



Scheme For Financing Schools

APRIL 2013

Children's Services Finance
Resources Department
London Borough of Barking and Dagenham

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SCHEME FOR FINANCING SCHOOLS

SECTION 1: INTRODUCTION

1.1 THE FUNDING FRAMEWORK: MAIN FEATURES

The funding framework which replaces Local Management of Schools is set out in 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 an 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. 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 the centrally retained expenditure is termed the Individual Schools Budget (ISB). Expenditure items in the non-schools education budget must be retained centrally (although earmarked allocations may be made to schools).

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

Subject to 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 (s50(3A) of the Act.)

An authority may suspend a school's right to a delegated budget if the provisions of the authority's financial scheme (or rules applied by the scheme) have been substantially or persistently breached, or if the budget share has not been managed satisfactorily. A school's right to a delegated budget share may also be suspended for other reasons (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 at both central level and for each school, and the balances held in respect of each school.

The detailed publication requirements for financial statements are set out in directions issued by the Secretary of State, but each school must receive a copy of each year's budget and out-turn statements so far as they relate to that school or central expenditure.

Regulations also require a local authority to publish their scheme and any revisions to it on a website accessible to the general public, by the date that 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

The Scheme for Financing Schools (referred to as the Scheme) sets out the financial relationship between the Authority and maintained schools and describes the requirements relating to financial management and associated issues, binding on both the Authority and schools.

1.2.1 APPLICATION OF THE SCHEME TO THE AUTHORITY AND MAINTAINED SCHOOLS

The scheme applies to all community, nursery, special, voluntary, foundation (including trust), foundation special schools and 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 all schools covered by this Scheme is attached as Annex A.

The scheme also covers special education needs units attached to mainstream schools when the budget is delegated to schools.

1.3 PUBLICATION OF THE SCHEME

The current scheme will be published via the authority's web site. The Local Authority will supply a copy of this scheme to the headteachers and governing body of each school and schools covered by the scheme.

Any approved revisions to the scheme will be notified to each school.

1.4 REVISIONS TO THE SCHEME

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

Under the Education Act 2012, the Secretary of State has the power to issue directed revisions to local authority schemes for financing schools. This means that authorities must incorporate within, or remove from, their schemes the specified wording, and no other process is needed in order to make the changes.

1.5 DELEGATION OF POWERS TO HEADTEACHERS

Headteachers are responsible to the governing body for the management of the school budget and the governing body is required to consider the extent of its financial powers it wishes to delegate to the headteacher and to record its decision (and all revisions) in the governing body minutes.

Headteachers are responsible for preparing the annual budget plan in liaison with the governing body or committee of the governing body, however, the first formal budget plan of each financial year must be approved by the governing body, or by a committee of the governing body.

Headteachers should ensure the Governing Body is provided with financial advice that proper and adequate financial systems and controls are in place and that accounts and financial reports are duly submitted to the Governing Body and Local Authority.

1.6 MAINTENANCE OF SCHOOLS

The Local Authority is responsible for maintaining the schools covered by the Scheme, and it includes the duty of defraying all the expenses of maintaining them (except in the case of a voluntary 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.

SECTION 2: FINANCIAL REQUIREMENTS

2.1.1 APPLICATION OF FINANCIAL CONTROLS TO SCHOOLS

Schools are required to abide, in the management of their delegated budgets, by the Local Authority's requirements on financial controls and monitoring set out in the financial regulations and standing orders of the council, and any other detailed documents referred in this document such as Non Oracle Guidance Manual.

In the event of non-compliance the Local Authority has the right to withdraw delegation. Any additional costs to the Local Authority as a result of this action can be charged to the school budget (see 6.2.14).

These measures are designed to maintain proper accountability for and control over the expenditure of public funds.

2.1.2 PROVISION OF FINANCIAL INFORMATION AND REPORTS

All funding within school budget shares counts as local authority expenditure. The Scheme therefore requires the Local Authority to implement arrangements for the monitoring and proper use of public funds appropriate to a Scheme of delegated financial responsibility to school governing bodies. These arrangements must also enable schools' income and expenditure to be integrated into the local authority financial framework.

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

Quarterly financial monitoring

Schools must provide the Authority with quarterly reports of income and expenditure, together with a forecast year-end position, in a format specified by the Authority. This information will not be required more often than once every three months, except where information is needed for tax returns and bank reconciliations, unless the Local Authority 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

VAT

Schools are required to make a monthly return for VAT purposes in a format specified by the Authority from information generated by the school's computerised systems. The return must be submitted by the 22nd of the following month to the Authority in the format specified, together with a bank reconciliation statement. The procedures and information required for the monthly returns are set out in the Non Oracle Guidance Manual.

Year End

At year-end a summary of the school's records must be made available, in a format specified by the Authority, to upload to the Council's financial system (Oracle). Any supplementary information requested for use in the Council's accounts must be supplied as well as a copy of the school's financial data file. In order to make the process as simple as possible and to reduce the administrative workload of schools, the Authority will use the Consistent Financial Reporting accounting structure to populate Oracle.

Guidance on the above requirements is provided in the Non Oracle Guidance Manual. Where schools operate their own bank account, they are required to provide the Authority with details of anticipated and actual expenditure and income in a form and at times specified by the Authority. Where appropriate the form determined by the Authority will take account of the Consistent Financial Reporting Framework.

The above does not apply to schools which are part of the on-line financial accounting system operated by the Local Authority (i.e. ORACLE).

2.1.3 PAYMENT OF SALARIES: PAYMENT OF BILLS

Where schools use the Local Authority's payroll service, the payment of all salaries, wages, pensions and other emoluments will be made by the Head of HR under arrangements approved and controlled by that officer. Headteachers must notify the Head of HR, as soon as possible, in the prescribed form, of all matters affecting payment of emoluments.

Where schools use an external provider for payroll services all statutory returns are the responsibility of the school and any penalties levied by the Inland Revenue are a charge on the school budget.

Schools must comply with the Late Payment of Commercial Debts (interest) Act 1998 when paying bills, either through the on-line financial information system or the school bank account. Failure to do so will result in financial penalties being imposed on the Local Authority that will be charged to the school delegated budget (see 6.2.8).

2.1.4 CONTROL OF ASSETS

Schools are required to maintain an inventory of furniture, plant, computer and other equipment, tools and individual articles for all items valued at over £1000. The inventory must be in a form determined by the Authority and should be checked annually.

Schools must keep a register of all assets worth less than £1000, however, it is for the individual schools to determine their own arrangements for this.

The Governing Body must authorise all write offs and disposals of surplus equipment and stocks. Where these are sold, schools should have regard to obtaining the best possible price for these items and details of write offs and disposals should be recorded for checking as part of the periodic audit of schools.

Write offs or disposals where the individual residual value exceeds £5000 should be reported to the Authority.

2.1.5 ACCOUNTING PROCEDURES (INCLUDING YEAR END PROCEDURES)

It is a requirement of the Scheme that schools abide by the procedures issued by the Local Authority.

Records must be kept in the manner laid down by the Director of Resources. This applies equally to computerised records maintained by schools and suitable facilities must be provided for the secure storage of equipment, data and printouts. Proper regard must be paid to the relevant provisions of the Data Protection Act 1998.

The accounting procedures and records compiled and adopted by the Council reflect recommended professional practice. Any departures from recommended practices or any new initiatives must be declared and must be acceptable to the Council and the Council's external auditor. All accounting systems, accounting procedures and financial records of the schools are subject to the approval of the Director of Resources.

The accounts maintained by the Director of Resources are the Council's statutory accounts, and the amount of a school's expenditure and income for a financial year shall be determined solely by reference to the statutory accounts.

Governing Bodies should ensure that appropriate separation of duties are in place in the allocation of accounting duties.

Governors have the responsibility to ensure that their total expenditure budgets are not exceeded. The headteacher shall give approval for all expenditure within the total budget of the school and for transfer between individual budget heads, subject to any financial limits and restrictions set by the governors (see Section 1.5). Should it appear that expenditure will exceed the overall budget, the headteacher shall immediately notify the governors and the Director of Resources.

