, where funding for training had been delegated but the necessary training has not been carried out;
- 6.2.14** 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;
- 6.2.15** Interest charges for the late payment of invoices, in accordance with the Late Payment of Commercial Debts (Interest) Act November 1998, where the reason for the delay in payment occurred at the school;
- 6.2.16** Additional central costs incurred by the Authority as a result of changes introduced by the school (e.g. the decision to change lunchtime arrangements, which could result in additional contract or meal supervisor costs and changes in session times) and when the school has failed to follow the procedures for notifying and consulting the Authority. Full details will be shown in the Finance Manual;
- 6.2.17** Ineligible expenditure incurred by schools against devolved grant funded allocations which results in the withdrawal of grant funding;
- 6.2.18** Expenditure incurred by the Authority under the terms of a PFI/PPP contract, which relates to services for which the school has delegated responsibility. A school's share of any charges relating to a PFI/PPP contract will be dealt with in accordance with Section 9 of this Scheme;
- 6.2.19** Cost of work done in respect of teacher pension remittance and records for schools using non- Authority payroll contractors, the charge to be the minimum needed to meet the cost of the Authority's compliance with its statutory obligations;
- 6.2.20** Costs incurred by the Authority in securing provision specified in a statement of SEN where the Governing Body of a school fails to secure such provision despite the delegation of funds in respect of low cost high incidence SEN and/or specific funding for a pupil with High Needs;
- 6.2.21** Costs incurred by the Authority due to submission by the school of incorrect data;
- 6.2.22** Costs incurred by the Authority as a result of the Governing Body being in breach of the terms of a contract.
- 6.2.23** Payment of invoices by schools for Authority services – where an invoice for such services has not been paid within 2 months of the invoice date, a reminder has been sent and the invoice is not in dispute, the Authority reserves the right to charge the school budget share for the value of the invoice plus an additional charge for interest. The Authority will confirm in writing prior to the charge being made to notify the school of the action.
- 6.2.24** 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.
- 6.2.25** Costs incurred by the Authority in administering admissions appeals, where the Authority is the admissions authority and the funding for admission appeals has been delegated to all schools as part of their formula allocation or agreed to be held centrally.
- 6.2.26** Contribution of a minimum of £5k per school plus £2 per pupil towards the costs related to the conversion of a school to an academy.
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## **7. TAXATION**

### **7.1 VALUE ADDED TAX**

The Authority, and therefore all its maintained schools, can recover VAT expenditure incurred towards taxable and non-business activities and, also, subject to regulations, some exempt activities. Guidance on such activities is included in the Finance Manual.

Maintained schools will therefore be able to recover their VAT costs when they contract for supplies, receive the supplies, pay from their delegated budget shares (see paragraph 3.1.3) and receive appropriate VAT documents to support the VAT recovery.

Voluntary aided schools are able to recover VAT costs incurred towards the day to day running of their schools and on capital projects costing less than £10,000 net of VAT. They must have contracted for the supplies, received the supplies, paid from delegated funds and received appropriate VAT documentation to support the VAT recovery. The arrangements and requirements for recovering VAT on capital projects at Foundation and Voluntary Aided schools differ and not all VAT incurred on capital expenditure can be recovered.

Detailed guidance, requirements and advice on all VAT related matters are included in the Finance Manual. Schools must ensure that the guidance is followed for all claims for reimbursement of net VAT incurred.

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

### **8.1 PROVISION OF SERVICES FROM CENTRALLY RETAINED BUDGETS**

The Authority will determine on what basis services and additional Premature Retirement Compensation (PRC) and redundancy payments from centrally retained funds to be provided to schools. This will be subject to consultation with all schools.

Services will be offered to all schools, regardless of their category unless there are differences in statutory duties which justify the provision of differential services

The Authority will consult schools on the provision of those services to be delegated.

