

**The following Scheme was presented to the Schools Forum on 18-06-2022.**

## **SCHEME FOR FINANCING SCHOOLS: SECTION 48 OF THE SCHOOL STANDARDS AND FRAMEWORK ACT 1998**

### **CONTENTS**

SECTION 1: INTRODUCTION .....	4
1.1 The Funding Framework .....	4
1.2 The Role of the Scheme.....	5
1.3 Publication of the Scheme.....	6
1.4 Revision of the Scheme.....	6
1.5 Delegation of Powers to the Headteacher.....	6
1.6 Maintenance of Schools .....	6
SECTION 2: FINANCIAL REQUIREMENTS .....	1
2.1 Financial Controls .....	1
2.2 Submission of Budget Plans .....	2
2.3 Virement .....	2
2.4 Efficiency and Value for Money .....	2
2.5 Audit.....	2
2.6 Separate External Audits.....	3
2.7 Audit of Voluntary and Private Funds .....	3
2.8 Register of Business Interests .....	3
2.9 Purchasing, Tendering, and Contracting Requirements .....	4
2.10 Best Value .....	5
2.11 Application of Contracts to Schools .....	5
2.12 Central Funds and Earmarking .....	6
2.13 Spending For the Purposes of the School .....	6
2.14 Capital Spending From Budget Shares .....	6
2.15 School Financial Value Standard (SFVS) .....	7
2.16 Notices of Concern .....	7
2.17 Fraud .....	8
SECTION 3: INSTALMENTS OF THE BUDGET SHARE, BANKING ARRANGEMENTS.....	1
3.1 Availability of the Budget Share .....	1
3.2 Budget Shares for Closing Schools .....	1
3.3 Bank Accounts .....	1
3.4 Borrowing by Schools .....	3
SECTION 4: THE TREATMENT OF SURPLUS AND DEFICIT BALANCES ARISING IN RELATION TO BUDGET SHARES.....	4
4.1 The Right To Carry Forward Surplus Balances .....	4
4.2 Reporting On The Intended Use Of Surplus Balances.....	4
4.3 Obligation To Carry Forward Deficit Balances .....	4
4.4 Reporting On The Circumstances Leading To Deficit Balances.....	4
4.5 Writing Off Deficits .....	4

4.6 Interest On Surplus/Deficit Balances .....	5
4.7 Balances Of Closing And Replacement Schools .....	5
4.8 Licensed Deficits .....	5
4.9 School Loan Fund.....	6
SECTION 5: INCOME .....	8
5.1 Income from Lettings .....	8
5.2 Income from Fees and Charges .....	8
5.3 Income from Fund-Raising Activities .....	8
5.4 Income from the Sale of Assets .....	8
5.5 Purposes for Which Income May Be Used.....	8
SECTION 6: THE CHARGING OF SCHOOL BUDGET SHARES.....	1
6.1 General Provision .....	1
6.2 Circumstances in Which Charges May Be Made .....	1
SECTION 7: TAXATION .....	3
7.1 Value Added Tax (Vat) .....	3
7.2 Construction Industry Taxation Scheme (CITS) .....	3
SECTION 8: THE PROVISION OF SERVICES AND FACILITIES BY THE AUTHORITY .....	1
8.1 Provision Of Services From Centrally Retained Budgets .....	1
8.2 Provision Of Services Bought Back From The Authority Using Delegated Budgets.....	1
8.3 Packaging of Services .....	1
8.4 Service Level Agreements .....	1
8.5 Teachers' Pensions .....	2
SECTION 9: PFI (Private Finance Initiatives) / PPP (Public Private Partnership) .....	1
9.1 PFI / PPP Responsibilities.....	1
SECTION 10: INSURANCE .....	1
10.1 Insurance Cover.....	1
SECTION 11: MISCELLANEOUS .....	1
11.1 Right of Access to Information .....	1
11.2 Liability of Governors .....	1
11.3 Governors' Expenses .....	1
11.4 Responsibility for Legal Costs.....	1
11.5 Health and Safety .....	2
11.6 Right of Attendance for Chief Financial Officer.....	2
11.7 Delegation to New Schools .....	2
11.8 SEN Funding.....	2
11.9 Whistleblowing .....	2
11.10 Child Protection .....	2
11.11 Closing Schools .....	2
11.12 Redundancy and Early Retirement Costs .....	3
SECTION 12: RESPONSIBILITY FOR REPAIRS AND MAINTENANCE .....	1
SECTION 13: POWER TO PROVIDE COMMUNITY FACILITIES .....	1

13.1 Introduction .....	1
13.2 Budget Issues .....	1
13.3 Consultation with the Authority – Financial Aspects .....	1
13.4 Funding Agreements – Authority Powers.....	2
13.5 Other Prohibitions, Restrictions and Limitations .....	2
13.6 Supply of Financial Information.....	3
13.7 Audit .....	3
13.8 Treatment of Income and Surpluses .....	3
13.9 Health and Safety Matters.....	4
13.10 Insurance .....	4
13.11 Taxation.....	4
13.12 Banking .....	5
ANNEX A: List of Maintained Schools.....	1
ANNEX B: Responsibility for redundancy and early retirement costs.....	2
ANNEX C: Application of schemes for financing schools to the community facilities power.....	5

## **SECTION 1: INTRODUCTION**

### **1.1 The Funding Framework**

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

Under this legislation, local authorities determine for themselves the size of their school's budget and their non-school's education budget, although at a minimum a local authority must appropriate its entire dedicated schools grant to its schools' budget. The categories of expenditure which fall within the 2 budgets are prescribed under regulations made by the Secretary of State, but included within the 2, taken together, is all expenditure, direct and indirect, on a local authority's maintained schools except for capital and certain miscellaneous items.

Local authorities may deduct funds from their schools' budget for purposes specified in regulations made by the Secretary of State under section 45A of the act (the centrally retained expenditure).

The amounts to be deducted for these purposes are decided by the local authority concerned, subject to any limits or conditions, including gaining the approval of their schools' forum or the Secretary of State in certain instances, as prescribed by the Secretary of State.

The balance of the schools' budget left after deduction of the centrally retained expenditure is termed the individual school's budget (ISB). Expenditure items in the non-school's education budget must be retained centrally, although earmarked allocations may be made to schools.

