

# The Leeds Scheme for Financing Schools

Made under Section 48 of the  
School Standards and Framework  
Act 1998

**School Funding Team  
Leeds City Council**

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## The Outline Scheme

References throughout this statutory guidance to:

'the Act' are to the School Standards and Framework Act 1998;

'the authority' means Leeds City Council;

'the Regulations' are the School and Early Years Finance (England) Regulations 2020.

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

1. The carrying forward from one funding period to another of surpluses and deficits arising in relation to schools' budget shares.
2. Amounts which may be charged against schools' budget shares.
3. Amounts received by schools which may be retained by their governing bodies and the purposes for which such amounts may be used.
4. The imposition, by or under the scheme, of conditions which must be complied with by schools in relation to the management of their delegated budgets and of sums made available to governing bodies by the authority which do not form part of delegated budgets, including conditions prescribing financial controls and procedures.
5. Terms on which services and facilities are provided by the authority for schools maintained by them.
6. The payment of interest by or to the authority.
7. The times at which amounts equal in total to the school's budget share are to be made available to governing bodies and the proportion of the budget share to be made available at each such time.
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10. The use of delegated budgets and of sums made available to a governing body by the local authority, which do not form part of delegated budgets.
11. Borrowing by governing bodies.
12. The banking arrangements that may be made by governing bodies.
13. A statement as to the personal liability of governors in respect of schools' budget shares having regard to Section 50(7) of the 1998 Act.
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15. The keeping of a register of any business interests of the governors and the head teacher.
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## **SECTION 1: INTRODUCTION**

### **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 Schools Forum or the Secretary of State in certain instances) as prescribed by the Secretary of State. The balance of the schools budget left after deduction of the centrally retained expenditure is termed the Individual Schools Budget (ISB). Expenditure items in the non-schools education budget must be retained centrally (although earmarked allocations may be made to schools).

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

Subject to any provision made by or under the scheme, governing bodies of schools may spend such amounts of their budget shares as they think fit for any purposes of their school\* and for any additional purposes prescribed by the Secretary of State in regulations made under s.50 of the Act. (\*Section 50 has been amended to provide that amounts spent by a governing body on providing community facilities or services under section 27 of the Education Act 2002 are treated as if they were amounts spent for the purposes of the school (s50(3A) of the Act.)

An authority may suspend a school's right to a delegated budget if the provisions of the authority's financial scheme (or rules applied by the scheme) have been substantially or persistently breached, or if the budget share has not been managed satisfactorily. A school's right to a delegated budget share may also be suspended for other reasons (schedule 17 to the Act)

Each authority is obliged to publish each year a statement setting out details of its planned Schools Budget and other expenditure on children's services, showing the amounts to be centrally retained and funding delegated to schools. After each financial year the authority must publish a statement showing outturn expenditure at both central level and for each school, and the balances held in respect of each school.

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

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

## **1.2 The role of the scheme**

The scheme sets out the financial relationship between the City Council and the maintained schools which it funds. Contained within the scheme are requirements relating to financial management and associated issues, binding on both the City Council and on schools.

### **1.2.1 Application of the scheme to the City Council and maintained schools**

The scheme applies in respect of all community, nursery, special, voluntary, foundation (including trust), community special or foundation special schools and pupil referral units (PRUs) maintained by the City Council. It does not apply to schools situated in Leeds which are maintained by another authority, nor does it apply to academies.

## **1.3 Publication of the scheme**

The scheme will be available on the Leeds City Council website together with a statement as to when it came into force. An electronic copy of the scheme will be supplied to the head teacher and governing body of each school covered by the scheme, and any approved revisions will be notified to each school in accordance with the regulations.

## **1.4 Revision of the scheme**

Any proposed revisions to the scheme will be the subject of consultation with the governing body and the head teacher of every school maintained by the authority before they are submitted to the Schools Forum for approval, apart from any revisions that are the result of a direction by the Secretary of State.

