



# Scheme for Financing Schools in Lancashire

July 2024 (Next Review July 2025)



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### **SECTION 1: INTRODUCTION**

References throughout this document to “the Act” are to the School Standards and Framework Act 1998; “the authority” means the local authority; and “the Regulations” are to the School Finance and Early Years (England) Regulations 2020 made under the Act.

#### **1.1 The Funding Framework**

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 School Forum or the Secretary of State in certain instances) as prescribed by the Secretary of State. The balance of the schools budget left after deduction of 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 outturn expenditure.

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

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

Regulations also require the 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 Lancashire Scheme for Financing Schools (the Scheme) sets out the financial relationship between Lancashire County Council (the Authority) and the maintained schools which it funds. It contains requirements binding on both the Authority and school governing bodies relating to financial management and associated issues.

Alongside the Scheme, the Authority provides more detailed local guidance on a number of issues to which school governing bodies will need to have regard in the management of delegated budgets. We have inserted a link in the scheme where appropriate. The Authority considers that these local guidance documents are consistent with the Scheme but in the event that they contain provisions contrary to the Scheme, the Scheme will take precedence.

### **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 pupil referral units (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.

## **1.3 Publication of the scheme**

The current version of the approved Scheme is published on the LCC website [here](#) and is available for download by schools and other relevant partners and stakeholders.

## **1.4 Revision of the scheme**

The Authority is responsible for maintaining Lancashire's approved Scheme for Financing Schools. Any proposed revisions to the current Scheme will be the subject of consultations with the Governing Body and the Headteacher of every school

maintained by the Authority before they are submitted to the schools forum for approval by members of the forum representing maintained schools. Where the schools forum does not approve them or approves them subject to modifications which are not acceptable to the authority, the authority may apply to the Secretary of State for approval.

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

There are no new directed revisions contained in the April 2024 update of the Scheme statutory guidance.

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

Some powers delegated to the Governing Body can be exercised only by the whole Governing Body. Others may be delegated to Committees of the Governing Body or to the Headteacher.

The Governing Body is required to consider the extent to which it wishes to delegate its financial powers to the Headteacher, and to record its decision (and any revisions) in the minutes of the governing body.

The Authority issues guidance on possible arrangements for delegation to Committees together with a model scheme for delegation to Headteachers. This is available on the Schools Portal [here](#).

The conduct of each maintained school is under the direction of its Governing Body. The Governing Body sets the broad strategy for the school's development and is responsible for the school's delegated budget and the school's annual budget plan. In general, the Governing Body will look to the Headteacher to lead and manage the school, in accordance with the priorities as set out in the annual budget plan. The formal budget plan for each financial year must be approved by the full Governing Body or by a committee of the Governing Body.

### **1.6 Maintenance of schools**

The local authority is responsible for maintaining the schools covered by the scheme, and this includes the duty of defraying all the expenses of maintaining them (except in the case of a voluntary 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 CONTROLS**

### **2.1.1 Application of financial controls to schools**

Schools are required, in the management of their delegated budgets, to abide by the authority's requirements on financial controls and monitoring, not only those in the scheme but also those requirements contained in more detailed publications referred to in the scheme.

There are additional requirements for schools with their own bank accounts (see section 3).

The Executive Director Resources has a duty to ensure the proper administration of the Council's financial affairs (Section 151 Local Government Act 1972). The Executive Director Resources is also required to produce annual accounts in accordance with statutory requirements and statements of standard accounting practice. Schools must keep accounts that meet the prescribed format of the County Council and will integrate with those for the authority as a whole. They must also meet the requirements of the DfE's Consistent Financial Reporting Framework.

### **2.1.2 Provision of financial information and reports**

Schools are required to provide the authority with details of anticipated income and expenditure, using the online Income and Expenditure Form which is accessed via the Schools Portal.

This form must be submitted by the due date as notified by the Authority.

Schools are also required to submit analysis of balances information regarding their balance at year end for Consistent Financial Reporting purposes. Details of the information required and the timescales for submission will be notified to all schools via the Schools Portal.

Schools may be required to submit further information to the authority, but this will not be required more often than once every three months. Schools which manage their own bank account are required to submit bank reconciliation information on a monthly basis.

This is different from a requirement for annual budget plans (see section 2.3).

### **2.1.3 Payment of salaries; payment of bills**

The Governing Body is required to follow the Authority's procedures for the payment of salaries and certain expenses paid with salaries and for the payment of bills. For schools electing to operate a local bank account and/or wishing to use a payroll service provider other than the Authority, separate procedures are laid down. For further information please contact the Schools Finance Team. Salaries of all relevant staff must be charged to school budget shares at actual costs.



#### **2.1.4 Control of assets**

The Governing Body is responsible for the safe custody and physical control of stores and equipment and is required to maintain an inventory of its moveable, non-capital assets. The Governing Body is also required to set out its basic authorisation procedures for the disposal of assets. These arrangements should comply with the appropriate guidance issued by the Authority.

Schools are free to determine their own arrangements for keeping a register of assets worth less than £1,000. However, schools should keep a register in some form and are particularly encouraged to register anything that is portable and attractive, such as mobile devices.

The Governing Body is required to arrange physical checks of equipment and stores against relevant records by individuals other than those responsible for their custody and control.

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

The Governing Body is required to abide by the accounting policies determined by the Authority. The Governing Body is required also to abide by procedures governing the annual closure of accounts. Such procedures will reflect the accounting policies of the Authority and will be issued annually.

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

The Governing Body may write off debts in relation to the school's delegated budget share only up to a level stipulated by the Authority. The Authority issues guidance on appropriate procedures, which is available on the Schools Portal.

### **2.2 Basis of accounting**

In providing information to the Authority, the Governing Body is required to furnish accounts on the basis specified by the Authority. The Authority may specify that reports and accounts should be provided on a cash or accruals basis, but the Authority will not seek to impose either system on schools' internal systems. Schools may use whatever financial software they wish in the internal organisation of their accounts, provided they meet any costs of modification to provide output in the format required by the Authority.

### **2.3 Submission of budget plans**

For each financial year the Governing Body is required to prepare and approve a formal budget plan for the school and submit this in a form and within the timetable prescribed by the Authority. In preparing its budget plan, the Governing Body should take full account of estimated deficits/surpluses at the previous 31<sup>st</sup> March. The form determined by the authority for submission of budget plans must take account of the Consistent Financial Reporting framework. The format of the plan shall be specified by the authority and forwarded to all schools at the appropriate time.