### **8.2 THE PROVISION OF SERVICES BOUGHT BACK FROM THE AUTHORITY USING DELEGATED BUDGETS**

It is anticipated that many service arrangements will be for a minimum period of three years and limited to a maximum of five years, although individual circumstances may lead to the establishment of annual agreements. This will be included in the consultation arrangements with schools.

When a service is provided for which expenditure is not retained centrally, it will 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 from the total income generated, even if schools are charged differentially.

#### **8.2.1 PACKAGING OF SERVICES OFFERED TO SCHOOLS**

The aim of any service offered the Authority on a buy back basis is not to unreasonably restrict schools' freedom of choice among the services available. The Authority may offer services on an individual basis and discounted for packages of services.

### **8.3 SERVICE LEVEL AGREEMENTS**

Any services or facilities provided to schools by the Authority under a Service Level Agreement (either free or on a buy-back basis), the terms of the agreement will be reviewed at least every three years.

Schools will be consulted during the Spring Term on their requirements for services for the following financial year. Service Level Agreements must be in place before 1<sup>st</sup> March to be effective for the following year.

#### **8.3.1. Some services will be offered on an ad hoc basis (i.e. not related to an extended agreement) as well as under a Service Level Agreement. Ad hoc provision will be chargeable at a differential rate than that offered under a Service Level Agreement.**

Centrally funded premises and liability insurance are excluded from these requirements, 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:

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

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A Governing Body of any maintained school, whether or not the employer of the teachers at such a school, which has entered into any arrangement or agreement with a person other than the Authority to provide payroll services, shall ensure that any such arrangement or agreement is varied to require that person to supply salary, service and pensions data to the Authority which the Authority requires to submit its annual return of salary and service to Teachers' Pensions and to produce its audited contributions certificate. The Authority will advise schools each year of the timing, format and specification of the information required.

A Governing Body of any maintained school which directly administers its payroll shall supply salary, service and pensions data to the Authority which the Authority requires to submit its annual return of salary and service to Teachers' Pensions and to produce its audited contributions certificate.

The Authority will require the school to submit a return in a format and specification as prescribed by the Payroll Service by the 25<sup>th</sup> of each month.

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## **9. PFI / PPP CONTRACTS**

- 9.1** Where services are being provided to a school under a PFI/PPP contract the Authority will discuss with the Governing Body the basis of apportionment of the annual charge between the Authority and the school.

The apportionment of the charge will be calculated by the Authority and will be based on the following general principles: -

- (a) The school's share of the annual charge will be related specifically to the elements of the service provision for which the school holds the delegated budget.
- (b) The school's share will be calculated with reference to the cost information provided by the PFI/PPP operator.
- (c) The indexation of the school's share will be calculated in accordance with the PFI/PPP contract and the elements of the costs subject to indexation.
- (d) The school will benefit from payment deductions relating to performance and availability in so far as they relate to delegated services and also from any income sharing arrangements.
- (e) The school's share of the unitary charge will be adjusted to take account of increases or decreases in costs that arise from agreed variations where these relate to services for which the school has delegated responsibility.

## **9.2 CHARGING SCHOOL BUDGET SHARES**

The Authority will charge to the school's delegated budget that part of the annual charge to be paid by the school, calculated by the Authority in accordance with the principles in 9.1 above. The Authority will discuss the proposed charge with the school's Governing Body before any charge is made. However, the Authority retains the right to make such a charge against the school's delegated budget without the permission of the Governing Body.

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## 10. INSURANCE COVER

In the case of delegated insurance provision, the school must demonstrate that, under a policy arranged by a Governing Body, it has obtained adequate cover of the Authority's insurable interest consistent with the Authority's minimum requirements. This required level will have regard to the actual risks, which might reasonably be expected to arise at individual schools concerned.

The Authority would expect:

- The cover is commensurate with the cover provided under the Council's Insurance programme;
- A copy of the insurance documents should be made available to the Council upon request along with confirmation of when the premium was paid;
- The Council's insurable interest is noted and evidenced either by Council's interest being noted on the policy documents or a letter from the Insurer confirming that the Council's interest has been noted.

