



**BLACKBURN**  
*with*  
**DARWEN**  
BOROUGH COUNCIL

# SCHEME FOR FINANCING SCHOOLS

Updated August 2020

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## **1 INTRODUCTION**

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### **1.1 The Funding Framework**

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

Under this legislation, local authorities determine for themselves the size of their schools budget and 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 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 an authority's maintained schools except for capital and certain miscellaneous items.

Local authorities may deduct funding 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 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 centrally retained expenditure is termed the Individual Schools Budget (ISB). Expenditure items in the non-schools education budget must be retained centrally, although earmarked allocations may be made to schools.

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 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 schools forum, though the authority may apply to the Secretary of State for approval in the event of the forum rejecting a proposal or approving it subject to modifications that are not acceptable to the authority.

Subject to any provision made by or under this scheme, governing bodies of schools may spend such amounts of their budget shares for the 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.

An authority may suspend a school's right to a delegated budget if the provisions of the authority's financing 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 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 against expenditure.

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

A copy of each year's budget and outturn statements should be made easily available 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**

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This scheme sets out the financial relationship between Blackburn with Darwen Borough Council (the authority) and all schools maintained by the authority. All requirements relating to financial management and any other associated issues are binding on both the authority and on schools.

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

From the period commencing 1 April 2004 the scheme applies to all community, nursery, special, voluntary, foundation (including Trust), community special, foundation special schools and PRUs maintained by the authority, whether they are situated in the area of the authority or situated elsewhere. It does not apply to schools situated in the authority's area which are maintained by another authority. Nor does it apply to academies.

A schedule of the schools included in the scheme is contained at Annex A.

## **1.3 Publication of the scheme**

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A copy of the scheme will be supplied to the governing body and the Headteacher of each school covered by the scheme and will be published on a website which is accessible to the general public and any revised version will be published by the date the revisions come into force. All such schools will be notified of subsequent revision to the scheme in accordance with regulations prescribed by the Secretary of State.

## **1.4 Revision of the scheme**

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Any proposed revisions to the scheme will be the subject of consultation with all schools and will require approval by the members of the schools forum representing maintained schools. It is also possible for the Secretary of State to make directed revision to schemes after consultation. Such revisions become part of the scheme from the date of the direction.

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

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Governing bodies of schools operating with delegated budgets will have considerable freedom in determining spending priorities and may wish to consider the extent to which they wish to delegate their powers to the Headteacher.

*The exercise of such decision made by the governing body will be subject to the requirements of regulations made under section 38 and Schedule 11 of the School Standards and Framework Act 1998.*

*The responsibility rests with the Headteacher and the governors to ensure that the first formal budget plan of the financial year is approved by the governing body.*

***Advice and guidance on this issue will be provided by the authority to governing bodies on request.***

## **1.6 Maintenance of schools**

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The Local 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 REQUIREMENTS; AUDIT

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### 2.1.1 Application of financial controls to schools

Under this scheme governing bodies have significant responsibility for public funds; consequently, in the management of their delegated budgets, the authority will require governing bodies to comply with certain conditions specified under the scheme and with other overall policies approved by the authority contained in more detailed publication referred to in the scheme but outside and compatible with it.

The authority will make available comprehensive guidance to assist governing bodies in the exercise of their powers which will seek to balance the need for governing bodies to have freedom to manage delegated budgets with the requirement to maintain accountability and control over public funds and assets.

### 2.1.2 Provision of financial information and reports

Schools will be required to provide the authority with details of anticipated and actual expenditure and income, in a form and at times determined by the authority. The requirements will vary dependent upon whether the school is operating an external bank account or not.

The authority will not require submission of such details more often than once every three months except for those connected with tax or banking reconciliation or in connection with the following circumstances:

- For new schools, during the first year of operation, the authority may require more frequent submission, similarly;
- Where the authority has concern over a school's financial position.

In both of the above circumstances the authority will notify the school in writing of any additional requirement other than that described in the first paragraph.

***N.B. the restriction to minimum three month interval does not apply to schools which are part of an on-line financial accounting system operated by the LA.***

***Advice and guidance on the detailed requirements will be issued to schools at the beginning of the financial year.***

### 2.1.3 Payment of salaries; payment of bills

The keeping of accounts and financial records including support systems and procedures will have to be undertaken in a manner approved by the Director of Finance & Customer Services, who continues to be responsible for all banking, insurance and payroll arrangements in accordance with the Financial Regulations. The rules governing these procedures will be contained within the authority's Financial Regulations.

### 2.1.4 Control of assets

Governors will be required to maintain an inventory of the moveable non-capital assets of the school. Further guidance and the requirements concerning the disposal of assets is contained in the authority's Financial Regulations.

Schools are free to determine their own arrangements for keeping a register of assets worth less than £1,000. Schools should give consideration to registering anything that is portable and attractive, such as a camera. However, some form of register must be kept.

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

Schools will be required to abide by the procedures as laid down in the authority's Financial Regulations concerning accounting policies and year-end procedures.

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

In accordance with the Accounts and Audit Regulations 1996, regulation 4 (4)(c), governors will be required to submit annually, for approval to write-off by the Director of Finance & Customer Services, all irrecoverable debts (with sufficient covering information) with a limit of £500 in respect of each individual account.

### **2.1.7 Basis of accounting**

Reports and accounts furnished to the authority may be on either a cash or accruals basis.

Schools are free to choose how to organise their accounts, by means of financial software, provided that they meet any costs of modification, to provide output in the format required by the LA.

