

SCHOOLS FINANCE MANUAL

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THE OUTLINE SCHEME

Section 48 of the School Standards and Framework Act 1998 requires Local Authorities to have schemes dealing with the financing of schools.

This document defines the financial relationship between the Authority and the schools (excluding academies) in its area.

The DfE provides Local Authorities with a model scheme which they must adopt. However, they can amend or add to the scheme, if they wish to reflect any local changes or policies. These amendments have to be consulted upon and approved by the Schools Forum.

The Regulations state that schemes must deal with the following matters:

1. The carrying forward from one funding period to another of surpluses and deficits arising in relation to schools' budget shares.
2. Amounts which may be charged against schools' budget shares.
3. Amounts received by schools which may be retained by their governing bodies and the purposes for which such amounts may be used.
4. The imposition, by or under the scheme, of conditions which must be complied with by schools in relation to the management of their delegated budgets and of sums made available to governing bodies by the authority which do not form part of delegated budgets, including conditions prescribing financial controls and procedures.
5. Terms on which services and facilities are provided by the authority for schools maintained by them.
6. The payment of interest by or to the authority.
7. The times at which amounts equal in total to the school's budget share are to be made available to governing bodies and the proportion of the budget share to be made available at each such time.
8. The virement between budget heads within the delegated budget.
9. Circumstances in which a local authority may delegate to the governing body the power to spend any part of the authority's non-schools education budget or schools budget in addition to those set out in section 49(4)(a) to (c) of the 1998 Act.
10. The use of delegated budgets and of sums made available to a governing body by the local authority which do not form part of delegated budgets.
11. Borrowing by governing bodies.
12. The banking arrangements that may be made by governing bodies.
13. A statement as to the personal liability of governors in respect of schools' budget shares having regard to section 50(7) of the 1998 Act.
14. A statement as to the allowances payable to governors of a school which does not have a delegated budget in accordance with the scheme made by the authority for the purposes of section 519 of the 1996 Act.
15. The keeping of a register of any business interests of the governors and the head teacher.
16. The provision of information by and to the governing body.
17. The maintenance of inventories of assets.
18. Plans of a governing body's expenditure.
19. A statement as to the taxation of sums paid or received by a governing body.
20. Insurance.

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21. The use of delegated budgets by governing bodies so as to satisfy the authority's duties imposed by or under the Health and Safety at Work etc Act 1974.
22. The provision of legal advice to a governing body.
23. Funding for child protection issues.
24. How complaints by persons working at a school or by school governors about financial management or financial propriety at the school will be dealt with and to whom such complaints should be made.
25. Expenditure incurred by a governing body in the exercise of the power conferred by section 27 of the 2002 Act

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SECTION 1: INTRODUCTION

1.1 The Funding Framework

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

Under this legislation, Local Authorities determine for themselves the size of their Schools Budget and 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 specified in regulations made by the Secretary of State under s.45A of the Act (the centrally retained expenditure).

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

The balance of the Schools Budget left after deduction of centrally retained funds 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.

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

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

Section 50 has been amended to provide that amounts spent by a governing body on providing community facilities or services under section 27 of the Education Act 2002 are treated as if they were amounts spent for the purposes of the school (section 50(3A) 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 substantially or persistently breached, or if the budget share has not been managed satisfactorily.

A school's right to a delegated budget share may also be suspended for other reasons (schedule.17 to the Act.)

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

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

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

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

Access to Section 251 information can be found on the North Yorkshire County Council's website by referring to the relevant report on schools balances.

1.2 The role of the scheme

This scheme sets out the financial relationship between the Local Authority (LA) and the maintained schools which it funds. It contains requirements relating to financial management and associated issues, which are binding on both the LA and on the schools.

1.3 Application of the scheme to the Authority and maintained schools

This scheme applies to all community, nursery, special, voluntary, foundation (including trust) and 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 list of the schools in North Yorkshire can be found at: <https://cyps.northyorks.gov.uk/schools-and-other-settings-contacts>

1.4 Publication of the scheme

The publication requirements are contained in the Regulations. The scheme will be available on the County Council's website. Any draft revisions will be updated on the website. The website will include the date the new revision comes into force.

1.5 Revision of the scheme

All proposed revisions to the scheme will be the subject of consultation with the governing body and the head teacher of every school maintained by the local authority before they are submitted to the schools forum for their approval.

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

It is also possible for the Secretary of State to make directed revisions to schemes after consultation. Such revisions become part of the scheme from the date of the direction.

1.6 Delegation of powers to the headteacher

The governing body of each school covered by the scheme must consider the extent to which it wishes to delegate its financial powers to the headteacher. The LA shares the expectation of the Secretary of State that governing bodies will wish to delegate the day-to-day management of the school's budget to the Headteacher. The governing body must record its decision, and any revisions, regarding delegation of powers, in the minutes of the governing body. It should be noted, however, that such action does not absolve governors of their responsibilities under the law, the conditions of this scheme and the Articles of Government for their school.

The scheme should state the responsibilities of the head teacher and governing body in respect of the annual budget plan; the first formal budget plan of each financial year must be approved by the governing body, or by a committee of the governing body.

The LA has no wish to impose uniformity on schools but considers that the level of delegation to

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headteachers which is desirable is as set out in the LMS Financial Procedure Rules which can be found at Annex B.

1.7 Maintenance of Schools

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.

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SECTION 2: FINANCIAL CONTROLS

2.1 General Procedures

2.1.1 Application of financial controls to schools

In managing their delegated budgets schools must abide by the Local Authority's requirements in terms of financial controls and monitoring.

Certain of these are directly referred to in this scheme while others are included in the following documents:

- *Local Management of Schools - Financial Procedure Rules (referred to as 'LMS Financial Procedure Rules' in this scheme) can be found at Annex B*
- *Local Management of Schools – Contract Procedure Rules (referred to as 'LMS Contract Procedure Rules' in this scheme) can be found at Annex B*

These documents aim to keep a balance between the freedoms to exercise delegated authority whilst at the same time ensuring accountability for the use of public expenditure.