The Council's accounts for each year ending 31st March are prepared in accordance with the Chartered Institute of Public Finance and Accountancy (CIPFA) Code of Practice on Local Authority Accounting.

The accounts are prepared on an accruals basis, by which the value of goods and services actually received as at 31st March and all income due are included in the accounts, irrespective of whether actual payment has been made or income received at that date.

2.1.6 WRITING OFF OF DEBTS

Any write off of debt must be approved by the governing body. Where the proposed write off exceeds £5000 the Director of Childrens Services and the Director of Resources must be consulted.

All income lost through write off will be a charge against the school's delegated budget (see 6.1.1).

2.2 BASIS OF ACCOUNTING

Schools with their own bank accounts are required to provide annual reports and accounts to the Local Authority on an accruals basis. Quarterly reports may be on an accruals basis or cash basis.

2.3 SUBMISSION OF BUDGET PLANS

The Local Authority must provide each school with indicative details of its delegated budget share and section 251 budget statement by 31st March each year and final details by 31st May. The Local Authority will also provide schools with financial information to assist the schools planning process. An annual statement showing when this will be available to schools will also be provided by the Local Authority.

The school's formal annual budget plan must be approved by the governing body or a committee of the governing body.

Schools are required to submit their budget plans with their school development plans, to the Authority by 30th June each year and to send a copy of these documents to the Director of Resources. The budget plan should take into account the surplus / deficit carried forward at the previous 31 March.

The Local Authority will determine the form that budget plans should be returned in, and this will take account of the Consistent Financial Reporting Framework

It is good practice for the budget plan to include projections into future years. The Authority is empowered to require schools to provide financial plans covering all years for which indicative budget shares have been published to schools, but will only exercise this power where there is cause to examine information about

individual schools' forward plans for example to ensure a deficit is repaid within the requisite timescale

2.4 EFFICIENCY AND VALUE FOR MONEY

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

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

There are significant variations in efficiency between similar schools, 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

Schools are able to vire freely between budget heads to reflect expenditure priorities, with the exception of earmarked funding.

Agreed virements must be detailed formally in the governing body minutes.

If this function is delegated to a committee of a governing body the committee's decisions should be reported in the minutes to a meeting of the full governing body.

2.6 AUDIT: GENERAL

The Local Authority makes provision for the internal audit of schools in accordance with its responsibilities in respect of the Schools Financial Value Standard. Accordingly, a risk based approach is applied to determine the frequency of audit visits, determined in advance of each financial year.

The Accounts and Audit Regulations 2011 allows the Director of Resources or the authorised representative to:

- Enter at all reasonable times into premises or on to land.
- Have access to all records, documentation and correspondence relating to any financial or other transactions of the Local Authority and school.
- Require and receive such explanations as are necessary concerning any matters under examination.
- Require any employees or agent of the school to produce cash, stores or any other Council property under his/her control.

Any suspected irregularity in the financial arrangements of a school must be reported to the Director of Childrens Services and the Director of Resources. An

appropriate investigation will be organised and a full report with recommendations submitted to the governing body.

All schools must be placed within the Local Authority's external audit regime as determined by KMPG.

2.7 EXTERNAL AUDITS

Governing bodies may incur expenditure from its delegated budget to obtain external audit certification of its accounts, separate from any Local Authority internal or external audit process. This audit would need to take into account the status of the school as a spender of Authority funds, rather than an institution spending its own funds.

2.8 AUDIT OF VOLUNTARY AND PRIVATE FUNDS

Schools are required to maintain proper accounts for all voluntary and private funds and any trading organisations under their control. These must be audited at least annually by an independent, competent person and a certificate issued. The annual accounts must be submitted to the governing body.

2.9 REGISTER OF BUSINESS INTERESTS

All governing bodies must 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 may have. This register must be kept up to date with notification of changes and an annual review of entries and it must be available for inspection by the governors, staff, parents and the Authority.

2.10 PURCHASING, TENDERING AND CONTRACTING REQUIREMENTS

Schools must abide by the Local Authority's financial regulations and standing orders in purchasing, tendering and contracting matters. This includes a requirement to assess in advance, where relevant, the health and safety competence of contractors, taking account of the Local Authority's policies and procedures.

However, no provision of the Local Authority's financial regulations and standing orders shall be applied which would require schools:

- to do anything incompatible with any of the provisions of the Scheme, or any statutory provision, or any EU Procurement Directive.
- to seek Local Authority officer countersignature for any contracts for goods or services for a value of £60,000 in any one year.
- to select suppliers only from an approved list.

or would permit schools to seek fewer than three tenders or quotations in respect of any contract with a value exceeding £10,000 in any one year.

Schools must ensure when contracting for the provision of goods or services that contractors have the appropriate level of liability insurance as required by the Local Authority's Insurance Officer.

Where relevant, schools are required to assess in advance, the health and safety competence of contractors. Schools must take account of the Local Authority's policies and procedures on such matters.

2.11 APPLICATION OF CONTRACTS TO SCHOOLS

Schools have the right to opt out of Local Authority arranged contracts. This will not apply to contracts which schools have agreed to be covered by in respect of services for which funding was delegated prior to April 1999, also to contracts which schools agree to be covered by in respect of services for which funding is delegated after 1st April 1999.

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

2.12 CENTRAL FUNDS AND EARMARKING

The Local Authority may make central funds available to schools in the form of allocations, which are additional to and separate from the school budget.

These allocations are subject to conditions setting out the specific purpose for which funds may be used. While such conditions will not necessarily preclude the possibility of virement (except where funding is supported by a specific grant which the Local Authority itself is not permitted to vire) these allocations cannot be assimilated into the school delegated budget and cannot be used for any other purpose than that specified. These allocations must also be identified and accounted for separately within the accounts.

Earmarked funds which have not been spent within any period stipulated by the Local Authority, must be returned to the Local Authority.

The Local Authority cannot make any deductions in respect of interest costs it may incur; from payments to schools of devolved specific or special grants.

2.13 SPENDING FOR THE PURPOSE OF THE SCHOOL

Section 50 (3) of the Act empowers the Governing Body to spend its delegated budget as it sees fit for the purposes of the school, and for any other purposes, which may be prescribed in regulations by the Secretary of State. The right to spend for such additional purposes may be the subject of associated conditions prescribed in the regulations.

By virtue of section 50(3A) (which comes into force on 1st April 2011), amounts spent by governing bodies on community facilities or services under section 27 of the Education Act 2002 will be treated as if spent for any purposes of the school.

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

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

It is not proposed to limit this freedom over & above the conditions already included elsewhere in the Scheme itself.

2.14 CAPITAL SPENDING FROM BUDGET SHARES

The governing body may use the school delegated budget to meet the cost of capital expenditure on the school premises.

This includes expenditure by a 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 governing body of a school proposes to incur capital expenditure from the school budget share in excess of £15,000 in any single financial year, they must notify the Local Authority and take into account any advice from the Director of Childrens Services. If the Council owns the premises, or the school has voluntary controlled status, then the governing body must seek the consent of the Authority to the proposed works, but such consent can be withheld only on health and safety grounds.

Schools are required to separately identify these works in any financial returns made to the Authority.

Where the governing body proposes to make significant structural alterations to the fabric of the building they must notify the Local Authority and take into account any advice from the Director of Childrens Services

2.15 NOTICE OF CONCERN

The authority may issue a notice of concern to the governing body of any school it maintains where, in the opinion of the Chief Finance Officer and the 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 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 authority;
- insisting on regular financial monitoring meetings at the school attended by authority officers;
- requiring a governing body to buy into an 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 (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.

All other maintained schools with a delegated budget must submit the form to the local authority before 31st March 2013 and annually thereafter.

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.