Local authorities must distribute the ISB amongst their maintained schools using a formula which accords with regulations made by the Secretary of State, and enables the calculation of a budget share for each maintained school.

This budget share is then delegated to the governing body of the school concerned, unless the school is a new school which has not yet received a delegated budget, or the right to a delegated budget has been suspended in accordance with section 51 of the Act.

The financial controls within which delegation works are set out in a scheme made by the local authority in accordance with section 48 of the act and regulations made under that section.

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

Subject to any provision made by or under the scheme, governing bodies of schools may spend such amounts of their budget shares as they think fit for any purposes of their school and for any additional purposes prescribed by the Secretary of State in regulations made under section 50 of the Act.

Section 50 has been amended to provide that amounts spent by a governing body on providing community facilities or services under section 27 of the Education Act 2002 are treated as if they were amounts spent for the purposes of the school (section 50(3A) of the act).

A local authority may suspend a school's right to a delegated budget if the provisions of the authority's financial scheme, or rules applied by the scheme, have been substantially or persistently breached, or if the budget share has not been managed satisfactorily.

A school's right to a delegated budget share may also be suspended for other reasons, under schedule 17 to the act.

Each local authority is obliged to publish each year a statement setting out details of its planned schools' budget and other expenditure on children's services, showing the amounts to be centrally retained and funding delegated to schools; after each financial year the authority must publish a statement showing outturn expenditure. The detailed publication requirements for financial statements are set out in directions issued by the Secretary of State.

A copy of each year's budget and outturn statement should be made easily accessible to all schools.

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

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

This scheme sets out the financial relationship between the Authority and the maintained schools it funds. The scheme contains requirements relating to financial management and associated issues, and is binding on both the Authority and the schools.

### **1.2.1 Application of the Scheme to the Authority and Maintained Schools**

The scheme applies in respect of all community, nursery, voluntary, foundation (including trust), community special or foundation special schools and pupil referral units (PRUs) maintained by the Authority. The schools are listed for information in Annex A.

New maintained schools are covered by the scheme by virtue of S.48 of the S.S.F. Act 1998.

Maintained schools that convert to academy status will cease to be covered by the Scheme. Similarly, new Free Schools will not be covered by the Scheme.

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

A copy of this scheme is published on the Authority's website:

[School finance management and administration | Hull City Council](#)

Any revised version will be published by the date the revisions come into force, together with a statement confirming when the revised scheme comes into force. Detailed publication requirements are contained within Regulation 28 of the School and Early Years Finance (England) Regulations 2012.

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

Any proposed revisions to the scheme will be the subject of consultation with the governing body and headteacher of every school maintained by the Authority before they are submitted to the Schools' Forum for their approval.

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

If the Secretary of State makes directed revisions to schemes, such revisions become part of the scheme from the date of the direction.

### **1.5 Delegation of Powers to the Headteacher**

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

The first formal budget of each financial year must be approved by the full governing body or by a committee of the governing body during the summer term. Formal revisions to the budget through the year should be accepted by the finance committee/full governing body

Refer to the 'Guide to School Financial Management and Administration', (hereafter referred to as '*the Guide*'), for suggested model of delegation.

Such decisions by the governing body will be subject to any requirements of regulations to be made under S.38 of the S.S.F. Act 1998, and Schedule 11 thereto.

### **1.6 Maintenance of Schools**

The Authority is responsible for maintaining those schools covered by this Scheme, including 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 those schools is through the funding system put in place under S.45 to S.53 of the S.S.F. Act 1998.

## **SECTION 2: FINANCIAL REQUIREMENTS**

### **2.1 Financial Controls**

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

The Authority has ultimate responsibility and accountability under the Local Government Act 1972 for resources delegated to schools. Governing bodies must therefore comply with all relevant orders, regulations and publications both referred to in this scheme but also those requirements to be contained in more detailed publications referred to in the scheme but outside and compatible with it.

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

The Chief Financial Officer is responsible for the proper administration of the financial affairs of the Authority under S.151 of the Local Government Act 1972. Schools are required to adopt such financial procedures and maintain accounting records as are appropriate in order to provide details of their anticipated and actual expenditure and income in a form and at times determined by the Authority. Detailed guidance will be provided in '*the Guide*'.

The Authority will not require the submission of such information more often than once every three months (except for taxation and banking reconciliation) unless it has notified the school in writing that in its view the financial position of the school requires more frequent submission, or the school is in its first year of operation.

#### **2.1.3 Payroll/Payment of Creditors**

If a school processes salaries and creditor payments through systems other than those available from the Authority, records must be maintained, and information supplied that is sufficient to enable the Chief Financial Officer to discharge his/her statutory responsibilities.

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

Each school shall maintain an inventory of items of moveable property. For items above £1000, the inventory must be maintained in a form as outlined in '*the Guide*'. For items below £1000, although a register must be maintained, schools are free to determine the precise format.

A governing body may authorise the disposal of assets subject to certain procedures as outlined in '*the Guide*'.

#### **2.1.5 Accounting Policies**

Schools are required to comply with the accounting policies of the Authority. Detailed guidance on appropriate financial procedures, systems and authorisations are provided for schools in '*the Guide*'. Schools should maintain financial records in accordance with the principles identified in '*the Guide*', including action necessary to ensure that all transactions are accounted for in the correct financial year.



### **2.1.6 Writing Off of Debts**

A governing body may approve the writing off of individual debts up to £1,000 but for debts over this level, approval of the Chief Financial Officer will be required. Details of the procedures to be followed in both instances are contained in '*the Guide*'.

### **2.1.7 Basis of Accounting**

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

## **2.2 Submission of Budget Plans**

Each school is required to submit a budget plan to the Authority by 1<sup>st</sup> May each year showing its intentions for expenditure in the current financial year and projections for the following two years based upon indicative funding information supplied by the Authority. This information will be used by the Authority to assess the medium-term position.

This may be a provisional budget subject to approval by the governing body or a committee of the governing body, (any changes by the governing body must be notified to the Authority immediately). The Authority can request its schools to provide in detail further information in respect of the assumptions and calculations that underpin their budget plans. Further information on the format of reports is available within '*the Guide*'. The school must notify the Authority of changes to the plan throughout the year and formal revisions to the plan must be made and submitted each term.

In planning for the new financial year, full account of estimated deficits and surpluses as at the preceding 31st March should be taken into account.