## **2.2 Submission of budget plans**

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Governors will be required to submit a *formal* budget plan by 1 May for the same financial year. The plan must clearly show the intentions for expenditure in the current financial year and the assumptions underpinning the budget plan. The authority will provide details on the format of the plan and thorough guidance for the completion of the content requirements.

During the course of the financial year, the authority may also require the submission of revised plans where the authority deems it necessary. 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 which it holds and which is necessary to efficient planning by schools. In addition, detailed guidance will be made available to schools on the factors which are likely to affect all schools, e.g. inflation factors.

Before submission, schools should take full account of the estimated surplus/deficit at the previous 31<sup>st</sup> March in the budget plan.

## **2.3 Submission of Financial Forecasts**

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From financial year 2021/22 each school must submit a 3-year budget forecast by 30 June each year.

The authority will use these forecasts to confirm that schools are undertaking effective financial planning.

## **2.4 School Resource Management**

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

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

## **2.5 Virement**

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Governors may allocate budgets or exercise budget virement of all sums delegated as part of their budget share.

## **2.6 Audit: General**

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All schools maintained by the authority will be required to comply with the audit regime as regards internal audit as set out in the authority's Financial Regulations and the authority's external audit regime as determined by Local Audit and Accountability Act 2014. The provision will include requirements for schools to provide access to the school's records for audit purposes.

### **2.6.1 Irregularities**

The governing body is required to notify the Director of Finance & Customer Services immediately of all financial or accounting irregularities involving misuse of public funds or assets, or of any circumstances which may suggest the possibility of such irregularities, including those affecting cash, stores, property, remuneration or allowances.

Where it is considered that a suspected irregularity involves misuse of public funds or assets, the Director of Finance & Customer Services or their representative shall have access to all relevant records.

## **2.7 Separate external audits**

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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 local authority 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 authority's internal and external auditors.

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

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

## **2.9 Register of business interests**

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The governing body of each school is required to compile and maintain a register which lists for each member of the governing body and the Headteacher:

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

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

The authority will offer advice to governing bodies on the maintenance of such a register.

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

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The governing body may purchase such supplies and services as are needed for the purposes of the school from whatever sources they judge best, having considered any advice given by the authority.

The governing body is required to abide by the authority's Standing Orders for Schools in purchasing, tendering and contracting matters, which comply with DfE requirements. This includes a requirement to assess in advance where relevant, the health and safety competence of contractors, taking account of the authority's policies and procedures.

Schools may seek advice on a range of compliant deals via Buying for Schools.

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

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Schools have the right to opt out of local authority arranged contracts except where they have lost that right for particular contracts (whenever started) in accordance with a specified written procedure: in which case they will be bound into the contract for its length (although the contract might contain clauses allowing variance of its terms and conditions).

Although governing bodies are empowered under paragraph 3 of Schedule 1 of the Education Act 2002 to enter into contracts, in most cases they do so on behalf of the local authority as maintainer of the school and owner of the funds in the budget share.

Other 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.

## **2.12 Central funds and earmarking**

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The authority is authorised to make sums available to schools from central funds, in the form of allocations which are additional to and separate from the school's budget. 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 local 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. Schools will be required to return any unspent allocations of this nature to the authority if not spent in the year of allocation, or within the period over which the schools are allowed to use the funding if different.

The authority will not make any deduction for interest clawback on sums advanced for devolved specific or special grants.

Where a school opts to receive full budget share payment into their bank account, devolved grants will also be paid into the same account.

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

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In accordance with s50 (3) of the School Standards and Framework Act, governing bodies are free to spend budget shares 'for the purposes of the school', subject to regulations made by the Secretary of State and any provisions of this scheme.

By virtue of s50 (3A) 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 s50(3)(b) the Secretary of State may prescribe additional purposes for which expenditure of the budget share may occur which includes allowing schools to spend their budgets on pupils who are on the roll of other maintained schools.

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

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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 SSAF Act 1998.

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; such consent will only be withheld on the grounds of health and safety.

## **2.15 Notice of concern**

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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 Chief Education Officer/Director of Children's Services, the school has failed to comply with any provisions of the scheme, or where actions need to be taken to safeguard the financial position of the local authority or the school.

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

These may include:

- insisting that relevant staff undertake appropriate training to address any identified weaknesses in the financial management of the school;
- insisting that an appropriately trained/qualified person chairs the finance committee of the governing body;
- placing more stringent restrictions or conditions on the day to day financial management of a school than the scheme requires for all schools – such as the provision of monthly accounts to the local authority;
- insisting on regular financial monitoring meetings at the school attended by local authority officers;
- requiring a governing body to buy into a local authority's financial management systems; and
- Imposing restrictions or limitations on the manner in which a school manages extended school activity funded from within its delegated budget share – for example by requiring a school to submit income projections and/or financial monitoring reports on such activities.

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

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

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

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

## **2.17 Fraud**

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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 Headteacher must inform all staff of school policies and procedures related to fraud and theft, the controls in place to prevent them; and the consequences of breaching these controls. This information must also be included in induction for new school staff and governors.

### **3 INSTALMENTS OF THE BUDGET SHARE;**

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#### **3.1 BANKING ARRANGEMENTS**

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##### **3.1.1 Frequency of instalments**

Advances (which may include place-led funding) will be made by direct transfer to school bank accounts on a regular basis consistent with a school's need to spend. Schools may opt for a pattern of quarterly or monthly advances. Variations in the pattern of advances may be agreed by the Director of Finance & Customer Services in consultation with the schools concerned. Requests for variations must be made prior to the start of the financial year. The spending profile will be reviewed on an annual basis to reflect any changes in the average spending pattern of schools, due to additional items delegated to schools, changes in administrative procedures etc.