SECTION 3: INSTALMENT'S OF BUDGET SHARE: BANKING ARRANGEMENTS

3.1 FREQUENCY OF INSTALMENTS

- 3.1.1 Schools without their own bank accounts who rely on the Local Authority's on line accounting system for the recording of all financial transactions, effectively use the Authority as banker and therefore have immediate access to the whole school budget. However that interest either due to or owed by schools is calculated on the average of the individual schools opening and closing balance.
- 3.1.2 Schools with their own bank accounts, who continue to use the Local Authority's payroll system and on-line accounting system for internal financial transactions receive payments to their bank account at the start of each term based on the estimated value of payments that schools will make to external suppliers.
- 3.1.3 Schools who choose to have 100% of the school budget transferred to their school bank account will be paid in thirteen instalments. The first instalment will be made on 1st April followed by twelve instalments one banking day before the monthly teaching staff pay run.
- 3.1.4 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

The proportion of budget share payable to the three categories of schools described above is as follows:

- Schools under 3.1.1 - equal monthly instalments of the school budget adjusted for one off payments such as rates and insurance, midyear pay awards and quarterly charges for Services bought back from the Authority.
- Schools under 3.1.2 - the termly transfers to the school bank account to be based on 50%, 30%, 20% of the total sum to be transferred for the financial year.
- Schools under 3.1.3 - schools will receive a proportion of their budget share on 1st April to cover initial expenses and one off payments and thereafter equal proportions each month adjusted for variances where appropriate. A school may request an advance to be increased by bringing forward resources from a future instalment due to be made later in the same financial year. This will assist those schools with particular cash flow needs arising from major developments at the school and can be arranged following a written request to the Director of Resources. An interest charge at an agreed rate will be deducted from the later advance in recognition of the advanced funding.

3.3 INTEREST CLAWBACK

No interest rate deduction is made from school budget share payments to school accounts.

The Local Authority will make no deduction, in respect of interest costs to the Local Authority, from payments to schools of devolved specific or special grant.

3.3.1 INTEREST ON LOCAL AUTHORITY BUDGET SHARE PAYMENTS

The Local Authority will add interest to late payments of budget share instalments into schools' bank accounts, where this is a result of Local Authority error. This will be calculated on a daily basis at bank base rate.

3.4 BUDGET SHARES FOR CLOSING SCHOOLS

Budget shares of schools for which approval for discontinuation has been secured may 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

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

Schools without external bank accounts who wish to start one, must give three months notice to the Local Authority prior to the start of a financial year. Any such school with a deficit balance cannot open an account until the deficit has been cleared.

If a school opens an external bank account the Local Authority must, if the school desires, transfer immediately to the account an amount agreed by both the school and the Local Authority, as the estimated surplus balance held by the Local Authority in respect of the school's budget, on the basis that there is then a subsequent correction when accounts are closed at the year end.

All schools without external bank accounts have an imprest bank account as an alternative.

3.6 RESTRICTIONS ON ACCOUNTS

Schools may have their external bank accounts in the name of the individual school, however, in these circumstances, a school must obtain a letter from the bank acknowledging that the Local Authority is the owner of the funds in the account and it is entitled to receive statements and can take control of the account if the school's right to a delegated budget is suspended by the Local Authority.

3.7 BORROWING BY SCHOOLS

Governing bodies must obtain written permission from the Secretary of State to borrow money externally.

This does not apply to the Local Authority loan scheme, which is available to schools (Annex B).

Schools may not use corporate credit cards or store credit facilities as this is regarded as borrowing.

3.8 OTHER PROVISIONS

Payments to staff, where the payroll is operated by the Local Authority payroll provider will be made by direct debit to the school's bank account.

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

4.1 THE RIGHT TO CARRY FORWARD SURPLUS BALANCES

Schools are able to carry forward from one financial year to the next, surplus balances on their delegated budget for the year plus or minus any balance brought forward from the previous year. In the event of schools opening new bank accounts then the transfer of balances previously shown in 3.4 applies.

4.2 REPORTING ON AND CONTROL AND USE OF SURPLUS BALANCES

4.2.1 The Local Authority is entitled to request information on the proposed use of surplus balances from any school where surplus balances exceed 8% of the following year's budget share (5% for secondary schools) or in other circumstances where, in its view, the level of surplus balances may be a cause for concern. In certain circumstances, the Local Authority may consider the maintenance of a high level of uncommitted surplus balances, unsupported by specific proposals for their use, as evidence of weak management, justifying further action (eg a requirement to submit multi year financial forecasts, or to provide more frequent financial monitoring reports). The Local Authority will no longer recover excessive surplus balances from individual schools..

4.3 INTEREST ON SURPLUS BALANCES

Surplus balances held by the Local Authority on behalf of governing bodies will attract interest at the bank base rate, based on the average throughout the year.

4.4 OBLIGATION TO CARRY FORWARD DEFICIT BALANCES

Where a school incurs a deficit balance in a financial year, the deficit must be deducted from the following year's delegated budget.

4.5 PLANNING FOR BUDGET DEFICITS

Schools must not normally plan for a deficit budget in any financial year. Where circumstances arise that may require a school to do so, the advice and consent of the Director of Childrens Services and the Director of Resources must be sought in writing (see 4.9).

4.6 CHARGING OF INTEREST ON DEFICIT BALANCES

Where a school's budget is in deficit, the Local Authority will charge interest at the prevailing bank base rate on the average deficit balance throughout the financial year.

4.7 WRITING OFF DEFICITS

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

The Local Authority may give assistance towards elimination of a deficit balance this should 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 Schools Forum).

4.8 BALANCES OF CLOSING AND REPLACEMENT SCHOOLS

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

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

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

4.9 LICENSED DEFICITS

Schools may, with the written consent of the Local Authority and subject to the payment of interest charges determined by the Local Authority, anticipate their budget share in future years, and may plan to overspend their budget share in the financial year(s) in question by the agreed amount anticipated. The amount anticipated will normally be recovered as a first charge on the following year's budget, as in the case of overspends caused by unforeseen expenditure.

In exceptional cases, schools may be allowed to anticipate their budget share over a period of more than one year. In this case, the Local Authority will not recover the full amount of the anticipated deficit as a first charge on the following year's budget, but will recover the full amount over a period of years as agreed with the school. However, should the school fail to honour its agreement with the Local Authority in any way (for example, by increasing its end of year deficit above the level agreed), then, at the Local Authority's discretion, the full amount outstanding will be recovered as a first charge from the school's budget allocation for the following financial year. There will be a limit of three years on any continuous period during which the school's budget may remain in deficit.

The purposes for which deficits may be agreed are as follows:

- (a) where, following a significant budget reduction, it is agreed by the Local Authority that a corresponding reduction in expenditure is unachievable within the same financial year;
- (b) where there has been unavoidable expenditure during the year and it is agreed by the Local Authority that it cannot be reasonably met from the school's resources within the same financial year.
- (c) Deficit arrangements may only be agreed on the basis of the anticipated budget share being insufficient to sustain the projected annual expenditure of the school.
- (d) The maximum deficit that may be agreed will be 5% of the school's budget share although in consultation with the Local Authority this may be increased, in exceptional circumstances, to 10% of the budget share.
- (e) Deficit arrangements, including a three year budget plan, will need to be agreed by both the Director of Resources and the Director of Childrens Services.

4.10 LOAN SCHEMES

The Authority operates a loan scheme whereby a school may receive an actual payment to cover particular expenditure to be incurred by the school, on condition that a corresponding sum is repaid from the school budget over a specified period of time. The detailed loan scheme is shown at Annex B.

SECTION 5: INCOME

5.1 INCOME FROM LETTINGS

In the case of premises in the ownership of the Local Authority, schools may retain income from lettings of the school premises, which would otherwise have accrued to the Local Authority, subject to alternative provisions arising from any joint-use or Private Finance Initiative (PFI/PPP) agreements.

The Governing Body must approve income scales for the letting of school premises and the use of school facilities.

Schools are allowed to cross-subsidise lettings for community and voluntary use with income from lettings, provided there is no net cost to the school budget and 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.

Schools must have regard to directions issued by the Local Authority in respect of, inter alia, accommodation needed for its programmes of Adult Education and the Youth and Community Service, as to the use of school premises.