An alternative to taking out insurance with another provider, a school may join the Secretary of State's risk protection arrangement (RPA) for risks that are covered by the RPA. Where all primary and/or secondary schools join the RPA collectively, then the phase representatives on the Schools Forum may agree to de-delegate funding.

The Authority's insurable interest may be determined according to whether the Authority is the owner of the asset to be insured in the case of land, buildings and contents the specific responsibilities of the Governing Body and the responsibilities of the Authority to secure and maintain Education provision.

Further information on insurance is contained in the Finance Manual including details of the Authority's minimum requirements and recommendations for insurance cover for those schools where the Authority has no or only a partial insurable interest.

See also 6.2.2 and 6.2.6 re Charging Delegated Budget Shares

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## **11. MISCELLANEOUS**

### **11.1 RIGHT OF ACCESS TO INFORMATION**

Schools will need to supply the Authority with information it may reasonably require that ensures the integrity of the school's financial arrangements. This will include information on the management of the school's budget share plus the use of any earmarked expenditure on the school.

### **11.2 LIABILITY OF GOVERNORS**

The Governing Body is a corporate body and, as such, 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.

### **11.3 GOVERNORS EXPENSES**

Allowances may be paid to Governors from a school's delegated budget share for certain purposes only as outlined in regulations under section 19 of the Education Act 2002. The regulations consider that governors should not be out of pocket and should be able to claim allowances for legitimate expenses incurred in carrying out their duties.

The allowances paid should relate to actual costs incurred, apart from mileage costs where any payment should not exceed authorised HMRC mileage allowances. However, attendance allowance and payments for loss of earnings may not be paid.

Payment of expenses duplicating those paid by the Secretary of State to additional Governors appointed to schools under special measures will not be allowed.

The Authority may delegate funds to meet Governors' expenses to the Governing Body of a school yet to receive a delegated budget.

### **11.4 RESPONSIBILITY FOR LEGAL COSTS**

Costs arising from legal action involving the Governing Body may be charged to the school's budget share if the Governing Body does not follow such advice and general guidelines provided by the Authority, for example, if the Authority's advice that a dismissal is likely to be judged unfair is ignored by the Governing Body. (See also section 6)

The Authority will work with Governing Bodies and support them in cases of legal action. If a Governing Body has failed to act on the advice of the Authority, or has ignored the Authority's guidelines on specific issues, the Authority will write formally giving notice that it will no longer indemnify the Governing Body against legal costs arising from any action taken.

Charges for legal costs will only be made to a school's delegated budget if the above procedure has been followed.

Although every effort will be made to resolve situations before legal action is taken, where there is a conflict of interest between a Governing Body and the Authority, governing bodies will be advised to seek independent legal advice.

### **11.5 HEALTH AND SAFETY**

Schools must have due regard to the duties placed on the Authority in relation to Health & Safety, and the Authority's policy on health and safety matters in expending the school's budget share.

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Under section 29(5) of the Education Act (2002), the Authority may issue directions to the Governing Body and headteacher of a community, community special or voluntary controlled school on health and safety matters and these directions are enforceable, so far as governing bodies are concerned, via section 497 of the Education Act 1996, if not complied with. See also section 6.2.4

## **11.6 RIGHT OF ATTENDANCE FOR CHIEF FINANCE OFFICER**

The Executive Director Resources or their representative will not attend Governing Body meetings as a matter of routine. However, where agenda items concerning probity or overall financial management are under discussion, schools must permit attendance if the Executive Director Resources considers it necessary. Such attendance will only be in exercise of his/her statutory responsibilities for the proper conduct of the Council's financial affairs. Prior notice of the intention to attend a meeting will be given unless it is impracticable to do so.

## **11.7 DELEGATION TO NEW SCHOOLS, EXPANDING AND AMALGAMATING SCHOOLS**

For the purposes of the scheme, the term 'new school' includes an amalgamation of two different schools but not a consolidation onto one site of an existing school.