The Authority does not require the submission of the formal budget plan before 1<sup>st</sup> May of the relevant financial year. However, the Authority may require the submission of a provisional budget plan at an earlier date which may be prior to the start of a financial

year. The intervals at which revisions may be required shall not be more often than once every 3 months.

The Governing Body is also required to supply such additional information as the Authority may request in order to undertake its statutory responsibilities.

The Authority will supply the Governing Body with such school income and expenditure data held which will assist efficient planning. In particular:

- By no later than 31<sup>st</sup> March prior to the beginning of each budget period, the Authority will provide the Governing Body with a statement of resources allocated to the school (the school's budget share).
- The Authority may issue additional budget estimates from time to time.
- At the end of each financial year, the Authority will provide the Governing Body with a summary statement of income and expenditure and the resulting carry forward position.

The Governing Body is required to establish a budget which does not result in an accumulated deficit at the year end. Any unplanned deficit on the final accounts will be charged against the following year's budget share for the school. For schools which are unable to set a balanced budget refer to sections 4.5 and 4.9.

### **2.3.1 Submission of Financial Forecasts**

Each school must submit a 3-year budget forecast each year, at a date determined by the local authority.

## **2.4 School Resource Management**

Schools must seek to achieve effective management of resources and value for money, to optimise the use of their resources and to invest in teaching and learning.

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

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

## **2.5 Virement**

The Governing Body may allocate budgets or exercise virement of all sums within the delegated budget share. As part of its internal financial regulations, the Governing Body is required to establish criteria for virement and financial limits above which the approval of the full Governing Body must be obtained.

## **2.6 Audit: General**

The Governing Body is required to co-operate and comply with the internal and external audit regimes in force as follows:

- as regards internal audit, schools will be placed within the audit regime determined by the Authority. The Governing Body is required to abide by its procedures. The Authority may determine different audit arrangements for schools having their own bank account compared with non-bank account schools.
- as regards external audit, schools will be placed in the local education authority audit regime as determined by the Local Audit and Accountability Act 2014. The Governing Body is required to abide by the relevant procedures.

The Authority may from time to time, conduct or arrange for the examination and audit of the school's accounts. This will normally exclude any audit of unofficial school funds however the authority reserves the right to inspect the transactions within such funds to support the regularity school audit.

The governing body and/or head will immediately notify the County Council's Head of Service Internal Audit of any suspected financial irregularity.

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

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

## **2.7 Separate external audits**

The Governing Body may obtain an external audit certificate of its accounts separate from the County Council's internal and external audit processes. Should the Governing Body decide to take this action, the cost must be met from the school's budget share or other appropriate funds available to the governors. The scope and content of the County Council's internal and external audit processes will not be amended on account of this additional audit.

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

The Governing Body is required to submit, annually to the Authority, confirmation that financial regulations and procedures are in place for any unofficial or private funds operated by the school and that the funds have been audited and signed by a suitably qualified person, who is independent of that fund. This process will be via an eform available on the Schools Portal.

Schools must retain a copy of the accounts in school for Authority Audit purposes, which will be requested as required.

A school that does not comply with this requirement is in breach of the scheme and the authority can take appropriate action on that basis.

## **2.9 Register of business interests**

The governing body of each maintained school is required to have a register which lists for each member of the governing body, the headteacher and all school staff:

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

The register must be kept up to date by notifications of any changes by those referred to and through an annual review of entries. The register is to be made available for inspection by Governors, staff, parents, and the local authority. The register must also be published, for example on a publicly accessible website.

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

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

The Governing Body is required to abide by the Authority's financial rules and standing orders in purchasing, tendering, and contracting matters. This includes the requirement to assess in advance where relevant, the health and safety competence of contractors, taking account of the Authority's policies and procedures.

The Authority's Procurement rules are available [here](#).

Schools may seek advice on a range of compliant deals via the DfE Buying for schools website available [here](#).

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

For local authority-arranged contracts entered into following consultations with the Governing Body, the school is bound into these contracts for their duration.

With the exception of the above, schools may opt out of authority-arranged contracts. In some cases, this may result in costs which may be charged to the school's budget share (see Section 6).

Although governing bodies are empowered under paragraph 3 of schedule 10 to the School Standards and Framework Act 1998 to enter into contracts, in most cases they do so on behalf of the Authority as maintainer of the school and the owner of the funds in the budget share. Other contracts may be made solely on behalf of the governing body, when the governing body has clear statutory obligations

## **2.12 Central funds and earmarking**

As necessary, the Authority may make additional resources available to a school in the form of allocations from centrally retained resources outside the ISB. These allocations from central funds are additional to and separate from the school's budget share, and may be earmarked for a particular purpose, or other activities funded from the central expenditure of an LA's school budget or other LA budget.

The Governing Body must provide such accounting and other information as may be required by the Authority to demonstrate that earmarked devolved allocations have been spent for the purposes prescribed, and, where applicable, to enable the Authority to fulfil its responsibilities for the submission of claims for grant to government departments.

Earmarked devolved funds may be required to be returned to the Authority if not spent in year, or within the period or for the purpose stipulated by the Authority.

The Authority will not make any deduction in respect of interest costs to the Authority from payments to schools of devolved specific or special grants.

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

Subject to regulations made by the Secretary of State and any provisions of this Scheme the Act allows the Governing Body to spend the school's budget share for the purposes of the school. Under section 50(3A), amounts spent by governing bodies on community facilities or services under section 27 of the Education Act 2002 will be treated as if spent for any purposes of the school.

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

The Secretary of State under section 50(3)b may also prescribe additional purposes for which expenditure of the school's budget share may be used.

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

The Governing Body may use the school's budget share (i.e. revenue funding) to meet the cost of capital expenditure for the purposes of the school. Where the school premises are owned by the Authority, or the school has voluntary controlled status, the Governing Body is required to seek the consent of the Authority to all proposed works, but such consent will be withheld only on health and safety grounds.

The Governing Body of a voluntary aided school may use the school budget share to meet the full cost of capital expenditure on work which is their responsibility under paragraph 3 of Schedule 3 of the Act, pending receipt of DfE grant. DfE grant in respect of such expenditure must be credited to the school's budget share on receipt. However, the VAT incurred by a voluntary aided school in carrying out its statutory responsibilities to maintain the external fabric of the building cannot be recovered, irrespective of the source of funding and the full costs of such works should be coded VAT inclusive to the ledger code and relevant subjective code.