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

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For the purposes of determining the aggregate amount to be advanced during each financial year, estimated expenditure on *non-employee* costs for each year will be calculated for schools that have payroll administered by the local authority in accordance with the authority profile for the pattern of expenditure from the previous year. Schools may opt to receive instalments on either a net or gross basis.

An example to illustrate the calculation is attached at Annex B.

##### **3.3 Interest clawback**

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An amount may be deducted, either from each advance, or at the end of each financial year, to reflect the loss of interest to the authority of advances being made to the school earlier than the invoices would normally be paid. The amount will reflect the actual interest rate earned on the authority's General Fund balances at the time of the advance. Calculation of the amount to be deducted will be by means of comparison of the cumulative advances and the cumulative standard monthly profile for non-employee costs for all schools. Schools will be notified of the interest rate applied to each in advance. The standard profile will be based on relevant expenditure included in the ISB and will be notified to schools immediately prior to the commencement of each financial year.

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

The authority will add interest to late payments of budget share instalments, where such late payment is result of authority error. The interest rate will be the prevailing rate for the authority for the period of interest to be paid.

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

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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.

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

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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 a local authority contract which makes other provision.

New bank account arrangements may only be made with effect from the beginning of each financial year.

Schools without bank accounts at the start of the scheme will not be permitted to have one until any deficit balance is cleared, and any school requesting a bank account at a later date shall not be able to have one until any deficit is cleared.

If a school opens an external bank account the authority will, at the request of the school, transfer immediately to the account, an amount agreed by both the school and the authority as the estimated surplus balance held by the authority in respect of the school's budget share.

The amount of any balance to be transferred to a school's bank account will be calculated on a provisional basis for a school having a new bank account. This balance will be estimated in accordance with the information held by the local authority on income/expenditure of the school at the date of the agreed transfer.

Corrections to the estimate transferred will be made after finalising the accounts for the year during which the transfer is made.

A reconciliation will be carried out within 3 months of the transfer to rectify any discrepancy.

### **3.5.1 Restrictions on accounts**

For the purpose of receiving budget share payments each school may negotiate terms only with banks or building societies approved by the Director of Finance & Customer Services in line with the authority's Treasury Management policy. Budget share funds paid by the authority and held in school accounts remain authority property until spent (section 49(5) of the act).

Schools having bank accounts with other banks prior to April 2001 will be allowed to retain those accounts.

Any school closing an account used to receive its budget share and opening another must select the new bank or building society from the approved list, even if the closed account was not with an institution on that list.

Schools are allowed to have accounts for budget share purposes which are in the name of the school rather than the LA.

If a school has an account which is in the name of the school rather than the local authority, the account mandate should provide for the following:

- That the local authority is the owner of the funds in the account;
- That the local authority is entitled to receive statements;
- That the local authority can take control of the account if the school's right to a delegated budget is suspended by the authority.

### **3.6 Borrowing by schools**

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Governing bodies may borrow money (which includes the use of finance leases) only with the written permission of the Secretary of State. The Secretary of State's general position is that schools will only be granted permission for borrowing in exceptional circumstances. However this provision does not apply to loan schemes run by the authority (see 4.9 and 4.10).

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

From time to time, however, the Secretary of State may introduce limited schemes. Schools are allowed to use any scheme that the Secretary of State has said is available to schools without specific approval, including the Salix scheme, which is designed to support energy saving.

Schools may use credit or charge cards. However no interest charges should be incurred by the school, with balances fully cleared on a monthly basis. The authority will work with schools to develop processes to encourage the usage of procurement cards.

### **3.6.1 Loan schemes**

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 1394) (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.

### **3.7 Other provisions**

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The operation of a school bank account does not limit the authority's responsibilities as the authority retains ultimate responsibility for the funds delegated. All financial and accounting procedures will continue to be subject to approval by the Director of Finance & Customer Services and all accounts and records will equally continue to be subject to regular audit.

In order that the Director of Finance & Customer Services may discharge his/her responsibilities in respect of local bank accounts, schools will be required to retain records relating to their activities in accordance with the requirements as set out in Annex C. In addition, an operational guidance document will be made available to all schools operating their own bank accounts

Where there is substantial or persistent failure to comply with the agreed procedures, the Director of Finance & Customer Services will have the authority to suspend the local bank account until the position is rectified to his/her satisfaction.

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

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

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Schools may 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 Reporting on the intended use of surplus balances**

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The authority will operate a mechanism to clawback excess surplus balances, having regard to the principle that schools should be moving towards greater autonomy, should not be constrained from making early efficiencies to support their medium-term budgeting in a tighter financial climate, and should not be burdened by bureaucracy.

Governing bodies will be allowed to retain reserves up to the following thresholds:

- higher of 10% of the annual School Budget Share plus 10% of the provisional Pupil Premium or £60,000, in Secondary Schools;
- Or
- higher of 12% of the annual School Budget Share plus 12% of the provisional Pupil Premium or £60,000, in Nursery, Primary, Special Schools and Alternative Provisions.

The authority shall calculate by 30th May each year the surplus balance, if any, held by each school as at the preceding March as reported to schools using the local authority's outturn statement.

If the level of reserves is greater than the levels stipulated above, then the authority shall deduct the difference from the current year's budget share.

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

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

Schools will have the right to appeal to the schools forum if they believe that the process detailed above has not been duly administered before any clawback is finalised.

### **4.3 Interest on surplus balances**

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Balances held by the authority on behalf of schools will attract interest at a rate equivalent to that applied to the authority's general balance.

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

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Any deficit balances will be carried forward by the deduction of the relevant amounts from the following year's school budget share.