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

5.2 INCOME FROM FEES AND CHARGES

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

5.3 INCOME FROM FUND RAISING ACTIVITIES

Schools may retain income from fund raising activities.

5.4 INCOME FROM THE SALE OF ASSETS

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

5.5 ADMINISTRATIVE PROCEDURES FOR THE COLLECTION OF INCOME

Any income generated from the use of school premises collected in relation to expenditure that has been incurred from the school delegated budget should be credited to an appropriate budget heading within the school delegated budget.

Schools should be aware of any duty to collect VAT. If it subsequently transpires that VAT has not been correctly accounted for then the school budget will be subject to a penalty charge determined by Customs and Excise.

5.6 PURPOSES FOR WHICH INCOME MAY BE USED

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

SECTION 6: The Charging of School Budget Shares

6.1 GENERAL PROVISIONS

The Local Authority may only make charges against the schools budget share with the consent of the governing body except in circumstances expressly permitted by the scheme, as set out in 6.2. In these circumstances the Local Authority will consult schools before making the charge and notify them when it has been made.

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

Where a governing body wishes to dispute such a charge, they must inform the Director of Childrens Services and the Director of Resources, setting out their argument, within ten working days of being notified of the Local Authority's intention to charge. The governing body will be informed of the Directors' decision prior to any charge being made.

- 6.1.1 In instances where the Local Authority decides to charge the school budget without the consent of the governing body and where this necessitates that charges related to the salaries of school based staff be made, such charges shall be made on the basis of actual salary costs.

6.2 CIRCUMSTANCES IN WHICH CHARGES MAY BE MADE

- 6.2.1 Where premature retirement costs have been incurred without the prior written agreement of the Local Authority to bear such costs. (The amount chargeable being only the excess over any amount agreed by the Local Authority). This agreement will only be considered if a school fully complies with the Local Authority's policy and procedure for authorising such payments to school staff.
- 6.2.2 Other expenditure incurred to secure resignations where the school has not followed Local Authority advice.
- 6.2.3 Awards by courts and industrial tribunals against the Local Authority or out of court settlements, arising from action or inaction by the governing body contrary to the Local Authority's advice. Awards may sometimes be against the governing body directly and would fall to be met from the school budget. Where the Local Authority is joined with the governing body in action and incurs expenditure as a result of the governing body not taking Local Authority advice, the charging of the school budget with the Local Authority expenditure protects the Local Authority's position.
- 6.2.4 Expenditure by the Local Authority in carrying out health and safety work or capital expenditure for which the Local 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 Local Authority incurred in making good defects in building work funded by capital spending from the school budget, where the premises are owned by the Local Authority or the school has voluntary controlled status.
- 6.2.6 Expenditure incurred by the Local 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 Local Authority. In any particular case, the Local Authority will assess whether it has an insurable interest.
- 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 Local Authority.
- 6.2.8 Recovery of penalties imposed by Board of Inland Revenue, the Contributions Agency, HM Revenue and Customs, Teachers' Pensions Agency or regulatory authorities as a result of school negligence (see 2.1.3).
- 6.2.9 Correction of Local Authority errors in calculating charges to a school budget (e.g. pension deductions).
- 6.2.10 Additional transport costs incurred by the Local Authority arising from decisions by the governing body on the length of the school day and failure to notify the Local Authority of non-pupil days resulting in unnecessary transport costs.
- 6.2.11 Legal costs that are incurred by the Local Authority because the governing body did not accept the advice of the Local Authority (see also section 11).
- 6.2.12 Costs of necessary health and safety training for staff employed by the Local Authority, where funding for training has been delegated but the necessary training has not been carried out.
- 6.2.13 Compensation paid to a lender where a school enters into a contract for borrowing beyond its legal power and the contract is of no effect.
- 6.2.14 Costs arising from the failure of a school to apply proper financial controls required by the Local Authority (see 2.1.1).
- 6.2.15 Cost of work done in respect of teachers' pension remittance and records for schools using non-Local Authority payroll contractors, the charge to be the minimum needed to meet the cost of the Local Authority's compliance with its statutory obligations.
- 6.2.16 Costs incurred by the authority in securing provision specified in a statement of SEN where the governing body of a school fails to secure

such provision despite the delegation of funds in respect of low cost high incidence SEN and/or specific funding for a pupil with High Needs;

- 6.2.17 Costs incurred by the Local Authority due to submission by the school of incorrect data.
- 6.2.18 Recovery of amounts spent from specific grants on ineligible purposes.
- 6.2.19 Costs incurred by the Local Authority as a result of the governing body being in breach of the terms of a contract.
- 6.2.20 Costs incurred by the LA 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.

SECTION 7: TAXATION

7.1 VALUE ADDED TAX (VAT)

HM Revenue and Customs have agreed that VAT incurred by schools when spending any funding made available by the Local Authority is treated as being incurred by the Local Authority and qualifies for a reclaim by it.

The Local Authority must pass VAT refunds claimed back to the schools.

Schools with their own bank accounts must return details of their VAT expenditure to the Local Authority, for incorporation into the Local Authority's VAT claim on a monthly basis, by the day specified. Where schools use the Local Authority's on line financial accounting system to make payments, this information will be available automatically and no return is required.

The Local Authority is able to claim refunds of VAT relating to the statutory responsibilities of the Local Authority. This excludes expenditure on capital work and external repairs to school buildings which are the responsibility of governing bodies of voluntary aided schools.

7.2 CONSTRUCTION INDUSTRY TAXATION SCHEME (CITS)

Schools must abide by the procedures issued by the Local Authority.

Where such payments are made through the Local Authority's on line financial accounting system, the Local Authority will be responsible for ensuring that the CITS rules are followed and will be liable for any penalties arising from non-compliance.

Where schools make payments through their own bank accounts they will be liable for any penalties incurred.

SECTION 8: PROVISION OF SERVICES AND FACILITIES BY THE AUTHORITY

8.1 PROVISION OF SERVICES FROM CENTRALLY HELD BUDGETS

8.1.1 The Local Authority has the right to determine on what basis it will provide services from centrally held funds to schools.

8.1.2 The Local Authority will provide such services without reference to the category of a school except where:

(a) funding has been delegated to some schools only

(b) some schools have differing statutory duties

In such cases, the Local Authority has the right to deny services from centrally held funds.

8.1.3 For the purposes of 8.1.1 and 8.1.2 above, reference to “services” includes expenditure related to existing premature retirement compensation and redundancy payments.

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

Any agreement between the Local Authority and a school to buy services or facilities from the Local Authority starting on or after 1st April 1999 is limited to a maximum of three years from the inception of the scheme or the date of the agreement, whichever is the later. Following that period, any subsequent agreement relating to the same provision will be limited to a maximum five-year period.

There is no minimum period for these agreements, although, arrangements for less than two years may be considered uneconomical and impractical for either schools or the Local Authority.

8.2.1 **Packaging of services** - Any service which the Local Authority is providing on a buyback basis should be offered in a way which does not unreasonably restrict schools’ freedom of choice among the services available; and where practicable, this will include provision on a service-by-service basis as well as in packages of services.

8.2.2 **Pricing of services** - When a service is provided for which expenditure is not retainable centrally by the Local Authority under the regulations made under section 45A of the Act, it will be offered at prices which are intended to generate income which is no less than the cost of providing those services.

8.3 SERVICE LEVEL AGREEMENTS

Service Level Agreements between the Local Authority and schools must be in place by the end of the Autumn term to be effective for the following financial year and schools must have at least a month from then to consider the terms of the agreement.

Where services or facilities are provided under a service level agreement (whether free or on a buyback service), the terms of the agreement starting on or after the date of the inception of the scheme, should be reviewed at least every three years, if the agreement lasts longer than that period.

Services or facilities offered by the Local Authority should be available on a basis, which is not related to an extended agreement, as well as on the basis of such agreements.

Where services or facilities are provided on an ad hoc basis, charges may be made at a rate different from that used for an extended agreement.

Services referred to in this section exclude centrally funded premises and liability insurance.