In all cases the Governing Body is required to seek the prior agreement of the Authority regarding the treatment and funding of any consequential costs which may arise from the proposed expenditure. The Authority reserves the right to charge a school budget share for any consequential costs arising from capital works undertaken at the school by the Governing Body where the treatment of such consequential costs has not been agreed in advance by the Authority (see Section 6).

The Authority, having regard to national regulations and guidelines, will determine the definition of capital expenditure.

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

### **2.15 Notice of concern**

The Authority may issue a notice of concern to the governing body of any school it maintains where, in the opinion of the Authority 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 local authority.
- insisting on regular financial monitoring meetings at the school attended by local authority officers.
- requiring a governing body to buy into a local authority's financial management systems.
- 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; and
- requiring that any proposed staffing appointments are approved by the Authority before being made.

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

Where there is a dispute between the Authority and the school it is issuing a notice to, regarding any aspect of the notice, it will be taken to the Chair of the Lancashire Schools Forum and Chairs of the Forum Subgroups for resolution.

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

All local authority maintained schools must demonstrate compliance with the Schools Financial Value Standard (SFVS) and complete the assessment form on an annual

basis. It is for the school to determine at what time in the year they wish to complete the form.

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

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

For each financial year, schools should submit their SFVS to their local authority no later than 31<sup>st</sup> March.

Local authorities should submit their assurance statement to DfE within 6 weeks, no later than 31<sup>st</sup> May.

Guidance is available from DfE [here](#).

## **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.

### **2.17.1 Reporting a Concern**

Concerns should be reported as early and as clearly as possible. Under normal circumstances, school teachers and employees should report suspected fraud or irregularities to the head teacher / governors who must ensure that the matter is reported to Lancashire County Council Investigations Service via email to: [internalauditinvestigations@lancashire.gov.uk](mailto:internalauditinvestigations@lancashire.gov.uk) who form part of the Internal Audit Service of the authority.

The Investigations Service will advise regarding the most appropriate methods of investigation and whether the Investigations Service, Human Resources or Legal Services need to lead or participate in the investigation. Head teachers, governors, or other school employees who suspect fraud, bribery, money laundering or theft should not undertake investigations without first seeking advice from the Investigation Service. Should a member of school staff believe their superior is involved in the concern (or will not take appropriate action regarding concerns raised around fraud and irregularity), then they should contact the Investigations Service directly.

Concerns regarding Money Laundering need to be reported immediately to the Money Laundering Reporting Officer (MRLO) via email to: [internalauditinvestigations@lancashire.gov.uk](mailto:internalauditinvestigations@lancashire.gov.uk)

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

The Authority has adopted the CIPFA Code of Practice for Treasury Management in Local Authorities. For the purposes of this section, Budget share includes any placed funding for special schools or pupil referral units.

### **3.1 Frequency of instalments**

For Bank Account schools instalments of the budget share and Top Up payments for pupils with high needs will be paid on a monthly basis. In accordance with Section 49(5) of the Act, money advanced by the Authority and held in schools' local bank accounts remains the property of the Authority until spent.

For Non-Bank Account Schools, the schools individual school budget share will be made available at the start of each financial year.

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

For Bank Account schools the instalments of the budget share will be paid in monthly instalments into the school bank account.

Where the Authority is administering the payroll for the school, payroll costs will be recovered from the school bank account.

### **3.3 Interest deduction**

The Authority will deduct from the budget share instalments an amount equal to the estimated interest lost by the Authority in making available a budget share instalment in advance.

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

The Authority will add interest to late payments of budget share instalments, where such late payment is the result of an authority error. The interest rate used will be that used in 3.3 above.

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

At the authority's discretion budget shares 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 maintained schools are permitted to have external bank accounts into which their budget share instalments (as determined by other provisions) are paid. Where schools have such accounts, they shall be allowed to retain all interest payable on the account unless they choose to have an account within an authority contract which makes other provision.



If a school opens an external bank account the authority will transfer at the date of commencement, an amount agreed by both school and authority as the estimated surplus balance held by the authority in respect of the school's budget share, on the basis that there is then a subsequent correction when accounts for the relevant year are closed.

The authority may refuse to agree to a request for a local bank account where a school has an accumulated deficit which is not forecast to be cleared before the bank account would come into operation. The authority may withdraw the permission to operate a local bank account for schools which operate in deficit without a cash flow recovery plan.

### **3.5.1 Restrictions on accounts**

The Governing Body may negotiate terms only with those banks or building societies that are consistent with the current Treasury Management Policy. Any Governing Body wishing to change the institution with which it has a bank account must select the new bank or building society from the approved list in place at that time. For further information please contact the Treasury Management Service. [FIN.TreasuryManagement@lancashire.gov.uk](mailto:FIN.TreasuryManagement@lancashire.gov.uk) or Tel: 01772 534740

The Governing Body must use only one institution for the operation of local banking arrangements but are free to choose the number and nature of the accounts held with that institution. These accounts for budget share purposes may be in the name of the school rather than the Authority.

However, if a school has such an account, the account mandate must provide that the Authority is the owner of the funds in the account; that it is entitled to receive statements; and that it can take control of the account if the school's right to a delegated budget is suspended by the Authority. Budget share funds paid by the Authority and held in school accounts remain authority property until spent. (s.49(5) of the Act).

Guidance on the operation of bank accounts is available from the Authority. Regarding signatories for bank accounts, schools are advised that an adequate separation of duties for payment be established based with where possible, at least three and at most five people as authorised signatories.

### **3.6 Borrowing by schools**

The Governing Body may borrow money (which includes the use of finance leases) only with the written permission of the Secretary of State. The Authority must be consulted by a Governing Body wishing to seek such permission.

The Secretary of State has, provided blanket consent to a range of the most common leasing activities, as set out in the [IFRS16 Maintained Schools Finance Lease Class Consent 2024](#). Schools are allowed to use any scheme in line with the Order without specific approval. Leases not included in this Order will still require the written consent of the Secretary of State, and it remains the general position that schools will only be granted permission for other types of borrowing in exceptional circumstances. From time to time, however, the Secretary of State may introduce limited schemes in order to meet broader policy objectives.

