

**LEICESTERSHIRE COUNTY COUNCIL**

**SCHEME**

**FOR**

**FINANCING SCHOOLS**

# LEICESTERSHIRE SCHEME FOR FINANCING SCHOOLS

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## THE OUTLINE SCHEME

### 1. INTRODUCTION

#### 1.1 The Funding Framework : Main Features

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 Act).

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

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

Subject to provisions of this scheme, governing bodies of schools may spend such amounts of their budget shares as they think fit for the purposes of their school<sup>1</sup> and for any additional purposes prescribed by the Secretary of State in regulations made under s. 50 of the act.

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

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<sup>1</sup> Section 50 has been amended to provide that amounts spent by a governing body on providing community facilities or services under section 27 of the Education Act 2002 are treated as if they were amounts spent for the purposes of the school (s50(3A) of the Act)

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

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

After each financial year the authority must publish a statement showing out-turn expenditure at both central level and for each school, and the balances held in respect of each school. The detailed publication requirements for financial statements and for schemes are set out in directions issued by the Secretary of State, but each school must receive a copy of each year's budget and out-turn statements so far as they relate to that school or central expenditure.

Regulations also require a local authority to publish their scheme and any revisions to it on a website accessible to the general public, by the date that the 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 that it funds. It contains requirements relating to financial management and associated issues, which are binding on both the Authority and on the schools.

## 1.3 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. It does not apply to schools situated in the authority's area which are maintained by another authority, nor does it apply to academies.

## 1.4 Publication of the scheme

Regulations require that the scheme is published and any revisions to it on a website accessible to the general public together with a statement that the revised scheme comes into force on that date.

## 1.5 Revision of the scheme

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

## 1.6 Delegation of powers to the headteacher

Each Governing body is asked to consider the extent to which it wishes to delegate its powers to the headteacher, and to record its decision (and any revisions) in the minutes of the governing body.

#### 1.7 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 an authority maintains schools is through the funding system put in place under sections 45 to 53 of the School Standards and Framework Act 1998.

## 2. FINANCIAL CONTROLS

### 2.1. Application of financial controls to schools

In managing their delegated budgets schools must abide by the Authority's requirements on financial controls and monitoring.

Certain of these are directly referred to in this scheme while others are included in other guidance issued by the Authority.

### 2.2 Provision of financial information and reports

Schools are required to provide the authority with details of expected and actual expenditure and income, in a form and at times determined by the authority.

The details of these requirements are set out below:

- Bank Account (BA) returns
- Certification of bank balance at year end.
- Information as specified by the Chief Finance Officer relating to the Construction Industry Tax Deduction Scheme to enable the County Council to meet its statutory requirements.
- Information as specified by the Chief Finance Officer relating to payment of salaries / wages and relevant deductions to enable the County Council to meet its statutory requirements. This only applies to schools that have opted out from using the County Council's payroll service.
- Termly financial monitoring reports providing income and expenditure and forecast outturn budget position in the format prescribed by the Authority.

### 2.3 Payment of salaries; payment of bills

The procedures for these will vary according to the choices schools make about the holding of bank accounts and the buying back of the authority's payroll system.

Governing bodies entered into payroll contracts with providers other than with the Authority, or choosing to run their payrolls 'in-house', shall ensure that payments to all employees are in accordance with the terms and conditions of employment and paycales for each employee as recognised by Leicestershire County Council.

The governing body must ensure compliance with all legal requirements in relation to the HM Revenues and Customs, Department of Work and Pensions, the Local Government Pension Scheme, the Teacher Pension Scheme and other government agencies as applicable.

Any financial liability arising from non compliance to adhere to payroll procedures and statutory requirements will fall to be met from the school's budget share.



#### 2.4 Control of assets

Each school must maintain an inventory of its moveable non-capital assets worth more than £1,000, in a form determined by the authority, and setting out the basic authorisation procedures for disposal of assets. Schools are free to determine arrangements for assets worth £1,000 or below. However, the Authority recommends that a register of all assets be maintained as prescribed below.

#### 2.5 Accounting Policies (including year-end procedures)

Schools must abide by procedures issued annually by the authority in relation to accounting policies and year-end procedures.

#### 2.6 Writing off of debts

Governing bodies are only authorised to write off debts up to a level stipulated by the Chief Finance Officer.

The current limit is set at debts up to and including £250 (per debtor).

In the case of larger debts the school must carry out the following procedure:

- Consult with the Chief Finance Officer by lodging a request for write off with the Director of Children and Young People's Service

#### 2.7 Basis of accounting

Reports and accounts furnished to the Authority must be on an accruals basis. Schools may choose to operate either a cash or accruals based system for the purposes of internal reporting. The Authority, OFSTED and Audit Commission recommend that schools adopt an accruals based internal reporting system.

#### 2.8 Submission of budget plans

Each school is required to submit an annual budget plan, formally approved by the governing body or a committee of a governing body to the Authority by 31<sup>st</sup> May

The format of the annual budget plan will be consistent with the requirements of the Consistent Financial Reporting Framework.

The budget plan must show the school's intentions for expenditure in the current financial year and the assumptions underpinning the budget plan. Schools may take account of any estimated balances from the previous financial year when formulating the current year's budget plan

The authority will also require the submission of revised plans. Such revised plans shall not be required at intervals of less than three months.

The Authority will supply schools with all income and expenditure data that it

holds and which is necessary to efficient planning by schools.

## 2.9 Submission of Financial Forecasts

Schools may be required to submit a financial forecast that covers each year of a multi-year period for which schools have been notified of budget shares beyond the current year.

Multi Year Forecasts may be used for the following purposes:

- a) To confirm that schools are undertaking effective financial planning,
- b) To support the LA's responsibility for declaring schools' adherence to the Financial Management Standard in Schools,
- c) To support the LA's balance control mechanism,
- d) To support the LA's deficit budget planning mechanism.