### **11.7.1 New School**

The Authority will determine a provision for start up costs for the Governing Body of a new school prior to the school first admitting pupils. The amount will be sufficient to fund some employee related costs, provision for books and non-capital equipment and other running costs.

The extent of the funding delegated will be determined by the individual circumstances of the new school.

A new school will receive a delegated budget not later than the date on which it opens (i.e. the date on which it first admits pupils) unless the Authority obtains the Secretary of State's approval to a postponement beyond that date. Such permission will only be given in exceptional circumstances.

### **11.7.2 Amalgamation of two schools**

If schools amalgamate mid-way through a financial year, they retain the 2 lump sums allocated at the beginning of the year.

The following year, or for schools amalgamating with effect from 1st April, the amalgamated school will receive 2 lump sums x 85%.

For the subsequent year, the school receive one lump sum.

### **11.7.3 Funding for Pupil Numbers Expanding Schools**

(a) In Year Funding Adjustment for Temporary Class or Additional Class admitted as start of permanent expansion

In the financial year the new class opens, the school will receive an in-year budget adjustment to reflect the anticipated increase in pupil numbers.

For primary schools, the adjustment will be based on the planned additional pupil numbers X primary AWPU rate X number of months class has been open

For secondary schools admitting primary classes, the adjustment will be based on the primary per pupil rate, but the allocation will be from April rather than September. This

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will allow sufficient additional funding to cover the extra costs that a secondary school would incur in terms of management time, admin staff and general resources.

Schools may also be entitled to a contribution to reimburse them for management time/other expenses in the lead up period to the expansion.

(b) September Funding Adjustment for Permanent Expansions

Schools that are permanently expanding will receive a funding allocation to reflect the additional classes they are required to open each September until the expansion is complete. This allocation will be based on the additional pupil numbers \* primary per pupil rate \* 7/12 to reflect the period September to March.

(c) Protection for Expanding Schools

In the 3 financial years following the start of a permanent expansion or admission of a bulge class schools are protected as follows

- Year 1 – protection to 30 pupils
- Year 2 – protection to 20 pupils
- Year 3 – protection to 15 pupils

If the number of pupils recorded on the October census prior to the financial year is below the numbers shown above, additional AWPU funding for the difference in numbers will be allocated to schools to provide some financial stability and a known minimum level of funding.

(d) Off Site Facilities

Schools that expand using off site facilities will receive the following funding allocations to reflect the additional costs that they may incur:

- Split Site Allocation (£55k)
- Rent Allocation (Based on actual)
- Rates Cost (Based on Actual)
- Any additional costs specific to individual provision (e.g. minibus £20k)

## 11.8 'WHISTLEBLOWING' (ALLEGATIONS OF MALPRACTICE)

Schools are required to have a Whistleblowing Policy, enabling people to raise concerns about serious misconduct or malpractice at work, without fear of any retribution, if the concerns are raised in good faith.

If there are any circumstances where financial irregularity is suspected, the Governing Body, or the individual member of staff, must inform the Director of Education immediately. This includes instances of fraud or where the Council's Standing Orders, Financial Regulations or Scheme of delegation are not complied with. The Authority will take all precautions to protect the confidentiality of the individual raising the concern.

## 11.9 CHILD PROTECTION

Schools must agree to release staff, as necessary, to attend child protection cases, conferences and other related events.

## 11.10 SCHOOL COMPANIES

11.10.1 The Education Act 2002 provides the power for schools to form or join school companies for certain purposes. The Authority is a supervising authority in terms of the statutory guidance being produced by DfE. Permission must be sought from the Authority before a school forms or joins a school company.

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11.19.2 Schools wishing to form or join a company must write to the Authority, who will need to review the request. The request should contain as much information as is appropriate to enable officers to understand what is proposed, especially:

- The reasons for wanting to set up a company.
- The nature of the proposed company's business.
- In broad terms, the business plan (i.e. when the company is due to start trading, who it is hoped that customers and suppliers will be, if it is planned to continue for the foreseeable future or if it is a temporary arrangement).
- An estimate of annual turnover.
- Depending on the answers to the questions above, the school might be asked to provide further information.

