

**Bristol City Council**



# **SCHEME FOR FINANCING SCHOOLS**

**Effective 1<sup>st</sup> April 2022**

## Version Control

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## **SECTION 1: INTRODUCTION**

### **1.1 The Funding Framework: Main Features**

- 1.1.1 The funding framework which replaces Local Management of Schools is based on the legislative provisions in sections 45-53 of the School Standards and Framework Act 1998<sup>1</sup> (the Act).
- 1.1.2 Under this legislation, Local Authorities determine for themselves the size of their Schools Budget and their non-school's education budget although at a minimum and Local Authority must appropriate their entire Dedicated Schools Grant (DSG) to the 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.
- 1.1.3 Bristol City Council (herein refers to as the Local Authority, the Authority, LA, the LA or the City Council) may centrally retain funding in the Schools Budget for purposes defined in regulations by the Secretary of State under s.45A of the Act (herein referred to as Regulations or The Regulations). The amount to be retained centrally is decided by the LA, in conjunction with their School's Forum, subject to any limits or conditions prescribed by the Secretary of State. The balance of the Schools Budget left after deduction of centrally retained funds is termed the Individual Schools Budget (ISB). Expenditure items in the LA Budget must be retained centrally (although earmarked allocations may be made to schools).
- 1.1.4 Local Authorities may retain an unallocated reserve within the ISB but must otherwise 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 budget share for each maintained school. This budget 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 the scheme made by the LA in accordance with s.48 of the Act and approved by the secretary of State. Proposed revisions to the scheme will be the subject of consultation with the governing body and the headteacher of every school maintained by the authority before they are submitted to the Schools Forum for their approval. All revisions to the scheme must be approved by the Schools Forum and, in the event of any dispute, must be agreed by the Secretary of State, who also has the power to modify this scheme or impose one.
- 1.1.5 Each LA is obliged to publish each year a statement setting out details of its planned Schools Budget and other expenditure on childrens services, showing the amounts to be centrally retained, the budget share for each school, the formula used to calculate those budget shares, and the detailed calculation for each school. After each financial year the authority must

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<sup>1</sup> [School Standards and Framework Act 1998 \(legislation.gov.uk\)](http://legislation.gov.uk)

publish a statement showing outturn expenditure at both central level and for each school, and the balances held in respect of each school.

- 1.1.6 The detailed publication requirements for financial statements and for schemes are set out in regulations, and each year's budget and outturn statements so far as they relate to that school or central expenditure. The Scheme for Financing Schools (also known as The Scheme or this document) and any revisions must be published on a website that is accessible to the general public.

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

- 1.2.1 The objective of The Scheme is to enable Governing Bodies to manage the resources available to them in the most efficient and effective manner to meet the needs of their pupils.
- 1.2.2 The Scheme sets out the financial relationship between the LA and the maintained schools which it funds. The Scheme contains requirements relating to financial management and associated issues, which are binding on both the LA and on schools.
- 1.2.3 The LA is responsible for the management of the education service. Its role is set out in the Code of Practice on LA/school relations which should be read in conjunction with this scheme.
- 1.2.4 The LA is responsible for the production of and for securing agreement to, the scheme for financing schools and for determining the overall level of resources and the means by which those resources will be allocated to schools.
- 1.2.5 Through the provisions of this Scheme and other documents referred to within but published outside it, the LA will seek to ensure that there is proper accountability for the expenditure of public money.
- 1.2.6 Governors must at all times operate within legal requirements and regulations issued by the Government from time to time. Governors are also bound by the conditions and requirements as set out in this document.
- 1.2.7 The role of governing bodies will be set out in regulations to be made under The Act and are set out in the Code of Practice on LA/school relations.

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

- 1.3.1 The Scheme will apply to community, nursery voluntary, trust, foundation, community special or foundation special schools and Pupil Referral Units (PRUs) maintained by the LA.
- 1.3.2 It does not apply to schools situated in the authority's area which are maintained by another authority nor does it apply to academies.
- 1.3.3 The schools covered by the scheme maintained by the LA on 1 April 2021 are listed in Annex 1.

1.3.4 New maintained schools opening after 1 April each year will be covered by the scheme by virtue of s48 of the SSAF Act.

#### **1.4 Publication of the Scheme for Financing Schools**

1.4.1 The LA will publish The Scheme in accordance with the requirements of the regulations made by the Secretary of State following approval by the Schools Forum.

#### **1.5 Revision of the Scheme**

1.5.1 Any proposed revisions to the scheme for financing schools will be the subject of consultation with the Schools Forum.

1.5.2 Revisions to the Scheme can only be agreed by Schools Forum members representing maintained schools.

1.5.3 Proposed revisions to the scheme for financing schools will require approval by the Secretary of State in the event of dispute between the Schools Forum and the LA.

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

#### **1.6 Delegation of Powers to the Head teacher**

1.6.1 Governors may spend the school's budget share as they think fit for the purposes of the school. Where the LA may have concerns over the use of funds, the LA can request the documentation showing approval by the governors.

1.6.2 Governors will be responsible for agreeing the school's first formal budget each year (and any changes in-year) and for monitoring income and expenditure against that budget throughout the year.

1.6.3 Governors will consider and determine the extent to which they wish to delegate their financial powers to the head teacher, subject to the provisions of The Scheme and will record their decision (and any revisions) in the minutes of the governing body.

1.6.4 Head teachers will have responsibility for the day-to-day financial leadership, direction and management of the school, within the powers delegated to them by the governing body.

#### **1.7 Maintenance of Schools**

1.7.1 The LA is responsible for maintaining the schools covered by The Scheme, which includes a duty to defray all expenses of maintaining them, except in the case of voluntary aided schools, where some of the expenses of maintaining them are, by statute, payable by the governing body.

1.7.2 Part of the way in which the LA maintains the schools referred to above is through The Scheme, which the LA shall put in place under the provisions of sections 45 to 53 of The Act.

## **SECTION 2: FINANCIAL CONTROLS**

### **2.1 General Procedures**

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

- 2.1.1 Governing bodies may manage their schools' delegated budgets and spend any sums available to them as they think fit for the purposes of the school and for the benefit of pupils attending the school, in line with the priorities of the school development plan and subject to the provisions of the scheme for financing schools.
- 2.1.2 Governing bodies' discretion to manage their schools' budgets is subject to the LA's requirements in respect of financial controls and monitoring set out in the scheme and any other documents referred to in the scheme but which are published outside it, but only in so far as the provisions in those documents are compatible with the terms of the scheme itself.
- 2.1.3 Under Section 50 (3) (b) of the SSAF Act, the Secretary of State may prescribe additional purposes for which expenditure of delegated budgets may be made.
- 2.1.4 The Service Director - Finance (Chief Financial Officer/S.151 Officer) is responsible for ensuring the adequacy of the financial organisation and accounting procedures in all maintained schools.

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

- 2.2.1 A statement of forecast net expenditure against budget (also known as budget monitor) shall be submitted to the governing body (or finance committee) of all LA maintained schools at least once in each term (six) during each financial year.
- 2.2.2 Unless the LA has notified a school otherwise (e.g. new school or school in financial difficulty), schools will be required to submit to the LA (in a form specified by the LA) an estimated (forecast) outturn (budget monitor) quarterly each financial year in accordance with the timescales prescribed by the LA. There may be request for more frequent information in respect of tax and banking matters and also for Schools in financial difficulty. Please refer to the "Support process for schools with financial deficits" document for further information.
- 2.2.3 Reports, referred to above, will cover all income and expenditure for both revenue and capital budgets and also voluntary contributions.
- 2.2.4 Schools opting out of the Council's finance system must make available their VAT and other management and accounting information in a format and time (including frequency) specified by the LA.

### **2.3 Payment of Salaries and Accounts**

- 2.3.1 The procedures for payment of accounts and the keeping of financial records will be set out in the Financial Regulations for Schools with Delegated Budget with Delegated Budget.