## 2.10 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 Authority's purchasing, tendering and contracting requirements.

It is for heads and governors to determine at school level how to secure better value for money. There are significant variations in efficiency between similar schools so it important that schools review their current expenditure, compare it to other schools and consider how to make improvements.

## 2.11 Operating Leases

When looking to procure assets the school should consider lease or buy decisions. Should schools consider leasing provides the best value solution advice should be sought from the investments section at the local authority. Schools may only enter into leasing agreements where these have been approved by the local authority prior to entering into any such arrangements

## 2.12 Virement

Schools are free to vire between budget heads in the expenditure of their budget shares but governors are advised to establish criteria for virements and financial limits above which the approval of the governors is required.

## 2.13 Audit: General

Schools are required to co-operate both with auditors employed by the Authority (internal audit) and auditors appointed to audit the Authority itself (external audit).

In regard to internal audit, all schools come within the audit regime determined

by the Chief Financial Officer.

In relation to external audit all schools come within the local authorities external audit regime as determined by the Audit Commission.

#### 2.14 Separate external audits

In instances where a school wishes to seek an additional source of assurance at its own expense, a governing body is permitted to spend funds from its budget share to obtain external audit certification of its accounts, separate from any LA internal or external audit process. Where a school chooses to seek such an additional audit it does not remove the requirement that the school must also co-operate with the local authorities internal and external auditors.

#### 2.15 Audit of voluntary and private funds

In addition to the normal internal and external audits, schools must provide audit certificates in respect of any voluntary and private funds they hold and of the accounts of any trading organisations controlled by the school.

Procedures for furnishing these audit certificates and advice on the handling of such voluntary and private funds has been prepared by Internal Audit

#### 2.16 Register of business interests

The governing body of each school is required to maintain a register, which lists for each member of the governing body, the headteacher and any member of staff with influence over financial decisions, any business interests they or any member of their immediate family have; to keep the register up to date with notification of changes and through annual review of entries, and to make the register available for inspection by governors, staff, parents and the Authority.

#### 2.17 Purchasing, tendering and contracting requirements

Schools are required to abide by the Authority's financial regulations and standing orders in purchasing, tendering and contracting matters. This includes the need for schools to assess in advance, where relevant, the health and safety competence of contractors, taking account of the authorities policies and procedures.

Schools are not permitted to obtain fewer than three tenders of quotations in respect of any contract with a value exceeding £10,000 in any one year.

Schools may disapply any section of those regulations and/or standing orders which would require them to;

- a) To do anything incompatible with any provisions of the scheme, any statutory provision or any EU Procurement Directive;
- b) To seek LA officer countersignature for any contracts for goods or services for a value below £60,000 in any one year,

- c) To select suppliers only from an approved list.

## 2.18 Application of contracts to schools

Schools have the right to opt out of Authority arranged contracts.

Governing bodies are empowered under paragraph 3 of schedule 10 to the School and Standards Framework Act 1998 to enter into contracts, in most cases they do so on behalf of the Authority as maintainer of the school and owner of funds in the budget share. Contracts may be made solely on behalf of the governing body, when the governing body has clear statutory obligations - for example, contracts made by aided or foundation schools for the employment of staff.

## 2.19 Contingent Liabilities

Schools may not enter into grant arrangements where the terms and conditions of the grant place restrictions (contingent liabilities) on the land owner's title to the land e.g. that an asset delivered from the grant should remain in place for a number of years, a requirement that funding is returned if the grant conditions are not met or the facilities cease to operate. Schools do not have the legal power to accept liabilities on land not owned by them and any grant bids containing such liabilities should be approved by the local authority **before** they are submitted.

## 2.20 Central funds and earmarking

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 shall be subject to conditions setting out the purpose or purposes for which the funds may be used: and while these conditions need not preclude virement (except, of course, where the funding is supported by a specific grant which the Authority itself is not permitted to vire), this should not be carried to the point of assimilating the allocations into the school's budget share.

Such earmarked funding from centrally retained funds is to be spent only on the purposes for which it is given, or on other budget heads for which earmarked funding is given, and is not to be vired into the school's budget share. The Authority may require that earmarked funds must be returned to the Authority if not spent in accordance with the stipulated rules. The Authority will not enforce any interest clawback charges from individual schools regarding retrieved earmarked funds.

## 2.21 Spending for the purposes of the school

Governing bodies are free to spend budget shares for the purposes of the school, subject to regulations made by the Secretary of State, and the provisions

contained within the scheme, subject to the school's ability to fund such expenditure from the annual revenue budget or through an approved planned deficit budget agreed with the Authority.

Amounts spent by governing bodies on community facilities under section 27 of the Education Act 2002 will be treated as if spent for any purposes of the school.

Additionally the Schools Budget Shares (Prescribed Purposes) (England) (Amendment) Regulations 2002 (amended by the School Budget Shares (Prescribed Purposes) (England) Regulations 2010 allow school to spend their budgets on pupils who are on the roll of other maintained schools.

## 2.22 Capital spending from budget shares

Governing bodies are permitted to use their budget shares to meet the cost of capital expenditure on the school premises. This includes expenditure by the governing body of a voluntary aided school on work which is their responsibility under paragraph 3 of Schedule 3 of the School Standards and Framework Act 1998.

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 from the Director of Children and Young People's Service as to the merits of the proposed expenditure. The reason for this requirement is to help ensure compliance with the current School Premises Regulations, DfE Construction Standards and health and safety legislation.

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

## 2.23 Notice of Concern

The Authority may issue a notice of concern to the governing body of any school it maintains where, in the opinion of the Chief Finance Officer and the Director of Children and Young People's Service, 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 school.

The local authority reserves the right to issue a notice of concern to schools converting to a sponsored academy status and to schools issued with closure notices where it is deemed necessary to protect the financial position of the authority.