8.4 TEACHERS' PENSIONS

The scheme provides that governing bodies of schools, which use payroll services other than the Local Authority service, should submit an annual return of salary and service to the Local Authority. Governing bodies must also ensure that details of Additional Voluntary Contributions (AVCs) are passed to the Local Authority within the time limit shown in the AVC scheme.

In order to ensure that the performance of the duty on the Local Authority to supply Teachers' Pensions with information under the Teachers' Pensions Regulations 1997, the following conditions are imposed on the Local 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 who have not entered into an agreement with the Local 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 Local 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 Local Authority which the Local Authority requires to submit its annual return of salary and service to Teachers' Pensions and to produce its audited contributions certificate. The Local 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 Local 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 Local Authority which the Local Authority requires to submit its annual return of salary and service to Teachers' Pensions and to produce its audited contributions certificate. The Local 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 Local Authority within the time limit specified in the AVC scheme. The governing body shall meet any consequential costs from the school's budget share.

SECTION 9: PRIVATE FINANCE INITIATIVE (PFI) & PUBLIC PRIVATE PARTNERSHIP (PPP)

The Local Authority has the right to require a school to make such payments from its delegated budget as are required under the conditions of a PFI/PPP scheme, which has been entered into with the knowledge of the governing body. Where the PFI/PPP scheme relates to the establishment of a new school and the relevant contracts are signed prior to the formal establishment of the governing body, the Local Authority will retain the right to levy charges against the school's delegated budget in respect of the contract. Should the Local Authority develop PFI or PPP projects, there would need to be agreement with schools about meeting the cost of ongoing contractual arrangements.

SECTION 10: INSURANCE

10.1 INSURANCE COVER

Funds for insurance are delegated to all schools, and where the governing body arranges its own insurance policy, the school must demonstrate that cover relevant to the Local Authority's insurable interests is at least as good as the relevant minimum cover arranged through the Local Authority.

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

SECTION 11: MISCELLANEOUS

11.1 RIGHT OF ACCESS TO INFORMATION

The governing body must supply all financial information which might, reasonably, be required to enable the Local Authority to satisfy itself as to school's management of its budget, or the use made of any centrally held funds for the school's benefit.

11.2 LIABILITY OF GOVERNORS

The governing body, being a corporate body, and under the terms of s.50 (7) of the SSAF Act, individual governors of maintained schools will not incur personal liability in the exercise of their power to spend the school delegated budget provided they act in good faith.

11.3 GOVERNORS' EXPENSES

The Local Authority is able to delegate to schools yet to receive a delegated budget, funds to meet governors' expenses, the level of which is to be set by the Local Authority.

Schools may only allowances in respect of purposes specified in regulations made under section 19 of the Education Act 2002 may be paid to governors from a school's delegated budget share and for no other reason. Such expenditures must be shown in the governors' annual report to parents.

Schools cannot make payments to additional governors appointed by the Secretary of State to schools under special measures, who receive payments from the Secretary of State.

11.4 RESPONSIBILITY FOR LEGAL COSTS

11.4.1 Where the governing body incurs legal costs, which are the responsibility of the Local Authority as part of the cost of maintaining the school (unless they relate to the statutory responsibility of voluntary aided governors for buildings), these costs may be charged to the school budget unless the governing body acts in accordance with advice from the Local Authority.

11.4.2 The costs referred to in 11.4.1 refer to the costs awarded against the Local Authority, not the cost of the legal advice provided.

11.4.3 Where there is a conflict of interest between the Local Authority and the governing body, schools should seek legal advice from persons not employed by the Local Authority

11.5 HEALTH AND SAFETY

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

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

11.6 RIGHT OF ATTENDANCE FOR DIRECTOR OF RESOURCES

Governing bodies are required to permit the Director of Resources or the Director's nominee to attend meetings of the governing body at which any agenda item is relevant to the exercise of his responsibilities, and for prior notice of such attendance to be given unless it is impracticable to do so.

11.7 SPECIAL EDUCATION NEEDS

Schools are required to use their best endeavours to ensure that funding from the school budget is used to provide the appropriate support for pupils with special education needs.

11.8 WHISTLEBLOWING

Persons working at a school or school governors who wish to complain about financial management, financial propriety or any other matter concerning unethical behaviour at their school, should contact either the Director of Resources or the Director of Children's Services. All complaints will be treated confidentially.

11.9 CHILD PROTECTION

Schools are required to be mindful of the importance of releasing staff to attend child protection case conferences and other related events.

11.10 SCHOOL MEALS

Funding for the provision of free meals to pupils with a statutory entitlement, and to provide paid meals to other pupils, is delegated to all schools. The responsibility delegated to these schools covers the repair and maintenance of school kitchens, and health and safety aspects associated with them.

11.11 REDUNDANCY/EARLY RETIREMENT COSTS

The detailed at Annex D.

SECTION 12: RESPONSIBILITY FOR REPAIRS AND MAINTENANCE

12.1 DELEGATION OF FUNDING: SCHOOLS RESPONSIBILITY

All appropriate funding for repairs and maintenance is delegated to schools by the Local Authority. Schedule of Capital/Revenue responsibility areas is shown in Annex C.

12.2 AUTHORITY RESPONSIBILITY

Responsibility for capital expenditure and relevant fees is retained by the Local Authority. The description of capital expenditure is in accordance with the definition of “capital” as described in the Chartered Institute of Public Finance and Accounting (CIPFA) code of practice on Local Authority Accounting. The Schedule of Capital/Revenue responsibility areas is shown at annex C, as guidance for schools.

Where a single item exceeds £16,000 for primary schools or £30,000 for secondary, it can be considered for funding from the cash limited allocation for such items within the Childrens Services capital programme. It is, within the power of a school to spend above this sum on any single item from within its delegated budget if it so wishes, subject to the provisions regarding competitive tendering arrangements.

Governing bodies of voluntary aided schools are eligible for grants from DfES in respect of their statutory responsibilities, and to have responsibility for other repair and maintenance items on the same basis as community and foundation schools. Full details of these responsibilities are set out in the DfE document “Voluntary Aided and Special Agreement Schools – Determination of Financial Liability”. VA governors will continue to be eligible for grant from the DfE in respect of their statutory responsibilities for capital projects.

SECTION 13: POWERS OF SCHOOL AND GOVERNING BODIES TO PROVIDE COMMUNITY FACILITIES

13.1 INTRODUCTION

13.1.1 Section 27 of the Education Act 2002, enables governing bodies of maintained schools a new power to provide community facilities or services which will benefit pupils, their families or people living and working in the locality of the school concerned.

13.1.2 Schools which choose to exercise the power conferred by S.27 (1) of the Education Act 2002 to provide community facilities will be subject to a range of controls. First, regulations made under s.28(2), if made, can specify activities which may not be undertaken at all under the main enabling power. Secondly, the school is obliged to consult the LEA 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.

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

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

Schools are therefore subject to the prohibitions, restrictions and limitations in the Scheme for Financing Schools.

Budget shares may not be used to fund community facilities, either start up costs or on-going expenditure or deficits from such activities.

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

13.2 CONSULTATION WITH THE LOCAL AUTHORITY – FINANCIAL ASPECTS

- 13.2.1 Section 28 (4) of the Education Act 2002 requires that before exercising the community facilities power, governing bodies must consult the local education authority and have regard to advice given to them by their Local Authority.
- 13.2.2 Schools are reminded of the requirements to seek Local Authority advice. This should be in writing (addressed to the Director of Childrens Services) describing details of their intention to provide community facilities. Schools should include a request for further advice and guidance where appropriate.
- 13.2.3 The Local Authority is required to provide advice requested by the schools within a time period not exceeding 6 weeks of being consulted. Schools should inform the Local Authority on what action has been taken following LEA advice.