## **1.5 Delegation of powers to the head teacher**

Each governing body is required to consider the extent to which it wishes to delegate its financial powers to the head teacher, and to record its decision (and any revisions) in the minutes of the governing body. The first formal budget plan of each financial year must be approved by the governing body, or a committee of the governing body. The delegation of financial powers should be reviewed at least annually and where there is a new head teacher, at the earliest opportunity. Guidance is set out in the Finance Manual for schools.

## **1.6 Maintenance of schools**

The City Council 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 in which the City Council maintains schools is through the funding system put into 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 to abide in the management of their delegated budgets by the City Council'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 but outside and compatible with it.

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

Schools are required to provide the City Council with details of anticipated and actual expenditure and income, in a form and at times determined by the City Council.

However, schools are not required to submit such details more often than once every three months except for those connected with tax or banking reconciliation - unless the City Council has notified the school in writing that in its view the school's financial position requires more frequent submission or the school is in its first year of operation. This restriction to a minimum 3 month interval does not apply to schools which are part of an online financial accounting system (FMS Leeds) operated by the LA.

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

Payment of salaries and payment of bills shall be in accordance with procedures detailed in the Finance Manual for schools, and procedures published by the Business Support Centre and HR.

### **2.1.4 Control of assets**

Each school must maintain an inventory of its moveable non-capital assets, in a form to be determined by the Chief Finance Officer of the City Council, and follow the basic authorisation procedures for disposal of assets laid down. Detailed procedures are contained in the Finance Manual for schools. Schools are allowed to determine the form of register maintained for assets worth less than £1,000, but must keep a register in some form.

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

Schools are required to abide by procedures specified by the Chief Finance Officer.

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

Procedures to be followed for the write-off of debts are contained in the Financial Regulations for Schools, within the Finance Manual for Schools.

## **2.2 Basis of accounting**

Reports and accounts furnished to the LA by a school will be on an accruals basis.

## **2.3 Submission of budget plans**

Once a school has been notified of its school budget share, it is the responsibility of the Governing Body to set and approve the school's budget for the coming financial year.

The Director of Children's Services will, through a service level agreement, provide advice and support to schools for this process including budget preparation guidance notes and a proforma set of budget preparation papers.

A copy of the approved budget, certified by the Chair of the Governing Body, is to be returned to the Director of Children's Services by the required date, which will be notified each year. The formal budget plan will not be required to be submitted before 1 May.

Details of the approved budget should be entered into the school's management information system so financial control can begin immediately. Any adjustments to the approved budget during the financial year must be notified to the Director of Children's Services.

The Director of Children's Services will ensure that the approved budget of each school is entered into the City Council's Financial Management System (FMS Leeds).

The City Council will supply schools with all school income and expenditure data which it holds which is necessary to efficient planning by schools, and supply schools with an annual statement showing when this information will be available. Schools will be allowed to take account of estimated deficits/surpluses at the previous 31<sup>st</sup> March in their budget plan.

The school's formal annual budget plan must be approved by the governing body or a committee of the governing body. Any revisions to the annual budget must be submitted to the City Council no later than every three months.

### **Submission of financial forecasts**

From the 2021 to 2022 funding year each school must submit a 3-year budget forecast each year, at a date determined by the local authority between 1 May and 30 June.

Such a forecast may be used as evidence to support the LA's balance control mechanism or viability of deficit action plans.

### **2.4 Efficiency and value for money**

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

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

### **2.5 Virement**

Virement is the transferring of budgetary provision between one budget head and another after the budget has been approved.

Governing bodies are free to do this at any time but must ensure that there is sufficient left in the original budget head to meet known commitments or statutory provision.

In order to ensure the efficient running of the school, governing bodies are encouraged to delegate some of this responsibility to the head teacher and/or others, so that virement up to a predetermined amount may take place without prior consultation with the governing body.

Governing bodies should set this virement level annually at the time of budget approval. Guidelines for this will be issued annually, within the budget preparation papers.

### **2.6 Audit: General**

The accounts of a school, being part of the overall accounts of the City Council, will be subject to Internal and External Audit.