The 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) Insisting that relevant staff undertake appropriate training to address any identified weakness in the financial management of the school;
- b) Insisting 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 the school other than the scheme requires for all schools – such as the provision of monthly accounts to the authority;
- d) Insisting on Authority officers attending regular financial monitoring meetings at the school;
- e) Requiring the governing body to buy into a local authorities financial management systems;
- 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 requiring a school to submit income projections and / or financial monitoring reports on such activities.

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

The notice will not be used in place of withdrawal of financial delegation where that is the appropriate action to be taken.

Where a notice of concern has been issued, the notice will be withdrawn at the point at which the governing body are compliant with the requirements of the notice

#### 2.24 Schools Financial Value Standard

All authority maintained schools (including nursery schools and Pupil Referral Units (PRU's) that have a delegated budget) must demonstrate compliance with the Schools Financial value Standards (SFVS) and complete the assessment form on an annual basis. It is for the school to determine at what time of the year they wish to complete the form.

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

All maintained schools with a delegated budget must submit the form to the local authority before 31<sup>st</sup> March 2013 and annually thereafter

## 2.25 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 relating 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 staff and governors.

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

For the purposes of this section, Budget Share includes any place-led funding for special school, SEN units, enhanced resource bases and pupil referral units.

#### 3.1 Frequency of instalments

The budget share will be made available to governing bodies monthly.

Top up payments for pupils with high needs will be made monthly on and payable for each academic day in each calendar month.

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

##### 3.2.1 Monthly Budget Share

The proportion of the budget share to be made available to schools shall be calculated as:

##### 3.2.2 Calculation of Non-Employee Related Budget

The amount to be transferred to the school bank account will be based on the school's budget, as approved by the Governors. Details of this budget should be returned to the Strategic Finance Service by the specified date each year, using standard forms issued by the Finance Service which will show sub headings for employee related and other costs, together with a verification of the bank balance.

The total funds to be transferred to the school bank account will include the unspent balance of the Section 251 budget not already in the bank from the previous financial year, which the school wishes to use to fund non-employee expenditure in the current financial year.

The amount transferred to the school bank account in April each year will be based on 10% of the school's formula budget allocation pending the receipt of the school budget. Non-compliance with the deadline may adversely affect your drip-feed.

##### 3.2.3 Transfers to School Bank Accounts

In each financial year, the amount relating to non-employee expenditure will be transferred to school bank accounts in twelve monthly instalments. Schools taking part in the scheme will be notified by the Strategic Finance Service of the date in each month on which the transfer will be made following receipt of the Budget Intention form.

The percentage of the total non- employee budget transferred (approximately on the 15<sup>th</sup> day of each month) will be as follows:

April - June	9%
July - February	8%



March 9%

There will be three exceptions to this rule:

- (i) Schools which have to pay examination fees in April will receive the amount assessed for examination fees within the formula, plus 9% of the remaining non salary budget with their 1st monthly instalment.
- (ii) The balance carried forward will be transferred as a lump sum to the school's bank account. (This will be the unspent balance of the Section 52 budget not already in the bank account).
- (iii) Refunds of VAT will be made by cheque on submission of a monthly VAT accounting return. The procedure for reclaiming VAT is set out in Sections 2 Part L. of this document. For this reason it is important that BA returns are submitted on a monthly basis.

### 3.3 Schools processing Payroll via Local Bank Accounts

Schools that process salary payments through their local bank account will receive the amount of salary expenditure into the school bank account. The payment will be made on the last but one working day of the month in 12 equal monthly payments. The employee / non-employee split is updated following receipt of the school budget intention.

### 3.4 Interest clawback

The LA will deduct from budget share instalments an amount equal to the estimated interest lost by the LA in making available the budget share in advance of the normal monthly cycle (see 3.2 above). The calculation basis of the deduction, taking account of the frequency options offered by the scheme, is:

3.4.1 Interest will be calculated on a daily basis and credited/debited to the school on a quarterly basis.

3.4.2 The schools drip feed will be adjusted where necessary.

3.4.3 The rate of interest paid/received by schools will be:

- Balances between £1-£29,999 – 1½% below Nat West base rate
- Balances above £30,000 – 1% below Nat West base rate.

### 3.5 Interest on late budget share payments

The LA will add interest to late payments of budget share instalments, where such late payment is the result of LA error. The calculation of interest payment will be in line with that stipulated in 3.3.above.

### 3.6 Budget shares for closing schools

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

### 3.7 Bank and building society accounts

All schools may have an external bank account into which their budget share instalments (as determined by other provisions) are paid. Where schools have such accounts they shall be allowed to retain all interest payable on the account unless they choose to have an account within an Authority contract which makes other provision.

Any school wishing to opt for its own bank account or transfer bank to a different institution may only do so after giving a period of notice (two months). However arrangements for a new bank account may only be made with effect from the beginning of each financial year.

As appropriate, the school or Authority will make arrangements to enable a newly opened bank account to receive immediate transfer of estimated balance for the school to that account.

### 3.8 Restrictions on accounts

Accounts may only be held for the purpose of receiving budget share payments.

Any school closing an account used to receive its budget share and opening another must select a new bank or building society and seek approval from the Director of Resources via the Children and Young People's Service, even if the closed account was not with an institution on that list.

Schools may bank with any UK financial institution which satisfies at least the following minimum criteria in respect of credit ratings given by either Fitch and Moody's (the two most relevant credit rating agencies for UK institutions). For the avoidance of doubt, meeting the criteria for only one of the agencies is sufficient but both the long term and short term ratings must be met for one of the agencies. Wholly owned subsidiaries of a UK financial institution which meet the minimum criteria are also acceptable:

**Minimum** acceptable ratings by **FITCH** are:

Short term F1 ( so F1+ and F1 are acceptable)

Long term A (so AAA, AA+, AA, AA-, A+ and A are acceptable)

**Minimum** acceptable ratings by **MOODY'S** are:

Short term P-2 (so P-1 and P-2 are acceptable)

Long term A2 (so Aaa, Aa, Aa1, Aa2, Aa3, A, A1 and A2 are acceptable)

The County Council will continue with the arrangements negotiated with the NatWest bank whereby the accounts are in the name of the Leicestershire

County Council but specific to each school, for schools that wish to use such arrangements.