For all schools maintained by the authority under this scheme, any deficit balance will be shown on the outturn statement published in accordance with directions given by the Secretary of State under section 251 of the Apprenticeships, Skills, Children and Learning Act 2009; although this might be shown gross of committed expenditure and therefore appear lower than would otherwise be the case.

#### **4.5 Planning for deficit budgets**

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From 31 March 2021, schools must submit a recovery plan to the local authority when their revenue deficit rises above 5% at 31 March of any year. Normally, recovery would be expected within one year, however, in exceptional circumstances agreement may be reached with a school to allow flexible budget anticipation. (See 4.9)

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

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All budget deficits will be subject to the agreement of the Director of Children's Services, Schools & Education and the Director of Finance & Customer Services and will attract an interest charge calculated on the same basis as that applying to general school balances.

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

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The authority cannot write off the deficit balance of any school. The authority may wish to give assistance towards elimination of a deficit balance through the allocation of a cash sum, from the authority's schools budget (from a centrally-held budget specified for the purpose of expenditure on special schools and pupil referral units in financial difficulty or, in respect of mainstream maintained schools, from a de-delegated contingency budget where this has been agreed by schools forum).

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

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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.

#### **4.9 Licensed deficits**

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The authority will permit schools to plan for a deficit budget in particular circumstances. The funding to allow such a deficit budget shall be provided from the collective surplus of school balances held by the authority on behalf of schools. The maximum proportion of the collective balances held by the authority which will be used to back any such arrangement will not exceed 40% of the total balances.

Conditions applying to this scheme are as follows:

- There must be a realistic prospect of recovery over a reasonably short timescale (normally one or, at most, three years);
- The governors giving a formal indication of their willingness to implement an action plan designed to achieve recovery over a defined timescale and operate within the resources available thereafter;
- The governors being willing to work together with the authority in the agreement and implementation of a recovery plan;
- Agreement being reached for the purposes of the proposed deficit;
- The maximum size of the deficit will normally be limited to 10% of the school's budget share, but this could be extended in exceptional circumstances;
- The minimum size of the deficit will normally be £1,000
- Approval must be agreed by the Director of Children's Services, Schools & Education and the Director of Finance & Customer Services on an individual school basis.

The extent to which a deficit budget can be approved in any year will be dependent on there being adequate overall resources within school balances/reserves held by the authority to provide the funds required. Should these balances be insufficient the local authority may also extend such an arrangement by inviting schools holding balances in external bank accounts to use some or all of those balances to back the arrangement.

#### **4.10 Loan schemes**

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The authority may provide a form of loan arrangement for schools which does 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. The parameters for this type of arrangement would be the same as those for a licensed deficit scheme as detailed in section 4.9.

Loans must 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 must 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, 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 in individual cases

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

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Schools may wish to group together to utilise externally held balances for a credit union approach to loans. Where schools choose to borrow money through such a scheme the local authority will require audit certification of the running of the scheme, unless the authority itself acts as administrator of the arrangement.

## **5 INCOME**

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Schools shall be able to retain income except in certain specified circumstances.

### **5.1 Income from lettings**

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Schools may retain income from lettings of the school premises which would otherwise accrue to the local authority, subject to alternative provisions arising from any joint use or PFI/PPP agreements. Schools are permitted to cross-subsidise lettings for community and voluntary use with income from other lettings, provided there is no net cost to the budget share. However, schools whose premises are owned by the local authority shall be required to have regard to directions issued by the authority as to the use of school premises.

Income from lettings of school premises should not normally be payable into voluntary or private funds held by the school.

However where land is held by a charitable trust, it will be for the school's trustees to determine the use of any income generated from the land.

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

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Schools may retain income from fees and charges except where a service is provided by the local authority from centrally retained funds. However, schools are required to have regard to any policy statements on charging, produced by the authority.

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**

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Schools may retain income from fund-raising activities.

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

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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 local 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**

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Due to the potential VAT implications from schools providing services which lead to fees and charges, fund raising activities and the sale of assets, the local authority will establish and distribute to schools administrative procedures for the collection of income which may vary from time to time in the light of advice from the VAT authorities.

### **5.6 Purposes for which income may be used**

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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**

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### **6.1 General provision**

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The budget share of a school may be charged by the local authority without the consent of the governing body only in circumstances set out in 6.2 below.

Where such circumstances arise, the authority shall consult a school as to the intention to so charge, and shall notify a school when it has been done. With the exception of 6.2.11, the authority will demonstrate that the authority has necessarily incurred the expenditure to be charged to the school budget share.

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 section 496 of the Education Act 1996.

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.

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

The authority will charge the salaries of school based staff to school budget shares at actual cost.

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

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- 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 there is good reason to charge this to the school (see Annex D).
- 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. Awards may sometimes be against the governing body directly and would fall to be met from the budget share. Where the authority is joined with the governing body in the action and has expenditure as a result of the governing body not taking authority advice, the charging of the budget share with the authority expenditure protects the authority's position. Authorities should ensure in framing any such advice that they have taken proper account of the role of aided school governing bodies.
- 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. The authority itself needs to consider whether it has an insurable interest in any particular case.

- 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, HM Revenue and Customs, Teachers' Pensions, the Environment Agency or other regulatory authorities as a result of school negligence.
- 6.2.9 Correction of authority errors in calculating charges to a budget share; for example, pension deductions. Before applying any such provision the authority should consider whether it is reasonable to do so. If the error dates back several years it may be questionable whether such charging is reasonable.
- 6.2.10 Additional transport costs incurred by the authority arising from decisions by the governing body on the length of the school day, or 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.
- 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 an Education, Health and Care Plan (EHCP) where the governing body of a school fails to secure such provision despite the delegation of funds in respect of low cost high incidence SEN 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 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.