Under Section 151 of the Local Government Act 1972 and the Accounts and Audit Regulations, the Chief Finance Officer (CFO) shall maintain an effective internal audit of the accounts of the council. In so doing the CFO shall review, appraise and report on:

- the economy, efficiency and effectiveness of financial and other management controls
- the extent of compliance with, relevance and financial effect of, established policies, plans and procedures
- the extent to which an organisation's assets and interests are accounted for and safeguarded from losses of all kinds arising from
  1. fraud and other offences
  2. waste, extravagance, inefficient administration, poor value for money or any other cause.
- the suitability and reliability of financial and other data produced within the organisation.

In order to fulfil this responsibility the CFO or representative, and External Auditor shall have authority to:

- enter at all reasonable times on any council premises or land, and any part of any school maintained by the City Council under this scheme;
- have access to all records, documents, data held on computer media and correspondence, or unofficial funds operated by an employee as part of their duties;
- require and receive such explanations as are necessary concerning any matter under examination;
- require any employee of the council or of the governing body to produce cash, stores or any other Council property under his/her control, belonging to the council or held as part of the employee's duties;

Whenever any matter arises which involves, or is thought to involve, irregularities concerning cash, stores or any other property of the council (including unofficial funds), the Directors of Children's Services and Finance **must** be notified immediately.

## **2.7 Separate external audits**

A governing body may spend funds from its budget share to obtain external audit certification of its accounts, separate from any City Council internal or external audit process.

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

Schools are required to provide annual independent inspection statements in respect of voluntary and private funds held by them and audit certificates in respect of the accounts of any trading organisations administered by school staff as part of their normal duties or controlled by the school. A school refusing to provide audit certificates to the authority is in breach of the scheme and authority can take action on that basis. Further guidance on school fund accounting can be found in the Finance Manual for schools.

## **2.9 Register of business interests**

The governing body of each school is maintain a register which lists for each member of the governing body and the head teacher, any business interests they or any member of their immediate family have; to keep the register up to date with notification of changes and through annual review of entries, and to make the register available for inspection by governors, staff,

parents and the Director of Children's Services, Chief Finance Officer or their representative. A pro-forma and definition of interests can be found in the Finance Manual for schools.

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

Schools are required to abide by the City Council's financial regulations and standing orders for schools in purchasing, tendering and contracting matters. The full documents are contained in the Finance Manual for schools.

### **Purchasing:**

Governing bodies are free to purchase goods and services from any source, unless they are bound by a contractual obligation in section 2.11 below. However, governing bodies will be expected to obtain value for money by way of price, quality and convenience for the school at all times. Furthermore, they must always have due regard for the proper accountability and control over the expenditure of public funds. There is also a requirement to assess in advance, where relevant, the health and safety competence of contractors, taking account of the City Council's policies and procedures.

The specific requirements regarding contracts for goods and services, including the necessary arrangements relating to obtaining quotations or tenders, are contained in the Leeds City Council Procurement Handbook for schools.

### **Ordering and Commitments:**

The school will be the source of orders, but their format and preparation shall be as approved by the Chief Finance Officer.

As the signing of an order commits a school to that expenditure, it is necessary that the governing body officially authorise those members of staff who may do this. They should be senior staff and wherever possible they should be different from those authorised to certify invoices for payment. The same person must not sign the order and the corresponding invoice.

The signing of an order is deemed to cover the following:

- that the goods or services are necessary for the discharge of the responsibilities and functions of the school
- that there is provision in the school's budget for the item being ordered
- that financial regulations and standing orders with respect to contracts have been followed.

Upon the placing of an order it is essential that the value of the order is committed against the appropriate heading in the school budget. Under normal circumstances the school's computerised management system will do that automatically, but where that is not in use manual records should be updated at the time of ordering.

Schools will not be required:

- a) to do anything incompatible with any of the provisions of the scheme, or any statutory provision, or any EU Procurement Directive;
- b) to seek LA officer countersignature for any contracts for good or services for a value below £60,000 in any one year;
- c) to select suppliers only from an approved list.

Schools will be required:

- d) to seek at least three tenders in respect of any contract with a value exceeding £20,000 in any one year. (Whilst not seeking formal tenders, schools should be obtaining Value for Money in all purchases through the use of written quotations and/or the use of approved suppliers, following requirements held in the Procurement Handbook for Schools).