11.10.3 Schools that do form or join companies are required to provide the following information:

- The company name, company number, and status of the company.
- The registered address.
- The names of directors and members, and their relationship with the school (e.g. member of staff, or governor).
- By 30 April each year, in respect of the most recently completed Authority financial year, a declaration of related party transactions.
- Copies of audited accounts must be submitted to the Authority annually. Summarised information for inclusion in the HCC accounts will be required prior to this date, as stated in the Authority's end of year procedures.

11.19.4 School companies are separate entities from the Authority, and consequences of this include:

- The companies will not be covered by the Authority VAT registration, so transactions with such a company will be external transactions, which must be charged for – the school and company cannot “barter” goods and services, and services provided by the school must be charged, including VAT where appropriate. Also, the Authority's VAT registration must not be used for purchases
- A school company cannot be “VAT grouped” with the Authority.
- If the company uses staff employed by the school/ Authority, the school must invoice the company for the cost plus VAT. Any staff employed directly by the company must not be paid through the Authority.

## **11.10 REDUNDANCY/EARLY RETIREMENT COSTS**

The 2002 Education Act includes information on funding arrangements for premature retirement and redundancy costs. Guidance on how the Authority can assist schools in avoiding compulsory redundancies and how the cost of redundancies would be met provided at Annex B.

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## 12. RESPONSIBILITY FOR REPAIRS AND MAINTENANCE

### 12.1 EXTENT OF DELEGATION

In line with the guidance from the DfE, under the new funding framework the Authority has delegated all repairs and maintenance responsibilities to schools except for capitalised repairs. Capitalised repairs are defined in accordance with the CIPFA Code of Practice and relate to works that will:

- Lengthen substantially the useful life of the building;
- Increase substantially the open market value of the building;
- Increase substantially the extent to which the building can be used for local authority purposes.

If appropriate, low value works can be amalgamated into a single project, which can then be considered for capitalisation.

These arrangements will apply for kitchens. With regards to delegated maintenance for school kitchens, the Authority provides a separate arrangement for primary and special schools that buy into the Authority Catering Service. For further details, please contact the Catering Service.

There are agreed de minimis limits which are used for the definition of capital and revenue in assigning responsibility for types of work. In accordance with DfE requirements, these de minimis limits must also be used in defining what is delegated.

The agreed de minimis limits, which will be applied over the next two years, are sums greater than:

Years	Primary & Special £000's	Secondary £000's
2022/23	15	25

These limits will be reviewed and increased in line with the building price indices at the start next of each multi year period.

However, in addition to revenue works, schools continue to retain responsibility for various works, which was previously part of the extended scheme of delegation, irrespective of the cost. These are:

- Internal painting;
- External redecoration;
- Drainage;
- Playgrounds;
- Boundary fencing and walls

Further details can be found in the Property Handbook for Schools.

### 12.2 VOLUNTARY AIDED SCHOOLS

The division of responsibility for repair works at Voluntary Aided Schools changed in April 2002, following extensive consultation between the DfE, Voluntary Aided schools, Diocesan Authorities and LAs. Responsibilities are now as follows:

#### 12.2.1 Capital Work

VA governing bodies are liable for:

- The existing buildings (internal and external);
- Those buildings previously known as 'excepted' i.e. kitchens, dining areas, medical / dental rooms, swimming pools, caretakers' houses);

- Perimeter walls and fences, even if they are around the playing fields;
- Playgrounds;
- Furniture, fixtures and fittings (but not normally ICT equipment);
- Other capital items (which can include boiler replacements and replacement of services).

The Authority is liable for:

- Playing fields;
- Buildings on those fields and related to their use.

### **12.2.2 Revenue**

Under the new arrangements, the responsibility for all revenue work has been transferred to the Authority, with the responsibility and funding delegated to VA schools in the same way as for all other schools. There is now no statutory Governing Body contribution to revenue work, and the Formula Repair grant, previously paid to VA schools for revenue expenditure on their liabilities, has been discontinued.