The Authority will supply schools with all the financial information that it holds, which is necessary for efficient planning by schools and will supply schools with an annual timetable for distribution of this data.

## **2.3 Virement**

A governing body is free to vire budgetary provision between the different elements of its budget (employee costs, premises, etc.), but must notify the Authority of any changes. For further information, refer to '*the Guide*'.

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

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

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

## **2.5 Audit**

The Authority's Chief Financial Officer, as far as he/she considers necessary, shall maintain an audit of schools' accounts and related operations. Schools must also co-operate with the Authority's external audit regime, as determined by the Audit Commission.

Schools who do not wish to use the Authority Audit service must obtain the services of a reputable provider to carry out a full audit, no less than every three years. All outcomes, reports and information relating to which must be provided to the Authority within the term with which they are published.

Schools must provide both Internal and External Audit with full access to its records and systems.

The Authority's audit arrangements for schools with their own bank accounts may differ from the audit of non-bank account schools.

## **2.6 Separate External Audits**

The governing body can choose to spend funds from its budget share to obtain external audit certification of its accounts, separate from the Authority's internal or external audit process.

## **2.7 Audit of Voluntary and Private Funds**

Schools must provide audit certificates in respect of voluntary and private funds held by schools and of the accounts of any trading organisations controlled by the school, within 6 months of the close of the accounting period. The auditor must be competent to undertake an independent audit. For further information, refer to *'the Guide'*.

## **2.8 Register of Business Interests**

The governing body of each school must have a register which lists for each member and all other staff;

- Any business interests involving themselves or any member of their immediate family.
- Details of any other educational establishments that they govern.
- Any relationships between school staff and members of the governing body.

Where a business interest declared, as defined above, poses a conflict of interest the member of staff concerned must not be involved in any part of that specific procurement process. This register must include each member of the governing body, the head teacher and all members of staff.

The register must be kept in a central school file, must be up to date at all times, with immediate notification of changes and an annual review of entries. The review of governors and members of staff will be annual at the commencement of each financial year, or as soon as practicable. All staff must be requested to declare their business interests and complete either a nil return or state the nature of that interest and this

request must be formally recorded. The register must be available for inspection by the Authority and stakeholders. The register must also be published, for example on a publicly accessible website. For model procedures, see *'the Guide'*.

Staff must comply as soon as is practicable in relation to the above as regards written notification to the governing body and disclosure of prejudicial interest (direct or indirect) in contracts and shall not, under the colour of his/her office or employment, accept any fee or reward whatsoever other than his/her proper remuneration.

## **2.9 Purchasing, Tendering, and Contracting Requirements**

2.9.1 In procurement matters schools must comply with the law of the European Community, national law and the Authority's Constitution, which includes the Contract Procedure Rules (CPR's) [updated December 2013]. The European legislation on procurement takes precedence over national law. Whenever a European or national law conflicts with the Constitution, including the Contract Procedure Rules, that law shall take precedence.

The Contract Procedure Rules are published and can be located on the internet:

[www.hullcc.gov.uk](http://www.hullcc.gov.uk) > Council and democracy > Constitution > PART C7 CONTRACT PROCEDURE RULES

2.9.2 The Authority's CPRs apply in their entirety, except where the provisions below override these:

- a) Schools are not obliged to select suppliers from the Authority's approved list if they follow guidelines as specified in the CPRs.
- b) Schools must assess, in advance, the health and safety competence of contractors and ensure compliance with the appropriate legislation and the Authority's policies and procedures.
- c) Where the CPRs refer to the Authority's approval structure; schools are to substitute their own approval structure, reflecting the responsibilities of their governing body.
- d) Contracts not requiring tendering (under the CPRs) – must be based upon a school's framework contract, which has already been subject to the correct tendering procedure.
- e) Schools must compile a contracts register which contains the contractor/supplier's name, supplier reference number, the title of the contract or lease, the total value of the contract, award date, start and end dates, contract length, method of payment and terms, the termination period and date, the payment period, payment amount (if fixed) and whether it was awarded through tender or quotations. This Register must be open to inspection to the Chief Financial Officer or his/her representative.

2.9.3. Procurement Requirements:

- a) Contracts valued at less than £60,000- Purchases with an aggregation value of less than £5,000 per annum (excluding VAT) can be obtained [Section 12.1.1.]:
- i. With one quotation subject to the prior approval of the head teacher before an order is placed and this approval must be documented.
  - ii. The head teacher may delegate the approval to a member of the senior management team, providing this delegation is reported and approved by the full governing body or, if delegated, the finance committee. The delegation must be documented.
  - iii. A report, giving supplier names and value of spend, must be submitted, at the end of each financial year to the finance committee for consideration of the impact of aggregation of the spend.
- b) Contract Valued at less than £60,000 [Section 12] - Purchases with an aggregation value of between £5,001 and less than £50,000 per annum must comply:
- iv. With the Contract Procedure Rules [Section 12.1.2.]. This includes the requirement that three written quotations must be obtained, the receipt of which shall be documented.
  - v. A report, giving supplier names and value of spend, must be submitted, at the end of each financial year, to the finance committee for consideration of the impact of aggregation on the spend.
- c) Contracts Valued above £60,001 - All contracts with a potential value greater than £60,000 must be tendered in conjunction with the Category Manager within the Town Clerk's service, using such electronic tender system and process as may be approved by the Town Clerk from time to time, unless otherwise agreed by the Town Clerk. [Section 2.4.2 & Section 13].
- d) Suppliers and contractors with Authority contracts or on an Authority 'approved' list [Section 13.3] have been previously vetted by the Authority. A separate procedure applies in such circumstances".

## **2.10 Best Value**

Schools should seek to achieve value for money and efficiencies, and be able to demonstrate they are following Best Value principles in their expenditure. For further information, refer to '*the Guide*'.

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

2.11.1 Contracts existing prior to the delegation of funding to schools are not binding upon them.

2.11.2 Governing bodies are empowered under Paragraph 3 of Schedule 10 to the S.S.F. Act. 1998 to enter into contracts, however, in most cases they do so on behalf of the Authority, as maintainer of the school and provider of the budget share.

However, contracts may be made solely on behalf of the governing body where the governing body has clear statutory obligations. For example, contracts made by aided or foundation schools for the employment of staff.

## **2.12 Central Funds and Earmarking**

2.12.1 The Authority is authorised to make sums available to schools from central funds, in the form of allocations that are additional to and separate from the schools' budget shares. Such allocations will be subject to conditions setting out the purpose for which the funds may be used.