## **7 TAXATION**

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### **7.1 VALUE ADDED TAX**

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The local 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.

Her Majesty's Revenue and Customs (HMRC) has 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.

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

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Schools are required to abide by procedures issued by the authority in connection with CITS.

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

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

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The local authority, including existing allocations for premature retirement costs and redundancy payments, shall determine on what basis services from centrally retained funds will be provided to schools, but the authority is barred from discriminating in its provision of services on the basis of categories of schools except in cases where:

- a) This would be allowable under the schools and early years finance regulations or
- b) The dedicated schools grant (DSG) conditions of grant

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

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The term of any arrangement with a school starting on or after 1 April 1999 to buy services or facilities from the local 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.

*This provision excludes centrally funded premises and liability insurance delegated from 1 April 1999.*

Contracts for the supply of catering services may be extended for up to a maximum period of seven years. For services provided for which expenditure is not retainable centrally by the authority under the Regulations made under Section 45A of the School Standards and Framework Act 1998, the authority will offer such services at prices which are intended to generate income which is no less than the cost of providing the services. The total cost of the service will be met by the income generated.

#### **8.2.1 Packaging**

The local authority may provide any services for which funding has been delegated. Where the authority is offering the service on a buyback basis, it will endeavour to do so in a manner that does not unreasonably restrict schools' freedom of choice among the services available. For reasons of economy, the authority may offer services singly as well as in combination to accommodate the varying needs of individual schools.

### **8.3 Service level agreements**

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- 8.3.1 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.
- 8.3.2 Services, if offered by the local authority, shall be available on a basis which is not related to an extended agreement, as well as on the basis of such agreements.
- 8.3.3 Where services are provided on an ad hoc basis they may be charged for at a different rate than if provided on the basis of an extended agreement.
- 8.3.4 The scheme specifically excludes centrally arranged premises and liability insurance from these requirements as to service supply, as the limitations envisaged may be impracticable for insurance purposes.

## **8.4 Teachers' Pensions**

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In order to ensure that the performance of the duty on the authority to supply Teachers' Pensions with information under the Teachers' Pension Scheme Regulations 2014, 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 monthly return of salary and service to Teachers' Pensions and to produce its audited contributions certificate.

The authority will advise schools each year of the timing, format and specification of the information required. A governing body shall also ensure that any such arrangement or agreement is varied to require that additional voluntary contributions (AVCs) are passed to the authority within the time limit specified in the AVC scheme. The governing body shall meet any consequential costs from the school's budget share.

A governing body of any maintained school which directly administers its payroll shall supply salary, service and pensions data to the authority which the authority requires to submit its monthly return of salary and service to Teachers' Pensions and to produce its audited contributions certificate.

The authority will advise schools each year of the timing, format and specification of the information required from each school. A governing body shall also ensure that additional voluntary contributions (AVCs) are passed to the authority within the time limit specified in the AVC scheme. The governing body shall meet any consequential costs from the school's budget share.

## **9 PFI/PPP**

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The local authority shall have the power to issue regulations from time to time relating to PFI/PPP projects. Where these are scheme variations, schools will be consulted and approval sought from the Secretary of State before the implementation of any regulation is effected. 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.

The local authority shall have the power to charge the school budget share amounts agreed under a PFI/PPP agreement entered into by the governing body of a school.

## **10 INSURANCE**

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### **10.1 Insurance cover**

If funds for insurance are delegated to any school, the local authority will require the school to demonstrate that any cover obtained under a policy arranged by the governing body is:

- Relevant to the authority's insurable interests and;
- At least comparable to the relevant minimum cover arranged by the authority either paid for from central funds or from contributions from schools' delegated budgets.

Should a circumstance arise whereby the school has failed to comply with the above requirements, the authority will be entitled to charge any excess cost incurred in the protection of its interests to the school budget share.

The evidence required to demonstrate the parity of cover should be reasonable, not place an undue burden upon the school, nor act as a barrier to the school exercising their choice of supplier.

In determining the level of cover the authority must have regard to the actual risks which might reasonably be expected to arise at the school in question in operating such a requirement, rather than applying an arbitrary minimum level of cover for all schools.

Instead of taking out insurance, from 1 April 2020, 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.

## **11 MISCELLANEOUS**

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

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Governing bodies shall supply to the local 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.

### **11.2 Liability of governors**

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

### **11.3 Governors' expenses**

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The local 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.

Under schedule 50(5) of the Act 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.

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**

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Although the responsibility of the local authority as part of the cost of maintaining the school, legal costs incurred by the governing body (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.

*Where there is conflict of interest between the authority and the governing body, schools are advised to seek legal advice from an independent source.*

### **11.5 Health and Safety**

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Governing bodies are required to have due regard to duties placed on the local authority in relation to health and safety, and the authority's policy on health and safety matters in the expending of the budget share. This includes, but is not limited to, the authority's duties under the Health and Safety at Work etc Act 1974.

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

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Governing bodies are required to permit the Director of Finance & Customer Services, or his/her representative of the authority, to attend meetings of the governing body at which any agenda items are relevant to the exercise of her or his/her responsibilities.

Attendance of the Director of Finance & Customer Services shall normally be limited to items which relate to issues of probity or overall financial management and shall not be regarded as routine.

### **11.7 Expending of the School Budget Share**

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The authority requires that schools must use their best endeavours in spending the budget share to secure SEN provision. This requirement is statutory in nature and where a situation arises contrary to this provision, the authority may consider suspension of delegation if the situation is serious enough to warrant it.