Schools must not use interest bearing credit cards and overdrafts, which are regarded as borrowing. However, schools may use procurement cards, as these cards can be a useful means of facilitating electronic purchase. Schools may use a credit or charge card if no interest charges are incurred by the school, with balances fully cleared on a monthly basis. Further information is available in the School Bank Account Guidance and the Credit Card Policy.

This requirement does not apply to Trustees and Foundations, who's borrowing as private bodies makes no impact on government accounts. These debts may not be serviced directly from delegated budgets, but the Governing Body is free to charge for a service which the Trustees or Foundation are able to provide as a consequence of their own borrowing.

A Governing Body does not act as an agent of the Authority when repaying loans.

This provision does not apply to licensed deficits or to any loan schemes which the Authority may make available in the future (see sections 4.9 and 4.10).

### **3.7 Other provisions**

The day-to-day operation of school local bank accounts must comply with procedures and guidance laid down by the Authority in accordance with its statutory duties and responsibilities under the Local Government Acts. Where there is substantial or persistent failure to comply with such procedures and guidance the County Council will have the authority to suspend the local bank account until the position is rectified to its satisfaction.

Governing Bodies are reminded that the provisions of the Late Payment of Commercial Debt (Interest) Act will apply to payments made from school local bank accounts.

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

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

Schools are allowed to carry forward from one financial year to the next any surplus balance including any balance brought forward from the previous year. The amount of surplus balance, as determined upon the closure of the year's accounts will be shown in the relevant outturn statement.

### **4.2 Controls on surplus balances**

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

The mechanism is focused only on those schools which have built up excessive uncommitted balances.

Schools are required to hold an appropriate level of balances before committing any funds for specific purposes.

For schools that hold balances greater than the Authority's recommended guideline the Authority shall be empowered to deduct from the current year's budget share a percentage of the excess surplus balances (clawback) as agreed following consultation with the Lancashire Schools Forum. The rate and any exceptions shall be reviewed annually by the Authority in consultation with the Lancashire Schools Forum, and guidance issued to schools.

Lancashire Schools Forum can consider exceptional cases for an exemption from the clawback provisions as stipulated in the current clawback policy available on the Schools Forum website.

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

Balances held by the Authority on behalf of schools will attract interest, at a rate determined by the Authority. Separate guidance will be issued to schools from time to time.

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

Any deficit balance is carried forward to the following financial year. The Authority will require that robust plans are in place to eradicate the deficit in the following year. If additional support in the preparation of these plans is required from the authority a charge may be levied.

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

With the exception of the provisions on licensed deficits (see 4.9), the Governing Body shall not approve a budget which exceeds their total available resources.

The Local Authority requires schools to submit a recovery plan in response to a planned year end deficit budget.

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

The Authority will charge interest on deficit balances at a rate determined annually by the Authority.

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

With the exception of closing schools (see 4.8) where the balance reverts to the Authority, the Authority cannot write off the deficit balance of any school.

Where the Authority wishes to give assistance towards elimination of a deficit balance this will be through the allocation from the authority's centrally held budget for the specified purpose.

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

When a school closes, any balance (whether surplus or deficit) reverts to the Authority. The Authority cannot transfer a closing balance to an individual school, even where that school is a successor to the closing school, except that a surplus or deficit transfers to an academy where a school converts to academy status under section 4(1)(a) of the Academies Act 2010.

For a school (or schools) which close(s) with a surplus balance, (where applicable) the Authority will determine the level of any net surplus to be allocated to a replacement school, having taken into account any additional support funded by the Authority provided for the closing school prior to closure. The Authority will also have regard to its guidance on appropriate levels of balances in determining the level of any surplus to be allocated to a replacement school.

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

#### **4.9 Licensed deficits**

The Authority may license a deficit providing the school develops a recovery plan showing how the school will manage the deficit moving to a balanced position over an agreed period of time.

As per paragraph 4.5 Schools must submit a recovery plan to the local authority when they have a cumulative revenue deficit as at 31<sup>st</sup> March of any year.

In certain exceptional circumstances, the Governing Body may apply for a budget anticipation with recovery over more than one year, subject to the following conditions:

- the maximum length over which the school may repay the deficit is not greater than three years.

- the Governing Body giving a formal indication of their willingness to implement an action plan designed to achieve repayment over the agreed timescale and to comply with any conditions specified in the agreed plan.
- termly budget monitoring reports or a revised forecast of school's outturn position are submitted to Schools Finance team.
- copies of all finance reports submitted to the Governing Body/Finance Committee are submitted to Schools Finance Team, on request.
- all licensed budget deficits will be subject to the agreement of the Authority and will attract an interest charge calculated on the same basis as that applying to general school balances.

The Authority may recommend a visit by Schools Financial Services and in such instances the Authority reserves the right to make a charge for this service.

The extent to which licensed budget deficits can be approved in any year will be dependent on there being adequate overall resources within school balances/reserves to provide the funds required.

In circumstances where a school requires a budget share advance in order not to be overdrawn at their bank, this will be treated as a cash advance and not a loan. This will have no effect on the school's budget and outturn statements.

The purposes for which a budget anticipation arrangement may be agreed include:

- planned school improvement work.
- managing staffing re-organisation/curriculum protection.

#### **4.10 Loan schemes**

The authority may make available a loan scheme for specific purposes by way of actual payments to schools on condition that a corresponding sum is repaid from the budget share. The parameters for the arrangement of the loan are as listed at 4.9 above for licensed deficits.

Loans will only be used to assist schools in spreading the cost over more than one year of large one-off individual items of a capital nature that have a benefit to the school lasting more than one financial or academic year. Loans will not be used as a means of funding a deficit that has arisen because a school's recurrent costs exceed its current income. If loans are made to fund a deficit and a school subsequently converts to academy status, the Secretary of State will consider using the power under paragraph 13(4)(d) of Schedule 1 to the Academies Act 2010 to make a direction to the effect that such a loan does not transfer, either in full or part, to the new Academy school.

## **SECTION 5: INCOME**

The basic principle is that schools should be able to retain income except in certain specified circumstances.

### **5.1 Income from lettings**

Schools will retain income from lettings of the school premises including community and controlled schools where this would otherwise accrue to the authority. This is subject to alternative provisions arising from any joint use or Private Finance Initiative (PFI) and Public Private Partnership (PPP) agreements or other long-term leasing/licensing by the Authority of an identified part of the school premises.