Schools having bank accounts for the purpose of budget share payments with banks prior to 1 April 2011 may retain these accounts.

Cheque signatories for the school bank account are restricted to Authority / school employees and current members of the governing body. The governing body will formally agree the named individuals who will act as cheque signatories for the school bank account and any changes thereafter. The governing body is also required to formally stipulate the levels of delegated authority for each signatory in relation to authorising cheques and the use of purchasing cards.

Schools may opt to have the account in its own name rather than of the Authority. However, if a school opts for such an account, it is required to ensure that the bank mandate stipulates that the Authority is the owner of the funds in the account; that it is entitled to receive statements; and that it can take control of the account if the school's right to a delegated budget is suspended by the Authority.

Schools must not allow bank accounts held for the receipt and payment of official funds become overdrawn.

Schools must have regard to the requirements of the Guidance for Managing Local Bank Accounts issued by the Authority.

### 3.9 Borrowing by schools

Finance leases are deemed borrowing, governing bodies should not enter into any finance lease without the approval of the Secretary of State and must also notify the Director of Resources of their intentions.

Before contacting the Secretary of State, the governing body is obliged to inform the Authority of its intention to borrow money as it will have impact on the overall County Council's capital financing requirement and prudential indicators. The Authority will need to receive adequate assurances regarding the purpose of the loan and the ability to afford the repayments.

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 serviced directly from the schools delegated budget, but schools are free to agree a charge for a service which the Trustees or foundation are able to provide as a consequence of their own borrowing. Governing bodies do not act as agents of the authority when repaying loans.

This provision does not apply to loan schemes run by the authority (section 4.11)

### 3.10 Purchasing Cards

Whilst credit cards are deemed borrowing which are regarded as borrowing procurement cards are permitted for use. Schools should consider whether the use of procurement cards offer efficiencies within the purchasing process.

### 3.11 Other provisions

The Authority has formulated separate detailed rules and guidance in respect of other aspects of banking arrangements, which must be followed and is supplementary to the provisions within the scheme.

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

##### 4.1 The right to carry forward surplus balances

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

##### 4.2 Controls on Surplus Balances

4.2.1 Surplus balances held by schools are permitted under this scheme and may be held as committed balances as defined within the Consistent Financial Reporting Framework. For the purposes of the balance control mechanism committed and uncommitted balances are considered by the balance control mechanism a) – c) which are adjusted for any approved exception applied by paragraph 4.2.5

Surplus balances are subject to the following restrictions:

- a) the Authority shall calculate by 31 July each year the surplus revenue balance, if any, held by the school as at the preceding 31 March. For this purpose the revenue balance will be the sum of items BO1 – Committed Revenue Balance and BO2 – Uncommitted Revenue Balance as defined in the Consistent Financial Reporting Framework;
- b) the Authority shall then deduct from the resulting sum any amounts which the governing body of the school has declared to be an exception permitted by the authority as listed by paragraph 4.2.5 of the scheme, and which the authority is satisfied are properly assigned;
- c) if the result of steps a-b is a sum greater than 7% of the total revenue balance as defined within the Consistent Financial Reporting Framework for secondary schools or 10% of the total revenue balance as defined within the Consistent Financial Reporting Framework for primary and special schools (the acceptable level), or £30,000 (where that is greater than the percentage threshold) adjusted for any items agreed by the local authority as specified in paragraph 4.2.5.

The Consistent Financial Reporting Framework defines the calculation of balances as – Balance brought forward from the previous year divided by total revenue income (CFR Codes IO1 – I15)

4.2.3 The Schools Forum will receive and consider an annual report from the Director of Children and Young People's Service detailing for each school;

- School balances as defined under the Consistent Financial Reporting Framework
- Details of those schools with excess revenue balances

4.2.4 Schools with a revenue surplus, as defined by paragraph 4.2.1 a- c, at the 31<sup>st</sup> March, in excess of 7% for secondary schools or 10% for primary and special schools, or £30,000 where that is greater than the percentage threshold, will have that amount deducted from its budget share for the current year.

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

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

4.2.5 Only amounts related to the following expenditure items may be held outside the acceptable limits of 10% and 7% for the purpose of calculating surplus balances;

- a) Planned contributions to major projects where agreed with the Local Authority where they are time limited, reflected in the School development Plan and do not exceed 10% of the schools revenue calculated per paragraph 4.2.1 (c) for the year the exception is sought;
- b) Funding held by individual schools on behalf of partnerships, development groups or clusters;
- c) Earmarked and specific grants

Schools should refer to the guidance issued by the Local Authority on the application of these exceptions.

#### 4.3 Interest on surplus balances

Balances held by the Authority on behalf of schools (i.e. individual school bank accounts) will attract interest as set out within the Guidance for Managing School Bank Accounts issued by the Authority.

#### 4.4 Obligation to carry forward deficit balances

Deficit balances will be carried forward by the deduction of the relevant amounts from the following year's budget share

#### 4.5 Planning for deficit budgets

Schools may only plan for a deficit budget in accordance with the terms of para 4.10 below, defined as being where available resources are insufficient to meet planned expenditure. For this purpose the deficit balance will be calculated as

the sum of items BO1 – Committed Revenue Balance and BO2 – Uncommitted Revenue Balance as defined in the Consistent Financial Reporting Framework

#### 4.6 Charging of interest on deficit balances

In normal circumstances interest will be charged on deficit balances. The Authority may waive interest charges. Each case will be considered on its merits. Account will be taken of whether the deficit arose from factors outside of the schools' control.