The School Finance Manual also contains detailed guidance on the operation of the various financial procedures required under this scheme and the associated LMS Procedure Rules. There is separate advice on Devolved Capital Building projects.

Where there is conflict between LA Guidance and the Requirements of the Scheme, the provision of this Scheme shall apply.

2.1.2 Provision of financial information and reports

The LA has a clear duty to undertake financial monitoring of schools with delegated budgets in order to discharge its statutory duties, to promote the most efficient and effective use of resources and to ensure compliance with the conditions of financial regulations, standing orders and the approved Scheme for Financing Schools.

Schools are required to provide the LA with details of expected and actual expenditure and income, in a form and at times determined by the LA. The scheme does not require the submission of such detailed reports more often than once every 3 months except for those connected with tax or banking reconciliations - unless the LA has notified the school in writing that, in its view, the school's financial position requires more frequent submission or the school is in its first year of operation.

The details of these requirements are set out in the following document:

- *LMS Financial Procedure Rules – Section 14.17*

2.1.3 Payment of salaries and 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.

These procedures are set out in the following documents:

Ordering Procedures

- *LMS Financial Procedure Rules, Section 8: Procurement of Services, Supplies and Works*
- *School Finance Manual, Chapter 7: Ordering*

Invoice Payment Procedures

- *LMS Financial Procedure Rules, Section 9: Payment of Accounts*

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- *School Finance Manual, Chapter 8: Payment of Invoices*
- Petty Cash
- *LMS Financial Procedure Rules, Section 10: Petty Cash Arrangements*
 - *School Finance Manual, Chapter 8: Payment of invoices*
- Payroll Processing Arrangements
- *LMS Financial Procedure Rules, Section 12: Payroll, Pensions and Other Emoluments*
 - *School Finance Manual, Chapter 20: Payroll*

2.1.4 Control of assets

Each school must maintain an inventory of its moveable non-capital assets, in a form determined by the LA. Schools are free to determine their own arrangements for the keeping of a register of assets worth less than £1,000. However, they must keep a register in some form, and are particularly encouraged to register anything that is portable and attractive, such as a camera.

The Governing Body may approve the disposal of assets which have been purchased from the budget share of the school or have been donated or purchased for the school or over which the school has total and independent control. Income from the sale of such assets will be credited to the school's budget. Assets which may not be disposed of include all assets purchased from centrally-held funds and temporary buildings for which the LA will retain responsibility and control.

The principles relating to the disposal of assets will be prescribed by the LA.

- The format of the inventory (requirement for items over £1,000 / guidance for other items) and the basic authorisation procedures for disposal of assets is as set out in the following documents:*
- *LMS Financial Procedure Rules, Section 11: Inventories and Stores*
 - *School Finance Manual, Chapter 21: Security*

2.1.5 Accounting Policies (including year-end procedures)

Schools must abide by the accounting policies and procedures set out in the LAs financial standing orders and regulations and those issued periodically by the LA to provide guidance on particular issues such as *year-end accounting procedures*.

- These procedures are as set out in the following document:*
- *LMS Financial Procedure Rules, Part 2*

2.1.6 Writing off of debts

Governing bodies are only authorised to write off debts up to a level stipulated by the Corporate Director – Strategic Resources. The current limit is set at debts up to and including £250. Evidence to back up the request to write off, or reduce the above debts must be documented for the Governing Body. This evidence must be made available, on request, to the Corporate Director – Children and Young Peoples Service and Veritau, the internal audit service.

- In the case of larger debts, the school must follow the procedure as set out in the following documents:*
- *LMS Financial Procedure Rules, Section 4.15*
 - *School Finance Manual, Chapter 11: Income*

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2.2 Basis of accounting

Schools may maintain their accounts on either a cash or accrual basis. However, schools are encouraged to take accruals into account in the production of final accounts. Reports and accounts furnished to the LA may be requested on either basis. Schools are able to use what financial software they wish, provided they meet any costs of modification to provide output required by the authority.

2.3 Submission of budget plans and financial forecasts

Each school is required, after approval by the governing body or a committee of the governing body, to submit a budget plan to the Authority by the 20th May each year. The budget plan must comply with CFR requirements and show the school's intentions for expenditure in the current financial year plus the following 2 financial years, and the assumptions underpinning the budget plan including taking full account of the estimated deficit or surplus, at the previous 31st March.

The format of the budget plan should be as set out in the following documents already provided to schools:

- *LMS Financial Procedure Rules, Section 2*
- *School Finance Manual, Section 3: Revenue Budgets and Long Term Financial Forecasts*

Each school will also be required to submit revised budget plans by the end of the Autumn Term each year.

The Local Authority will supply schools with all income and expenditure data which it holds and which is necessary for efficient planning by schools, and supply schools with an annual statement showing when this information will be available at times during the year.

2.4 School resource management

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 LA's purchasing, tendering and contracting.

It is for heads and governors to determine at school level how to optimise the use of resources and maximise value for money.

There are significant variations in the effective management of resources between similar schools, and so it is important for schools to review current expenditure, compare it to other schools and think about how to make improvements.

Schools may also find it useful to refer to the tools available on Schools Resource Management section of the DfE website.

2.5 Virement

The movement of budgets between headings is called virement. Governing Bodies are free to vire between budget heads, but such virements must be approved by the Governing Body.

Governing Bodies are advised to establish criteria for virements and financial limits above which the approval of the governors is required.

It is good practice to amend budgets in line with known changes in planning, to make reporting more meaningful and ensure that uncommitted budgets remain available to address budget pressures.

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2.6 Audit: General

All schools covered by this scheme are placed within and must co-operate with an audit regime determined by the LA as regards internal audit, and the LA's external audit regime as determined by the Local Audit and Accountability Act 2014.

Details of this are set out in the following documents:

- *LMS Financial Procedure Rules, Section 20: Internal Audit*
- *School Finance Manual, Chapter 22: Audit Arrangements*

The Authority shall, to the extent considered necessary or desirable, conduct or arrange for the examination and audit of the school's accounts. This will normally exclude any audit of unofficial school funds except where irregularities involving misuse of public funds or assets are suspected.