Further information is provided in the DfE guidance “Funding for Premises Related Work at Voluntary Aided Schools in England”, effective from 1<sup>st</sup> April 2002.

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**SECTION 13: APPLICATION OF THE SCHEME TO THE COMMUNITY FACILITIES POWER****1. INTRODUCTION**

- 1.1** Community facilities are defined in the Act as “any facilities or services whose provision furthers any charitable purpose for the benefit of – (a) pupils at the school or their families, or (b) people who live or work in the locality in which the school is situated”.
- 1.2** Schools that 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:
- (a) First, regulations made under s.28 (2), if made, can specify activities, which may not be undertaken at all under the main enabling power.
  - (b) Secondly, the school is obliged to consult its Authority and have regard to advice from the authority. Schools wishing to develop services or facilities for the community are encouraged to discuss proposals with the Local Education Authority in the first instance.
  - (c) Thirdly, the Secretary of State may issue 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

- (a) those contained in schools’ own instruments of government, if any; and
- (b) 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.

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.

- 1.3** The mismanagement of community facilities funds can be grounds for suspension of the right to a delegated budget.

**2. FUNDING AGREEMENTS – AUTHORITY’S POWERS**

- 2.1** The provision of community facilities in many schools may be dependent on the conclusion of a funding agreement with a third party which will either be supplying funding or supplying funding and taking part on the provision. A very wide range of bodies and organisations are potentially involved.
- 2.2** The Authority has the following requirements in relation to funding agreements with third parties (as opposed to funding agreements with the Authority itself).
- 2.2.1** Any such proposed agreement should be submitted to the Authority for its comments and advice;
  - 2.2.2** Such draft agreements should form part of the consultation with the Authority (see section 2 above, in particular 2.4). Schools must have regard to advice given by the Authority. The Authority may wish to set conditions upon access, egress and use of other facilities on the site.
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Note: The Authority does not have a general right of veto 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.

However, schools are reminded that if an agreement has been or is to be concluded against the wishes of the Authority, or has been concluded without informing the Authority, which in the view of the Authority is seriously prejudicial to the interests of the school or the Authority, that may constitute grounds for suspension of the right to a delegated budget.

### **3. OTHER PROHIBITIONS, RESTRICTIONS AND LIMITATIONS**

- 3.1** Where the Authority has good reason to believe that the proposed project carries a significant financial risk, the Governing Body concerned is required to 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.
- 3.2** Section 28 of the Education Act 2002 provides that the exercise of the community facilities power is subject to prohibitions, restrictions and limitations in the scheme for financing schools.

### **4. SUPPLY OF FINANCIAL INFORMATION**

- 4.1** Best practice in respect of these community facilities is to use the same accounting and reporting systems as are used for the school's main budget share but with the activities separately identified on a full cost basis.
- 4.2** The Authority may, 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, 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.
- 4.3** Financial information relating to community facilities also has to be included in returns made by schools under the Consistent Financial Reporting Framework.

### **5. AUDIT**

- 5.1** Schools are required 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.
- 5.2** Schools, in concluding funding agreements with other persons pursuant to the exercise of the community facilities power, are required 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.

### **6. TREATMENT OF INCOME AND SURPLUSES**

- 6.1** Schools may 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. When a surplus has been derived after a proper charging of all costs, including relevant overheads, then the surplus may be carried over from one financial year to the
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next. Standard practice will be to account for this as a separate community facilities surplus.

- 6.2** Schools can carry such retained net income over from one financial year to the next as a separate community facilities surplus, or, subject to the agreement of the Authority at the end of each financial year, transfer all or part of it to the budget share balance.
- 6.3** The school must ensure that no deficit arises from the operation of the community facility. All the costs of maintaining any facility used for these purposes needs to be covered by the income.
- 6.4** If the school is a community or community special school, and the Authority ceases to maintain the school, any accumulated retained income obtained from exercise of the community facilities power reverts to the Authority unless otherwise agreed with a funding provider.
- 6.5** Liabilities to third parties incurred in the exercise of this power are a charge on all the income retained by the school from these activities.