The Governing Body controls the use of school premises for lettings purposes, and they are responsible for all VAT implications

Schools may cross-subsidise lettings for community and voluntary use with income from other lettings, provided the governing body is satisfied that this will not interfere to a significant extent with the performance of any duties imposed on them by the Education Acts, including the requirement to conduct the school with a view to promoting high standards of educational achievement.

Income from lettings of school premises should not normally be payable into voluntary or private funds held by the school. However, where land is held by a charitable trust, it will be for the school's trustees to determine the use of any income generated by the land.

Schools are required to have regard to the lettings policy produced by the authority, [here](#).

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

Schools will retain income from fees and charges except where a service is provided by the authority.

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

Schools will retain income from fund-raising activities.

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

Schools may retain the proceeds of sale of assets except where the asset concerned is land or buildings forming part of the school premises and is owned by the authority.

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

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

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

### **6.1 General provision**

The budget share of a school may be charged by the authority without the consent of the governing body **only** in circumstances expressly permitted by the scheme as detailed below. The authority will consult schools as to the intention to so charge and notify schools when it has been done.

In the event of any dispute, the Governing Body will be able to make representations to the Cabinet Member for Schools who may seek the views of the Lancashire Schools Forum before determining the matter.

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.

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

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

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

- 6.2.1** Where premature retirement costs have been incurred without the prior written agreement of the authority to bear such costs (the amount chargeable being only the excess over any amount agreed by the authority).
- 6.2.2** Other expenditure incurred to secure resignations where there is good reason to charge this to the school (see Annex A).
- 6.2.3** Awards by courts and industrial tribunals against the Authority, or out of court settlements, arising from action or inaction by the Governing Body contrary to the Authority's advice, guidance and/or requirements. Examples may include, but are not limited, to health and safety issues, personnel and disability discrimination matters, and failure to inform the Authority of a permanent exclusion within the stipulated time period.
- 6.2.4** set out in guidance. In framing any such advice, the Authority will take proper account of the role of aided school governing bodies under Section 60(5) of the Act.
- 6.2.5** Expenditure by the authority in carrying out health and safety work or capital expenditure for which the authority is liable where funds have been delegated to the governing body for such work, but the governing body has failed to carry out the required work.
- 6.2.6** Expenditure by the authority incurred in making good defects in building work funded by capital spending from budget shares, where the premises are owned by the authority, or the school has voluntary controlled status.
- 6.2.7** Expenditure incurred by the authority in insuring its own interests in a school where funding has been delegated but the school has failed to demonstrate that it has arranged cover at least as good as that which would be arranged

by the authority. See also 10.1. Charging the budget share cannot take place where the authority has no relevant insurable interest, e.g. in the buildings of a foundation school. The authority will determine whether it has an insurable interest in any particular case.

- 6.2.8** Recovery of monies due from the Governing Body for services provided to the school, where a dispute over the monies due has been referred to a disputes procedure set out in a service level agreement and the result is that monies are owed by the school to the authority. Where a service level agreement does not stipulate a disputes procedure, the procedure outlined at 6.4 will apply.
- 6.2.9** Recovery of penalties imposed on the authority by the Board of Inland Revenue, the Contributions Agency, HM Revenue and Customs, Teachers' Pensions, the Environment Agency, or other regulatory authorities as a result of school negligence.
- 6.2.10** Correction of authority errors in calculating charges to a budget share (e.g. pension deductions)
- 6.2.11** Additional transport costs and other costs e.g. in connection with contracts for the provision of meals, incurred by the authority arising from decisions by the Governing Body on the length of the school day, where applicable term dates and failure to notify the authority of non-pupil days, resulting in unnecessary transport costs and other costs.
- 6.2.12** Legal costs which are incurred by the authority because the governing body did not act in accordance with the advice of the authority (see also section 11.4).
- 6.2.13** Costs of necessary health and safety training for staff employed by the authority, where funding for training had been delegated but the necessary training not carried out.
- 6.2.14** Compensation paid to a lender where a school enters into a contract for borrowing beyond its legal powers, or outside the scope of the scheme.
- 6.2.15** Cost of work done in respect of teacher pension remittance and records for schools using non-authority payroll contractors, the charge to be the minimum needed to meet the cost of the authority's compliance with its statutory obligations.
- 6.2.16** Costs incurred by the authority in securing provision specified in an Education, Health and Care Plan (EHCP) where the Governing Body of a school fails to secure such provision despite the delegation of funds in respect of low-cost high incidence SEN and/or specific funding for a pupil with High Needs.
- 6.2.17** Costs incurred by the 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 authority as a result of the Governing Body being in breach of the terms of a contract:
- 6.2.20** Costs incurred by the authority or another school as a result of a school withdrawing from a cluster arrangement, for example where this has funded staff providing services across the cluster:
- 6.2.21** 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.
- 6.2.22** Where delegation has been suspended at a school, the Authority may charge to the school budget share such costs as it considers appropriate in discharging its responsibilities for running the school.
- 6.2.23** Where consequential costs arise from capital expenditure undertaken at the school by the Governing Body, the Authority may charge these costs to the budget share where such consequential costs have not been agreed in advance by the Authority.
- 6.2.24** Essential capital expenditure incurred by the Authority arising from deficiencies in the repair and maintenance programme undertaken by the Governing Body.
- 6.2.25** Expenditure incurred by the Authority in the event of any failure on the part of the Governing Body in meeting statutory or contractual obligations. For example, this may include, but is not limited to, the cost of work done by the Authority where a school has failed to abide by the admissions arrangements or failed to comply with statutory requirements relating to the recording and reporting of attendance and absence, and the repayment of penalties and/or other costs where prior to termination date schools opt out of contracts voluntarily entered into by the Governing Body;
- 6.2.26** Costs awarded against the Authority caused by the Governing Body operating a local bank account being adjudged in default of the Late Payment of Commercial Debt (Interest) Act.
- 6.2.27** Amounts agreed under PFI/PPP agreements entered into by the Governing Body. This will include any funds distributed to relevant PFI schools through a specific formula factor for this purpose.
- 6.2.28** Costs incurred by the Local Authority as a result of a school's failure to comply with the requirements of the Lancashire Scheme for Financing Schools

### **6.3 Representation**

Before charging a school budget share without the consent of the Governing Body, the Authority will consider whether such a charge is reasonable in the circumstances of each case. In the event of any dispute, the Governing Body will be able to make representations to the Cabinet Member for Schools who may seek the views of the Lancashire Schools Forum before determining the matter.