The Authority shall have access, at all reasonable times, to all cash, property, documents, books of accounts and vouchers appertaining in any way to the finances of the LA for any necessary examination and audit, and shall be entitled to require such explanations and information as may be reasonably considered necessary to be satisfied as to the correctness of any matter under examination.

Similar rights of access and explanation shall be given to the Authority's external auditor.

2.7 Separate external audits

Should a school wish 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.

This does not remove the requirement that the school must also cooperate with the LA's internal and external auditors.

2.8 Audit of voluntary and private funds

Private School Funds relate to income and activities that are not normally supported by financial assistance from the LA and may have a separate legal identity from that of the LA. The legal identity would be established by the fund having its own written constitution and officers would be appointed in accordance with that constitution.

Other school funds not having a separate legal identity are considered to be legally owned by the LA but are only held on trust by the LA for use of that particular school. These funds are the legal responsibility of the LA which, therefore, assumes liability for the fund and the actions of its officers. Funds of a Parent/Teacher Association are not the responsibility of the LA.

In addition to the normal internal and external audits, schools must provide the Corporate Director – Strategic Resources, Central Services with audit certificates in respect of any voluntary and private funds they hold and of the accounts of any trading organisations controlled by the school.

The procedures for furnishing these audit certificates and advice on the handling of such voluntary and private funds is set out in the following documents:

- *LMS Financial Procedure Rules, Section 18*
- *School Finance Manual, Chapter 14: School Private Funds*

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2.9 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 and the headteacher:

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

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

More detailed guidance on the maintenance of such a register is provided in:-

- *School Finance Manual, Chapter 17: Governors*

2.10 Purchasing, tendering and contracting requirements

Schools are required to abide by the LA's LMS Financial Procedure & Contract Rules and standing orders in purchasing, tendering and contracting matters. This includes a requirement to assess in advance, where relevant, the health & safety competence of contractors, taking account of the LA's policies and procedures – see Annex B for further detail.

Individual sections of the LA's regulations and standing orders may be disapplied if they would require schools:

- a) to do anything incompatible with any of the provisions of the scheme, or 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; or
- d) would permit schools to seek fewer than three tenders in respect of any contract with a value exceeding £10,000 in any one year.

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

<https://www.gov.uk/guidance/buying-for-schools>

2.11 Application of contracts to schools

Schools have a right to opt out of LA arranged contracts except where this scheme provides otherwise.

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

Other contracts may, however, be made solely on behalf of the governing body, where the governing body has clear statutory obligations - for example, contracts made by Aided or Foundation Schools for the employment staff.

2.12 Central funds and earmarking

The LA is authorised to make sums available to schools from central funds, in the form of allocations which 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. While these conditions need not preclude virement (except where the funding is supported by a specific grant which the LA itself is not permitted to vire), this should not be carried to the point of assimilating the allocations into the school's budget share.

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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. It may be a requirement that such earmarked funds, if not spent 'in year' or within the period over which schools are allowed to use the funding, if different, must be returned to the LA.

The LA shall not make any deduction in respect of interest costs to the LA from payments to schools of devolved specific grant.

In order that schools may demonstrate compliance with this requirement, the procedure as set out in the following document shall be used:

- [LMS Financial Procedure Rules, Section 3](#)

2.13 Spending for the purposes of the school

Governing bodies are free to spend their budget shares for the purposes of the school, subject to the provisions of this scheme including pupils who are on the roll of other maintained schools and academies, and community facilities. 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.

The Authority reserves the right to prescribe additional purposes for which expenditure of budget share may be used, as local circumstances may require from time to time, or prescribe local restrictions on the expenditure of the budget share. Such prescriptions will be applied only following consultations with schools and with the approval of the Schools Forum.

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

2.14 Capital spending from budget shares

Governing bodies may 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 that is their responsibility under paragraph 3 of Schedule 3 of the act. 1998.

The LA must be informed of any proposed capital spending from a school's budget share as well as that from capital funding for community schools.

If the expected capital expenditure from the budget share in any one year will exceed £15,000, the governing body must take into account any advice from the Corporate Director - Children & Young People's Service as to the merits of the proposed expenditure.

Where the premises are owned by the LA, or the school has voluntary controlled status, then the governing body shall seek the consent of the LA to the proposed works, but such consent can be withheld only on health & safety grounds. The reason for these provisions is to help meet responsibilities with the School Premises (England) Regulations 2012, the Workplace (Health, Safety and Welfare) Regulations 1992, the Regulatory Reform (Fire Safety) Order 2005, the Equality Act 2010, and the Building Regulations 2010.

These provisions do not affect expenditure from any capital allocation made available by the authority outside the delegated budget share.

2.15 Notice of Concern

The LA may issue a notice of concern to the governing body of any school it maintains where, in the

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opinion of the Chief Finance Officer and the Corporate Director of Children & 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 local authority or the school.

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

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

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

2.16 Schools Financial Value Standard (SFVS)

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

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

All maintained schools with a delegated budget must submit the form before the end of the financial year.

2.17 Fraud

All schools must have a robust system of controls to safeguard themselves against fraudulent or improper use of public money and assets. The governing body and head teacher must inform all staff of school policies and procedures related to fraud and theft, the controls in place to prevent them; and the consequences of breaching these controls. This information must also be included in induction for new school staff and governors.

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SECTION 3: INSTALMENTS OF THE BUDGET SHARE - BANKING ARRANGEMENTS FOR SCHOOL BANK ACCOUNTS (BAFS)

3.1 Frequency of instalments

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

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

Top up payments for pupils with high needs should be made on a monthly basis unless alternative arrangements have been agreed with the provider.