Note: If there is a deficit on community facilities and the Authority needs to recover funds to meet third party liabilities it may only do so from any accumulated community facilities surplus.

## **7. HEALTH AND SAFETY MATTERS**

- 7.1** The health and safety provisions of the main scheme are extended to the community facilities power.
- 7.2** The Governing Body is responsible for the costs of securing an enhanced DBS (Disclosure and Baring Service) clearance for all adults involved in community activities taking place during the school day. Governing bodies are free to pass on such costs to a funding partner as part of an agreement with that partner.

## **8. INSURANCE**

- 8.1** 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, through a risk assessment, and taking professional advice as necessary. The school should seek the Authority's advice before finalising any insurance arrangement for community facilities. Details of the insurance arrangements should be included in the formal consultation material sent to the Authority (see 2.4).
- 8.2** The Authority can 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 costs could not be charged to the school's budget share. This is particularly to safeguard the Council against possible third part claims.

## **9. TAXATION**

- 9.1** 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.
- 9.2** Schools are reminded 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),
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the school is likely to be held liable for payment of income tax and National Insurance, in line with Inland Revenue rules.

## **10. BANKING AND BORROWING**

- 10.1** These are covered by Section 3 of the main text of the Scheme for Financing Schools, which also applies to the use of community facilities power. Schools are required to either maintain separate bank accounts for budget share and community facilities or maintain one account but with adequate internal accounting controls to maintain separation of funds. The account mandate should not imply that the Authority is the owner of the funds.
- 10.2** Requirements 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 are the same as for provisions in the main part of the scheme and as set out in the Finance Manual.
- 10.3** Schools are reminded that they may 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.

## **11. SERVICE LEVEL AGREEMENTS (SLAs)**

- 11.1** The community facilities powers are not covered by schools' existing SLAs with the authority. This means that local authority services such as payroll, Criminal records Bureau checks, personnel etc, in respect of staff employed, or expenditure incurred in the exercise of these powers, will only be provided at an extra cost beyond the SLA subscription rate.
- 11.2** When making these arrangements with the authority or other providers, schools will need to ensure that the issues regarding national Insurance and taxation of employees have been fully dealt with (see 9.2 above).
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## SCHOOLS LIST

### PRIMARY

Bush Hill Park  
Capel Manor  
Chase Side  
De Bohun  
Eldon  
Eversley  
Firs Farm  
Forty Hill CE  
Freezywater St George's  
Garfield  
George Spicer  
Hadley Wood  
Highfield  
Honilands  
Latymer All Saints CE  
Merryhills  
Oakthorpe  
Our Lady of Lourdes RC  
Prince of Wales  
St. Andrew's CE, Enfield  
St Andrew's CE, N14  
St. Edmund's RC  
St George's RC  
St James' CE  
St John and St James, CE  
St John's CE  
St Mary's RC  
*St Matthew's CE*  
St Michael's CE Enfield  
St Monica's RC  
St Paul's CE  
Southbury  
Starksfield  
Suffolks  
West Grove

### INFANT

Carterhatch  
Hazelwood  
Raglan  
Tottenham

### JUNIOR

Hazelwood  
Raglan  
St Michael at Bowes CE

### SECONDARY

Bishop Stopford's CE  
Broomfield  
Chace Community  
Enfield County  
Highlands  
The Latymer  
St Anne's Catholic High  
St Ignatius RC College  
Winchmore

### SPECIAL

Durants  
Oaktree  
Russet House  
Waverley  
West Lea

### PUPIL REFERRAL UNIT

Orchardside

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## **ASSISTING SCHOOLS AVOIDING REDUNDANCIES**

Detailed below is guidance from the Authority on how to avoid compulsory redundancy and the arrangements for charging the costs.