2.3.2 Schools that operate their own bank accounts outside of the LA managed pooled arrangement, will have a separate procedure from those within the pool arrangement. These are set out in the Financial Regulations for Schools with Delegated Budget.

## **2.4 Control of Assets**

2.4.1 Schools must maintain an inventory of non-capital moveable assets, which must be kept up to date and be in a form to be determined by the LA and setting out the basic authorisation procedures for disposal of assets. Inventory list shall be reported annually to the governing body (or the finance committee).

2.4.2 Schools must ensure all assets that are portable and attractive (e.g., electronic/IT devices, a camera or those assets that hold valuable information) are registered and included in the asset inventory. For assets whose individual value is less than £1,000, schools should be free to determine if these should be included in the inventory. At the very minimum, schools should have policy/procedure regarding purchase, use and disposal of those classes of assets not included in the inventory.

2.4.3 For assets procured by school and included in the inventory, schools must ensure that they record the date of purchase, the purchase value and the serial number as a minimum.

2.4.4 Assets must not be removed from the school other than in the course of school business, nor should they be used for purposes other than school business, except with the express permission of the head teacher.

2.4.5 The Chief Financial Officer (or their nominated representative) shall have access at all times to the inventory of moveable assets and may make such checks and tests as are reasonable to verify the inventory.

2.4.6 Disposal of such moveable assets shall be in accordance with the procedures from time to time agreed by the Chief Financial Officer, which will be set out in the Financial Regulations for Schools with Delegated Budget.

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

2.5.1 The accounting policies for all schools, including the procedures to be followed at the year end will be set out by Trading with Schools Finance in March of each financial year.

## **2.6 Writing Off Debts**

2.6.1 Governing bodies shall be authorised to write off debts in accordance with the procedures from time to time agreed by the Chief Financial Officer, which will be set out in the Financial Regulations for Schools with Delegated Budget.

## **2.7 Basis of Accounting**

2.7.1 Schools shall where possible account to the LA for all income and expenditure on an accruals basis as defined in Financial Regulations for Schools with Delegated Budget.

## **2.8 Submission of Budget plans & Financial Forecasts**

2.8.1 Each Governing Body must approve a budget plan for the financial year, which shall be submitted to the LA before 31 May of that year. The required format of the budget plan will be notified to schools each year at the same time as they are notified of their budget share by the LA.

2.8.2 The approved budget plan (in 2.8.1 above) as well as financial forecast of income and expenditure for the following 2 years (making 3-year financial information) shall be submitted to the LA before 31 May of that year.

2.8.3 The LA shall provide schools with formula funding information required for them to prepare budget plans.

2.8.4 Schools are allowed to take into account estimated balances at the previous 31 March in their budget plan.

2.8.5 Where the budget plan results in either an in-year deficit or an overall deficit the school must seek approval for this budget from the Service Director Education and Skills and the Chief Financial Officer via the Application for Licenced Deficit process (see Section 4.5 Planning for Deficit Budgets).

2.8.6 This information may be used not only to confirm whether schools are undertaking effective financial planning or not, but also as evidence to support the local authority's assessment of schools' financial value standards or used in support of the authority's balance control mechanism.

## **2.9 School Resource Management**

2.9.1 Schools must seek the effective management of resources and achieve 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.

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

2.9.3 It is important for schools to review their current expenditure, compare it to other schools and consider how to make improvements that will maximise pupil outcomes.

## **2.10 Virement**

2.10.1 Governing bodies have the power, to vire freely between the budget heads in their annual budget plan, except where budgeted expenditure relates to earmarked items outside the school's budget share as defined in the Financial Regulations for Schools with Delegated Budget.

2.10.2 Governing bodies may delegate this power to the finance committee or to the head teacher.

## **2.11 Audit**

- 2.11.1 Schools will be subject to regular internal audit by the City Council's Internal Audit service acting on behalf of the Chief Financial Officer under s151 of the Local Government Act 1972<sup>2</sup>, in accordance with the LA's published annual Internal Audit Plan.
- 2.11.2 Schools will be subject to external audit as part of the external audit of the LA.
- 2.11.3 Governing Bodies will be required to ensure that schools cooperate with all reasonable requirements of internal and external auditors and allow the auditors (acting as Chief Financial Officer nominated representative) access to school records, and explanations from staff, at all times for the purposes of audit.
- 2.11.4 The LA will from time to time publish a statement of the responsibilities of schools in respect of the requirements of internal audit, which will be included in the Financial Regulations for Schools with Delegated Budget.
- 2.11.5 Governing bodies shall make arrangements for internal (and other similar) audit reports to be considered by the Finance Committee (or other member(s) nominated by the governing body), who shall bring any relevant recommendation to the attention of the governing body.

## **2.12 Separate External Audits**

- 2.12.1 Governing bodies may authorise expenditure in their annual budget plan to obtain external audit certification of their accounts, separate from any LA internal or external audit process.

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

- 2.13.1 Governing bodies shall ensure that annual audit certificates are obtained in respect of voluntary and private funds held by schools and of the accounts of any trading organisations controlled by the school (in accordance with Internal Audit published guidance for voluntary and private funds) and that such certificates are forwarded to the council's Internal Audit Service and a copy made available for inspection by the LA.
- 2.13.2 A school refusing to provide audit certificates to the council's Internal Audit Service as required by the scheme is in breach of the scheme and the authority can take action on that basis.

## **2.14 Registers of Business Interests**

- 2.14.1 Governing Bodies shall establish a register which lists for each member of the governing body, the head teacher and any member of staff responsible for expenditure, the following:

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<sup>2</sup> [Local Government Act 1972 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

- any business interests they or any member of their immediate family have.
  - details of any other educational establishments that they govern.
  - any relationships between school staff and members of the governing body.
- 2.14.2 Such a register shall be kept up to date with notification of changes and through an annual review of entries.
- 2.14.3 Such a register shall be made available for inspection by the LA, governors, staff and parents and published on the school's website.
- 2.14.4 Detailed guidance on the maintenance of the register referred to in this section and other registers of interests in line with good practice in the public sector is contained in the Financial Regulations for Schools with Delegated Budget.

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

- 2.15.1 Schools may purchase from any supplier, providing that they comply with the Financial Regulations for Schools with Delegated Budget and the provisions of the Council's Procurement Regulations depending on the amount involved.
- 2.15.2 Where relevant, schools shall assess in advance of purchasing or letting contracts the health and safety competence of suppliers or contractors, taking account of the LA's policies and procedures in this regard.
- 2.15.3 Contracts financed from schools' delegated budgets, shall be let in accordance with the provisions of Procurement Regulations relating to contracts. Except where contracts are the responsibility of the governing body of Voluntary Aided schools, governing bodies entering into contracts shall do so on behalf of, and in the name of, the City Council. Governing bodies will be responsible for the proper management of such contracts and for the authorisation of payments. Governing bodies are advised to seek the advice of the Chief Financial Officer before entering into such contracts.
- 2.15.4 Bristol City Council orders shall be used in respect of all goods and services procured by schools, except where other formal arrangements are in place, for example, for the provision of the electricity supply and TWS.
- 2.15.5 Schools must follow and comply with the Financial Regulations for Schools with Delegated Budget and the provisions of the Council's Procurement Regulations when procuring goods and services, however under the following circumstances, this scheme takes precedence over those regulations and schools may choose to:
- (a) ignore any provision of rules that would require them to do anything incompatible with any of the provisions of this scheme, or any statutory provision, or any EU Procurement Directive;

- (b) disregard the requirement to seek LA officer countersignature for any contracts for goods or services for a value below £60,000 in any one year;
- (c) disregard instructions to only select suppliers from an approved list;
- (d) Seek advice on a range of compliant deals via government guidance on their website "[Buying for schools](#)".

## **2.16 Application of Contracts to Schools**

2.16.1 Schools may opt out of contracts arranged by the LA for the supply of goods and services.

2.16.2 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.