3.2 Proportion of budget share payable at each instalment

Budget share instalments will be remitted to each school:

- a) by BACS, or its equivalent, to credit a school's account on a predefined date in each month (in advance of each financial year the Local Authority will issue an annual timetable of dates on which the BAFS payments will be credited to school accounts; arrangements for the first payment in each financial year under BAFS are dealt with separately below);
- b) using a monthly cycle (i.e. 12 payments in a financial year);
- c) the sum to be remitted each month to be calculated according to the following formula:
 - i. Annual Resource
 - ii. LESS Annual Charges
 - iii. = Net annual resources available to the school
 - iv. DIVIDE by 12 and MULTIPLY by the payment month
 - v. = Monthly instalment
 - vi. LESS Payroll costs, notional payroll and other deductions for the current month
 - vii. = Balance of funding to school
 - viii. = Net annual resources available to the school for the year to date
 - ix. LESS funding instalments already paid to the school
 - x. = Balance of funding now payable to the school
 - xi. ADD VAT reimbursement
 - xii. = SUM PAYABLE TO SCHOOL FOR RELEVANT MONTH

In the first month of each financial year, any school operating a BAFS account shall receive, credited to their account on the first banking day of that month, an amount derived as follows:

Annual Resource Allocation x y% x 6/52

where ...

“y” represents the average proportion of schools’ available resources that is spent on non-employee related costs; and

“6/52” relates to the lapsed period of 6 weeks before the funding instalment for May is due

3.3 Interest clawback

Interest is not deducted from budget share instalments.

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3.4 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 authority error.

The interest rate used should be the same as the interest earned on North Yorkshire County Council surplus cash balances.

3.5 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.

3.6 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 a LA contract which makes other provision.

If a school opens an external bank account the Authority must, if the school desires, 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, on the basis there is then a subsequent correction when the accounts for the relevant year are closed.

3.7 Restrictions on accounts

Accounts may be held for the purposes of receiving budget share payments, at the banks or building societies which meet "minimum criteria" as set out in Chapter 3 of the Schools Finance Manual.

Financial institutions which meet the minimum criteria are included on an Approved List which is periodically updated by the Corporate Director – Strategic Resources. The current version of the list is set out in the School Finance Manual (Chapter 5: Banking Arrangements). The Corporate Director - Strategic Resources retains the right to refuse approved status for a particular account and/or institution if the minimum criteria are not met. Similarly the terms and conditions of account(s), provided by financial institutions already on the 'Approved List' may change such that an account(s) now fails to meet the minimum criteria. In these circumstances the Corporate Director - Strategic Resources will remove the account(s) from the 'Approved List' and require any schools using the particular account(s) involved, subject to three months notice in writing, to make alternative banking arrangements.

Any school closing an account used to receive its budget share and opening another must select from the approved list. However, schools with bank accounts with other banks, not on the approved list, prior to 1st April 2001, must be allowed to retain those accounts.

Schools are allowed to have accounts for budget shares which are in the name of the school rather than the LA. However, if a school has such an account, the account mandate must specify the Authority is the owner of the funds in the account; that it is entitled to receive statements if it so wishes; and that it can take control of the account if the school's right to a delegated budget is suspended by the Authority.

The LA will continue with the arrangements negotiated with the Yorkshire, Lloyds TSB and Barclays Banks, whereby the accounts are in the name of the LA and the school, for schools wishing to use such arrangements. Schools considering having bank accounts in their own name must contact Veritau, the Internal Audit Service before contemplating such a change.

Restrictions on account signatories

The arrangements for the signature of accounts are set out in the LMS Financial Procedure Rules but will provide that all signatories are either LA or School employees. Governors are not permitted to be cheque signatories unless they are also LA or School employees.

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3.8 Borrowing by schools

Governing bodies may borrow money (which includes the use of finance leases) only with the written permission of the Secretary of State¹. The Secretary of State's general position is that schools will only be granted permission for borrowing in exceptional circumstances.

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

Schools are permitted to use NYCC Barclaycard, however, no interest charges should be incurred by the school with balances cleared on a monthly basis.

This provision does not apply to loan schemes run the by authority.

Credit Cards are regarded as borrowing but Debit Cards and Purchasing Cards may be a useful means of facilitating electronic purchasing. Further details are available in:

- *School Finance Manual, Chapters 6 (Purchasing) & 7 (Ordering)*

3.9 Other provisions

The LA has formulated separate detailed rules and guidance in respect of other aspects of banking arrangements which are set out in the following documents sent to schools:

- *LMS Procedure Rules, Part 2, Section 14*
- *School Finance Manual, Chapters 5 (Banking Arrangements) & 18 (Bank Reconciliation)*

¹ 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 Foundations are able to provide as a consequence of their own borrowing. Governing Bodies do not act as agents of the LA when repaying loans.

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

4.1 The right to carry forward surplus balances

Schools are allowed to carry forward from one financial year to the next any shortfall in expenditure relative to the school's budget share for the year plus or minus any balance brought forward from the previous year. The amount of surplus balance, as determined upon the closure of the year's accounts will be shown in the relevant outturn statement published under Section 251 of the Apprenticeships, Skills, Children and Learning Act 2009 of the Act, will accrue automatically to the school and will be added to the school's budget share for the following year, subject to the application of any controls as set out in 4.2 below.

4.2 Controls on surplus balances

The scheme may contain a mechanism to clawback excess surplus balances. Any mechanism should have 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. The mechanism should, therefore, be focused on only those schools which have built up significant excessive uncommitted balances and/or where some level of redistribution would support improved provision across a local area.

The LA will therefore monitor school balances on an annual basis. If a balance is identified as significant the LA will contact the school and will request detailed information.

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

4.3 Interest on surplus balances

Any balances held by the Authority on behalf of schools will attract no interest.

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 (see also 4.9)

The deficit balance would 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

Schools may only plan for a deficit budget in accordance with the terms of para 4.9 below.

4.6 Charging of interest on deficit balances

The LA may charge interest on any deficit balance.

4.7 Writing off deficits

The LA has no power to write off the deficit balance of any school. Any assistance given towards the elimination of a deficit balance will be through the allocation of a cash sum from the authority's schools budget (from a centrally held budget specified for the purpose of expenditure on special schools and pupil referral units in financial difficulty or, in respect of mainstream maintained schools, from a de-delegated contingency budget where this has been agreed by the Schools Forum).