### **11.8 Interest on Late Payments**

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Schools are reminded that statutory regulation concerning late payment for commercial debt (creditor invoices) came into force on 1<sup>st</sup> November 1998. Details of the requirement of this legislation will be provided to all schools on request.

### **11.9 Whistleblowing**

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Information and advice on the procedure for school governors/employees or any other person working at the school who may have a complaint in respect of financial management or financial propriety at the school is available from the authority on a strictly confidential basis.

In the first instance complaints should be in writing and addressed to the Director of Children's Services, Schools & Education.

### **11.10 Child Protection**

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Schools should be aware that from time to time there is a need to release staff to attend child protection case conferences and other related events. Any associated cost will fall to the school.

### **11.11 Redundancy/Early Retirement Costs**

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The 2002 Education Act sets out how premature and early retirement costs should normally be funded. Further guidance is provided at Annex D.

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

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The authority will delegate all funding for repairs and maintenance to schools.

Capital expenditure is to be retained by the authority. For these purposes, expenditure may be treated as capital providing that it fits the definition of capital used by the authority for financial accounting purposes in line with the CIPFA Code of Practice on Local Authority Accounting.

Voluntary aided governors will continue to be eligible for grant from the DfE in respect of their statutory responsibilities and in addition they will have responsibility for other repair and maintenance items on the same basis as community and foundation schools.

### **12.1 De Minimis**

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In line with the Code of Practice, the same de minimis limit for the defining of what expenditure is treated as capital and what is revenue in the authority's financial accounts will be used in defining what is delegated. The de minimis limits for the definition of capital and revenue expenditure for schools maintained by the authority are as follows:

All Schools	£10,000
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## **13 COMMUNITY FACILITIES/EXTENDED SCHOOLS**

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### **13.1 Introduction**

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As a result of the Education Act 2002, schools now have greater opportunities to provide services for the community. An extended school is one that provides a range of services and activities often beyond the school day to help meet the needs of its pupils, their families and the wider community.

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. Firstly, regulations made under s.28 (2) specify activities which may not be undertaken at all under the main enabling power. Secondly, the school is obliged to consult its authority and have regard to advice from the authority. Thirdly, the Secretary of State issues guidance to governing bodies about a range of issues connected with exercise of the power, and a school must have regard to that.

Governing bodies cannot provide any service that might interfere with their main duty to educate pupils or their responsibility to promote high standards of educational achievement at the school. However, under S.28 (1), the main limitations and restrictions on the power will be those contained in schools' own instruments of government and those detailed below.

Governing bodies should read the DfE guidance publication "Extended Schools – providing opportunities and services to all" prior to seeking to establish community activities.

### **13.2 Consultation**

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In every school and community there will be key groups who need to be consulted about activities. They should be involved in the planning process to ensure that extended school programmes are in demand, well organised and meet local needs.

The governing body has ultimate responsibility for deciding whether the school should offer additional activities and services and what form these should take. Before making decisions, governors need to be aware of any additional responsibilities that may result from providing additional services through the school. As with existing school activities, governing bodies can delegate the practical delivery of services to others, but they will keep ultimate legal responsibility.

Schools should initially approach the authority for a strategic view on potential programmes. Local authorities are well placed to help in assessing the ability of schools to offer additional activities. They can take into account the school's resources, financial management abilities and other considerations.

#### **13.2.1 Consult the local authority**

Changes made by the Children and Families Act 2014 mean that schools no longer need to consult the 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 authority.

However, as public bodies, they are expected to act reasonably, and this includes consulting those affected by decisions that they make.

#### **13.2.2 Funding Agreements**

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

Any funding agreements with third parties should be submitted to the authority for its comments prior to the governing body signing any such agreement so that the authority can ensure that any agreement is not seriously prejudicial to the interests of the school or the authority.

The authority has the power to suspend a school's delegated budget if:

- A school undertakes the provision of community activities without consulting the authority and which the authority considers is seriously prejudicial to the interests of the school or the authority;
- The authority considers the financial management of community services provided by a governing body unsatisfactory; or
- The governing body is guilty of substantial or persistent non-compliance with any rules laid down by or under the authority's Scheme for Financing Schools.

### **13.3 Financial Procedures**

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All schools will need to make some adjustments to their financial procedures in order to extend their activities beyond pupils and the school curriculum. Community activities must be self-financing, except study support for pupils. Study support is learning activities outside normal school hours which young people take part in voluntarily. The purpose of study support is to improve young people's motivation, build their self-esteem and help them become more effective learners and above all aims to raise pupils' achievement.

There are several basic principles for financial management of extended schools programmes:

Additional activities and services should have separate financial accounts.

Programmes must be self-financing and the school's delegated budget share cannot be used for funding additional activities and services, except study support for pupils.

Before establishing community activities the governing body must prepare a four year business plan including cash flow forecasts. The business plan should demonstrate how the governing body would fund establishing any community activities and demonstrate that the activities are self-financing for the following three years. Once established a three year business plan should be maintained.

Governing bodies may seek grant funding to establish community activities e.g. New Opportunities Funding for Out of School Clubs.

The governing body may not borrow money for community activities without the written consent of the Secretary of State. This requirement does not extend to monies lent to schools by the LA.

If by providing community activities, it is felt that it is adversely affecting the governing bodies' main responsibility to educate pupils and promote high standards of educational achievement at the school, the authority may withdraw the right for the governing body to operate such community activities.

Failure to comply with regulations on financial procedures could lead to the removal of the governing body's power to discharge its delegated budget.

Schools cannot spend their budget share on community activities and services. Community use of school facilities will need to be self-financing, either through alternative funding streams or charges to users.