2.16.3 Other contracts may be made solely on behalf of the governing body, when the governing body has clear statutory obligations; for example, contracts made by voluntary aided or foundation schools for the employment of staff.

## **2.17 Central Funds and Earmarking**

2.17.1 The LA may make revenue funding available to schools from central funds in the form of allocations which are additional to and separate from the schools' budget shares.

2.17.2 Such allocations shall be subject to conditions setting out the purpose or purposes for which the funds may be used, and allocations may not be assimilated into the school's budget share for the purposes of exercising virement. Schools will be required to demonstrate that this requirement has been complied with, in accordance with the Financial Regulations for Schools with Delegated Budget.

2.17.3 Such earmarked funding from centrally retained funds must only be spent on the purposes for which it is given,

2.17.4 Schools will be required to return the balance of earmarked funds remaining unspent at the end of the financial year, or within the period over which schools are allowed to use the funding if different.

## **2.18 Spending for the Purposes of the School**

2.18.1 Schools may choose to spend their budget share on community facilities or services as prescribed under section 27 of the Education Act 2002<sup>3</sup>.

2.18.2 Schools may also choose to spend their allocations on any of the purposes as outlined in the School Budget Shares (Prescribed Purposes) (England) (Amendment) Regulations 2010<sup>4</sup>. These allow schools to spend their

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<sup>3</sup> [Education Act 2002 \(legislation.gov.uk\)](#)

<sup>4</sup> [The School Budget Shares \(Prescribed Purposes\) \(England\) \(Amendment\) Regulations 2010 \(legislation.gov.uk\)](#)

budgets on pupils who are on the roll of another maintained school or academy.

## **2.19 Capital Spending from Budget Shares**

2.19.1 Governing bodies may use their budget shares to meet the cost of capital expenditure on the school premises. This includes expenditure by the governing body of a voluntary aided school on work which is their responsibility under paragraph 3 of Schedule 3 of the SSAF Act.

2.19.2 Governing bodies will be required to seek the consent of the LA to proposed capital works to be met from schools' delegated budgets, where the premises are owned by the LA or the school has voluntary controlled status. Consent may be withheld only on health and safety or other compelling grounds.

2.19.3 The reason for these provisions is to help meet responsibilities with the School Premises (England) Regulations 2012<sup>5</sup>, the Workplace (Health, Safety and Welfare) Regulations 1992<sup>6</sup>, the Regulatory Reform (Fire Safety) Order 2005<sup>7</sup>, the Equality Act 2010<sup>8</sup>, and the Building Regulations 2010<sup>9</sup>.

2.19.4 Governing bodies will be required to notify the LA when they determine to devote any part of their delegated budget to capital expenditure.

2.19.5 Governing bodies may submit bids in the manner prescribed by the LA for approval for capital expenditure on works to school premises, which would be made by the LA outside the school's delegated budget.

## **2.20 Notice of Concern**

2.20.1 Under powers given by the Secretary of State, the LA may issue a notice of concern to the governing body of any school it maintains where, in the opinion of the Chief Financial Officer and the Service Director, Education and Skills, the school has failed to comply with any provisions of the scheme, or where actions need to be taken to safeguard the financial position of the local authority or the school.

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

- a) insisting that relevant staff undertake appropriate training to address any identified weaknesses in the financial management of the school,
- b) insisting that an appropriately trained/qualified person chairs the finance committee of the governing body,
- c) placing more stringent restrictions or conditions on the day-to-day financial management of a school than the scheme requires for all

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<sup>5</sup> [The School Premises \(England\) Regulations 2012 \(legislation.gov.uk\)](#)

<sup>6</sup> [The Workplace \(Health, Safety and Welfare\) Regulations 1992 \(legislation.gov.uk\)](#)

<sup>7</sup> [The Regulatory Reform \(Fire Safety\) Order 2005 \(legislation.gov.uk\)](#)

<sup>8</sup> [Equality Act 2010 \(legislation.gov.uk\)](#)

<sup>9</sup> [The Building Regulations 2010 \(legislation.gov.uk\)](#)

schools – such as the provision of monthly accounts to the local authority,

- d) insisting on regular financial monitoring meetings at the school attended by local authority officers,
- e) requiring a governing body to buy into a local authority's financial management systems; and
- f) imposing restrictions or limitations on the manner in which a school manages extended school activity funded from within its delegated budget share – for example by requiring a school to submit income projections and/or financial monitoring reports on such activities.

The notice will clearly state what these requirements are and the way 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.

2.20.3 The LA may suspend a school's right to a delegated budget if the provisions of this scheme (or rules applied by the scheme) have been substantially or persistently breached, or if the budget share has not been managed satisfactorily. There is a right of appeal to the Secretary of State. A school's budget share may also be suspended for other reasons (s.17 of the Act) but in that case there is no right of appeal.

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

2.21.1 The SFVS is a DfE requirement which helps schools and local authorities meet basic standards for good financial health and resource management. The standard consists of a self-assessment checklist and a dashboard:

- The checklist asks questions of governing bodies in six areas of resource management. It provides clarification for each question, examples of good practice, and details of further support available to assist schools in addressing specific issues
- The dashboard shows how a school's data compares to thresholds on a range of statistics identified by the DfE as indicators of good resource management and outcomes. It provides explanations of each of the indicators and helps schools to fill in their data and understand the results.

2.21.2 All LA 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. Schools must carefully consider the results of the self-assessment checklist and dashboard and identify potential follow-up actions. It is for the school to determine at what time in the year they wish to complete the form.

2.21.3 The SFVS must be presented annually to the governing body or finance committee and signed by the chair of governors before being submitted to the LA. The timescale for the local authority to submit the SFVS assurance

statement is determined annually by the DfE. The local authority will therefore inform schools each year of the date when schools must submit their SFVS.

2.21.4 The LA use the SFVS information to inform their programme of financial assessment and audit.

2.21.5 Where the SFVS shows (or the LA has informed a school of) the need to improve, 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 specific deadlines**

## **2.22 Fraud**

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

2.22.2 The school's Head Teacher, Senior Leadership Team and Governors must:

- Ensure the school has a fraud policy or has adopted the Council's fraud policy and this information must also be included in induction for new school staff and governors.
- Ensure that they, and their colleagues, understand the fraud risks faced by schools by developing and maintaining a fraud risk assessment.
- Implement and maintain an effective control environment to prevent fraud.
- Create an environment in which colleagues feel able to report concerns of suspected fraud.
- Inform the Council's Internal Audit of any cases of suspected fraud and carry out or assist in the investigation (as required).
- Advise the Council's Internal Audit of the outcome of any cases of suspected fraud investigated by the school.
- Consider the risk of fraud in any new processes and any changes to system processes.

2.22.3 All those working in school including any volunteers must:

- Be aware of the possibility that fraud, bribery, corruption and theft may exist in the workplace and report it when they suspect the school is being targeted.
- Avoid situations where there is a potential for a conflict of interest
- Comply with the Council's employee Code of Conduct.



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

### **3.1 Frequency of instalments**

3.1.1 Where schools make their own payroll arrangements, the LA shall make the total of their budget share available in twelve equal instalments.

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

3.2.1 The relevant sum on which advances under section 3.1.1 shall be calculated in twelve equal instalments for the school allocation less any allocation for National Non-Domestic Rate.

3.2.2 A separate advance will be made in respect of the budget allocation for the cost of the National Non-Domestic Rate for the school.

3.2.3 If a school opens an external bank account the LA must, if the school desires, transfer, immediately to the account an amount agreed by both the school and the LA as the estimated surplus balance held by the LA in respect of the school's budget share on the basis that there will be a subsequent correction when accounts for the relevant year are closed.

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

3.3.1 The City Council will add interest to late payments of budget share instalments, only where such late payment is the result of City Council error. The interest rate used will be that used for the interest clawback calculations.