#### 4.7 Writing off deficits

The Authority has no power to write off the deficit balance of any school.

#### 4.8 Balances of closing and replacement schools

When a school closes any balance (whether surplus or deficit) shall revert 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.

Where a school records a deficit budget when converting to academy status under section (4)(1)(a) of the Academies Act 2010 that deficit will be eliminated through the use of centrally retained schools budget and approved by the Schools Forum.

However, the Authority has the power under the regulations to take a course, which has the same net effect as transfer for 'replacement' schools. The Authority may transfer sums, which are equal to or less than the balances of relevant closing schools to successor schools.

#### 4.9 Support for Schools in Financial Difficulty

Expenditure on special schools, pupil referral units and maintained schools may only be provided from a centrally held budget specified for this purpose from a de-delegated contingency budget only where agreed by the Schools Forum. The authority reserves the ability to provide funding from the high needs block to support schools with exceptional high needs costs.

#### 4.9 Borrowing for agreed purposes

The general provision in para 3.9 above forbidding Governing bodies to borrow money shall not apply to schemes run by the Authority as set out in section 4.11 below.

#### 4.10 Deficit budget planning (licensed deficits)

The Authority may permit schools to plan for a deficit budget in particular circumstances that are described below:

A school is unable to set a balanced budget in any one financial year due to:

- A deficit arising from the previous financial year.
- Increase / reduction in the number of pupils.
- Changes in the formulae that have a negative financial impact on the school's budget.
- Overall reduction in revenue funding compared to previous financial year.
- Other reasons that has a negative financial impact on the school's budget.

The detailed arrangements applying to this scheme are as set out below:

**(i) Period of Budget Planning**

A school may plan for a deficit budget for a period of up to five financial years. It is expected that most budget plans will be for two financial years and in extreme circumstances they will extend to between three to five years.

**(ii) Formal Approval of Budget Plans**

Budget plans for a period of up to three financial years will be considered for approval by the Director of Children and Young People's Service. The Cabinet or its nominated representatives will consider any extension to an approved budget plan that takes it over a period of three years for approval.

Budget Plans for a period greater than three years will be considered for approval by the Cabinet or its nominated representatives.

**(iii) Provision of Information for Budget Planning**

A school needs to provide the following information to the Director of Children and Young People's Service:

- Reasons for planning a deficit budget.
- Annual income and expenditure forecasts for the proposed period of the budget plan.
- Details of the proposed action to reduce budget deficit over the period of the plan (inclusive of financial amounts)

**(iv) Governing Body Approval**

A governing body is required to formally approve a deficit budget plan prior to it being submitted to the Authority for consideration.

**(v) Deficit Budget Plan Review**

Once a deficit budget plan is approved the school is required to provide a termly financial report to the Authority for monitoring purposes. The termly financial report should contain references to the progress made on



the actions to reduce the financial deficit. This is in keeping with the normal requirement for schools to provide termly financial monitoring statements to the local authority.

**(vi) Deficit Amount**

Deficit plans are not expected to exceed 5% of the schools total Section 251 budget amount. The 5% limit may be extended (to a maximum of 10%) where there are extreme circumstances and the school has an action plan to repay the Authority during the agreed period.

**4.11 Deficit budgets and Academy transfer**

\_\_\_\_\_ The local authority will adhere to statutory guidance and any supplementary guidance issued by the Department for Education (DfE), the Education Funding Agency (EFA) or any other appropriate body in determining the appropriate treatment of any school deficit at the point of transfer to an Academy.

The closing balances of maintained schools on conversion to academy status will be calculated in accordance with the basis defined at paragraph 4.2.1a

#### 4.12 Loan schemes

The Authority shall provide a form of loan arrangement for schools which, may not operate by way of a licensed deficit but rather by way of actual payments to schools or expenditure by the Authority in respect of a particular school on condition that a corresponding sum is repaid from the budget share. This scheme may be used in conjunction with the deficit budget planning processes with the approval of the Director of Children and Young People's Service.

The intention of the Scheme is to enable schools to use their resources effectively over a period of years to achieve long term strategies in line with development plans and as an aid to strategic financial management.

The detailed arrangements applying to this scheme are set out below:

- (i) The Authority will consider loan request from schools on the basis of individual merit of each case. The school must be able to clearly demonstrate that:
  - loan repayments are affordable
  - the school will benefit educationally from the additional expenditure through obtaining a loan
- (ii) The Authority will charge interest on loans taken out by schools. The rate of interest is 1% below the Nat West Bank PLC's base rate.
- (iii) The maximum amount of loan outstanding or approved deficit must not exceed 7% of the schools annual revenue budget

Total cumulative loans will not exceed 40% of the Authorities total school balances

Local authority loans will become repayable in full at the point a maintained schools converts to academy status unless the local authority agrees to maintain the former repayment schedule.

## **5. INCOME**

### **5.1 Income from lettings**

Schools may retain income from lettings of the school premises that would otherwise accrue to the Authority, subject to alternative provisions arising from any joint use or PFI agreements. Schools are permitted 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 whose premises are owned by the Authority shall be required to have regard to directions issued by the Authority as to the use of school premises, as permitted under the School and Standards Framework Act 1998 for various categories of schools. This includes the continuing provision for the Authority to use school facilities on up to two occasions each year for the purpose of meetings arranged by the Authority.

Income from lettings of school premises may not be paid into voluntary or private funds held by the school.

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

Schools may retain income from fees and charges except where a service is provided by the Authority from centrally retained funds. However, schools are required to have regard to any policy statements on charging produced by the Authority. Governing bodies are required to approve a charging policy under section 23 of the Guide to the Law for School Governors.

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

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

Schools may retain income from fund-raising activities.

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

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

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

Because of the potential VAT implications of providing services which lead to fees and charges, fund raising activities and the sale of assets, the Authority has

established administrative procedures for the collection of income. Schools should have regard to financial procedure rules issued by the Authority.