2.12.2 The earmarked funding from centrally retained funds should be spent only on the purposes for which it is given. Earmarked funds, which are not spent in the year to which they relate, may be required to be returned to the Authority.

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

## **2.13 Spending For the Purposes of the School**

Governing bodies should spend their budget shares for the purposes of the school, subject to any provisions of the scheme and regulations made by the Secretary of State. By virtue of section 50(3A) (which came into force on 1<sup>st</sup> April 2011) amounts spent by Governing Bodies on community facilities or services under section 27 of the Education Act 2002 will be treated as if spent for any purposes of the school.

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

## **2.14 Capital Spending From Budget Shares**

2.14.1 Governing bodies can use their budget shares to meet the cost of capital expenditure on the school premises. This includes expenditure by the governing body of a voluntary school on work, which is their responsibility under Paragraph 3 of Schedule 3 of the S.S.F. Act 1998. However, if the expected capital expenditure from the budget share in any one-year will exceed £15,000, the governing body must notify the Authority and take into account any advice as to the merits of the proposed expenditure.

2.14.2 If the premises are owned by the Authority, or the school has voluntary controlled status, then the governing body should seek the consent of the Authority to the proposed works, but such consent can be withheld only on health and safety grounds.

## **2.15 School Financial Value Standard (SFVS)**

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

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

All maintained schools with a delegated budget must submit the form annually to the Authority before 31 March.

## **2.16 Notices of Concern**

2.16.1. The Authority may issue a notice of concern to the governing body of any school where, in the opinion of the Chief Financial Officer and the Education Officer, the school has failed to comply with any provisions of the Scheme, or where actions need to be taken to safeguard the financial position of the Authority or the school.

2.16.2 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:

- a) requiring relevant staff to undertake appropriate training to address any identified weaknesses in the financial management of the school,
- b) requiring that an appropriately trained/qualified person chairs the finance committee of the governing body,
- c) placing more stringent restrictions or conditions on the day-to-day financial management of a school than the Scheme requires for all schools – such as the provision of monthly accounts to the Authority,
- d) the requirement for regular financial monitoring meetings at the school attended by Authority officers,
- e) requiring a governing body to buy into the Authority's financial management systems, and
- f) 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 and the time by which such requirements must be complied with, in order for the notice to be withdrawn.

It will also state the actions that the Authority may take where the governing body does not comply with the notice.

2.16.3 The circumstances that could lead to the issuing of a notice of concern may vary, however, for illustration, the extent and frequency of the following could lead to the issue of such a notice:

- a) Failure to follow the requirements of the Scheme.
- b) Year - end deficit greater than 5% of the school's budget share.
- c) Serious weakness identified following an Internal Audit of the School.

## **2.17 Fraud**

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

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

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

### **3.1 Availability of the Budget Share**

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

3.1.1 Schools will be allocated a percentage of their annual budget share each month on the following basis:

	April	10.00%
Each month	May to February	8.18%
	March	8.20%

Top up payments for pupils with high needs are included in the above apportionment of budget share unless alternative arrangements have been agreed with the provider.

3.1.2 Schools with bank accounts will receive payments of each instalment on the nearest banking day on or before 23<sup>rd</sup> day of the month and will not bear any interest. Schools without bank accounts may draw on their entire allocation from the commencement of the financial year.

3.1.3 Instalments to schools with bank accounts are calculated after deducting Salaries, and other pre-agreed central charges. Details of this calculation is included in the 'Bank Account Regulations' and '*the Guide*'

3.1.3 In respect of bank account schools, the Authority will add interest to the late payment of budget share instalments where such late payment is the result of Authority error. The rate will be at 1% above the average UK Clearing base lending rate.

### **3.2 Budget Shares for Closing Schools**

Schools for which approval for discontinuation has been secured and which operate a separate bank account will only receive monthly funding net of payroll costs up to the date of closure.

### **3.3 Bank Accounts**

3.3.1 The governing body of any school may choose to operate a separate bank account in the name of the school into which instalments of their total annual budget share will be paid.

3.3.2 All interest earned on such accounts can be retained by the school

3.3.3 Schools are required to operate bank accounts in accordance with procedures as included in the 'Bank Account Regulations' (BAR's) and '*the Guide*'.



3.3.4 Schools can choose their preferred bank or building society from a list of approved financial institutions detailed in the 'Bank Account Regulations' which meet the minimum criteria also set out in the 'Bank Account Regulations' , if schools wish to use another institution they must gain prior approval from the Chief Financial Officer.

3.3.5 Schools wishing to operate a separate bank account for the first time must inform the Chief Financial Officer in writing before the end of February prior to commencement on the following 1<sup>st</sup> April. A copy of the appropriate governing body minute must also be supplied.

3.3.6 For new bank account schools' a provisional estimate of carry forward will be calculated as at 31<sup>st</sup> March and transferred to the school's bank account on the nearest working day to 5<sup>th</sup> April. This will subsequently be adjusted by 30<sup>th</sup> June to reflect the actual carry forward.

3.3.7 Schools with approved Licensed Deficits can operate a Bank Account subject to approval of the Chief Financial Officer. As a school bank account is not permitted to be overdrawn, the Licensed Deficit agreement will detail additional instalments to the Bank Account and schedule of repayments by deduction from future instalments. Interest will be charged on the additional instalments monthly at a rate of 1% above the average UK clearing bank base lending rate.

3.3.8 Imprest accounts will be withdrawn from schools operating separate bank accounts.

3.3.9 A school may have an account for budget purposes, which is in the name of the school not the Authority. However, the account mandate should provide that the Authority is the owner of the funds. Any account used for school budget share purposes must only be used for this and budget share should not in any circumstances be in an account with funds held for other purposes.

3.3.10 Authorised signatories must be restricted to the headteacher and senior members of staff. A governor, who is not a staff member, cannot be a signatory.

3.3.11 The Authority must be allowed access to the school bank account and all relevant records. Also' the Bank Account Regulations' and '*the Guide*' detail information required from schools. If access is denied, or the required information is not received in a timely manner the Authority has the right to withhold future payments to the school and close the account.