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

3.4.1 Budget shares of schools participating in the cheque book management scheme, where approval for discontinuation has been given, shall be made available on a monthly basis net of estimated pay costs, irrespective of previous arrangements.

### **3.5 Bank and Building Society Accounts**

3.5.1 All maintained schools may have external bank accounts into which instalments of their budget share are paid, subject to the conditions set out at paragraph 3.6.3 being met.

3.5.2 Where schools have such accounts, they shall be allowed to retain all interest payable on the account unless they choose to have an account within an LA contract which makes other provision.

3.5.3 New bank account arrangements may normally only be made with effect from the beginning of each financial year. Application should normally be made before the end of November before the beginning of the financial year but must be made by the end of January preceding the financial year.

- 3.5.4 Schools may operate bank accounts for budget share purposes which are in the name of the school rather than the LA, but accounts must include the name of the City Council. If the school operates an external account for community facility purposes, the account mandate should not imply that the LA is the owner of the funds in the account except insofar as those funds have been provided by the LA itself.
- 3.5.5 Money paid by the LA and held in such accounts remains LA property until spent as provided for by s.49(5) of the SSAF Act.

### **3.6 Restrictions on Accounts**

- 3.6.1 All banking arrangements must be made with the approval of the Chief Financial Officer.
- 3.6.2 Schools may choose to operate a bank account with any institution approved by the Chief Financial Officer from time to time. A list of at Least 10 approved institutions will be appended to the Financial Regulations for Schools with Delegated Budget.
- 3.6.3 Schools that currently have a deficit budget may only hold bank accounts at the expressed approval of the LA. Schools holding bank accounts that have failed to demonstrate adequate control measures will also be subject to withdrawal.
- 3.6.4 Any school closing an account used to receive its budget share and opening another must select the new financial institution from the approved list, even if the closed account was not with an institution on that list.
- 3.6.5 All bank account opened by schools where budget share are paid should include a mandate that the funds are owned by the LA and the LA is entitled to receive bank statements, and can take control of the account if the schools' right to a delegated budget is suspended by the LA.
- 3.6.6 The conditions and requirements governing schools maintaining external bank accounts (cash schools) are set out in the Financial Regulations for Schools with Delegated Budget and are binding on all schools in the scheme.

### **3.7 Borrowing by schools**

- 3.7.1 Governing bodies may only borrow money, other than from the LA, with the written permission of the Secretary of State.
- 3.7.2 Schools may use any scheme that the Secretary of State has said is available to schools without specific approval, currently including [the Salix scheme](#), which is designed to support energy saving.
- 3.7.3 Circumstances in which schools may borrow from the LA are prescribed in section 4.10 of this scheme.
- 3.7.4 The restriction on borrowing does not apply to Trustees or Foundations, as they are private bodies.

3.7.5 Debts resulting from the borrowing of Trustees and Foundations may not be serviced directly from schools' delegated budgets, but schools are free to agree, and pay, a charge for a service which the Trustees or Foundations are able to provide as a consequence of their own borrowing.

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

### **4.1 Right to Carry Forward Surplus Balances**

- 4.1.1 Schools will carry forward from one financial year to the next any surplus (subject to control on surplus balance section below) or deficit on their budget share for the year plus or minus any balance brought forward from the previous year.
- 4.1.2 Where new schools are opening, particular provisions apply, and the LA may modify the amount of funding to be received by a new school as part of its budget share to assist in setting up the new school, which may reflect the balances of any predecessor schools.

### **4.2 Controls on Surplus Balances**

- 4.2.1 Governing bodies shall consider annually, as part of the budget-setting process, the level of surplus balances they intend to carry forward at the year end.
- 4.2.2 Governing bodies will be required to submit a business plan to the LA on the use which they intend to make of excess balances in cases where the surplus balance exceeds 5% (secondary schools) or 8% (nursery, primary, and special) of the school's budget share as at 31 March each year. Schools that fail to submit their plans on how they wish to spend their excess balances will be subject to immediate clawback of those excess balances.
- 4.2.3 Surplus budget share balances held by schools are permitted under this scheme and are subject to the following restrictions:
  - a. the authority shall calculate by 31 May each year the surplus balance, if any, held by each school as at the preceding 31 March. For this purpose, the balance will be recurrent balance category as defined in the Consistent Financial Reporting Framework,
  - b. the authority shall deduct from the calculated balance any amounts for which the school has a prior year commitment to pay from the surplus balance,
  - c. the authority shall deduct from the resulting sum any amounts which the governing body of the school has declared to be assigned and which the authority is satisfied are properly assigned for specific purposes, as follows:
    - 1. Capital spending (see para 2.19).
    - 2. Asset purchase, for example, library re-stocking, furniture and equipment, IT/computer equipment.
    - 3. Review of staffing structures.

To count as properly assigned, amounts must not be retained beyond the period stipulated for the purpose in question, without the consent of the authority.

- d. if the results of steps a-c is a sum greater than 5% of the current year's budget share (secondary) or 8% (nursery, primary and special), then the Authority shall deduct from the current year's budget share an amount equal to the excess.
- e. Funds deriving from sources other than the authority will be taken into account in this calculation if paid into the budget share account of the school, whether under provisions in this scheme or otherwise. Funds held in relation to a school's exercise of powers under s.27 of the Education Act 2002 (community facilities) will not be taken into account unless added to the budget share surplus by the school as permitted by the authority. The total of any amounts deducted from schools' budget shares by the authority under this provision are to be applied to the Schools Budget of the authority.

### **4.3 Interest on Surplus Balances**

- 4.3.1 Schools not maintaining external bank accounts which have a positive average balance will receive interest on their average balance calculated in accordance with section 4.2 up to a maximum average balance of 3% of budget share.

### **4.4 Obligation to Carry Forward Deficit Balances**

- 4.4.1 Schools may not plan for a deficit at any point in their three-year plan, except with the express approval of the Service Director Education and Skills and the Chief Financial Officer as provided for in Section 4.5 of the scheme.
- 4.4.2 Schools that forecast a deficit in-year having previously set a balanced or surplus budget will be required to apply for approval of the deficit at the point the forecast deficit is identified.

### **4.5 Planning for Deficit Budgets**

- 4.5.1 If a school has a deficit balance at the end of a financial year, such a deficit balance must be carried forward and treated as a charge against the following year's budget share, nor may schools plan to end any financial year with a cumulative (i.e. overall) deficit, except with the express approval of the Service Director Education and Skills and the Chief Financial Officer as provided for in Section 4.9 of the scheme.
- 4.5.2 Schools which fail to submit a recovery plan in the timescales specified will be subject to a Notice of Concern.

### **4.6 Charging of Interest on Deficit Balances**

- 4.6.1 Schools not maintaining external bank accounts which have a negative average balance will be charged interest on their average balance calculated in accordance with section 4.3 where the average balance is above 3% of budget share.
- 4.6.2 The average balance will be calculated as 50% of the sum of the opening balance and the closing balance for the year. Interest will be calculated by

multiplying the average balance by the appropriate rate of interest as advised by the Corporate Treasury team.

#### **4.7 Writing Off Deficits/Providing Financial Support**

- 4.7.1 The LA may not write off the deficit balance of any school, except in circumstances set out in 4.8.1.
- 4.7.2 The LA may give assistance to the elimination of the deficit balance by allocation of a cash sum from the authority's schools budget (from a centrally held budget specifically for the purpose of expenditure on special schools and pupil referral units in financial difficulty or, in the respect of mainstream maintained schools, from a de-delegated contingency budget where it has been agreed by the Schools Forum).