5.6 Purposes for which income may be used

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

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

### **6.1 General provision**

The budget share of a school may be charged by the Authority without the consent of the governing body only in circumstances set out in 6.2 below, but shall notify a school when it has been done.

Where salaries of school based staff are charged directly to school budgets, the charge is at actual cost.

Schools are reminded that the Authority cannot act unreasonably in the exercise of any power given by this scheme, or it may be the subject of a direction under s.496 of the Education Act 1996.

For each of the circumstances listed the authority must be able to demonstrate that expenditure has been necessarily incurred the expenditure to be charges to the budget share, the position on charging therefore may vary dependant upon the category of school.

In some cases the ability to charge budget shares depends upon the authority having given prior advice to the governing body.

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

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

- 6.2.1 Where premature retirement costs have been incurred without the prior written agreement of the Authority to bear such costs (the amount chargeable being only the excess over any amount agreed by the Authority).
- 6.2.2 Other expenditure incurred to secure resignations where the school had not followed Authority advice.
- 6.2.3 Awards by courts and employment tribunals against the Authority, or out of court settlements arise as a result of action or inaction by the governing body that is contrary to advice that has been given by the Authority.
- 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 schools' 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 the Director of Children and Young People's Service and the result is that monies are owed by the school to the Authority.
- 6.2.8 Recovery of penalties or charges imposed on the Authority by the Board of Inland Revenue, the Contributions Agency or HM Revenue and Customs, Teachers' Pensions, the Environment Agency and other statutory bodies as a result of school negligence and/or failure to abide to statutory guidance and procedures.
- 6.2.9 Correction of Authority errors in calculating charges to a budget share (e.g. pension deductions), but subject to the Authority not being able to charge in respect of errors that occurred more than 2 years previous to their being identified.
- 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 that are incurred by the Authority as a result of legal actions that arise because the governing body did not accept the advice of the Authority.
- 6.2.12 Costs of necessary health and safety training for staff employed by the Authority, where funding for training has been delegated but the necessary training not carried out.
- 6.2.13 Compensation paid to a lender where a school enters into a contract for borrowing beyond its legal powers, and the contract is of no effect.
- 6.2.14 Cost of work done in respect of teachers pensions 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 where a school enters into a lease arrangement without the prior approval of the Authority.
- 6.2.20 Costs incurred by the authority or another school as a result of a school withdrawing from a cluster arrangement, for example where this has funded staff providing services across the cluster.





## 7. TAXATION

### 7.1 Value Added Tax

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

The Authority has established procedures to enable schools to utilise the Authority's ability to reclaim VAT on expenditure relating to non-business activity. Amounts reclaimed through these procedures will be passed back to the school. Separate supplementary guidance is issued by the Authority.

### 7.2 External Grants

The activities to be delivered by the grant may impact upon the VAT recovery ability of the local authority. Schools should seek advice from the local authority's VAT Officer where external funding sources such as grants are being sought before entering into any agreement. Schools should also be aware of the issues of contingent liabilities.

### 7.3 CITS (Construction Industry Scheme)

Schools are required to abide by procedures issued by the Authority in connection with CIS.

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

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

The Authority shall determine on what basis services from centrally retained funds will be provided to schools, including existing Premature Retirement Costs and redundancy payments for school based staff. The Authority is debarred from discriminating in its provision of services on the basis of categories of schools except where (a) funding has been delegated to some schools only or (b) such discrimination is justified by differences in statutory duties.

### **8.2 Timescales for the provision of services bought back from the Authority using delegated budgets**

The term of any arrangement with a school starting on or after 1 April 1999 to buy services or facilities from the Authority shall be limited to a maximum of three years from the inception of the scheme or the date of the agreement, whichever is the later, and periods not exceeding five years for any subsequent agreement relating to the same services. However contracts for the supply of catering services may be extended to a period of seven years.

Where services have been delegated to schools, the Authority is required to offer its services at prices which are intended to generate income which is no less than the cost of providing those services. (i.e. at break-even or a surplus)

### **8.3 Packaging**

The Authority may provide any services for which funding has been delegated. But where the Authority is offering the service on a buyback basis it must do so in a way that does not unreasonably restrict schools' freedom of choice among the services available. Where practicable, buyback will include provision on a service-by-service basis as well as in packages of services.

### **8.4 Service level agreements**

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

8.4.2 Services, if offered at all by the Authority, shall be available on a basis that is not related to an extended agreement, as well as on the basis of such agreements.

8.4.3 Centrally arranged premises and liability insurance are excluded from these requirements as to service supply, as the limitations envisaged may be impractical for insurance purposes.

## 8.5 Teachers' Pensions

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

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

A governing body of any maintained school, whether or not the employer of the teachers at such a school, which has entered into any arrangement or agreement with a person other than the Authority to provide payroll services, shall ensure that any such arrangement or agreement is varied to require that person to supply salary, service and pensions data to the Authority which the Authority requires 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 (AVC's) are passed to the Authority within the time limit specified in the AVC scheme. The governing body shall meet any consequential costs from the school's budget share.

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

**9. PFI/PPP**

The Authority shall have the power to issue regulations from time to time relating to PFI/PPP projects. Amongst other issues these may deal with the reaching of agreements with the governing bodies of schools as to the basis of charges relating to such schemes; and the treatment of monies withheld from contractors due to poor performance.

## **10. INSURANCE**

### **10.1 Insurance cover**

If funds for insurance are delegated to any school, the Authority will require the school to demonstrate that cover relevant to an local authorities insurable interests, under a policy arranged by the governing body, is at least as good as the relevant minimum cover arranged by the Authority. If the Authority has to make arrangements to obtain additional cover, the costs will be charged to the schools' delegated budgets.

The cost of insurance related to the exercise of the Community Facilities power cannot be met from the schools delegated school budget.