The City Council will inform schools of approved suppliers.

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

Schools have a right to opt out of LA-arranged contracts. However, the financial interest of the City Council is protected under section 6 of this scheme.

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 LA 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 – for example, contracts made by aided or foundation schools for the employment of staff.

### **2.12 Central funds and earmarking**

The LA may make sums available to schools from central funds, in the form of allocations which are additional to and separate from the schools' budget shares. Such allocations will be subject to conditions setting out the purpose or purposes for which the funds may be used; and while these conditions need not preclude virement (except, of course, where the funding is supported by a specific grant which the LA itself is not permitted to vire); this should not be carried to the point of assimilating the allocations into the school's budget share. Earmarked funds must be returned to the LA if not spent in-year, or within the period over which schools are allowed to use the funding if different.

It is a requirement that any such earmarked funding from centrally retained funds is spent only on the purposes for which it is given, or on other budget heads for which earmarked funding is given, and is not vired into the budget share. Governing bodies will maintain an accounting system to be able to demonstrate that this requirement has been complied with.

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

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

Under section 50(3) of the SSAF Act 1998 governing bodies are allowed to spend budget shares for the purposes of the school, subject to any provisions of the scheme.

The Secretary of State may prescribe additional purposes for which expenditure of the budget share may occur. By virtue of section 50(3A) (which came into force on 1st April 2011), amounts spent by governing bodies on community facilities or services under section 27 of the Education Act 2002 will be treated as if spent for any purposes of the school.

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

Governing bodies are allowed to use their budget shares to meet the cost of capital expenditure on the school premises. This includes expenditure by the governing body of a voluntary aided school on work which is their responsibility under paragraph 3 of Schedule 3 of the SSAF Act 1998. However, the governing body must notify the LA of any capital spending from budget shares, and, if the expected capital expenditure from the budget share in any one year will

exceed £15,000, take into account any advice from the Director of Children's Services as to the merits of the proposed expenditure. If the premises and/or land are owned by the LA then the governing body must seek the consent of the LA to the proposed works, but such consent can be withheld only on health and safety grounds.

In seeking the consent of the LA the school should provide the following, in writing, to the Director of Children's Services:

- 1) details of the proposal;
- 2) details of how the proposal will be financed (including any continuing revenue costs);
- 3) evidence of agreement to the above by a resolution of the full governing body.

For all schools covered by the scheme, any additional floor area created by work proposed by a school will only be included in the overall area funded if the Director of Children's Services confirms that the construction is necessary to improve the efficient provision of education.

## **2.15 Notice of concern**

The City Council may issue a notice of concern to the governing body of any school it maintains where, in the opinion of the Chief Finance Officer and the Director of Children's Services, the school has failed to comply with any provisions of the scheme, or where actions need to be taken to safeguard the financial position of the City Council 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 City Council;
- insisting on regular financial monitoring meetings at the school attended by City Council officers;
- requiring a governing body to use City Council's financial management systems; and
- imposing restrictions or limitations on the manner in which a school manages extended school activity funded from within its delegated budget share (e.g. 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 City Council may take where the governing body does not comply with the notice.

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

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

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

## **2.17 Fraud**

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

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

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

Leeds City Council has adopted the CIPFA Code of Practice for Treasury Management in Local Authorities and schools covered by the scheme must act within the code.

All schools have four options for their banking arrangements

- 1) To maintain a bank account with the LA, with a petty cash imprest account for small urgent items of expenditure;
- 2) To maintain a bank account with the LA, and a local cheque book facility operated through an imprest account;
- 3) To maintain an external bank account through which all expenditure is charged, excluding payroll and rates;
- 4) To maintain an external bank account through which all expenditure is charged.

### **3.1 Frequency of instalments**

Schools opting for an external bank account will have their budget share made available on a monthly basis. Schools not opting for an external bank account will be able to draw on their entire budget share from the start of the year. Top-up payments for pupils with high needs will be made monthly unless alternative arrangements have been agreed.