3.3.12 Schools suffering temporary cash flow difficulties can apply to the Authority for an additional Cash Flow Advance, which if approved will be paid with the next month's payment. A fixed repayment date will also be agreed with the Authority. The school will be charged interest on the additional advance at 1% above the average UK clearing banks base lending rate.

## **3.4 Borrowing by Schools**

3.4.1 Written permission from the Secretary of State for Education must be obtained before a school governing body can borrow money (including the use of finance leases). (Except under the Loan Scheme operated by the Authority, refer to Section 4.9)

3.4.2 Schools are not authorised to obtain and use credit cards.

3.4.3 Schools are required to consult the Chief Financial Officer if they wish to enter into any arrangement which is covered by the capital regulations under 1989 Local Government Act.

3.4.4 Schools are allowed to use any scheme that the Secretary of State has said is available to schools without specific approval, currently including the Salix scheme, which is designed to support energy saving.

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

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

### **4.1 The Right To Carry Forward Surplus Balances**

4.1.1 Schools will carry forward surplus balances from one financial year to the next, by adding the surplus to the following year's budget share.

4.1.2 A school's surplus balance at 1 April is equal to that at 31 March in the same year.

### **4.2 Reporting On The Intended Use Of Surplus Balances**

Governing bodies may be required to report in a prescribed format, to the Authority on the use which the school intends to make of surplus balances, in cases where the total balance exceeds 8% of the budget share of a nursery, primary or special school, or 5% of the budget share of a secondary school. The format of the report will be notified to the appropriate schools annually.

### **4.3 Obligation To Carry Forward Deficit Balances**

Schools will carry forward deficit balances from one financial year to the next, by deducting the deficit from the following year's budget share.

A school's deficit balance at 1 April is equal to that at 31 March in the same year.

A school with a deficit balance on 31<sup>st</sup> March must repay the deficit within one year, except in exceptional circumstances as detailed in Section 4.8 below.

### **4.4 Reporting On The Circumstances Leading To Deficit Balances**

Governing bodies are required to submit a recovery plan to the Authority if they end the year with a deficit budget and also report on the circumstances that led to the deficit balances at the year-end. The report required will be in a prescribed format as notified to the appropriate schools annually.

### **4.5 Writing Off Deficits**

The Authority cannot write off the deficit balance of any school. Should the Authority wish to give assistance towards the elimination of a deficit balance this can only come from a centrally held budget specified for the purpose of expenditure on special schools and pupil referral units in financial difficulty or, in respect of mainstream maintained schools, from a de-delegated contingency budget where this has been agreed by Schools Forum.

#### **4.6 Interest On Surplus/Deficit Balances**

Balances held by the Authority on behalf of schools will attract interest at a rate of 1% above the average UK clearing bank base lending rate. Annual interest at this rate will be credited (or debited - for overspends) to schools each July based on the average of the sum of the agreed opening and closing balances for the previous financial year.

#### **4.7 Balances Of Closing And Replacement Schools**

When a school closes, any balance (whether surplus or deficit) reverts to the Authority, it cannot be transferred as a balance to any other school, even where the school is a successor to the closing school, except that a surplus transfers to an academy where a school converts to academy status under section 4(1)(a) of the Academies Act 2010.

#### **4.8 Licensed Deficits**

4.8.1. A school may be allowed to plan for a deficit budget in certain approved circumstances: -

- a) Where small year groups will be replaced by larger year groups moving through the school.
- b) Where the necessary corrective budget action will not lead to a full year's savings which are required to balance the budget in that year, but will lead to a balanced budget the following year.
- c) Where a continuing school needs to meet redundancy or early retirement costs for a reduction or reorganisation.

4.8.2. The planned deficit may not exceed the lower of 10% of the budget share or £75k for primary, special or nursery schools and the lower of 5% of the budget share or £150k for secondary schools.

4.8.3. The planned deficit period should not normally exceed one year. In exceptional circumstances a deficit may extend for three years.

4.8.4. A request for a licensed deficit facility must be supported by a financial plan that demonstrates the ability to repay the deficit within the agreed period.

4.8.5. The governing body (of a school granted a licensed deficit) must submit a termly report to the Chief Education Officer and the Chief Financial Officer. The report will include a monitoring statement for the in-year budget and any proposed revision to future year's spending plans (Guidance is available on format of the report from Schools Finance).

4.8.6. The maximum proportion of all schools' collective balances held by the Authority to be used to support these arrangements is 40%.

4.8.7. A school operating a local bank account may be permitted a licensed deficit subject to approval of the Chief Financial Officer.

4.8.8. Licensed deficits will require approval of the Chief Education Officer and the Chief Financial Officer of the Authority.

#### **4.9 School Loan Fund**

The Authority will operate a School Loan Fund to enable a governing body to apply to the Chief Education Officer for a loan.

Loans will only be used to assist schools in spreading the cost over more than one year of large one-off individual items of a capital nature that have a benefit to the school lasting more than one financial or academic year.

Loans will not be used as a means of funding a deficit that has arisen because a school's recurrent costs exceed its current income.

If loans are made to fund a deficit and a school subsequently converts to academy status, the Secretary of State will consider using the power under paragraph 13(4)(d) of Schedule 1 to the Academies Act 2010 to make a direction to the effect that such a loan does not transfer, either in full or part, to the new academy school.

Loans will only be approved if they apply with the following circumstances:

4.9.1 The maximum length over which schools must repay the loan is 5 years.

4.9.2 The Loan Fund is limited to tangible items that have an estimated economic life at least as long as the term of the loan, property improvements and maintenance projects that enhance the value of the property or extend its life. A more comprehensive list of projects that would or would not be considered for a loan is included within '*the Guide*'.

4.9.3 The maximum amount available for any individual school is limited to 10% of the schools' current budget share, subject to a minimum of £5000 and a maximum of £200,000.

4.9.4 The maximum amount available for the Loan Fund will be 40% of total school balances less any existing borrowing.

4.9.5 Schools must complete the Authority's loan application form. A financial plan will be required with projections over the period of the loan. Schools should apply before 31<sup>st</sup> January for loans for the next financial year. Late applications will only be considered in exceptional circumstances.

4.9.6 Any application for a loan must be approved initially at a meeting of the full governing body.

4.9.7 Loans will be approved by the Chief Education Officer following consultation with the Chief Financial Officer and the Schools Forum.

4.9.8 Assets purchased through the Fund will be deemed the property of the Authority for the duration of the agreement, and the Governing body has no powers to dispose of the asset during this period.