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4.8 Balances of closing and replacement schools

Where in the funding period, a school has been established or is subject to a prescribed alteration as a result of the closure of a school, a local authority may add an amount to the budget share of the new or enlarged school to reflect all or part of the unspent budget share (including any surplus carried over from previous funding periods) of the closing school for the funding period in which it closes. The LA has produced guidance on the accounting treatment of closing schools.

Detailed information on the accounting treatment of closing schools can be found in the following document:

- [School Finance Manual, Chapter 19: School Accounting](#)

4.9 Licensed deficits

The LMS Scheme requires schools to provide budget information to the Local Authority twice a year. If a school finds that its budget is going into deficit, it will need to make plans as to how it can bring the budget back into a balanced position. If it is not possible in the current year, the school will need to apply to the Local Authority for an approved deficit.

To obtain approval the school will have to draw up a recovery plan; much of the information is provided in reports produced by the financial management computer software. Then a request for a Licensed Deficit is submitted to the Schools and Early Years Finance Team. A licensed deficit is subject to the following conditions:

- maximum length over which schools may repay the deficit (reach at least a zero balance) is not greater than three years,
- copies of the relevant minutes of the Governing Body evidencing the actions taken to address the budget deficit are sent to the LA
- regular updated budget monitoring statements for the school (frequency may vary and will be advised in the Licensed Deficit Agreement) are sent to the LA
- the LA is notified of any changes to the school's financial position should the Licensed Deficit be exceeded.

Once approved, an agreement is issued to the school to be signed by the Chair of Governors and the Assistant Director – Strategic Resources.

Where a school is under a licensed deficit agreement any additional cash payments made, in order to ensure that the school are not overdrawn at the bank, will be treated as a cash advance and not a loan. This will have no effect on the school's budget and outturn statement.

4.10 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 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.

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Detailed information on the loan scheme can be found in the following document:

- *LMS Financial Procedure Rules, Section 2*
- *School Finance Manual, Chapter 6: Purchasing*

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SECTION 5: INCOME

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

5.1 Income from lettings

Schools may retain income from lettings of the school premises which would otherwise accrue to the LA, subject to alternative provisions arising from any joint use of private finance initiative (PFI) or purchasing power parity 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 are required to have regard to the directions issued by the LA as to the use of school premises out of school hours, as permitted under the School Standards & Framework Act 1998 for various categories of school.

Income from letting of school premises may not be payable into voluntary or private funds held by the school but must be credited against the school's budget share. However, where land is held by a charitable trust, it will be for the school's trustees to determine the use of any income generated by the land.

5.2 Income from fees and charges

Schools may retain income from fees and charges except where a service is provided by the LA from centrally retained funds. However, schools are required to have regard to any policy statements on charging produced by the LA. *LA policy includes a requirement that all income from fees & charges are credited against the same account as the school's budget share.*

Income from boarding charges is collected on behalf of the LA 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 *the LA should be informed of the disposal and* it should be for the LA to decide whether the school should retain the proceeds), or the asset concerned is land or buildings forming part of the school premises and is owned by the LA.

5.5 Administrative procedures for the collection of income

As a result of the potential VAT implications of providing services that lead to fees and charges, fund raising activities and the sale of assets, the LA has established administrative procedures for the collection of income which are set out in the following documents:

- *LMS Financial Procedure Rules, Section 4*
- *School Finance Manual, Chapter 11: Income*

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.

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SECTION 6: THE CHARGING OF SCHOOL BUDGET SHARES

6.1 General provision

The budget share of a school may be charged by the LA without the consent of the governing body only in circumstances expressly permitted by the scheme. The LA must consult schools as to the intention to so charge, and must notify schools when it has been done. The LA cannot act unreasonably in the exercise of any power given by the scheme, or it may be the subject of a direction under s.496 of the Education Act 1996.

For each of the circumstances given below the LA would have to be able to demonstrate that the Authority had necessarily incurred the expenditure now charged to the budget share. This means that where the Authority cannot incur a liability because the statutory responsibility rests elsewhere, no charging is possible. Therefore the position on charging will vary between categories of school. In some cases, the ability to charge budget shares depends on the LA having given prior advice to the governing body.

For the avoidance of doubt, local 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 on the Schools Forum.

6.2 Charging of salaries at actual cost

The LA is required to charge salaries of school-based staff to school budget shares at actual cost.

6.3 Circumstances in which charges may be made

- 6.3.1 Where premature retirement costs have been incurred without the prior written agreement of the LA to bear such costs (the amount chargeable being only the excess over any amount agreed by the LA).
- 6.3.2 Other expenditure incurred to secure resignations where there is good reason to charge this to the school. (See Annex A)
- 6.3.3 Awards by courts and industrial tribunals against the Authority or out of court settlements, arising from action or inaction by the governing body contrary to the LA'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.
- 6.3.4 Expenditure by the LA in carrying out health and safety work or capital expenditure for which the LA is liable where funds have been delegated to the governing body for such work, but the governing body has failed to carry out the required work.
- 6.3.5 Expenditure by the LA incurred in making good defects in building work funded by capital spending from budget shares, where the premises are owned by the LA or the school has voluntary controlled status.
- 6.3.6 Expenditure incurred by the LA 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 have been arranged by the LA.
- 6.3.7 Recovery of monies due from a school for services provided to the school, where a dispute over the monies due has been referred to a disputes procedure set out in a service level agreement, and the result is that monies are owed by the school to the LA.
- 6.3.8 Recovery of penalties imposed on the LA by the Board of Inland Revenue, the Contributions Agency, HM Revenue and Customs, Teachers Pensions, the Environment Agency or regulatory authorities as a result of the school's negligence.
- 6.3.9 Correction of LA errors in calculating charges to a budget share (e.g. pension deductions).
- 6.3.10 Additional transport costs incurred by the LA arising from decisions by the governing body on the length of the school day, and failure to notify the LA of non-pupil days resulting in unnecessary transport costs.