#### **4.8 Balances of Closing and Replacement Schools**

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

#### **4.9 Licensed Deficits**

- 4.9.1 The LA shall make provision for an arrangement whereby, in exceptional circumstances, schools are allowed to plan for a deficit budget in any financial year. Such deficits shall be funded by the collective surplus of school balances held by the authority on behalf of other schools, including those in schools' external bank accounts and where the LA makes express provision for this to be the case, or where the schools concerned have agreed that their balances may be included in the arrangement.
- 4.9.2 Governing bodies of schools with deficits shall agree with the Service Director Education and Skills and the Chief Financial Officer a recovery plan detailing the extent of the recovery of the deficit in each financial year until full recovery is achieved. Such agreements shall not cover more than three financial years and shall be reviewed at least annually by the LA.
- 4.9.3 Where schools are planning a deficit budget position (as prescribed in section 2.8.1) or as a result of its 3-year forecast position (as in sections 2.8.2 and 4.4.1) or its year-end position (as in section 4.5.1), then the school is required to make an application for a licensed deficit and to work with the LA to recover the financial position. The LA shall require the provision of information to support the application for a licensed deficit to include (and not limited to)
  - a) At least a three-year budget plan that shows the school finances recovering the deficit and returning to a balanced budget within three years (if not sooner).
  - b) Information on all ongoing commitments currently funded from reserves and how these arrangements will cease.

- c) A detailed narrative and supporting documents to explain how the school will return to a balanced budget within the three-year period.

4.9.4 Agreements under section 4.9.2 shall not extend beyond 5% of the school's budget share in each of the financial years covered by the agreement.

4.9.5 The maximum proportion of the collective surplus of school balances held by the LA as defined in section 4.9.1 which may be used to back the licensing of deficits and loans (see section 4.10) by the Service Director Education and Skills and the Chief Financial Officer shall not exceed 40%.

#### **4.10 Loan schemes**

4.10.1 Subject to prior approval by the Service Director Education and Skills and the Chief Financial Officer and in the light of the overall spending plans of the LA, schools may incur exceptional expenditure on approved developmental projects in a financial year and fund it over a period not exceeding three years including the year in which the expenditure is initially incurred.

4.10.2 Projects which will be considered for approval will generally be those which seek to make physical improvements or changes to school buildings (e.g. the creation of a library or resources area) or which involve the procurement of information and communications technology equipment. Schools will be required to submit project plans and to demonstrate that repayment of the loan can be made from their delegated budgets.

4.10.3 Interest at the City's Consolidated Loans Fund Pool Rate estimate for the year of the advance will be charged on an annuity basis in each financial year for which the loan is granted. Schools will not normally be permitted to apply for loans which in total exceed 10% of their budget share for the year of the advance.

4.10.4 Such loan arrangements shall be funded by the collective surplus of school balances held by the LA on behalf of other schools as defined in section 4.9.1 and, together with licensed deficits agreed under section 4.9 such funding shall not exceed 40% of the collective balances.

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

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

4.10.7 If loans are made to fund capital items as referred to above and during repayment, the school entered a deficit position, the full amount of the loan shall become payable immediately. The school can then apply for licence deficit in accordance with paragraph 4.9 above. If the school subsequently plans to convert to academy status, the full amount of deficit must be either paid or agreed to be transferred to the Academy school.

## **SECTION 5: INCOME**

### **5.1 Income from Lettings**

- 5.1.1 Schools may retain income from lettings of school premises which would otherwise accrue to the LA as permitted under SSF Act 1998 for various categories of schools, unless subject to alternative provisions made with the Community Education Service, or in respect of any joint use or PFI agreements.
- 5.1.2 Schools may cross-subsidise lettings for community and voluntary use with income from other lettings, provided there is no net cost to a school's delegated budget.
- 5.1.3 Schools are required to have regard to directions issued from time to time by the LA in respect of use of school premises and shall be required to comply with the provisions for the LA's policy in respect of the provision of community education.
- 5.1.4 Where land is held by a charitable trust, it will be for the school's trustees to determine the use of any income generated by the land.

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

- 5.2.1 Schools shall retain income from fees and charges except where a service is provided by the LA from centrally retained funds, provided such charges are levied in accordance with the LA's charging policy.

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

- 5.3.1 Schools may retain income from fund-raising activities.
- 5.3.2 Income raised through such activities for specific purposes may only be spent in respect of those purposes.

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

- 5.4.1 Schools shall retain the proceeds of sale of assets in accordance with the Financial Regulations for Schools with Delegated Budget, except in cases where the asset was purchased with non-delegated funds, or where the asset concerned is land or buildings forming part of the school premises and is owned by the LA.

### **5.5 Income, generally**

- 5.5.1 Schools shall retain all income except in circumstances specified elsewhere in this section.
- 5.5.2 The Chief Financial Officer is responsible for the general control and supervision of administrative arrangements for the collection and recording of all monies due to the Council and schools shall comply with the provisions of the Financial Regulations for Schools with Delegated Budget in this matter.



5.5.3 Income retained by schools may only be spent for the purposes of the school, subject also to the provisions of section 5.3.

## **5.6 Insurance**

5.6.1 It is commonplace for schools to hire out their premises in order to supplement budgets. In these situations, schools must take out Hirers Liability Insurance which is a charge equal to 10% of the hire fee or £20.00 whichever is greater. It is recommended that this cover be provided in respect of all external hires. A form is available from the Council's risk and insurance team to assist in this process.

5.6.2 Organisations that have their own public liability insurance, subject to the limit prescribed at paragraph 5.6.3, need not purchase the Hirers Liability Insurance (as described at 5.6.1 above). In such cases, Schools must see and retain a copy of the insurance document on file.

5.6.3 The policy referred to above is only to be used for one off, ad-hoc hires. A recognised business or organisation or individual hiring the premises as part of their business, should have their own Public Liability insurance. The minimum level of cover Bristol City Council requires is £5 million. Schools should contact the risk and insurance team if in doubt.

5.6.4 On very small occasions where a school has hired premises to a small organisation conducting a low-risk business activity (such as a charity hosting a coffee morning) consideration could be given to a £2 million limit of cover.

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

### **6.1 General Provision for the Charging of School Budget Shares**

- 6.1.1 Schools' budget shares may be charged by the LA without the consent of the governing body only in circumstances expressly permitted by the scheme.
- 6.1.2 The LA shall consult schools when they intend to so charge and shall notify schools when such a charge is made.
- 6.1.3 The LA may not act unreasonably in the exercise of any power implied by this section of the scheme, or it may be the subject of a direction under s.496 of the Education Act 1996 and, in each circumstance, except that covered by section 6.3.1(c), the LA would have to be able to demonstrate that the expenditure now charged to the budget share had necessarily been incurred by the LA.
- 6.1.4 In respect of charges to be made under section 6.3.1(d) and (e), the LA shall establish a procedure for arbitration of disputes over such proposed charges to which governing bodies may have an automatic right of recourse.
- 6.1.5 For the avoidance of doubt, local authorities may de-delegate funding for permitted services without the express permission of the governing body, provided this has been approved by the appropriate phase representatives of the Schools Forum.

### **6.2 Charges to Schools for the Costs of School-Based Staff**

- 6.2.1 Where payments to staff are made through the LA's payroll system, the LA shall charge to the schools the actual costs of the payments to the staff employed in each school.