## **SECTION 7: TAXATION**

### **7.1 VALUE ADDED TAX**

The Authority is able to reclaim VAT on expenditure relating to non-business activity. HM Revenue & Customs have agreed that VAT, incurred by schools when spending for the purposes of the school any funding made available by the Authority, is treated as being

incurred by the Authority and qualifies for reclaim by the Authority. Further to this, unless the Authority has directed otherwise, expenditure by schools in providing the extended services and community facilities described in the Authority's guidance documents is considered LA expenditure. This does not include expenditure by the Governing Body of a voluntary aided school when carrying out its statutory responsibilities to maintain the external fabric of its buildings. *See also section 13 – community facilities.*

Further information on VAT topics is available on the Schools Portal, [here](#).

In order to be able to utilise the Authority's ability to reclaim VAT, the Governing Body is required to follow the Authority's procedures including requirements for collecting and accounting for VAT on income where appropriate. In appropriate circumstances, e.g. bank account schools that initially pay VAT on their costs, provided that the school follows the Authority's procedures and claims are agreed by HM Revenue & Customs, the amounts so reclaimed will be passed back to the school.

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

The Governing Body is required to abide by the Authority's procedures in connection with CITS.

HM Revenue & Customs publish advice in the Construction Industry Taxation Scheme, which is available [here](#)

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

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

It is for the Authority to determine on what basis services from centrally retained funds will be provided to schools. In this context activities include, for example, existing premature retirement compensation and redundancy payments.

In its provision of services, the Authority will not discriminate on the basis of categories of schools except where this would be permitted under the School and Early Years Finance Regulations or the dedicated schools grant conditions of grant.

### **8.2 Provision of services bought back from the authority using delegated budgets**

Any arrangement with a school to buy services or facilities from the authority will normally be limited to a maximum of three years from the date of the agreement, and periods not exceeding five years for any subsequent agreement relating to the same services. At the discretion of the Authority, agreements for catering services may be extended to five and seven years, respectively.

Where the Authority provides a service for which expenditure is not retainable centrally by the LA under Section 45A of the Act, the Authority will seek to ensure that the total income generated from the sale of that service will be at least equal to the cost of providing those services.

The total cost of the service will be met by the total income, even if schools are charged differentially.

This provision complements the implied requirements of the regulations on central retention of funds. It is recognised that absolute break-even or profit is not always achievable over fixed financial years; it is for the authority to show during audit tests that the charging policy can reasonably be expected to avoid central subsidy of services.

#### **8.2.1 Packaging**

Where the Authority offers to provide, on a "buy-back" basis, services for which funding has been delegated, such services will be offered in a way that does not unreasonably restrict schools' freedom of choice among the services available. Where practicable, this will include provision on a service-by-service basis as well as in packages of services.

The Authority may offer packages of services which offer a discount for schools taking up a wider range of services.

### **8.3 Service level agreements**

Service level agreements must normally be in place by a date specified by the Authority to be effective for the following financial year, and schools will have at least a month to consider the terms of agreements.

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

**8.4.2** Where services are provided on an ad hoc basis they may be charged for at a different rate than if provided on the basis of service level agreement.

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

### **8.4 Teachers' Pensions**

In order to ensure that the performance of the duty on the authority to supply Teachers Pensions with information under the Teachers' Pension Scheme Regulations 2014, the following conditions are imposed on the authority and governing bodies of all maintained schools covered by this Scheme in relation to their budget shares.

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

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

## **SECTION 9: PFI CLAUSES**

The Authority has the power to issue regulations from time to time relating to PFI/PPP projects. Amongst other issues these may deal with the reaching of agreements with the Governing Body of a school as to the basis of charges relating to any such schemes; and the treatment of monies withheld from contractors due to poor performance.

The Authority may charge to a school's budget share amounts agreed under a PFI/PPP agreement entered into by the Governing Body. In the event of a formula factor for PFI being introduced, any funds distributed to relevant schools through this factor must be repaid immediately to the Authority.

## **SECTION 10: INSURANCE**

### **10.1 Delegation of Insurance**

Funding for school insurance has been delegated to individual schools.

The Authority will offer an annual traded service into which the Governing Body may opt.

If the Governing Body opts not to buy into the Authority's traded service for insurance, the Governing Body must demonstrate that cover sufficient for the Authority's insurable interests is available under the policy arranged by the Governing Body and is at least as good as the relevant minimum cover arranged by the Authority.

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

In operating this requirement, the Authority will 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.

### **10.2 Voluntary Aided Schools**

In the case of voluntary aided schools, the Authority will not insure those limited premises risks that are the responsibility of the Governing Body and not those of the local authority. This would include such as chapels which are used exclusively for non-secular purposes. It is expected that Diocesan/Church voluntary aided schools will secure appropriate cover for these through their Diocesan/Church Authority.

Where voluntary aided schools have their insurance cover arranged by the Authority, through a traded service option, the County Council's Property Insurance will be arranged in the joint names of the Authority and Governing Body.

Where required, the Governing Bodies of voluntary aided schools are insured against liabilities arising from educational activities under the terms of the Authority's Casualty insurance programme, covering Employers' Liability and Public & Products Liability risks.

### **10.3 Changes in Circumstances**

The Governing Body shall notify the Authority promptly of all new risks, liabilities, buildings and works to them, properties or vehicles which require to be insured under the insurance scheme and of any alterations affecting risks or insurance, indicating the amount of cover required.

Each school should undertake a full risk management assessment and keep this under regular review, in particular taking appropriate security and other measures to minimise the likelihood of claims being made.

#### **10.4 Notification of Claims**

The Governing Body shall immediately notify the Authority of any fire, loss, accident, or other event which may give rise to a claim under the County Council's insurance arrangements.

#### **10.5 Additional Cover**

The Governing Body may take out cover in addition to that provided by the County Council's general insurance arrangements in respect of the school, provided that any additional cost arising is borne by the school's budget share.

Where the Governing Body takes out insurance cover in respect of activities other than for the purposes of the school i.e. non-educational or non-LA purposes, the premiums incurred in arranging such cover may not be met from the school's budget share.