Further information on appropriate levels of cover for schools making their own arrangements can be obtained from the County Council's Insurance Section.

## 11. MISCELLANEOUS

### 11.1 Right of access to information

Governing bodies shall supply to the Authority 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, or to meet any statutory / other reporting requirements of the County Council.

### 11.2 Liability of governors

Under s.50(7) of the School Standards and Framework Act 1998 the governing body is a corporate body, governors of maintained schools will not incur personal liability in the exercise of their power to spend the schools delegated budget share provided they act in good faith.

### 11.3 Governors' expenses

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

Only allowances in respect of purposes specified in regulations may be paid to governors from a school's delegated budget share. Schools are expressly forbidden from paying any other allowances to governors. Where expenses are paid an annual report should be presented to the governing body detailing all payments.

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.

### 11.5 Health and Safety

In expending the school's budget share, governing bodies are required to have due regard to duties placed on the Authority in relation to health and safety, and the Authority's policy on health and safety matters in the management of the budget share.

### 11.6 Right of attendance for Chief Finance Officer

Governing bodies are required to permit the Chief Finance Officer (or a representative of the Chief Finance Officer) of the Authority to attend meetings

of the governing body at which any agenda items are relevant to the exercise of her or his responsibilities.

The Chief Finance Officer's attendance shall normally be limited to items that relate to issues of probity or overall financial management and shall not be regarded as routine. Prior notice of attendance will be given unless it is impracticable to do so.

#### 11.7 Delegation to new schools

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

The Authority has the power to delegate some spending powers to a temporary governing body of a new school before it has a delegated budget.

#### 11.9 Special Educational Needs

Governing Bodies are required to use their best endeavours in spending the budget share, to meet the Special Educational Needs of all pupils on the school's roll.

The Authority is committed to making appropriate provision for pupils with special needs irrespective of whether the individual pupil has a Statement of Special Educational Needs. For the majority of pupils, this provision is funded through schools' delegated budgets.

The authority provides schools with an annual calculation of its notional SEN budget, this however should not be seen as either expected expenditure or an expenditure target. It is for governing bodies to determine the appropriate level of expenditure to meet the needs of all pupils on the school roll.

#### 11.10 Interest on late payments

Schools are reminded that the County Council has a statutory duty under the Late Payment of Commercial Debt (Interest) Act 1998, to pay its creditors within thirty days of the amount being due or as contractually specified.

#### 11.11 'Whistleblowing'

The procedure for persons working at a school or school governors who wish to complain about financial management or financial propriety at the school, and how such complaints will be dealt with are contained in guidance issued by the Authority.

### 11.12 Child Protection

Where child protection issues are concerned, there is likely to be a need for schools to release staff to attend child protection case conferences and other related events. The Authority has not retained any funding centrally for this item and therefore funding for this activity is contained within the overall delegation of funds to schools.



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

### **12.1 Delegation to Schools**

The Authority delegates all funding for repairs and maintenance to schools. Capital expenditure is retained by the Authority with the exception of Devolved Formula Capital.

Expenditure may be treated as capital only if it fits the definition of capital used by the local authority for financial accounting purposes which is in line with the CIPFA Code of Practice on Local Authority Accounting.

### **12.2 Voluntary Aided Schools**

For voluntary aided schools, the liability for repairs and maintenance (albeit by delegation of funds through the budget share) is the same as for other maintained schools, and no separate list of responsibilities is necessary for such schools. However, eligibility for capital grant from the Secretary of State for capital works at voluntary aided schools depends upon the di minimis limit applied by the DfE to categorises such work, not the di minimis limit used by the authority.

## SECTION 13 – COMMUNITY FACILITIES

### 13.1 Introduction

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

However, under Section 28 (1), the main limitations and restrictions on the power will be in the maintaining local authorities 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 extends the coverage of schemes to the powers of Governing Bodies to provide community facilities.

Schools are therefore subject to the prohibitions, restrictions and limitations set out in the following section of this scheme.

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

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

### 13.2 Consultation Requirements

It is a requirement under Section 28 (4) of the Education Act 2002 that before exercising the community facilities power, Governing Bodies must consult the local authority and have regard to advice given to them by their Authority.

However, where governing bodies comply and evidence the following requirements, a formal consultation with the Authority will not be required. Governing Bodies must:

- a) Maintain a register of all activities being undertaken under the Community Facilities power. The register should contain a brief description of the activity and the rationale for why the activity is exercised under the community facilities power.
- b) Ensure that each activity is supported by a business plan which demonstrates that the activity is financially sustainable
- c) Ensure that the responsibility for management of activities undertaken under the Community Facilities power is appropriately delegated.
- d) Ensure that routine financial monitoring is undertaken, and is routinely

reported to the Governing Body, for all activities undertaken within the Community Facilities power

- e) Ensure that the provision of activities undertaken under the Community Facilities power does not jeopardise the delivery of education to pupils registered at the school.

The Governing Body must provide an annual statement prior to the commencement of the financial year to the Director of Children and Young People's Service declaring compliance with the requirements set out in a – e above.

Where Governing Bodies seek the views of the Authority on plans to utilise the community facilities power, the Authority will provide advice within 6 weeks.

### 13.3 Funding Agreements – authority Powers

The provision of community facilities may be dependent on a funding agreement between the school and a third party. Any such agreement needs to be submitted to the Authority for its comments, a minimum of 8 weeks before the agreement is planned to commence.

The LA may not impose a veto on such third party agreements. However if an agreement has been concluded against the wishes of the Authority, or has been concluded without informing the Authority, and if the agreement 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.

### 13.4 Other prohibitions, restrictions and limitations

Where there is good reason for the Authority to believe that a proposed community facilities project carries significant financial risks, the Authority will require the Governing Body concerned to:

- either a) carry out the activity concerned through the vehicle of a limited company formed for the purpose
- and/or b) obtain indemnity insurance for risks associated with the project.