### **6.3 Charges to Schools' Budget Shares**

- 6.3.1 The LA may seek to protect its financial position from liabilities caused by the actions or inaction of the governing body by making a charge to schools' delegated budgets without the consent of the governing body equal to the costs incurred by the LA, where:
- a) premature retirement costs have been incurred by the governing body without the prior written agreement of the LA to bear such costs (the amount chargeable being only the excess over any amount agreed by the LA),
  - b) the LA has incurred other expenditure to secure resignations where there is good reason to charge this to the school (see Annex 2),
  - c) courts or out of court settlements and/or industrial tribunals have made awards against the LA as a result of a governing body not having sought advice and guidance, or not having followed advice and guidance given by the LA,
  - d) the LA has incurred revenue or capital expenditure in carrying out health and safety work for which the LA is liable, where funds have been delegated

to the governing body for such work, but the governing body has failed to carry out the required work or the work has not been carried out to the required standard,

- e) the LA has incurred revenue or capital expenditure in making good defects in building work funded by capital spending from schools' budget shares, where the premises are owned by the LA or the school has voluntary controlled status,
- f) expenditure has been incurred by the LA in insuring its own interests in a school where funding for insurances has been delegated but the school has failed to arrange cover at least as good as that which would have been arranged by the LA,
- g) a dispute over the monies due from a school for services provided to the school by the LA has been referred to a dispute procedure set out in a service level agreement with the LA and has been resolved in favour of the LA,
- h) penalties and/or interest have been imposed on the LA by the HMRC, Teacher's Pensions or any statutory agency responsible for collection of levies and taxes, as a result of negligence by the school,
- i) the LA is rectifying errors made in calculating charges to a school's budget share which it is entitled to make and where it can demonstrate to the school that errors were made,
- j) the school has failed to notify the LA of changes to the length of the school day, or the normal opening days of the school and additional or unnecessary transport costs respectively have been incurred by the LA,
- k) legal costs which are incurred by the authority because the governing body did not accept the advice of the authority,
- l) costs of necessary health and safety training for staff employed by the authority where funding for training has been delegated but the necessary training not carried out,
- m) the LA meets costs or pays compensation as a consequence of a school defaulting on a payment or entering into a contract beyond its powers, such that the contract is of no effect,
- n) cost of work done in respect of teacher pension remittance and records for schools using non-LEA payroll contractors, the charge to be the minimum required for the LA to achieve compliance with its statutory obligations,
- o) costs incurred by the LA in securing provision specified in a statement of SEN where the governing body has failed to secure adequate provision despite funds being delegated to do so,
- p) costs incurred by the LA due to submission by the school of incorrect data,
- q) recovery of amounts spent for specific grants on ineligible purposes,

- r) costs incurred by the LA as a result of the governing body being in breach of the terms of a contract,
- s) costs incurred by the authority or another school as a result of a school withdrawing from a cluster arrangement, for example where this has funded staff providing services across the cluster,
- t) Costs incurred by the authority in administering admissions appeals, where the local authority is the admissions authority and the funding for admission appeals has been delegated to all schools as part of their formula allocation.

## **SECTION 7: TAXATION**

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

- 7.1.1 VAT incurred by schools when spending any funding made available by the LA, whether or not part of the school's delegated budget, and whether or not the school is participating in the cheque book management scheme, is treated as being incurred by the LA and may be reclaimed by the LA under section 33 of the VAT Act 1994, except where the liability for VAT arises as a result of expenditure by the governors of a voluntary aided school when carrying out their statutory responsibilities to maintain the external fabric of their buildings.
- 7.1.2 VAT incurred by schools when spending schools' own funds, for example, income raised by the school, is not treated as being incurred by the LA and is not reclaimable by the LA under section 33 of the VAT Act 1994.
- 7.1.3 Schools shall comply with the requirements of the Financial Regulations for Schools with Delegated Budget in respect of accounting for VAT as well as any guidance on VAT rules for schools published by HM Customs and Excise.
- 7.1.4 Schools participating in the LA's cheque book management scheme shall be reimbursed one month in arrears for VAT incurred.

### **7.2 Construction Industry Scheme (CIS)**

- 7.2.1 Schools shall comply with the requirements of the Financial Regulations for Schools with Delegated Budget in respect of the accounting for CIS.

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

### **8.1 Provision of Services from Centrally Retained Budgets**

- 8.1.1 The LA shall determine and publish details of the basis on which services, including payment of the costs of premature retirement and redundancy payments, will be provided and payments made to schools.
- 8.1.2 The LA shall not discriminate in the provision of such services, or the making of such payments, on the basis of categories of schools, except in cases where this would be allowable under the school and early years finance regulations or the dedicated schools grant (DSG) conditions of grant.

### **8.2 Provision of Services Bought Back from the LA to Schools, Funded from Delegated Budgets**

- 8.2.1 Services provided by the LA to schools, funded from delegated budgets, excluding centrally arranged premises and liability insurances, shall be subject to the terms and conditions and service standards published in the catalogue of services to schools published by the LA.
- 8.2.2 Where the LA is offering services to schools, which they may choose to buy from delegated budgets, the LA shall offer to provide such services in a way which does not unreasonably restrict schools' freedom of choice to buy any or all of the services available, and, where practicable, the LA shall provide such services individually as well as part of a package of services.
- 8.2.3 The LA may stipulate dates during the year by which time service agreements shall be agreed, and/or by which time, with at least one months notice of the terms of the proposed agreement, schools shall have opted to buy any LA services for the following financial year. If such a date is stipulated, it shall be binding on both the LA and the schools.
- 8.2.4 The term of any agreement with a school to buy services or facilities from the City Council shall normally be limited to a maximum of three years from the inception of the scheme or the date of the agreement, which ever is the later, and periods not exceeding five years for any subsequent agreement relating to the same services. In respect of catering contracts these dates can be five and seven years respectively.
- 8.2.5 When a service is provided for which expenditure is not retained centrally by the City Council under the Regulations made under section 45A of the Act, it must be offered at prices which are intended to generate income which is no less than the cost of providing those services. The total costs of the service must be met by the total income, even if schools are charged differently.

### **8.3 Packaging**

- 8.3.1 Services offered by the LA should not restrict a school's freedom of choice in being able to select individual services as required. Packages of services

may be offered which allow schools a discount, but authorities should offer these alongside the option to be individual packages.

## **8.4 Service Level Agreements**

- 8.4.1 Service Level agreements, relating to services provided by the LA, must be in place at least 3 months prior to the following financial year. Schools must have a minimum of one month to consider the terms of agreement.
- 8.4.2 Services or facilities provided under a service level agreement must allow for the terms of the agreement to be reviewed at least every three years from its inception.
- 8.4.3 Services offered by the Local Authority will be available on a basis that is not related to an extended agreement.
- 8.4.4 Centrally arranged premises and liability insurance are specifically excluded from these requirements as to service supply, as the limitations envisaged may be impracticable for insurance purposes.

## **8.5 Teachers Pension**

- 8.5.1 In order to ensure that the performance of the duty on the authority to supply Teachers Pensions with information under the Teachers' Pension Scheme Regulations 2014<sup>10</sup>, the following conditions are imposed on the authority and governing bodies of all maintained schools covered by this Scheme in relation to their budget shares.
- 8.5.2 The conditions only apply to governing bodies of maintained schools that have not entered into an arrangement with the authority to provide payroll services.
- 8.5.3 A governing body of any maintained school, whether or not the employer of the teachers at such a school, which has entered into any arrangement or agreement with a person other than the authority to provide payroll services, shall ensure that any such arrangement or agreement is varied to require the person to supply salary, service and pensions data to the authority which the authority requires to submit its monthly return of salary and service to Teachers Pensions and to produce its audited contributions certificate. The authority will advise schools each year of the timing, format and specification required. A governing body shall also ensure that any such arrangement or agreement is varied to require that Additional Voluntary Contributions (AVCs) are passed to the authority within the time limit specified in the AVC scheme. The governing body shall meet any consequential costs from the school's budget share.
- 8.5.4 A governing body of any maintained school which directly administers its own payroll shall supply salary, service and pensions data to the authority which the authority requires to submit its monthly return of salary and service to Teachers' Pensions and to produce its audited contributions certificate. The authority will advise schools each year of the timing, format and specification required. A governing body shall also ensure that any such

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<sup>10</sup> [The Teachers' Pension Scheme Regulations 2014 \(legislation.gov.uk\)](http://legislation.gov.uk)

arrangement or agreement is varied to require that Additional Voluntary Contributions (AVCs) are passed to the authority within the time limit specified in the AVC scheme. The governing body shall meet any consequential costs from the schools' budget share.