4.9.9 Repayments will be charged to the schools delegated budget at the beginning of the financial year, the first repayment being payable in the year following the first year of the loan.

4.9.10 Interest will be charged annually in arrears at a rate of 1% above the average UK clearing bank base lending rate.

Further guidance on the School Loan Fund is available from Schools Finance.

## **SECTION 5: INCOME**

### **5.1 Income from Lettings**

Schools are allowed to retain income from lettings of the school premises that would otherwise accrue to the Authority, subject to alternative arrangements arising from joint use or PFI/PPP agreements. Schools can cross-subsidise lettings for community and voluntary use with income from other lettings, provided there is no net cost to the budget share. Schools are required to have regard to directions issued by the Authority on use of school premises outside school hours as set out in the Community Use Policy and as permitted under the S.S.F. Act 1998. See '*the Guide*' for further information.

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

Schools can retain income from fees and charges except where a service is provided by the Authority from centrally retained funds (e.g. where a school has contracted with the Authority meals services or other service providers where applicable). However, schools are required to have regard to any policy statements on charging produced by the Authority, refer to '*the Guide*'.

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

Schools can retain income from fund-raising activities.

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

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

### **5.5 Purposes for Which Income May Be Used**

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

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

### **6.1 General Provision**

6.1.1 The budget share of a school can be charged by the Authority without the consent of the governing body only in circumstances expressly permitted by the Scheme (See Section 6.2), and the Authority will consult schools as to the intention to so charge, and notify schools when it has been done.

6.1.2 For the avoidance of doubt, 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 representatives of the Schools Forum.

6.1.3 The Authority will charge salaries of school-based staff to school budgets at actual cost.

### **6.2 Circumstances in Which Charges May Be Made**

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

6.2.2 Other expenditure incurred to secure resignations where the school had not followed the Authority's advice.

6.2.3 Awards by courts and employment tribunals against the Authority, or out of court settlements arising from action or inaction by the governing body contrary to the Authority's advice.

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

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

6.2.6 Expenditure incurred by the Authority in insuring its own interests in a school where funding has been delegated but the school has failed to demonstrate that it has arranged cover at least as good as that which would be arranged by the Authority.

6.2.7 Recovery of monies due from a school for services provided to the school, where a dispute over the monies due has been referred to a disputes procedure set out in a service level agreement and the result is that monies are owed by the school to the Authority.

6.2.8 Recovery of penalties imposed on the Authority by the Board of Inland Revenue,



the Contributions Agency or HM Revenues and Customs, Teachers Pensions, the Environment Agency or regulatory authorities as a result of school negligence.

6.2.9 Correction of Authority errors in calculating charges to a budget share (e.g. pension deductions)

6.2.10 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.

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

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

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

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

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

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

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

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

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

6.2.20 Costs incurred by the local authority in administering admissions appeals, where the local authority is the admissions authority and the funding for admission appeals has been delegated to all schools as part of their formula allocation.

## **SECTION 7: TAXATION**

### **7.1 Value Added Tax (Vat)**

The Authority is registered for VAT in relation to all the services and activities it provides which include schools. This means that generally the VAT charged by suppliers can be recovered from H M Revenue and Customs and thus is not treated as expenditure to be charged against the school budget. Certain types of expenditure incurred by voluntary aided schools may not be covered by the Authority's registration. Schools are legally obliged to charge VAT where applicable to all external bodies or individuals for any goods or services they supply. Detailed procedures and notes are included in '*the Guide*'.

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

Special conditions may apply to the invoices schools pay from their delegated budgets for work carried out on repair, maintenance or construction of buildings. These conditions under the Construction Industry Taxation Scheme are imposed by the Inland Revenue to ensure that Income Tax is collected from building contractors. Schools must comply with any procedures in relation to the Scheme, which are given in '*the Guide*'.

## **SECTION 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 from centrally retained funds will be provided to schools. This is inclusive of existing PRC (Premature Retirement Costs) and redundancy payments.

The Authority will not discriminate in its provision of services based on categories of schools except where (a) funding has been delegated to some schools only or (b) such discrimination is justified by differences in statutory duties.

### **8.2 Provision Of Services Bought Back From The Authority Using Delegated Budgets**

8.2.1 The term of any arrangement with a school to buy services or facilities from the Authority is limited to a maximum of three years from the date of the agreement, and periods not exceeding five years for any subsequent agreement relating to the same services.

8.2.2 Services provided by the Authority (funding for which is non-retainable centrally) will be offered at prices which are intended to generate income which is no less than the cost of those services.

### **8.3 Packaging of Services**

When the Authority provides services for which funding has been delegated, and the Authority is offering the service on a buyback basis, it will do so, in a way which does not unreasonably restrict schools' freedom of choice among the services available. Where practical this will include provision on a service-by-service basis, as well as in packages of services.

### **8.4 Service Level Agreements**

8.4.1 Services offered to schools will be delivered under a formal service level agreement.

8.4.2 Services, offered by the Authority, will be available on a basis, which is not related to any form of extended agreement, as well as on the basis of such agreements.

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

8.4.3 Services will not be made available solely on the basis of an agreement beyond one year, though they may be charged for at a different rate than if provided on the basis of an agreement beyond one year.

8.4.4 Agreements will be distributed to school no later than 1st March prior to each financial year. Schools will then have at least one month to consider entering into these agreements.

Sections 8.2, 8.3 and 8.4 exclude centrally funded premises and liability insurance.

## **8.5 Teachers' Pensions**

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

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

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

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

## **SECTION 9: PFI (Private Finance Initiatives) / PPP (Public Private Partnership)**

### **9.1 PFI / PPP Responsibilities**

9.1.1 Where the Authority has entered into a PFI/PPP scheme, it will require the governing body to make a payment to the Authority to meet its share of the PFI/PPP contract costs that relates to the school's delegated budget.

9.1.2 Penalties on performance: - The agreement places the responsibility for providing services e.g. cleaning, heating, lighting, repairs and maintenance on the PFI/PPP Contractor. The Authority buys the services provision at agreed standards at an agreed price. If, however, an agreed standard is breached the Authority can, in certain circumstances, levy a performance penalty. A performance penalty reduces the sum payable to the Contractor. If the performance penalty relates to a service met from the delegated budget, the proportion of the penalty relating to the school's budget share will be returned to the Authority.