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- 6.3.11** Legal costs which are incurred by the LA because the governing body did not accept the advice of the LA (see also section 11).
- 6.3.12** Costs of necessary health and safety training for staff employed by the LA, where funding for training has been delegated but the necessary training not carried out.
- 6.3.13** 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.
- 6.3.14** Cost of work done in respect of teacher's pension remittance and records for schools using non-LA payroll contractors, the charge to be the minimum needed to meet the cost of the Authority's compliance with its statutory obligations.
- 6.3.15** Costs incurred by the LA in securing provision specified in an Education Health and Care Plan (EHCP) where the governing body of a school fails to secure such provision despite the delegation of funds in respect of low cost high incidence SEN and/or specific funding for a pupil with High Needs.
- 6.3.16** Costs incurred by the LA due to the submission by the school of incorrect data.
- 6.3.17** Recovery of amounts spent from specific grants on ineligible purposes.
- 6.3.18** Cost incurred by the LA as a result of the governing body being in breach of the terms of the contract.
- 6.3.19** 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.
- 6.3.20** 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.

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SECTION 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 LA is treated as being incurred by the LA and qualifies for reclaim by the LA.

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.

The LA has agreed with HM Revenue and Customs a set of procedures to enable schools to reclaim VAT on expenditure relating to non-business activity. Amounts reclaimed in this way will be passed back to the school.

These are set out in separate guidance in the following documents:

- *LMS Financial Procedure Rules, Sections 9 & 14*
- *School Finance Manual, Chapter 16: VAT*

Amounts reclaimed through these procedures will be passed back to the school.

7.2 CIS (Construction Industry Scheme)

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

These are set out in separate guidance in the following documents:

- *LMS Financial Procedure Rules, Sections 9 & 14*
- *School Finance Manual, Chapter 9: CIS*

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SECTION 8: THE PROVISION OF SERVICES AND FACILITIES BY THE AUTHORITY

8.1 Provision of services from centrally retained budgets

The LA will determine on what basis services from centrally retained funds, including existing PRC and redundancy repayments, will be provided to schools.

The LA cannot discriminate in its provision of services on the basis of categories of school except where this would be permitted under the School and Early Years Finance Regulations or the dedicated schools grant conditions of grant.

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

The term of any arrangement with a school to buy services or facilities from the LA, other than centrally funded premises and liability insurance, 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 or 7 years in the case of catering contracts.

When a service is provided to schools for which expenditure is not retainable centrally by the LA i.e. traded services with schools, the prices being charged are intended to generate income which is no less than the cost of providing those services. The total cost of the service must be met by the total income, even if schools are charged differentially. However, it is recognised that absolute break-even is not achievable over fixed financial years and consequently it is for the LA to show that the charging policy can reasonably be expected to avoid any central subsidy of the services provided to schools.

8.2.1 Packaging

Any service which the LA is providing on a buy back basis must be offered in a way which does not unreasonably restrict schools' freedom of choice among the services available and where practical, this will include provision on a service-by-service basis as well as in packages of services.

8.3 Service level agreements

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 offered by the LA will 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 Service level agreements must be in place at the commencement of the financial year and schools must have at least one month to consider the terms of the agreements.

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

8.4 Teachers Pensions

8.4.1 In order to ensure that the performance of the duty on the Authority to supply Teachers Pensions with information under the Teachers' Pensions Regulations 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.

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

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- 8.4.3** A governing body of any maintained school, whether or not the employer of the teachers at such a school, which has entered into any arrangement or agreement with a person other than the Authority to provide payroll services, shall ensure that any such arrangement or agreement is varied to require that person to supply salary, service and pensions data to the Authority which the Authority requires to submit its monthly return of salary and service to Teachers' Pensions and to produce its audited contributions certificate.
- 8.4.4** The Authority will advise schools each year of the timing, format and specification of the information required. A governing body shall also ensure that any such arrangement or agreement is varied to require that Additional Voluntary Contributions (AVCs) are passed to the Authority within the time limit specified in the AVC scheme. The governing body shall meet any consequential costs from the school's budget share.
- 8.4.5** 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.
- 8.4.6** 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.

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SECTION 9: Private finance initiative (PFI) and public private partnerships /PPP

- 9.1 The Authority has 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 Body of a school as to the basis of charges relating to any such schemes; and the treatment of monies withheld from contractors due to poor performance.
- The Authority may charge to a school's budget share amounts agreed under a PFI/PPP agreement entered into by the Governing Body. In the event of a formula factor for PFI being introduced, any funds distributed to relevant schools through this factor must be repaid immediately to the Authority.

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SECTION 10 INSURANCE

10.1 Insurance cover

For funds delegated to schools for insurance, the LA requires the school to demonstrate that cover relevant to a LA's insurable interests, under a policy arranged by the governing body, is at least as good as the relevant minimum cover arranged by the LA if the LA makes such arrangements, either paid for from central funds or from contributions from schools' delegated budgets.

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

The LA will 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, a school may join the Secretary of State's risk protection arrangement (RPA) for risks that are covered by the RPA.

The scheme should contain a provision which allows schools to join the RPA after 1 April 2020. Schools may do this individually when any insurance contract of which they are part expires.

The scheme should also provide for all primary and/or secondary maintained schools to join the RPA collectively by agreeing through the schools forum to de-delegate funding.

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SECTION 11: MISCELLANEOUS

11.1 Right of access to information

Governing bodies shall supply all financial and other information which might reasonably be required to enable the LA to satisfy itself as to the school's management of its delegated budget share, or the use made of any central expenditure by the LA (i.e. earmarked funds) on the school.

Governing Bodies shall also supply information required to enable the LA to comply with requirements to produce Best Value Performance Indicators.

11.2 Liability of governors

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

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

11.3 Governors' expenses

The LA may delegate to the governing body of a school yet to receive a delegated budget, funds to meet governors' expenses. The amounts of such allowances will be set by the LA and governing bodies will not have any discretion in these amounts.