## **SECTION 9: PRIVATE FINANCE INITIATIVE (PFI)/PUBLIC PRIVATE PARTNERSHIP (PPP)**

### **9.1 PFI/PPP Contracts**

- 9.1.1 PFI schools will continue to be funded through the formula in the same way as other schools. However, contract charges will be charged against their delegated budgets for items such as repairs and maintenance, grounds maintenance, utilities, caretaking, cleaning and other costs met by the PFI contractor.
- 9.1.2 The City Council has produced an agreement for each PFI school. This deals with the reaching of agreement with Governing Bodies of schools on the basis of project contract charges and the treatment of monies withheld from contractors due to poor performance.

## **SECTION 10: INSURANCE**

### **10.1 Insurance Cover**

- 10.1.1 Except where the responsibility for the insurance of the buildings lies with the governing body of a Voluntary Aided school, the LA centrally provides insurance cover for the risks set out in the Insurance Schedule provided by the Chief Financial Officer, either by way of external insurance or an internal insurance fund.
- 10.1.2 Schools are free to arrange and fund from their delegated budgets for additional insurance cover beyond that set out in the Insurance Schedule.
- 10.1.3 If funding for insurances is delegated to any school, the school shall demonstrate to the satisfaction of the Chief Financial Officer, at the time that application for delegation of funding is made, that cover relevant to an LA's insurable interests, under a policy to be arranged by the governing body, is at least as good as the relevant minimum cover arranged by the LA and is sufficient to protect the LA's interests.
- 10.1.4 The evidence required to demonstrate the parity of cover will be reasonable and will not place an undue burden upon the school, nor act as a barrier to the school exercising their choice of supplier.
- 10.1.5 Instead of taking out insurance, a school may join the Secretary of State's Risk Protection Arrangement (RPA) for risks that are covered by the RPA. Schools may do this individually when any insurance contract of which they are part expires after 1<sup>st</sup> April 2022.
- 10.1.6 All primary and/or secondary maintained schools may join the RPA collectively by agreeing through the School Forum to de-delegate funding.

## **SECTION 11: MISCELLANEOUS**

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

11.1.1 Schools shall allow the LA access to all accounting records, financial or other information and documents which might reasonably be required to enable the LA to satisfy itself as to the management of the school's delegated budget or other funding made available to the school.

### **11.2 Liability of Governors'**

11.2.1 School governing bodies are corporate bodies, and under the terms of s.50(7) of the SSAF Act, governors of maintained schools will not incur personal liability in the exercise of their power to spend the delegated budget provided they act in good faith.

11.2.2 The LA shall arrange for appropriate insurance cover to be provided to insure the LA and governing bodies against liability for negligence in the discharge of their functions in respect of schools.

### **11.3 Governors' Expenses**

11.3.1 Only allowances in respect of purposes specified in regulations may be paid to governors from a school's delegated budget. Schools may not make payment of any other allowances.

11.3.2 The LA shall determine and publish from time to time a schedule of allowances which it believes may be reasonably paid.

11.3.3 Schools may not pay expenses to governors which duplicate those paid by the Secretary of State to additional governors appointed by them to schools under special measures.

11.3.4 The LA may delegate to the governing body of a school yet to receive a delegated budget, funds to meet governors' expenses, which shall be paid in accordance with the schedule referred to in section 11.3.2.

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

11.4.1 Where the costs of legal actions, including costs awarded against the LA, incurred by governing bodies fall to be met by the LA by virtue of its statutory responsibility to maintain the school, the LA may require them to be met from the school's budget share, unless:

- (a) the governing body has acted in accordance with written advice provided by the LA, or
- (b) the costs incurred relate to the statutory responsibility of governing bodies of Voluntary Aided schools for buildings.

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

11.4.3 Governing bodies may obtain their own legal advice where there may be a

conflict of interest between the LA and the governing body. Unless agreed by the LA in advance, the costs of obtaining such advice shall be borne by the school.

## **11.5 Health and Safety**

11.5.1 In expending schools' delegated budgets, governing bodies shall have due regard to duties placed on the LA in relation to health and safety.

11.5.2 Governing Bodies are required to adopt the LA's policy on Health and Safety, as set out in the LA's Health & Safety Manual for schools, and where that policy does not cover all circumstances fully, Governing Bodies shall establish their own policies.

11.5.3 Governing bodies are required to ensure that their statements of safety policy adequately cover the responsibilities of Governors.

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

11.6.1 Under Section 151 of the Local Government Act 1972, the Chief Financial Officer is responsible for the probity and regularity of all the City Council's financial activities.

11.6.2 The Chief Financial Officer, or his/her representative, shall have the right to attend meetings of Governing Bodies for specific agenda items only under which he/she may give advice and report on major financial matters in respect of his/her responsibilities under s151 of the Local Government Act 1972. The Chief Financial Officer will determine which particular financial issues must be reported to a governing body.

11.6.3 The LA shall give schools notice of the proposed attendance of the Chief Financial Officer, or his/her representative, unless it is impractical to do so.

## **11.7 Special Educational Needs**

11.7.1 Schools shall use their best endeavours in spending their delegated budgets to ensure that adequate provision is secured for pupils with special educational needs, whether or not they are covered by a statement of special educational need.

## **11.8 Whistleblowing**

11.8.1 The school's Head Teacher, Senior Leadership Team and Governors must ensure the school has a whistleblowing policy and procedure or has adopted the Council's whistleblowing policy and procedure.

11.8.2 All those working in schools including any volunteers should raise any concerns they have regarding:

- Financial mismanagement, irregularity or impropriety.
- Fraud.
- Conduct likely to damage the school's financial wellbeing or reputation.
- The deliberate concealment of any of the above matters.

11.8.3 If it is not appropriate to raise the concern through the school's whistleblowing procedure, or the Chair of Governors, Governors or Head Teacher fail to act on a Whistleblowing referral, the concern should be raised via the Council's whistleblowing procedure, or directly with the Director of Education and Skills or with the Council's Internal Audit.

## **11.9 Child Protection**

11.9.1 Schools are reminded of the need to release relevant staff to attend child protection case conferences and other related events. The costs associated with this shall be borne by the school and in special (or extraordinary) case(s) the Authority.

## **11.10 Redundancy / Early Retirement Costs**

11.10.1 Premature retirement and redundancy costs will be funded in accordance with the 2002 Education Act. Further guidance is provided in Annex 2.

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

12.1.1 Governing bodies of all schools will be responsible for the revenue repairs and maintenance in their school. The definition of capital expenditure for these purposes is that used by the City Council in line with the CIPFA Code of Practice on local authority accounting.

12.1.2 Items under a de-minimus value of £2,000 will be deemed to be revenue expenditure and may not be charged to capital budgets unless they are part of a scheme identified in the school's asset management plan which in total exceeds £2,000.

12.1.3 For voluntary aided schools the liability for repair and maintenance of funds is the same as for other maintained schools. However, eligibility for capital grant from the Secretary of State for capital works at voluntary aided schools depends on the de-minimus value applied by DfE to categorise such work, not the de minimus level limit used by the authority.

## **SECTION 13: COMMUNITY FACILITIES POWER AND COMMUNITY BASED EXTENDED SCHOOLS PROVISION**

### **13.1 Introduction**

13.1.1 Schools which choose to exercise the power conferred by s.27(1) of the Education Act 2002 to provide community facilities will be subject to a range of controls. Regulations made under s.28(2), if made, can specify activities which may not be undertaken at all under the main enabling power. S.88 of the Children and Families has removed the requirement of s.28(4) (schools' obligation to consult its LA and have regard to advice from the authority) and s.28(5) (requirement for schools to have regard to advice or guidance from the Secretary of State or the LA). However, Under s.28(1), the main limitations and restrictions on the power will be:

(a) those contained in schools' own instruments of government, if any,

and

(b) in the maintaining LA'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.

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

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

### **13.2 Consultation with LA - Financial Aspects**

13.2.1 Schools are no longer required to consult before establishing community facilities, and there is no longer a requirement of schools to be mindful of the LA's advice under section 27 of the Education Act 2002.