### **(a) HOW THE AUTHORITY'S SCHOOLS' PERSONNEL SERVICE (SPS) COULD ASSIST SCHOOLS IN AVOIDING COMPULSORY REDUNDANCIES**

#### **INTRODUCTION**

Employment legislation requires employers to consult with staff and Trade Unions with a view to agreeing strategies to avoid compulsory redundancies.

Detailed below are ways in which the SPS could assist schools in this area.

#### **STRATEGIES**

##### **1. Workforce Development Plans**

One of the keys to avoiding compulsory redundancies is effective planning.

To aid this approach the SPS will advise schools to draft workforce development plans which identify the essential skills, experience and knowledge required by schools to meet their future needs.

These plans will provide a framework for schools to be proactive and make decisions which limit the damage to the school's education objectives and/or the employee relations climate.

##### **2. Consulting the Trade Unions Early**

The SPS support schools with training and within this advice is that early consultation with the trade unions is both good practice and essential in avoiding compulsory redundancies.

Experience has shown that discussions at an early stage with the trade unions can serve to produce creative solutions and avoid employee relation problems which are inherent in the redundancy process.

##### **3. Natural Turnover**

The SPS will encourage schools to freeze posts where appropriate.

Where vacant posts are essential then consideration should be given to relocating staff that are in vulnerable posts into the vacant post: where necessary retraining should be given to facilitate this.

##### **4. Phased Retirement for Teachers**

Teachers between the ages of 55 and 60 in the Teachers Pension Scheme are able to retire early and access their pension whilst remaining at the school on either a reduced hours basis or in a lower graded post on the proviso that the overall salary is reduced by 25% or more. This initiative will be promoted by the SPS as it enables schools to retain experienced staff whilst reducing the salary bill.

##### **5. Age Retirement**

Teachers at 60 years of age or over (new entrants from 1 January 2007 are only able to age retire from the age of 65) are able to age retire and return to work on a part time or reduced duties basis on the proviso that their

combined new salary and pension does not exceed their old salary. Again, this initiative will be promoted by the SPS.

6. Reduction of Hours for Staff

Where there is a need to downsize in a particular staffing area, one option could be to propose a voluntary reduction of hours for staff. This could be a temporary variation or on a permanent basis. This option could be attractive to staff as it enables posts to be retained whilst improving work-life balance.

7. Reducing Absenteeism

Staff absenteeism in schools is still significant. A model 'management of absence policy' has been sent to all school and schools have been advised that they should adopt the policy.

The SPS will continue to provide advice and assistance to schools with a view to reducing absence levels and consequently the cost of cover.

8. Reducing Other Areas of Expenditure

As a preventative measure, schools will be advised to examine the possibility of reducing all non-staffing expenditure before contemplating redundancies e.g. renegotiating service contracts, efficiency savings, delaying capital projects.

If schools do not exhaust these initiatives, the trade unions would be extremely critical and could prove to be an obstacle rather than assistance in the redundancy process.

## **(b) CHARGING ARRANGEMENTS**

The Authority expects schools should have applied and exhausted the above strategies before considering redundancies.

When deciding whether the cost of any proposed redundancy should be charged to the individual school's budget or the central budget the Authority will consider the following:

- If the 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 the school is otherwise acting outside the local authority's policy
  - Is the school making staffing reductions which the Authority does not believe are necessary to either set a balanced budget or meet the conditions of a licensed deficit
  - Have the staffing reductions arisen from a deficit caused by factors within the school's control
  - Whether the school has excess surplus balances and no agreed plan to use these
  - Whether the school is engaging with the local authority's redeployment forum
  - Has the school exhausted appropriate alternatives with a view to avoiding compulsory redundancies; e.g. phased/age retirement, part time working, natural wastage, redeployment, and non- staffing efficiency savings.
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**(c) STAFF EMPLOYED UNDER THE COMMUNITY FACILITIES POWER**

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 authority incurs 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 (7B) 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.
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