Under section 50(5) of the School Standards and Framework Act 1998, only allowances in respect of purposes specified in regulations may be paid to governors from a school's delegated budget share. Payment of any other allowances is forbidden. Schools are 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 LA as part of the cost of maintaining the school - unless they relate to the statutory responsibility of aided school governors for buildings - may be charged to the school's budget share unless the governing body acts in accordance with the advice of the Authority.

Any disputes regarding whether or not the governing body has acted in accordance with advice given will be resolved either by further discussion with the school or, failing that, the Corporate Director - Children & Young People's Service in consultation with the Executive Member for Schools.

The costs referred to are those of legal actions, including costs awarded against a LA, not the cost of legal advice provided.

11.5 Health and Safety

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

The LA may issue directions to Governing bodies and Headteachers of Community, Community Special or Voluntary Controlled Schools under s.39(3) of the School Standards & Framework Act, on health & safety matters; these directions are enforceable, as far as the governing body is concerned, via s.497 of the Education Act 1996 if not complied with.

11.6 Right of attendance for the Chief Finance Officer

Governing bodies are required to permit the Chief Finance Officer, or an Officer of the Authority nominated by the Chief Finance Officer, to attend meetings of the governing body at which any

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agenda items are relevant to the exercise of her or his responsibilities.

The LA will give prior notice of such attendance unless it is impractical to do so and the Chief Finance Officer's attendance 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 Special Educational Needs

The LA is committed to ensuring a high quality of learning provision and educational achievement for all children, including those who may at some time have special educational needs, and will monitor and evaluate the provision made within schools and across the whole LA to ensure that these commitments are met. For those pupils with statements for whom additional provision has been identified, for example in a special school or a special unit attached to a mainstream school, schools must use their best endeavours in spending the budget to ensure that the provision set out in the statement is made.

This is a statutory requirement placed upon schools. Failure to do this could lead to a suspension of delegation where the situation is serious enough to warrant it.

Details of this are set out in the following document already provided to schools.

- [Special Educational Needs - Code of Practice](#)

11.8 Interest on late payments

The terms of the LMS scheme cannot affect the statutory requirements now introduced on this matter.

These are set out in separate guidance in the following documents:

- [School Finance Manual, Chapter 8: Payment of Invoices](#)
- [Late payment of Debts \(Interest\) Act 1998](#)

11.9 Whistleblowing

The LA is required to provide schools with a scheme of "Whistleblowing" which outlines the procedure to be followed by persons working at the school, or school governors, who wish to complain about the financial management or financial propriety at the school, and how such complaints will be dealt with.

Details of this can be found in the School Finance Manual.

11.10 Child Protection

Governing bodies are required to release staff to attend child protection case conferences and other related events. The cost of attendance will be met from the school's budget share. However, the LA will endeavour to reimburse schools for any additional costs of supply.

11.11 Redundancy/early retirement costs

The 2002 Education Act sets out how premature retirement and redundancy costs should normally be funded. Further information can be found at Annex A.

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SECTION 12: RESPONSIBILITY FOR REPAIRS AND MAINTENANCE

- 12.1** The LA is required to delegate all funding for repairs and maintenance to schools. Only capital expenditure is to be retained by LAs. For these purposes, expenditure may be treated as capital only if it fits the definition of capital used by the local authority for financial accounting purposes in line with the CIPFA Code of Practice on Local Authority Accounting.
- 12.2** Where Local Authorities use de-minimis limits for what type of expenditure is treated as capital and what is revenue in their financial accounts, the same de-minimis limits must be used in defining what is delegated.
- The de-minimis level determined for schools by North Yorkshire County Council for the purposes of capital & revenue in its financial accounts is £5,000.
- 12.3** For voluntary aided schools, the liability of the authority for repairs and maintenance (albeit met by delegation of funds through the budget share) is the same as for other maintained schools, and no separate list of responsibilities is necessary for such schools. However, eligibility for capital grant from the Secretary of State for capital works at voluntary aided schools depends on the de minimis limit applied by DfE to categorise such work, not the de minimis limit used by the authority.

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SECTION 13: PROVISION OF COMMUNITY FACILITIES UNDER EDUCATION ACT 2002

13.1 Introduction

13.1.1 Schools which choose to exercise the power conferred by s.27 (1) of the Education Act 2002 to provide community facilities will be subject to a range of controls. Regulations made under s.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.

13.1.2 However, under s.28(1), the main limitations and restrictions on the power will be

- a. those contained in schools' own instruments of government, if any; and
- b. in the LA's scheme for financing schools i.e. this Scheme, made under section 48 of the School Standards and Framework Act 1998. Paragraph 2 of Schedule 3 to the Education Act 2002 extends the coverage of schemes to the powers of governing bodies to provide community facilities.

13.1.3 Schools are therefore subject to the prohibitions, restrictions and limitations detailed in this scheme.

13.1.4 This section of the scheme does not extend to joint-use agreements or agreements between the LA and schools to secure the provision of adult and community learning.

13.2 Consultation with the LA – Financial Aspects

13.2.1 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.

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

13.3 Funding Agreements – LA Powers

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

13.3.2 Any proposed financial agreements with third parties shall be submitted to the LA for its comments at least two months before the intended commencement date for the agreement. The LA's specific approval will be required only for agreements which exceed the contract values which require the LA's approval as set out in LMS Contract Procedure Rules. The LA will prepare model agreements to assist schools in preparing draft agreements.

13.3.3 The third party to the agreement may, however, require LA consent to the agreement for it to proceed. Furthermore, if an agreement has been or is to be concluded against the wishes of the LA, or has been concluded without informing the LA, which in the view of the LA is seriously prejudicial to the interests of the school or the LA, that may constitute grounds for suspension of the right to a delegated budget.

13.4 Other Prohibitions, Restrictions and Limitations

13.4.1 The LA, at its discretion, in a specific instance of use of the community facilities power by a

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governing body, may require the governing body to make arrangements to protect the financial interests of the Authority by either carrying out the activity concerned through the vehicle of a limited company formed for the purpose, or by obtaining indemnity insurance for risks associated with the project in question, as specified by the LA. This requirement will be exercised only where, in the view of the LA, the proposed project carries significant financial risks.