It should be noted that activities such as study support are deemed as being for 'the purposes of the school' (i.e. for the educational benefit of the school's registered pupils). Therefore, such activities may be funded from the school's budget share and schools are encouraged to provide all study support activities free to all pupils.

The governing body should keep separate accounts for its community activities to ensure that the community costs incurred are fully covered by income such as fees and charges and kept distinct from the school's delegated budget.

Some schools may wish to encourage activities and services that they consider a priority, but which might not be self-financing. Activities and services that generate income can be used to help support other programmes. Equally, charges can be subsidised for individual users of services who might be unable to pay to participate, but who could benefit significantly from the activity or service.

### **13.4 Supply of Financial Information**

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Any school operating community activities must provide the authority with a financial report identifying income and expenditure received, accumulated balance brought forward from the previous financial year and projected year end financial position, every six months.

If the authority has concerns of the financial viability of any community activities a school may be required to provide a financial report identifying income and expenditure received, accumulated balance brought forward from the previous financial year and projected year end financial position on a quarterly basis.

If the authority continues to have concerns of the financial viability of any community activities a school will be required to submit a recovery plan for the activity in question.

Schedule 3 of the Education Act 2002 inserts a new provision into Schedule 15 of the Act to make mismanagement of funds received for community facilities a basis for suspension of the right to delegation of the budget share.

### **13.5 Supply of Non-financial information**

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Governing bodies may be required to provide some non-financial information to the authority where any community activities form part of a corporate strategy for provision. The authority will inform the governing body of any such requirements at the time of agreeing the establishment of such community activities.

### **13.6 Audit**

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Schools community activities financial accounts must be made available for inspection by internal and external audit.

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

### **13.7 Treatment of Income and Surpluses**

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The school can retain all net income derived from community facilities except where otherwise agreed with a funding provider, whether that be the authority or some other body.

Such retained net income can be carried over from one financial year to the next as a separate community activities surplus. Such surplus funds should usually be retained to provide a contingency fund to cover any deficit generated on community activities in any year or are sufficient to cover any winding up costs should the activity cease. If the community activities surplus funds are such that they are not all required as a contingency to cover any potential deficit generated or potential winding up costs, the authority may agree with the school transferring part of the surplus to the schools account for a specific purpose.

Should the authority close any community or community special school, any accumulated community activities surplus of the school reverts to the authority unless otherwise agreed with a funding provider.

### **13.7.1 Treatment of Deficits**

Any deficit must firstly be met from any accumulated community activities surplus and cannot be met from the school budget share unless such a purpose is prescribed by regulations made under s.50 (3) (b) of the 1998 Act. If the accumulated community activities surplus is insufficient to cover any deficit this must be carried forward, if the business plan demonstrates that the deficit can be covered from future year's surpluses.

If the business plan demonstrates that the community activity is not viable long term the governing body are required to use any other funds under their control to cover the deficit. If this is still insufficient any remaining liabilities must be met by the authority. The governing body and the authority should then implement an action plan to cease any unviable community activity in agreement with the authority.

## **13.8 Health and Safety**

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The health and safety standards for community activities should be the same as those to any other activities undertaken at the school.

The governing body must ensure that any adults involved in community activities have Disclosure and Barring Service clearance and the cost of such clearance should be met by the community activities accounts or funding partner as part of an agreement with that partner.

## **13.9 Insurance**

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The governing body must ensure adequate arrangements are made for insurance against risks arising from the exercise of the community facilities power, taking professional advice as necessary. Such insurance should not be funded from the school budget share.

The governing body must provide the Director of Finance & Customer Services with evidence that they have such insurance arrangements in place for community activities. The Director of Finance & Customer Services may also undertake his/her own assessment of the insurance arrangements made by a school in respect of community activities, and if it judges those arrangements to be inadequate, make arrangements itself and charge the resultant cost to the schools community activities account. This provision ensures that the authority can protect itself against possible third party claims.

## **13.10 Taxation**

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The governing body should seek the advice of the Director of Finance & Customer Services and the local VAT office on any issues relating to the possible imposition of Value Added Tax on expenditure and income in connection with community facilities, including the use of the local authority VAT reclaim facility.

The governing body must abide by the requirements of the Scheme for Financing Schools in relation to all aspect of taxation (regulations under section 7 of the Scheme for Financing Schools).

### **13.11 Banking**

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Although it is necessary for the school to keep a separate financial account for community activities this does not necessitate community activities being held in a separate bank account.

If a school does decide to operate their community activities through a separate bank account it must be at an approved institution as set out in the Scheme for Financing Schools.

**ANNEX A LIST OF SCHOOLS TO WHICH THIS SCHEME APPLIES**

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DfE No	Primary Schools
2515	AVONDALE
3373	ST PAULS CE
3675	ST CUTHBERT'S CE
3778	ST EDWARDS RC
3378	ST PETERS CE
3779	ST JOSEPHS RC
3005	HOLY TRINITY CE
2136	BELMONT
3183	EDGEWORTH CE/METH
3380	ST STEPHEN'S CEP, TOCKHOLES
3751	ST PAULS RC
3311	ST FRANCIS CE
2070	FENISCOWLES
2823	BROOKHOUSE
2000	AUDLEY JUNIOR
2011	DAISYFIELD
2001	GRIFFIN PARK
2006	INTACK
2012	LAMMACK
2007	LONGSHAW JUNIOR
2008	LOWER. DARWEN
3469	ST JAMES CE LOWER. DARWEN
2009	MEADOWHEAD JUNIOR
2015	ROE LEE PARK
3500	SACRED HEART RC
3999	ST ALBANS RC
3504	ST ANNES RC
3512	ST ANTONYS RC
3465	ST BARNABAS/PAULS CE
3467	ST GABRIELS CE
3468	ST JAMES CE BLACKBURN
3003	ST MICHAEL/JOHN CE
3508	ST MARY & JOSEPHS RC
3471	ST MATTHEWS CE
3002	ST THOMAS CE
2168	SHADSWORTH JUNIOR
2169	CEDARS PRIMARY
3514	HOLY SOULS RC
3505	OUR LADYS RC
5204	ASHLEIGH
3510	ST PETERS RC
3998	THE REDEEMER
3333	ST STEPHEN'S CE
2026	AUDLEY INFANT
2013	LONGSHAW INFANT
2010	MEADOWHEAD INFANT
2167	SHADSWORTH INFANT