13.3 FUNDING AGREEMENTS – LOCAL AUTHORITY POWERS

- 13.3.1 The provision of community facilities may be dependent on the conclusion of a funding agreement with a third party, which will either be supplying funding, and supplying funding and taking part on the provision. A very wide range of bodies and organisations are potentially involved.
- 13.3.2 Any such proposed agreement should be submitted to the Local Authority for its comments as soon as practical to give the Local Authority adequate notice. The Local Authority cannot veto such agreements, however if an agreement is concluded against the wishes of the Local Authority, or without informing the Local Authority, which, in the Local Authority's view is seriously prejudicial to the interests of the school or Local Authority, this will be grounds for the suspension of the right to a delegated budget..

13.4 OTHER PROHIBITIONS, RESTRICTIONS AND LIMITATIONS

Section 28 provides that the exercise of the community facilities power is subject to prohibitions, restrictions and limitations in the Scheme for Financing Schools.

13.5 SUPPLY OF FINANCIAL INFORMATION

Schools, which exercise the community facilities power, are required to provide the Local Authority, every six months, with a summary statement showing the income and expenditure for the school arising from the facilities in question for the previous six months and on an estimated basis, for the next six months.

The Local Authority may, on giving notice to the school that it believes there to be cause for concern as to the school's management of the financial consequences of the exercise of the community facilities power, require such financial statements to be supplied every three months.

Financial information relating to community facilities must be included in returns made by schools under the Consistent Financial Reporting Framework and these will be relied upon by the Local Authority as the main source of information for the financial aspects of community facilities. However the CFR timetable is such that the Local Authority will require supplementary information in order to ensure that schools are not at financial risk.

Schedule 3 of the Education Act 2002 inserts a 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.

13.6 AUDIT

The Local Authority requires schools to grant access to their records connected with exercise of the community facilities power, in order to facilitate internal and external audit of relevant income and expenditure.

It is also a requirement that schools, in concluding funding agreements with other persons pursuant to the exercise of the community facilities power, ensure that such agreements contain adequate provision for access by the Local Authority to the records and other property of those persons held on the school premises in order for the Local Authority to satisfy itself as to the propriety of expenditure on the facilities in question.

13.7 TREATMENT OF INCOME AND SURPLUSES

Schools may retain all income derived from community facilities except where otherwise agreed with a funding provider, whether that be the Local Authority or some other person. Schools are also entitled to carry such retained income over from one financial year to the next, and may retain it as a separate community facilities surplus or subject to the agreement of the Local Authority at the end of each financial year, transfer all or part of it to the budget share balance.

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

If there is a deficit on community facilities and the Local Authority needs to recover funds to meet third party liabilities it may only do so from any accumulated community facilities surplus. If this is insufficient the Local Authority will have to meet the liabilities from its own resources. This arises from the provision of s.51A of the School Standards and Framework Act 1998 (inserted by paragraph 4 of Schedule 3 to the Education Act 2002), which provides that such liabilities are part of the expenses of maintaining the school; and may be recovered from the governing body but the expenditure incurred by the governing body in the exercise of the community facilities power may not be met from the budget share unless such a purpose is prescribed by regulations made under s.50(3)(b) of the 1998 Act.

13.8 HEALTH AND SAFETY MATTERS

Any health and safety provisions of the main scheme are also extended to the community facilities power.

The governing body are responsible for the costs of securing Criminal Records Bureau clearance for all adults involved in community activities taking place during the school day. Governing bodies may pass on such costs to a funding partner as part of an agreement with that partner.

13.9 INSURANCE

It is the responsibility of the governing body to make adequate arrangements for insurance against risks arising from the exercise of the community facilities power. Such insurance should not be funded from the school budget share.

In principle, the insurance issues arising from use of the community facilities power are the same as those, which already arise from non-school use of school premises. However, a school proposing to provide community facilities should, as an integral part of its plans, undertake an assessment of the insurance implications and costs, seeking professional advice if necessary.

In order to protect itself from possible third party claims, the Local Authority can undertake its own assessment of the insurance arrangements made by a school in respect of community facilities, and if it judges those arrangements to be inadequate, make arrangements itself and charge the resultant cost to the school. This cost cannot be charged against the school's budget share.

13.10 TAXATION

Schools should seek the advice of the Local Authority and the local VAT office on any issues relating to the possible imposition of VAT on expenditure in connection with community facilities.

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

The facility for local authorities to reclaim VAT can be used by schools in spending their budget shares, which by virtue of s.49(5) of the Act are the property of the LEA. This facility also applies to funding given by the Local Authority to schools outside the budget share. However, it cannot apply to expenditure from funds obtained direct by schools from private (or indeed, central government) sources.

If any member of staff employed by the school or Local Authority in connection with community facilities at the school is paid from funds held in the school's own bank account, the school is likely to be held liable for payment of income tax and National Insurance, in line with Inland Revenue rules.

Schools should seek and/or follow advice and guidance in relation to the Construction Industry Scheme where this is relevant to community facilities.

13.11 BANKING

Schools must ensure that, where they use one bank account for the budget share and community facilities, there is adequate internal accounting controls to maintain separation of funds. Alternatively, schools may use separate bank accounts.

Schools should ensure that all cheques and withdrawal forms are signed by two authorised signatories, a convenient arrangement is to have three persons authorised to sign, any two of who should be acceptable to the bank. Schools who open private bank accounts will be required to comply with the procedures laid down by their banks with regards to signatory mandates.

Schools cannot borrow money without the written consent of the Secretary of State. This requirement does not extend to monies lent by the Local Authority loan scheme.

ANNEX A

LONDON BOROUGH OF BARKING AND DAGENHAM

LIST OF SCHOOLS

Infants:

Cambell	Northbury
Dorothy Barley	Ripple
Eastbury	Rush Green
Furze	Thames View
Grafton	Valence
Manor	Village
Marks Gate	William Bellamy

Junior:

Cambell	Ripple
Dorothy Barley	Rush Green
Grafton	Thames View
Manor	Valence
Marks Gate	Warren
Northbury	William Ford Church of England
	William Bellamy

Primary:

Beam	Roding
Becontree	Southwood
Five Elms	St Joseph's Catholic (Barking)
Gascoigne	St Joseph's Catholic (Dagenham)
Godwin	St Margaret's Church of England
Henry Green	St Peter's Catholic
Hunters Hall	The St Teresa Catholic
John Perry	St Vincent's Catholic
Marsh Green	The Leys
Monteagle	Thomas Arnold
Parsloes	
Richard Alibon	

Special:

Trinity

Comprehensive:

All Saint's Catholic School	Jo Richardson
Barking Abbey	Robert Clack
Dagenham Priory	Sydney Russell
Eastbrook	Warren
Eastbury	

ANNEX B

THE LOAN SCHEME

1 DEFINITION AND AMOUNT OF LOAN

A “loan” is used here to describe a planned repayable amount in a school’s budget to finance a major item of non recurrent expenditure which has been agreed by the Authority.

The minimum and maximum loans to be granted would be:

minimum	-	£tbc
maximum	-	tbc% of a school’s delegated budget for that financial year, to a maximum of £tbc

In assessing whether loan approval should be agreed, consideration will be taken of the resources available to the school and the funds available to the Council.

Only one loan agreement with a particular school can be in place at any one time. Where a school is making a second application for loan approval, the first loan would need to be repaid.

Voluntary aided schools will not be eligible for loans to carry out works which are within the governors responsibility for buildings.

2 PERIOD OF LOAN AND INTEREST RATES

The principal and interest of the loan is to be repaid over a maximum of 5 years. The period of the loan would be dependent upon the project, the schools requirements and reference to their financial position.

Interest will be charged on loans at bank base interest rate.

3 TYPE OF PROJECT TO BE FUNDED

Loans would not be considered for the purchase of consumable items, or to meet other revenue costs such as salaries, and should not be seen as a way of underpinning revenue budgets where problems might exist.

The type of projects for which a loan would be considered are:

- i repairs, maintenance or improvements to school properties
- ii investment projects which produce a future revenue saving (eg schemes to improve energy efficiency);
- iii projects to improve security in schools

- iv purchases of educational equipment, particularly where items have been identified as necessary following an OFSTED inspection.