13.4.2 The Community facility shall not be used for activities which, in the view of the LA, create an unacceptable risk to the financial position of the authority or school, or to the protection of pupils' welfare or safety.

13.5 Supply of Financial Information

13.5.1 The LA will not usually require ongoing financial information as the income and expenditure arising from the facilities will be shown separately in CFR returns of actual spending and in start budgets for planning spending. However, the LA may require, information more frequently; either quarterly or every six months, where the operation of the facility is not breaking even or a recovery plan has been agreed between the school and the LA.

13.5.2 Financial information relating to community facilities will be included in returns made by schools under the consistent financial reporting (CFR) framework, and these should be relied upon by authorities as their main source of information for the financial aspects of community facilities.

13.5.3 However, the CFR timetable is such that authorities are likely to want supplementary information in order to ensure that schools are not at financial risk. Schedule 15 of the act provides that mismanagement of funds spent or received for community facilities is a basis for suspension of the right to delegation of the budget share

13.5.4 The requirement to account separately for the operation of the facility means that the licensed deficit arrangements shall apply separately to Community Facilities.

13.6 Audit

13.6.1 The provisions on internal and external audit in the scheme (Section 2.6) shall apply to the accounts and other supporting records for the facility.

13.6.2 In concluding funding agreements with other persons pursuant to the exercise of the community facilities power any such agreements shall contain adequate provision for access by the LA 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 LA to satisfy itself as to the propriety of expenditure on the facilities in question.

13.7 Treatment of Income and Surpluses

13.7.1 Schools shall retain all net income derived from community facilities except where otherwise agreed with a funding provider, whether that be the LA or some other person.

13.7.2 The school can carry such retained net income over from one financial year to the next as a separate community facilities surplus, or, subject to the agreement of the LA at the end of each financial year, transfer all or part of it to the school's budget share balance.

13.7.3 If the school is a community or community special school, and the LA ceases to maintain the school, any accumulated retained income obtained from exercise of the community facilities power reverts to the Authority unless otherwise agreed with a funding provider.

13.8 Health and Safety Matters

13.8.1 The health and safety provisions of this scheme shall apply to the community facilities power.

13.8.2 The governing body is responsible for the costs of securing Disclosure and Barring Service

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clearance for all adults involved in community activities taking place during the school day. Governing bodies would be free to pass on such costs to a funding partner as part of an agreement with that partner.

13.9 Insurance

13.9.1 It is the responsibility of the governing body to ensure adequate arrangements are made for insurance against risks arising from the exercise of the community facilities power, taking professional advice as necessary. Such insurance should not be funded from the school budget share. The school shall seek the LA's advice before finalising any insurance arrangement for community facilities as part of the wider consultation arrangements set out in Section 13.1.1.

13.9.2 The LA may, at its discretion, undertake its own assessment of the insurance arrangements made by a school in respect of community facilities, and if it judges those arrangements to be inadequate, make arrangements itself and charge the resultant cost to the school. Such costs could not be charged to the school's budget share.

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

13.10 Taxation

13.10.1 Schools should seek the advice of the LA and the local VAT office on any issues relating to the possible imposition of Value Added Tax on expenditure in connection with community facilities; including the use of the local authority VAT reclaim facility.

13.10.2 If any member of staff employed by the school or LA in connection with community facilities at the school is paid from funds held in a school's own bank account (whether a separate account is used for community facilities or not – see section 13.11), the school is likely to be held liable for payment of income tax and National Insurance, in line with HMRC rules. However, in cases where the LA provides the school's payroll service, or the school uses another payroll provider, no salary, wages or other potential taxable emoluments shall be paid by the school from its school bank account. The required procedures, which shall be followed (see Section 2.1.3 on payment of salaries), are set out in the LMS Financial Procedure Rules.

13.10.3 Schools are still to follow LA advice in relation to the Construction Industry Scheme where this is relevant to the exercise of the community facilities power.

13.11 Banking

13.11.1 Schools are able to separately account for community facility income and expenditure without setting up a separate bank account. The creation of any specific bank account shall be the subject of the arrangements set out in Section 3 of the Scheme and shall be operated in accordance with provisions in this scheme and related LMS Financial Procedure Rules on banking and bank accounts, cheque signature, etc. Where schools use the same bank account for Community Facilities as for their Budget Share the bank mandate, which requires the specification that the LA is the owner of the funds shall also specify that the requirement does not apply to Community funds (unless funds have been provided by the LA itself for Community purposes. The mandate for any separate Community Facilities account shall make clear that the LA has provided funds for Community purposes.

13.11.2 Schools may not borrow money for Community Facilities without the written consent of the Secretary of State. This requirement does not extend to monies lent to schools by their maintaining LA.

RESPONSIBILITY FOR REDUNDANCY AND EARLY RETIREMENT COSTS

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

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

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

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

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

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

Charge of dismissal or 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 or central schools budget:

- Where a school has a long-term reduction in pupil numbers and charging such costs to their budget would impact on standards
- Where a school is closing, does not have sufficient balances to cover the costs and where the central Schools Budget does not have capacity to absorb the deficit
- Where charging such costs to the school's budget would prevent the school from complying with a requirement to recover a licensed deficit within the agreed timescale

- Where a school is in special measures, does not have excess balances and employment of the relevant staff is being/has been terminated as a result of local authority or government intervention to improve standards

Costs of early retirements or redundancies may only be charged to the central school services block of the Schools Budget, as a historic commitment where the expenditure is to be incurred as a result of decisions made before April 1st 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. It is important that the local authority discusses its policy with its Schools Forum. Although each case should be considered on its merits, this should be within an agreed framework. It may be reasonable to share costs in some cases, and some authorities operate a panel to adjudicate on applications.

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

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

(7) Where a local education authority incur costs –

(a) in respect of any premature retirement of any member of the staff of a maintained schools 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 the shall not be so recoverable.

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

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

(8) Where a person is employed partly for community purposes and partly for other purposes, any payments 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.