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

### **13.3 Funding Agreements - LA Powers**

13.3.1 The provision of community facilities may be dependent on the funding agreement with a third party which will either be to supply the funding or to supply both the funding and some active part in providing the provision of the service

13.3.2 The Authority requires that any third-party funding agreement in respect of community facilities should be submitted for comments. This should be provided within the timescales set out by the Authority so long as these are

deemed appropriate. The Authority does not have a power to veto these agreements. However, if an agreement has been or is to be concluded against the wishes of the Authority, or has been concluded without informing the Authority, which in the view of the Authority is seriously prejudicial to the interests of the school or the Authority, it may constitute grounds for suspension of the right to a delegated budget.

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

13.4.1 Governing bodies that make use of their community facilities power shall make arrangements to protect the financial interest of the Authority by either carrying out the activity concerned through the vehicle of a limited company formed for the purpose, or by obtaining indemnity insurance for risks associated with the project, as specified by the Authority.

13.4.2 Governing bodies that make use of their community facilities power are subject to limitations in the scheme for financing schools and the safeguarding of the financial position of the Authority and school.

#### **13.5 Supply of Financial Information**

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

13.5.2 If the Authority believes there to be cause for concern as to the school's management of the financial consequences of the community facilities power, a financial statement is required to be supplied every three months and a recovery plan for the activity.

#### **13.6 Audit**

13.6.1 Schools are required to grant access to the school's records, and provide explanations when requested, connected with exercise of the community facilities power, in order to facilitate internal and external audit of the relevant income and expenditure.

13.6.2 Schools are required, when concluding funding arrangements with other persons pursuant to the exercise of the community facilities power, to ensure that such agreements contain adequate provision for access by the Authority to the records and other property of those persons held on the school premises or held elsewhere insofar as they relate to the activity, in order for the Authority to satisfy itself as to the propriety of expenditure on facilities in question.

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

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



13.7.2 Schools are allowed to carry retained net income from one financial year to the next as a separate community facilities surplus, or, subject to the agreement of the Authority at the end of the financial year, transfer all or part of it to the budget share balance.

### **13.8 Health and Safety Matters**

13.8.1 The responsibilities of governing bodies with regard to duties placed by the Authority in relation to Health and Safety are extended to the community facilities power.

13.8.2 The governing body is responsible for the costs of securing Disclosure and Barring Service clearance for all adults involved in community activities taking place during the school day. Governing bodies are free to pass on such costs to a funding partner as part of an agreement with that partner.

### **13.9 Insurance**

13.9.1 The governing body is responsible to ensure adequate arrangements are made for insurance against risks arising from the exercise of the community facilities power, having taken professional advice as necessary. Such insurance should not be funded from the school budget share. The Authority's advice must be sought before any arrangement for community facilities is finalised.

13.9.2 The Authority has the right to undertake its own assessment of the insurance arrangements made by a school in respect of community facilities. If the Authority judge insurance arrangements to be inadequate, arrangements will be made by the Authority and charged to the school, but not the school's budget share.

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

### **13.10 Taxation**

13.10.1 Schools must seek advice from the Authority and local VAT office on any issues relating to possible imposition of Value Added Tax on expenditure in connection with community facilities, including the use of the Authority's VAT reclaim facility.

13.10.2 Schools are liable for payment of income tax and national insurance, in line with Inland Revenue rules, for any member of staff employed by the Authority or school in connection with community facilities, from the school's own bank account.

13.10.3 Schools must follow advice in the scheme for financing schools in relation to Construction Industry Scheme where it is relevant to the exercise of community facilities powers.

### **13.11 Banking**

13.11.1 Schools are required to either maintain separate bank accounts for budget share and community facilities, or to have one account but with adequate

internal accounting controls to maintain separation of funds. Schools can utilise Authority bank accounts which would permit adequate separation of such funds. However, in the case of a bank account which is used by the school in connection with community facilities (whether or not the account also contains funds from the school's budget share), the account mandate should not show the Authority as the owner of the community facilities funds in the account except insofar as these funds have been provided by the Authority itself.

13.11.2 Schools may choose to operate a bank account with any institution approved by the Chief Financial Officer. A list of approved institutions is contained in the Financial Regulations for Schools with Delegated Budget.

13.11.3 Schools may not borrow money for the exercise of community facilities powers without the written consent of the Secretary of State.

## ANNEX 1

### INFANT, JUNIOR AND PRIMARY SCHOOLS MAINTAINED BY THE LOCAL AUTHORITY ON 01 APRIL 2021

DfES No	Name
2001	Brunel Field Primary School
2003	Ashley Down Primary School
2004	Ashton Gate Primary School
2006	Nova Primary School
2018	Broomhill Junior School
2019	St Werburgh's Primary School
2020	Chester Park Junior School
2021	Chester Park Infant School
2023	Hillcrest Primary
2027	Shirehampton Primary
2028	Two Mile Hill Primary School
2037	Glenfrome Primary School
2041	Henleaze Infants
2069	St Anne's Infants'
2073	Sefton Park Infant
2074	Sefton Park Junior School
2079	Southville Primary School
2081	Summerhill Infant School
2086	Upper Horfield Community
2098	Holymead Primary School
2109	Brentry Primary
2115	Broomhill Infant School
2138	Elmlea Infants' School
2139	Cabot Primary School
2299	Hannah More Primary
2312	Bishop Road Primary School
2314	Blaise Primary & Nursery School
2326	Fair Furlong Primary School
2327	May Park Primary
2328	Whitehall Primary School
3000	Avonmouth C. E. Primary School
3008	Horfield CEVC
3010	St Barnabas C.E.V.C Primary
3013	St George Cof E VC Primary
3014	St John's Primary School
3018	St Michael's on the Mount Church of England Primary
3400	School of Christ the King
3401	Holy Cross R.C. Primary School
3402	SS. Peter & Paul R.C. Primary

3403	St Bernard's Catholic Primary
3405	St Joseph's Catholic Primary
3412	Our Lady of the Rosary Primary
3413	St. Pius X RC Primary School
3415	St Bernadette RC Primary
3417	St Bonaventure's Catholic Primary School
3437	Bridge Farm Primary School
3438	Knowle Park Primary School
3439	Sea Mills Primary School
3441	Air Balloon Hill Primary School
3442	St Peter's Church of England Primary

## SECONDARY SCHOOLS

DfES No	Name
4801	St. Bernadette Catholic Secondary
4603	St. Mary Redcliffe & Temple Secondary

## SPECIAL SCHOOLS

DfES No	Name
7042	Briarwood Special
7011	Claremont Special
7000	Elmfield School for Deaf Children
7002	Kingsweston Special
7014	New Fosseyway Special

## NURSERY SCHOOLS

DfES No	Name
1003	Filton Avenue Nursery
1016	Hartcliffe Children's Centre
1005	Ilminster Avenue Nursery
1012	Knowle West Early Years Centre
1015	The Limes Nursery
1004	Little Hayes Nursery
1014	Redcliffe Early Years Centre
1007	Rosemary Nursery
1009	Speedwell Nursery
1002	St. Phillip's Marsh Nursery
1010	St. Paul's Nursery
1011	St. Werburgh's Park Nursery

## **ANNEX 2**

### **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 might be taken.

Charge of dismissal/resignation costs to delegated school budget:

- If a school has decided to offer more generous terms than the authority's policy, then it would be reasonable to charge the excess to the school
- If a school is otherwise acting outside the local authority's policy

- Where the school is making staffing reductions which the local authority does not believe are necessary to either set a balanced budget or meet the conditions of a licensed deficit
- Where staffing reductions arise from a deficit caused by factors within the school's control
- Where the school has excess surplus balances and no agreed plan to use these
- Where a school has refused to engage with the local authority's redeployment policy

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

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

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

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

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

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

- (7) Where a local education authority incurs 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.