4 APPROVAL OF LOAN

All loans must be approved jointly by the Director of Childrens Services and the Divisional Director of Corporate Finance.

The granting of all loans will be subject to the financial circumstances of the Council at the time. There may be an overall limit on the number of loans which are approved.

Where loans are approved, schools are reminded of the need to comply with the requirements of the Council's Standing Orders and Financial Regulations and of those Financial Regulations set out in this scheme.

5. APPLICATION PROCEDURES FOR LOANS

Schools will be required to confirm that any application has been endorsed by a resolution of their governing body and include with their application an explanation of how the loan can be repaid from anticipated future budget shares. The Authority will have regard to the level of an individual school's balances in considering a loan application.

6. AMENDMENT OF TERMS AND CONDITIONS

These terms and conditions may be varied from time to time.

ANNEX C

SCHEDULE OF CAPITAL/ REVENUE RESPONSIBILITY AREAS

ELEMENT	CAPITAL: AS CIPFA CODE OF PRACTICE (LEA RESPONSIBILITY)	REPAIRS & MAINTENANCE (SCHOOL RESPONSIBILITY)	VA SCHOOL GOVERNORS' RESPONSIBILITIES <i>(in full details in DfEE document "Determination of Financial Liability")</i>
Roofs			
Flat	Structure. New (not replacement) structure	Repair/replacement of small parts of an existing structure	New structure and repair replacement of structure
	Structure. Replacement of all or substantial part of an existing structure to prevent imminent or correct actual major failure of the structure.	Replace small areas of rotten or defective timber, make good minor areas of spalling concrete where reinforcing bars exposed.	Replacement of structure
	Screed/insulation in a new building/extension	Repair/replacement of screed/insulation where defective	New screed/insulation and repairs
	Screed/insulation. Replacement/repair of substantially all. Improve effectiveness of insulation	Work to improve insulation standards, during work to repair/replace small areas of roof	Replacement/repair of screed/insulation
	Finish on new build. Replacement of all/substantially all on existing roof	Replacement of roof finish on existing building, to under capital value limit. Re-coating Chippings to improve life expectancy.	Finish on new build. Replacement of roof finish on existing building. Re-coating
	Edge Trim/Fascia on new build	Repairs/replacement. (uPVC) Repainting	Replacement of edge Trim/Fascia on existing building
	Drainage on new build	Clearing out gutters and downpipes. Replacement/repair/repainting of/individual gutters/pipes	Drainage on new building and repairs/replacement/ Repainting (<u>NOT</u> cleaning gutters/downpipes)
	Other e.g. Flashings, Rooflights on new build Replacement of all/substantially all on existing roof	Repair/Replacement/cleaning of individual items	Flashings/rooflights on new building and repair/replacement (<u>NOT</u> cleaning)
<u>Pitched</u>	Structure. New (not replacement) structure	Repair/replacement of small parts of an existing structure	Structure of new roof and all repairs <u>EXCEPT</u> trusses (i.e. internal repairs)
	Structure. Replacement of all or substantial part of an existing structure to prevent imminent or correct actual major failure of the structure	Replace/repair small areas of rotten/defective joists, rafters, purlins, etc Not complete trusses	Replacement of internal structure <u>EXCEPT</u> trusses (i.e. internal repairs)

ELEMENT	CAPITAL: AS CIPFA CODE OF PRACTICE (LEA RESPONSIBILITY)	REPAIRS & MAINTENANCE (SCHOOL RESPONSIBILITY)	VA SCHOOL GOVERNORS' RESPONSIBILITIES <i>(in full details in DfEE document "Determination of Financial Liability")</i>
	Insulation in a new building/extension Insulation. Replacement/repair of substantially all. Improve insulation to current standards	Repair/replacement/increasing thickness of insulation in an existing roof	Insulation in new building and repair/replacement Repair/replacement or improve insulation.
	Roof finish in a new building/extension, replacement of all/substantially all on existing roof	Replace missing/damaged	Finish in new building/extension and repair/replacement in existing building
	Bargeboards/Fascias in a new building/extension, replacement of all/substantially all on existing roof	Repairs/replacement/ Repainting	Bargeboards/fascias in new building/extension and Repairs/replacement/repainting in existing building
	Drainage in a new building/extension	Clearing out gutters and downpipes. Replacement/repairs of individual pipes/gutters	Drainage in new building/extension and repair/replacement. (<u>NOT</u> cleaning guttering or downpipes)
	Drainage. Replacement Of all/substantially all on existing roof		Drainage replacement in existing roof.
	Other e.g. Flashings, Roof windows in a new building/extension, replacement of all/substantially all on existing roof	Repair/Replacement/ Cleaning	Flashings, roof windows in new building/extension and repair replacement (<u>NOT</u> cleaning) in existing roof
<u>Other</u>	Provide new covered link etc. between existing buildings	Minor repairs, Maintenance to existing covered link	Provide new covered link and repairs to existing (<u>NOT</u> cleaning) Re-build or repair structure of existing covered link
	Add porch etc to existing building	Minor repairs, Maintenance to existing	Add new porch and minor repairs to existing
	Rebuild or substantially repair structure of existing porch	Minor repairs, maintenance to existing	Add new porch and minor repairs to existing
	Rebuild or substantially repair structure of existing porch		Re-build or repair existing porch.

ELEMENT	CAPITAL: AS CIPFA CODE OF PRACTICE (LEA RESPONSIBILITY)	REPAIRS & MAINTENANCE (SCHOOL RESPONSIBILITY)	VA SCHOOL GOVERNORS' RESPONSIBILITIES (in full details in DfEE document "Determination of Financial Liability")
Floors			
<u>Ground Floor</u>	Structure and dpc in new building	Repair/replacement of small parts of an existing structure	Structure and dpc of new building and repair replacement to existing structure
	Structure and dpc – Replacement of all or substantial part of an existing structure to prevent imminent or correct actual major failure of the structure		
	Screed and finish in new build, replacement of all/substantially all on existing floor – e.g. replacement of most carpets/tiles in a room	Replacement and repair of screed and finishes/ <i>Replacement of mats/matwells.</i> Maintenance e.g. revarnishing wooden floors	Provide screed and finish in new buildings (<u>NOT</u> repairs to finishes, matwells etc.)
<u>Upper Floor</u>	Structure – as ground floor	As ground floor	As ground floor
	Screed and Finish – as ground floor	Repairs of finishes/Replacement – as ground floor	As ground floor
Ceilings			
<u>Top/only storey</u>	Suspension	Repair/replacement incl. From water damage, & necessary decoration	Provision, (<u>NOT</u> repair or replacement)
	Membrane		Provision, (<u>NOT</u> repair or replacement)
	Access panels	Repair/replacement	Provision, (<u>NOT</u> repair or replacement)
<u>Lower storeys</u>	Suspension	Repair/replacement	Provision, (<u>NOT</u> repair or replacement) Provision, (<u>NOT</u> repair or replacement)
	Fixed	Repair/replacement	Provision, (<u>NOT</u> repair or replacement)
<u>All</u>	Specialist removal/replacement of damaged/disturbed Asbestos based materials, planned or emergency	Inspection/air testing Applying sealant coats to asbestos surfaces for protection	Removal/replacement of damaged/disturbed asbestos <u>EXCEPT</u> where part of repair project.