#### **10.6 'In-house' Carrying of Risk by Schools**

Where a Governing Body opts to arrange its own insurance, the Governing Body must have regard to the resources available to the school when deciding on any amount of risk it wishes to

carry without external cover (note 10.1 regarding compliance with the Authority's minimum requirements).

Guidance on insurance matters is available to schools from DfE and the Authority. LA advice is available on the Schools Portal [here](#).(see also 6.2.6)

#### **10.7 Risk Protection Arrangement (RPA)**

From 1 April 2020, 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. In addition, all primary and/or secondary maintained schools may join the RPA collectively by agreeing through the Schools Forum to de-delegate funding.

## **SECTION 11: MISCELLANEOUS**

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

As well as specific requirements listed above, the scheme requires governing bodies to supply all financial and other information which might reasonably be required to enable the authority to satisfy itself as to the school's management of its delegated budget share, or the use made of any central expenditure by the authority (e.g. earmarked funds) on the school.

### **11.2 Liability of governors**

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

Apart from certain specific responsibilities of the Governing Body in a voluntary aided school, for a Governing Body covered by the Authority's arrangements for insurance any claim made against the Governing Body will be dealt with by the County Council. There is no need for such a Governing Body to affect any separate insurance arrangements other than existing arrangements in voluntary aided schools. Where the Governing Body has opted for delegation of the relevant expenditure for insurance purposes, the Governing Body will need to make appropriate arrangements to cover their liabilities.

### **11.3 Governors' allowances**

For schools with delegated budgets, the authority may publish, separately from the scheme, a guide to what it considers to be reasonable expenses.

### **11.4 Responsibility for legal costs**

Legal costs incurred by the governing body, although the responsibility of the authority as part of the cost of maintaining the school, (unless they relate to the statutory responsibility of voluntary aided school governors for buildings) may be charged to the school's budget share unless the governing body acts in accordance with the advice of the authority.

*See also section 6. The effect of this is that a school cannot expect to be reimbursed with the cost of legal action against the authority itself (although there is nothing to stop an authority making such reimbursement if it believes this to be desirable or necessary in the circumstances).*

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

Legal advice is available from the Authority under the terms of the buy-back agreement to which schools may elect to subscribe.

The Governing Body may also obtain legal advice from an external source, in which case the cost must be met from the school's budget share or other appropriate funds available to the Governors.



Where there is a conflict of interest between the Authority and the Governing Body such that the LA's Legal Services Group cannot appropriately advise or represent the school under the terms of the buy-back agreement, a request should be made by the Governing Body to the Authority for separate legal representation. The Authority will determine if separate representation is appropriate and similarly if the cost of that representation should or should not be met by the Authority, at least in the first instance.

### **11.5 Health and Safety**

In the management of the budget share, the Governing Body is required to have due regard to duties placed on the Authority in relation to health and safety and to the Authority's policy on health and safety matters.

### **11.6 Right of attendance for Executive Director Resources**

Governing bodies are required to permit the Executive Director Resources of the authority, or any officer of the authority nominated by the Executive Director Resources, to attend meetings of the governing body at which any agenda items are relevant to the exercise of her or his responsibilities.

The authority will give prior notice of such attendance unless this is impracticable.

### **11.7 Special Educational Needs**

Authorities require schools to use their best endeavours in spending the budget share, to ensure the special educational needs of their pupils are met. The school may be required to provide evidence to parents/carers and the Authority through provision mapping on how needs are met within delegated resources. The school may have to explain how their pupils' special educational needs have been met should they be required to attend a SEND Tribunal.

### **11.8 Interest on late payments**

Governing Bodies are reminded that the provisions of the Late Payment of Commercial Debt (Interest) Act will apply to payments made from school local bank accounts.

### **11.9 'Whistleblowing'**

The Governing Body is encouraged to establish a mechanism, or whistleblowing policy, through which anyone connected with the school, can properly raise concerns about financial matters without prejudice to their personal position. An effective system for the raising of concerns should include respect for confidentiality of the individual, an opportunity to raise concerns outside the line management structure, and an indication of the proper way in which concerns may be raised outside the organisation if necessary.

The Authority's whistleblowing policy document recommended for adoption by Governing Bodies can be accessed [here](#).

### **11.10 Child Protection**

In the management of the budget share, the Governing Body is required to have due regard to the school's policy regarding child protection.

### **11.11 Redundancy/early retirement costs**

The 2002 Education Act governs responsibility for redundancy and early retirement costs (See Annex A)

### **11.12 Purchase of Alcohol**

The school's budget share must not be used to purchase alcohol, for human consumption, except where it is to be used in religious services.

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

### **12.1 Delegation Arrangements**

All budgets for capitalised maintenance have been delegated to schools. Governing bodies are expected to finance all costs for maintenance works from their budgets.

The Authority is required to delegate all revenue funding for repairs and maintenance to schools. Devolved Formula Capital (DFC) allocations have also been delegated to schools.

For accounting purposes, schools are required to adhere to the Chartered Institute of Public Finance and Accountancy (CIPFA) Code of Practice on Local Authority Accounting. For these purposes, repairs and maintenance expenditure may be treated as capital only if it fits the definition of capital used by the Authority for financial accounting purposes.

Under this definition, the Authority currently deems work costing more than £15,000 on a secondary school, and more than £10,000 on a nursery, primary or special school, to be capital expenditure. These capital thresholds will be kept under review by the Authority and may be varied from time to time. Where variations to the capital thresholds are determined by the Authority, schools will be notified prior to the start of the financial year in which the revised thresholds will take effect. The capital thresholds determined by the Authority for this purpose may be different from any capital thresholds established for other purposes.

### **12.2 Voluntary Aided Schools**

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

## **SECTION 13: COMMUNITY FACILITIES**

### **Introduction**

Schools which choose to exercise the power conferred by section 27 (1) of the Education Act 2002 to provide community facilities will be subject to controls. Regulations made under section 28 (2), if made, can specify activities which may not be undertaken at all under the main enabling power.

Section 88 of the Children and Families Act 2014, has removed the requirements in section 28(4) and section 28(5) of the Education Act 2002 for maintained schools in England. Under section 28(4) a school was obliged to consult its authority and under section 28(5) a school must have regard to advice or guidance from the Secretary of State or their local authority when offering this type of provision.