*Scheme for Financing Schools in Blackburn with Darwen*

DfE No	Secondary Schools
4629	OUR LADY & ST JOHN RC
4632	ST BEDES RC

DfE No	Special Schools
7107	NEWFIELD

DfE No	Nursery Schools
1039	TURNCROFT
1029	ASHWORTH
1022	LONGSHAW
1030	BRUNEL

DfE No	PRUs
1039	ST THOMAS CENTRE

**ANNEX B ILLUSTRATIVE EXAMPLE**

**PROPORTION OF BUDGET SHARE PAYABLE AT EACH INSTALMENT** (for schools whose payroll is administered through LA)

**Monthly** advances will be made on/or nearest to the following dates:

	<i>% non-employee costs BwD payroll provider</i>	<i>% non-employee costs External payroll provider</i>
24th April 2020	15.00%	8.70%
22nd May 2020	8.00%	8.30%
19th June 2020	8.00 %	8.30%
17th July 2020	8.00 %	8.30%
21st August 2020	8.00 %	8.30%
18th September 2020	8.00 %	8.30%
23rd October 2020	8.00 %	8.30%
20th November 2020	8.00 %	8.30%
18th December 2020	8.00 %	8.30%
22nd January 2021	8.00 %	8.30%
19th February 2021	8.00 %	8.30%
19th March 2021	5.00 %	8.30%
	100.00 %	100.00 %

**Quarterly** advances will be made on the following dates:

	<i>% non-employee costs</i>
1 <sup>st</sup> April	21.40%
1 <sup>st</sup> July	35.10%
1 <sup>st</sup> October	28.40%
1 <sup>st</sup> January	15.10%
	100.00%

## **ANNEX C BANK ACCOUNTS - RETENTION OF RECORDS**

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### **Retention Period**

In order to comply with audit requirements (and, for example, the requirements of HM Customs and Excise), records are to be retained normally for the current year plus six previous years. Schools are responsible for the storage of records.

### **Records to be retained**

#### **Bank account details:**

Authorisation letter creating the account (to be retained for six years following any closure of the account).

Specimen signatures

Bank statements

Bank reconciliation statements

Any subsequent correspondence with the bank

#### **Cheques:**

Stock record of cheques

Cancelled cheques and counterfoils

Spoiled cheques and counterfoils

#### **Income:**

Sales book (if applicable)

Copy receipts

Receipts and authorisation slips

Copy bills (if applicable)

Bank paying-in books

Record of cheques banked showing the drawer of the cheque and amount

Record of payment into the account from unofficial school funds

#### **Petty Cash**

Record of expenditure

Record of reimbursement

Vouchers for expenditure incurred

Postage book

Petty cash reconciliations

#### **Accounting Information**

Invoices from suppliers

Copy orders (cross-referenced to invoices)

Copy monthly accounting return

Cumulative record of expenditure and income

Listing of paid invoices

## **ANNEX D RESPONSIBILITY FOR REDUNDANCY AND EARLY RETIREMENT COSTS**

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

Section 37 of the 2002 Education Act says:

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

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

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

The default position, therefore, is that premature retirement costs must be charged to the school's delegated budget, while redundancy costs must be charged to the local authority's budget.

In the former case, the local authority has to agree otherwise for costs to be centrally funded, while in the latter case, there has to be a good reason for it not to be centrally funded, and that cannot include having a no redundancy policy.

Ultimately, it would be for the courts to decide what a good reason was, but the examples set out below indicate the situations in which exceptions to the default position might be taken.

### **Charge of dismissal/resignation costs to delegated school budget**

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

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

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

The Blackburn with Darwen Policy for Redundancy Costs in Schools sets out the criteria that the authority's maintained schools must meet in order to be eligible for financial support with redundancy costs, and the reasons that would prevent such costs from being funded centrally.

Costs of early retirements or redundancies may be charged to the central school services block of the schools budget, as a historic commitment, only where the expenditure is to be incurred as a result of retirement and redundancy charges agreed before 1 April 2013. Costs may not exceed the amount budgeted in the previous financial year.

The local authority can retain a central budget within the schools budget to fund the costs of new early retirements or redundancies by a deduction from maintained school budgets, excluding nursery schools, only where the relevant maintained school members of the schools forum agree.

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

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

Section 37 now states:

(7) Where a local education authority incur costs—

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

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

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

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

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

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

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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 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 authority's scheme for financing schools made under section 48 of the School Standards and Framework Act 1998 as amended by paragraph 2 of Schedule 3 to the Education Act 2002.

This amendment extended the coverage of schemes to include the exercise of the powers of governing bodies to provide community facilities.

Schools are therefore subject to prohibitions, restrictions and limitations in the scheme for financing schools. This part of the scheme does not extend to joint-use agreements, transfer of control agreements, or agreements between the authority and schools to secure the provision of adult and community learning.