ELEMENT	CAPITAL: AS CIPFA CODE OF PRACTICE (LEA RESPONSIBILITY)	REPAIRS & MAINTENANCE (SCHOOL RESPONSIBILITY)	VA SCHOOL GOVERNORS' RESPONSIBILITIES <i>(in full details in DfEE document "Determination of Financial Liability")</i>
External Walls			
<u>Masonry/ Cladding</u>	Structure Underpinning/propping for new build	Repairs Preventive measures e.g. tree removal	Structure, underpinning/propping of new building and repairs, (NOT tree removal unless part of clearing new site)
	External Finish on new build	Repair/replacement of small parts of an existing structure, e.g. repointing/recladding a proportion of a wall where failure has occurred.	External finish on new building and repairs/replacement of existing structure including re-pointing/re- cladding
	External finish on existing build where needed to prevent imminent or correct actual major failure of the structure. E.g. repointing/recladding work affecting most of a building/replacement build		External finish on existing building including correcting of structure.
<u>Windows and Doors</u>	Framing – new build	Repair/replacement of individual frames. Repainting frames	New window frames and doors in new building and repairs/replacement (NOT replacement/repair/re-painting of internal doors or windows)
	Framing – structural replacement programme	Repair/replacement of individual windows. Repainting frames	New windows in replacement programme
	Glazing – new build	Replacing broken glass	Glazing new building and replace broken glass.
	Glazing Upgrading existing glazing		Upgrading existing glazing
	Ironmongery Improved security	Repair/replacement, Upgrading locks etc	Ironmongery to improve security and repair/replacement
	Jointing including mastic joints		Jointing
	Internal and external decorations to new build	Internal and external decoration to include cleaning down and preparation	Internal and external decoration of new provision, external re- decoration (NOT internal re-decoration)
<u>Masonry Chimneys</u>	Structure		Structure of chimneys

ELEMENT	CAPITAL: AS CIPFA CODE OF PRACTICE (LEA RESPONSIBILITY)	REPAIRS & MAINTENANCE (SCHOOL RESPONSIBILITY)	VA SCHOOL GOVERNORS' RESPONSIBILITIES <i>(in full details in DfEE document "Determination of Financial Liability")</i>
<u>Masonry Chimneys contd.</u>	Jointing including expansion and mortar joints/pointing/DPC	Repair/re-pointing	Jointing/Pointing and dpc of chimneys and repair/re-pointing
Internal walls			
<u>Solid</u>	Complete including various internal finishes, linings and decorations	Repairs and redecoration to internal plaster/linings tiles, pin boards etc. Minor alterations	New walls & finishes, (<u>Not</u> repair/replacement)
	Refurbishment and alterations		
<u>Partitions</u>	Complete structure including linings, framing, glazing, decoration etc.	Repairs and redecoration	New partitions, (<u>Not</u> repair/replacement)
	Refurbishment and alterations	Minor alterations	
<u>Doors & Screens</u>	Framing/Screens/Doors to new buildings including glazing, ironmongery, jointing and internal decorations	Internal maintenance and redecoration. Repair/replacement of defective doors and screens	Provision of new, (<u>Not</u> repair/replacement)
<u>All</u>	Glazing to meet statutory Health and Safety requirements	Replacement of broken glass	New glazing and replacement of broken glass, (<u>Not</u> internal window repairs)
Sanitary Services			
<u>Lavatories</u>	In new buildings provision of all toilet fittings, waste plumbing and internal drainage.	Repair/replacement of damaged sanitary/ware, fittings, waste plumbing etc.	Provision. (<u>Not</u> repair/replacement of damaged sanitary ware)
	Large scale toilet Refurbishment	Small areas of refurbishment	Provision/refurbishment (<u>Not</u> replacement of damaged sanitary ware)
	Provision of disabled facilities, and specialist facilities related to pupils with statements	Repair/replacement of damaged fittings, waste plumbing etc	Provision, (<u>Not</u> repair/replacement of damaged fittings etc.)
<u>Kitchens</u>	Kitchens in new buildings, complete with fittings, equipment, waste plumbing and internal drainage. Internal finishes and decorations	Maintain kitchen to requirements of Local Authority Cleaning out drainage systems Redecoration	

ELEMENT	CAPITAL: AS CIPFA CODE OF PRACTICE (LEA RESPONSIBILITY)	REPAIRS & MAINTENANCE (SCHOOL RESPONSIBILITY)	VA SCHOOL GOVERNORS' RESPONSIBILITIES <i>(in full details in DfEE document "Determination of Financial Liability")</i>
<u>Kitchens contd</u>	General refurbishment Large and costly items of equipment	Repairs Repairs/replacement parts	
Mechanical services			
<u>Heating/hot water</u>	Complete heating and hot water systems to new projects, including fuel, storage, controls, distribution, flues etc Safe removal of old/damaged asbestos boiler and pipework insulation, where risk to Health and Safety. Planned replacement of old boiler/controls systems past the end of their useful life Emergency replacement of boiler plant/systems	General maintenance of all boiler house plant including replacement of defective parts. <i>Regular cleaning.</i> Energy saving projects Monitoring systems Health & Safety issues Replacement of defective parts	Provision of complete system, (<u>Not</u> repair/replacement or maintenance)
<u>Cold Water</u>	Provision of cold water services, storage tanks, distribution, boosters, hose reels etc in major projects	Maintenance and repair/replacement of defective parts such as servicing pipes. Annual servicing of cold water tanks.	Provision of complete system, (<u>Not</u> repair/replacement or maintenance)
<u>Gas</u>	Distribution on new and major refurbishments, terminal units	Repairs, maintenance and gas safety All servicing	
<u>Ventilation</u>	Mechanical ventilation/air conditioning to major projects	Provision of local ventilation. Repair/replacement of defective systems and units	Provision, (<u>Not</u> repair/replacement)
<u>Other</u>	Swimming pool plant and its complete installation, including heat recovery systems	Repair/replacement of parts to plant, pumps and controls. Water treatment equipment and all distribution pipework. <i>Simple heat recovery systems.</i> Solar heating plant and equipment.	If Governors provided.
Electrical services			
<u>General</u>	Main switchgear and distribution in major projects.	Testing/replacement of distribution boards. The repair and maintenance of all switchgear and interconnecting cables including that in temporary buildings.	Provision, (<u>Not</u> repair/replacement or maintenance)

ELEMENT	CAPITAL: AS CIPFA CODE OF PRACTICE (LEA RESPONSIBILITY)	REPAIRS & MAINTENANCE (SCHOOL RESPONSIBILITY)	VA SCHOOL GOVERNORS' RESPONSIBILITIES <i>(in full details in DfEE document "Determination of Financial Liability")</i>
	Replacement of obsolete and dangerous wiring systems, including distribution boards	All testing, earthing and bonding to meet Health & Safety. All servicing.	
<u>Power</u>	Control gear, distribution, fixed equipment, protection etc.	All testing, repair and replacement of small items of equipment.	Provision, (<u>Not</u> repair/replacement)
<u>Lighting</u>	Provision of luminaires and emergency	Replacement of luminaires, all testing, adjustments and improvements to emergency	Provision (<u>Not</u> repair/replacement)
<u>Other</u>	Lightning protection in new build Alarm systems, CCTV, lifts/hoists etc	Repair/replacement Repair and maintenance	Provision and repair Provision, (<u>Not</u> repair or maintenance)
	New installation of communication systems, radio/TV, call, telephone, data transmission, IT etc and provision in new build	Repair/replacement/ Maintenance, including all door access systems	
External Works			
<u>Pavings</u>	Provision of new roads, car parks, paths, court, terraces, play pitches, steps and handrails, as part of major project, including disabled access	Maintenance and repair Car park and playground markings.	Provision if part of statutory proposal project. <u>Not</u> repair or maintenance Provision and repair of ramps and steps
<u>Miscellaneous</u>	Provision of walls, fencing, gates and ancillary buildings as part of major project	Maintenance and repair of all perimeter/boundary/retaining walls, fencing and gates.	
<u>Drainage</u>	Drains, soakaways, inspection chambers and sewage plant as part of new projects	Maintenance and repair of drains, gullies, grease traps and manholes between buildings and main sewers. Cleaning of the above and unblocking as necessary.	Foul drainage plus external gutters and drainpipes. <u>Not</u> maintenance.
<u>Open Air Pools</u>	Structure, Hygiene/safety in new build	Hygiene, cleaning, maintenance and repairs, including replacement parts. Simple energy saving systems.	If Governors provided.
<u>Services distribution</u>	Heating mains, gas mains water mains, electricity mains, renewal of any above	Annual servicing	Provision grant aided but <u>not</u> for repair

ANNEX D

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 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 was a good reason, but the examples set out below indicate the situations in which exceptions to the default position will 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

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.