## **SECTION 10: INSURANCE**

### **10.1 Insurance Cover**

10.1.1 Governors and schools are required to comply with all insurance conditions notified to them individually or as contained in '*the Guide*'.

10.1.2 Where schools have delegated funds for insurance's they must warrant to the Authority that, where the governing body arranges cover relevant to the Authority's insurable interests, any policy meets the minimum cover as would have been arranged by the Authority. In determining the minimum cover, the Authority will have regard to the potential liabilities, which might reasonably be expected to arise at the school in question.

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

## **SECTION 11: MISCELLANEOUS**

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

As well as specific requirements listed above, there is a requirement on governing bodies to supply all financial and other information which might reasonably be required to enable the Authority to satisfy itself as to the school's management of its delegated budget share, or the use made of any central expenditure by the Authority (e.g. earmarked funds) on the school.

### **11.2 Liability of Governors**

As the governing body is a corporate body, and because of the terms of S.50(7) of the S.S.F. Act 1998, governors of maintained schools will not incur personal liability in the exercise of their power to spend the delegated budget share provided they act in good faith.

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

### **11.3 Governors' Expenses**

The Authority can delegate to the governing body of a school yet to receive a delegated budget, funds to meet governors' expenses.

Under schedule 50(5) of the Act, only allowances in respect of purposes specified in regulations made under section 19 of the Education Act 2002 may be paid to governors from a school's delegated budget share. The payment of any other allowances is forbidden. Schools are also barred from payment of expenses duplicating those paid by the Secretary of State to additional governors appointed by him to schools under special measures.

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

Legal costs incurred by the governing body, although the responsibility of the Authority as part of the cost of maintaining the school unless they relate to the statutory responsibility of aided school governors for buildings, may be charged to the school's budget share unless the governing body acts in accordance with the advice of the Authority. See also Section 6.

In the event of a conflict of interest between the Authority and school, the governing body may seek advice or guidance from whatever source it may deem appropriate. Any expenditure thus incurred will be met from the school's delegated budget.

## **11.5 Health and Safety**

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

11.5.2 The Authority has produced a school's model policy which has been ratified by H&S Management/SJCC and forms part of the corporate H&S policy. Community schools can adopt this policy as their basis if they wish to form their own due to their particular risks; however, it should not be any less prescriptive than that of HCC Corporate as HCC are the Employer.

The model policy can be accessed via the intranet:

[Home > Policies and Procedures > Health and Safety > Health and Safety Policy >](#)

## **11.6 Right of Attendance for Chief Financial Officer**

Governing bodies are required to permit the Chief Financial Officer of the Authority, or any officer of the Authority nominated by the Chief Financial Officer to attend meetings of the governing body at which any agenda items are relevant to the exercise of his responsibilities.

## **11.7 Delegation to New Schools**

The Authority can delegate selectively and optionally to the governing bodies of schools which have yet to receive delegated budgets.

## **11.8 SEN Funding**

Schools are required to use their best endeavours in utilising their budget share, to meet the special educational needs requirements of their pupils.

## **11.9 Whistleblowing**

The Authority's procedures for school staff and Governors who wish to complain about financial management or financial impropriety are available at [www.hullcc.gov.uk](http://www.hullcc.gov.uk)

## **11.10 Child Protection**

In all reasonable circumstances, schools should release staff to attend child protection case conferences and other related meetings. Schools will meet such release costs from their delegated budget share.

## **11.11 Closing Schools**



On issue of a Notice to close, delegated financial powers will be removed from the school governing body with effect from the penultimate year before closure. Dependent upon risk, including overall budget projections, an earlier date for withdrawal of delegated powers may be applied'

### **11.12 Redundancy and Early Retirement Costs**

For closing schools, staff reorganisation and reduction costs are out of their control. This is because the efficiency savings resulting from the schools' closure would normally accrue after the school has closed. In addition, the reduction in overall schools benefits the continuing schools. The reorganisation costs of closing school's may be a general charge to the Schools Budget.

For continuing schools, staff reorganisation / reduction costs are deemed to be within their control – as the school is viable, and staffing restructures are likely to be necessary from time to time. For continuing schools therefore, these costs will be the responsibility of the school. A continuing school can apply for a Licensed Deficit refer to Section 4.8 of the Scheme.

Annex B sets out the statutory guidance on the funding of premature retirement and redundancy costs.

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

12.1 The Authority delegates funding for repairs and maintenance to schools and as such governing bodies are expected to finance these works. This includes kitchens, dining areas and all associated equipment.

Governing bodies may finance from their budget, work treated as capital, via a revenue contribution to their devolved capital budget.

The Authority determines capital expenditure as “expenditure on the acquisition of non-current assets which have a long-term value (e.g. purchase of land, erection of buildings) or expenditure that adds up to the value of these assets and not just maintains their existing value”.

The Authority de minimus limit for capital expenditure is £10,000.

12.2 The Authority retains a capital budget for school works, determined as part of the Authorities Asset Management Plan.

12.3 In respect of voluntary aided schools, the ‘DfE VA School Determination of Financial Liabilities’ list should continue to be used to establish the responsibility for payment of liabilities.

## **SECTION 13: POWER TO PROVIDE COMMUNITY FACILITIES**

### **13.1 Introduction**

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

13.1.2 However, under S.28 (1), the main limitations and restrictions on the power will be those contained in this 'Scheme' 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.

There may also be limitation or restrictions contained within the schools' own instruments of government.

Schools are therefore subject to prohibitions, restrictions and limitations in this Scheme.

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

### **13.2 Budget Issues**

Mismanagement of community facilities funds can be grounds for suspension of the right to a delegated budget.

### **13.3 Consultation with the Authority – Financial Aspects**

13.3.1 The Children and Families Act 2014 mean that schools no longer need to consult the local authority when establishing community facilities under Section 27 of the Education Act 2002. Nor do they have to have regard to advice given to them by their local authority. However, as public bodies, they are expected to act reasonably, and this includes consulting those affected by decisions that they make.

#### **13.4 Funding Agreements – Authority Powers**

13.4.1 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 in the provision. A very wide range of bodies and organisations are potentially involved. Funding agreements can include restrictive conditions and provisions to claw back monies if they have not been spent in accordance with the funder's requirements.

13.4.2 In relation to funding arrangements with third parties (as opposed to funding agreements with the Authority itself) schools are required to submit any proposed agreement to the Authority for comments.