However, under section.28(1), the main limitations and restrictions on the power will be those contained in the maintaining authority's scheme for financing schools made under section 48 of the School Standards and Framework Act 1998 as amended by paragraph 2 of Schedule 3 to the Education Act 2002.

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

Schools are therefore subject to prohibitions, restrictions, and limitations in the scheme for financing schools.

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

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

### **13.1 Consultation with the authority – financial aspects**

Changes made by the Children and Families Act 2014 mean that schools no longer need to consult the authority when establishing community facilities under Section 27 of the Education Act 2002. Nor do they have to have regard to advice given to them by their authority.

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

### **13.2 Funding agreements – authority powers**

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

Before concluding any such agreements, the Governing Body is required to submit detailed proposals for consideration by the Authority at least eight weeks prior to

signing any agreement. Guidance on partnership agreements is available in the form of the Authority's Partnership Protocols.

The Authority has no right of veto in such agreements. However, in circumstances where 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 are seriously prejudicial to the interests of the school or the Authority, which may constitute grounds for suspension of delegated powers.

### **13.3 Other prohibitions, restrictions, and limitations**

Where a Governing Body chooses to exercise this power to provide community facilities arrangements must be made to protect the financial interests of the authority by either carrying out the activity concerned through the vehicle of a limited company formed for the purpose, or by obtaining indemnity insurance for risks associated with the project in question, as specified by the authority.

In accordance with Section 28 the Authority may propose other provisions as are necessary to safeguard the financial position of the authority or school, or to protect pupil welfare or education.

### **13.4 Supply of financial information**

Schools which exercise the community facilities power may be required to provide the authority, periodically, with a summary statement, in a form determined by the authority, showing the income and expenditure for the school arising from the facilities in question for the previous period and an estimated forecast.

Where there is a cause for concern about the school's management of the financial consequences of the exercise of the community facilities power, the authority may require more frequent submission of financial information and if the authority sees fit, to require the submission of a recovery plan for the activity in question.

### **13.5 Audit**

Governing Bodies are required to grant access to the school's records connected with exercise of the community facilities power, in order to facilitate internal and external audit of relevant income and expenditure.

Governing Bodies, in concluding funding agreements with other persons pursuant to the exercise of the community facilities power, are required 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 question. This will enable the Authority to satisfy itself as to the propriety of expenditure on the facilities in question.

### **13.6 Treatment of income and surpluses**

A Governing Body is allowed to retain all net income derived from community facilities except where otherwise agreed with a funding provider, whether that be the LA or some other person.

A Governing Body may carry such retained net income over from one financial year to the next and hold it as a separate community facilities surplus. Alternatively, subject to the agreement of the Authority at the end of each financial year, a governing body may transfer all or part of it to the budget share balance.

### **13.7 Health and Safety**

All health and safety provisions of the main school scheme shall be extended to the community facilities power.

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

Schools should also be aware of the 2007 Safeguarding Children {And Safer Recruitment} in Education guidance, which states that schools must take reasonable steps to ensure that third party contractors they engage follow appropriate safeguarding procedures and practices. Where a school promotes, facilitates, or brokers a provision the 'safeguarding responsibility' (including, but not limited to, ensuring DBS checks are in place) lies with the school. Alternatively, where the arrangement is a simple lease of a facility such as a school hall, outside of school hours and not aimed at children from the school then the responsibility lies with the provider.

### **13.8 Insurance**

It is the responsibility of the governing body to ensure adequate arrangements are made for insurance against risks arising from the exercise of the community facilities power, taking professional advice, as necessary.

The Authority may 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.

From April 2020, instead of taking out insurance, a school may join the DfE's Risk Protection Arrangement (RPA) for risks that are covered by the RPA.

### **13.9 Taxation**

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

Schools are reminded that if any member of staff employed by the school or authority in connection with community facilities at the school is paid from funds held in a school's own bank account (whether a separate account is used for community facilities or not) the school is likely to be held liable for payment of income tax and National Insurance, in line with HM Revenue and Customs rules.

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

### **13.10 Banking**

Whether a school utilises the Authority's banking arrangements or operates its own external local bank account, a Governing Body is required to make adequate arrangements for separation of funds to ensure that school budget and other Authority funds are accounted for separately from community facilities funds.

The Authority's general conditions relating to the operation of external bank accounts (e.g. signing of cheques, the titles of bank accounts, the contents of bank account mandates, and similar matters) will apply, as set out elsewhere in this Scheme and in the Authority's guidance, save that, where a bank account is set up specifically for community facilities, the account mandate should not imply that the Authority is the owner of the funds in the account except insofar as those funds have been provided by the Authority itself.

## **SECTION 14: 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 a good reason was, but the examples set out below indicate the situations in which exceptions to the default position might be taken.

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

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



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

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

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 1 April 2013. Costs may not exceed the amount budgeted in the previous financial year.

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

The local authority will discuss its policy with the 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.

A de-delegated contingency could be provided, if the 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 (7B) is met.

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

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

## Acronyms used in Scheme for Financing Schools

<b>AVC</b>	Additional Voluntary Contributions
<b>CFR</b>	Consistent Financial Requirements
<b>CIPFA</b>	Chartered Institute of Public Finance and Accountancy
<b>CRB</b>	Criminal Records Bureau
<b>DBS</b>	Disclosure Barring Service
<b>DfE</b>	Department of Education
<b>EU</b>	European Union
<b>GTC</b>	General Teaching Council
<b>HMRC</b>	Her Majesty's Revenue and Customs
<b>I&amp;E</b>	Income and Expenditure
<b>ICT</b>	Information and Communications Technology
<b>ISB</b>	Individual Schools Budget
<b>LA</b>	Local Authority
<b>LCC</b>	Lancashire County Council
<b>PFI</b>	Private Finance Initiative
<b>PPP</b>	Public Private Partnership
<b>PRU</b>	Pupil Referral Unit
<b>SEN</b>	Statement of Educational Needs
<b>SEND</b>	Special Educational Needs and Disability
<b>SFS</b>	Schools Financial Services
<b>SIMS</b>	Schools Information Management System
<b>VA</b>	Voluntary Aided
<b>VAT</b>	Value Added Tax
<b>VER</b>	Voluntary Early Retirement
<b>VMC</b>	Voluntary Management Committee