### 13.5 Supply of Financial Information

Governing Bodies shall ensure all financial transactions associated with the exercise of the community facilities power are fully reflected and reported within the school accounts as required by The Consistent Financial Reporting Framework.

The Authority may require additional information on activities to enable the impact of such activities on the VAT Partial Exemption position of the authority.

In the event of any cause for concern as to the schools management of the

financial consequences of the exercise of the community facilities power, the Authority may give notice to the Governing Body of the requirement for:

- a) monthly (or other periods deemed appropriate by the Authority) statements and forecasts
- b) a recovery plan for the activity in question

### 13.6 Audit

The Governing Body is required to grant access to all records connected with the community facilities provided to facilitate internal and external audit of income and expenditure.

Access for audit purposes must be available irrespective of whether the activity is provided directly by the Governing Body or by a third party operating with or on behalf of the Governing Body.

The audit requirements for this area of work will be as those applied in respect of voluntary and private funds (see paragraph 2.13) where schools maintain a separate bank account for community activities. Where community activities operate through the official bank account, Leicestershire County Council internal audit processes will apply.

If a Governing Body is operating a Limited company, there will be a need to engage its own external auditors.

Any cost arising from either an internal or external audit of community activities are not a legitimate charge to the school budget and must be a charge to community focused activities.

### 13.7 Treatment of income and surpluses

Except where there is an agreement with the Authority or a third party to the contrary, all net income derived from community facilities will be retained by the school in the community facilities budget.

End of year balances will be carried forward as a separate community facilities balance. Deficit balances must be carried forward and cannot be transferred into the School's budget share. Transfer of some or all of any surplus into the school's budget share balance is subject to approval by the Authority.

Should the Authority cease to maintain a school its community fund balances revert to the Authority unless there is some previously alternative arrangement made with a funding provider and agreed by the Authority. If there is a deficit on community facilities the Authority may only recover funds to meet third part liabilities from any accumulated community facilities surplus.

### 13.8 Health and Safety Matters

All Health and Safety requirements in relation to the operation of the school will also apply to community facilities provided by the Governing Body, the cost of which will be met by the Governing Body.

The costs of securing Criminal Records Bureau clearance for all adults involved in community activities taking place during the school day must be met from the income derived from the activity. Governing bodies are free to pass on any such costs to a funding partner as part of an agreement with that partner.

### 13.9 Insurance

The Governing Body is responsible for ensuring that adequate arrangements are made for insurance against risks arising from the exercising of the community facilities power.

Governing Bodies are required to seek the advice of the Authority before finalising any insurance arrangements for community facilities.

The LA may undertake its own assessment of the insurance arrangements made by the Governing Body in respect of community facilities. If the Authority judges that the arrangements made by the school are inadequate, the LA may make arrangements itself and require schools to meet the additional cost.

### 13.10 Taxation

In exercising the community facilities power the governing body should seek the advice of the Authority 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 VAT reclaim facility.

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 may be held liable for payment of income tax and national insurance, in line with Inland Revenue rules.

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

### 13.11 Banking

Schools may maintain separate bank accounts for school budget share and activities connected with the exercise of the community facilities power.

Bank accounts will be subject to the same restrictions as those applied to school budget share accounts as detailed in paragraph 3.8.

Schools are subject to the same borrowing restrictions for the community facilities power as within the main scheme (paragraph 3.9). Schools may only

borrow money with the written permission of the Secretary of State and must notify the Authority in advance of its intentions.

Annex 1Responsibility for Redundancy and Early Retirement Costs

1. This annex sets out what is specified in legislation and examples where it is appropriate to charge an individual school's budget, the central Schools Budget or the local authority's non-schools budget.
2. Under Section 37 of the 2002 Education Act premature retirement costs must be charged to the school's delegated budget whilst redundancy costs must be charged to the local authority's budget. In the former case the local authority has to agree otherwise for costs to be centrally funded while in the latter case, there has to be good reason for it not to be centrally funded, and that cannot include having no redundancy policy.
3. The following examples below indicate the situations in which exceptions to the default position might be taken;

Charge of dismissal / resignation costs to delegated school budget;

- 3.1 if a school has decided to offer more generous terms than the authority's policy;
- 3.2 if a school is otherwise acting outside the local authority's policy;
- 3.3 where the school is making staffing reductions which the local authority does not believe are necessary to either set a balanced budget or meet the conditions of a licensed deficit;
- 3.4 where staffing reductions arise from a deficit caused by factors within the school's control
- 3.5 where the school has excess surplus balances and no agreed plan to use these
- 3.6 where a school has refused to engage with the local authority's redeployment policy

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

- 3.7 where a school has a long-term reduction in pupil numbers and charging such costs to their budget would impact upon standards
- 3.8 where a school is closing, does not have sufficient balances to meet the cost and where the central Schools Budget does not have capacity to absorb the deficit
- 3.9 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

- 3.10 where a school is in special measures, does not have excessive balances and employment of the relevant staff is being / has been terminated as a result of local authority or government intervention to improve standards
4. Costs of new early retirements or redundancies can be charged to the central part of the Schools Budget if the Schools Forum agree and the local authority can demonstrate that the revenue savings achieved by termination of a contract of employment are equal or greater than the costs incurred. The Schools Forum must agree to any increase in this budget over the previous financial year. If the Schools Forum does not agree with the local authority's proposal. Then the authority can appeal to the Secretary of State. The Schools Forum will also be required to consider and approve any instance where the additional expenditure resulted in a breach of the central expenditure limit, whereby central expenditure increases faster than the Schools Budget as a whole.
  5. 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.
  6. Schools entering into pooling arrangements to fund post either in full or part should ensure that these arrangements define what the exit arrangements should be, in particular ensuring that any redundancy costs are shared across partners where they fail to be met from the local authority.