13.4.3 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.

#### **13.5 Other Prohibitions, Restrictions and Limitations**

13.5.1 In a specific instance of use of the community facilities power by a governing body, the governing body concerned shall 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. This requirement will only be made where the Authority has good reason to believe that the proposed project carries significant financial or other risks.

13.5.2 The Authority must safeguard the financial position of the Authority and the school, and to be able to protect pupil welfare and education. Consequently, it may need to impose provisions within individual agreements or to include further provisions in this scheme at a later date.

## **13.6 Supply of Financial Information**

13.6.1 The school must submit every six months a financial statement (in a form determined by the Authority) for the community facility showing the income and expenditure for the previous six months and on an estimated basis, for the next six months. Where there is a cause for concern the Authority may give one month notice to the school that required financial statements should be supplied every 3 months, and if the Authority sees fit, to require the submission of a recovery plan for the action in question.

13.6.2 The Authority reserves the right to insert other provisions as to the financial reporting requirements in specific funding agreements between schools and the Authority arising from the funding in question.

## **13.7 Audit**

13.7.1 The school must grant access to the school's records, at all reasonable times, connected with exercise of the community facility power, in order to allow internal and external audit of relevant income and expenditure. This requirement includes access for audit purposes to funding agreements with other persons pursuant to the exercise of the community facilities power.

## **13.8 Treatment of Income and Surpluses**

13.8.1 Schools are entitled to retain all income derived from community facilities except where otherwise agreed with a funding provider, whether that be the Authority or some other person. The school can carry such retained income over from one financial year to the next, and to either add it to any budget share surplus or retain it as a separate community facilities surplus.

13.8.2 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. If this is insufficient the Authority will have to meet the liabilities from its own resources. This arises from the provision of S.51A of the S.S.F. Act 1998 (inserted by Paragraph 4 of Schedule 3 to the Education Act 2002), which provides that such liabilities are part of the expense of maintaining the school, may be recovered from the governing body but the expenditure incurred by the governing body in the exercise of the community facilities power may not be met from the budget share unless such a purpose is prescribed by regulations made under S.50(3)(b) of the S.S.F. Act 1998.

13.8.3 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.

13.8.4 Where expenditure by governing bodies on community facilities is deemed by the Authority to be seriously prejudicial to the interests of the school or the Authority, the Authority may suspend the right of the governing body to a delegated budget.

## **13.9 Health and Safety Matters**

13.9.1 In exercising the community facilities power all health and safety provisions as per Section 11.5 of the scheme must be followed.

13.9.2 The governing body is responsible for the costs of securing Disclosure and Barring Service clearance and must obtain clearance for all adults involved in community activities taking place during the school day. Governing Bodies would be free to pass on the costs to a funding partner as part of an agreement with that partner. The governing body must obtain confirmation if the activity is carried out by a third party, the DBS clearance has been obtained in respect of all adults involved in the activities.

## **13.10 Insurance**

13.10.1 It is the responsibility of the governing body to make adequate arrangements for insurance against risks arising from the exercise of the community facilities power. Such insurance should not be funded from the school budget share. The governing body can seek the advice of the Authority concerning the risk and level of cover.

13.10.2 The Authority has powers to undertake its own assessment of the insurance arrangements made by a school in respect of community facilities, and if it judges those arrangements to be inadequate, make arrangements itself and charge the resultant cost to the school.

13.10.3. Instead of taking out insurance, a school may join the RPA for risks that are covered by the RPA.

## **13.11 Taxation**

13.11.1 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 Authority reclaim facility.

13.11.2 Schools may only make use of the Authority's VAT reclaim facility for expenditure on community facilities when this is from Authority funds and not expenditure from other funds.

13.11.3 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 the school's own bank account, the school is likely to be held liable for payment of income tax and National Insurance, in line with Inland Revenue rules.

13.11.4 Schools are required to follow Authority advice in relation to the Construction Industry Scheme where this is relevant to the exercise of the community facilities power.

## **13.12 Banking**

13.12.1 The school must maintain adequate financial records and internal accounting controls to maintain adequate separation of such funds from the school budget share and other LA funds. There is no requirement for a school to operate a separate bank account for community facilities. If a separate Bank Account is required, the detailed provisions relating to Bank Accounts in Section 3.3 must be followed.

13.12.2 Schools may not borrow money without the written consent of the Secretary of State. This requirement does not extend to monies lent to schools by the Authority.

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

### **Primary Schools**

St Andrew's C of E V.A. Primary

### **Secondary Schools**

N/A

### **Special Schools**

Northcott

Oakfield

### **Nursery Schools**

McMillan Nursery



## **ANNEX B: Responsibility for redundancy and early retirement costs**

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

Section 37 of the 2002 Education Act says:

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

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

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

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

Charge of dismissal/resignation costs to delegated school budget:

- If a school has decided to offer more generous terms than the Authority's policy, then it would be reasonable to charge the excess to the school
- If a school is otherwise acting outside the Authority's policy
- Where the school is 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
- Where staffing reductions arise from a deficit caused by factors within the school's control
- Where the school has excess surplus balances and no agreed plan to use these
- Where a school has refused to engage with the Authority's redeployment policy

Charge of premature retirement costs to Authority non-school's budget:

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

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

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

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

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

(7) Where an Authority incur costs—

(a) in respect of any premature retirement of any member of the staff of a maintained school who is employed for community purposes, or

(b) in respect of the dismissal, or for the purpose of securing the resignation, of any member of the staff of a maintained school who is employed for those purposes,

they shall recover those costs from the governing body except in so far as the Authority agree with the governing body in writing (whether before or

after the retirement, dismissal or resignation occurs) that they shall not be so recoverable.

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

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

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

## **ANNEX C: Application of schemes for financing schools to the community facilities power**

Schools which choose to exercise the power conferred by section 27 (1) of the Education Act 2002 to provide community facilities will be subject to controls. Regulations made under section 28 (2), if made, can specify activities which may not be undertaken at all under the main enabling power.

Section 88 of the Children and Families Act 2014, has removed the requirements in section 28(4) and section 28(5) of the Education Act 2002 for maintained schools in England. Under section 28(4) a school was obliged to consult its local authority and under section 28(5) a school must have regard to advice or guidance from the Secretary of State or their local authority when offering this type of provision.

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

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

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