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

The proportion of the budget share payable at each instalment will be based on an agreed profile. Where a school is operating an account for expenditure excluding payroll and rates, the initial estimate of pay costs will be based on the staffing complement of the school as at January prior to the start of the year.

### **3.3 Interest clawback**

The LA will deduct from budget share instalments an amount equal to the estimated interest lost by the LA in making available the budget share in advance. The calculation basis of the deduction is shown below:

amount of the advance x prevailing interest rate x No of days interest lost/365 days

Where a school has determined to have its whole budget share paid into an account on a monthly basis, advances will be made at a date close to that on which salaries are due.

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

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

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

Budget shares of schools for which approval for discontinuation has been secured, will be made available until closure on a monthly basis net of estimated pay costs, even where some different basis was previously used.

### **3.5 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 LA contract which makes other provision.

New bank account arrangements may only be made with effect from the beginning of each financial year. Any school requesting a bank account shall not be able to have one until any deficit is cleared.

Schools will be responsible for all charges arising from the operation of external bank accounts. If a school opens an external bank account the LA will, if the school desires, transfer immediately to the account an amount agreed by both school and LA as the estimated surplus balance held by the LA 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.

### **3.5.1 Restrictions on accounts**

Bank accounts may only be established with a bank or financial institution chosen from a list of organisations approved for the purpose by the Chief Finance Officer (unless a facility already exists at the commencement of the scheme with a bank or financial institution not on the list). A list of banks currently approved can be provided by the Chief Finance Officer. Accounts should be opened in the name of Leeds City Council with reference to the individual school or alternatively in the name of the school if the school wishes it. If a school has such an account the scheme requires that the account mandate should provide that the LA 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 LA.

Only LA employees and school employees are to be signatories for bank accounts operated under this scheme.

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

### **3.6 Borrowing by schools**

Governing bodies are only permitted to borrow money with the written permission of the Secretary of State. Any investment or borrowing must be in accordance with the code of practice on treasury management

Schools may not use credit cards, which are regarded as borrowing. The use of Procurement cards is allowed as a means of facilitating electronic purchase (contact the Business Support Centre).

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

The DfE can provide further advice via their website: [www.education.gov.uk/contactus](http://www.education.gov.uk/contactus)

### **3.7 Other provisions**

Detailed guidance notes will be contained in the Finance Manual for schools which will cover requirements relating to the administration of external bank accounts including;

**Payroll administration** - including National Insurance, Superannuation, Aggregation of Earnings and other payroll related items

**Accounting returns** - to enable details of budget plans and transactions to be entered into the City Council's accounts

**VAT** – the completion of required returns and compliance with Customs and Excise Regulations

**Late Payment of Commercial Debts (Interest) Act 1998** - compliance with these regulations

**Construction Industry Tax Deduction Scheme** – compliance with these regulations

**Bank reconciliations** - completion as required in a format as determined by the Chief Finance Officer

Detailed guidance notes will also be issued covering requirements relating to the administration of a local cheque book facility through an imprest account and also relating to petty cash imprests.

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

### **4.1 Right to carry forward surplus balances**

Schools will be allowed to carry forward from one financial year to the next any shortfall in expenditure relative to the school's budget share for the year plus/minus any balance brought forward from the previous year.

The amount of any balance to be transferred to a school's bank account will be estimated based on the balance as per the City Council's Financial Management System (FMS) as at 1<sup>st</sup> April, adjusted for any known transactions relating to the previous year's accounts. The transfer would take place by 16<sup>th</sup> April, pending a later reconciliation.

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

The Local Authority retains the power to clawback excess surplus balances. This will be applied 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 on only those schools which have built up significant excessive uncommitted balances and/or where some level of redistribution would support improved provision across a local area.

Surplus balances held by schools as permitted under this scheme are subject to the following restrictions with effect from 31<sup>st</sup> March 2013:

- a) the City Council 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 the recurrent balance as defined in the Consistent Financial Reporting Framework;
- b) the City Council shall deduct from the calculated balance any amounts that are held by an individual school on behalf of a partnership of schools, for instance funds held on behalf of an inclusion partnership or cluster of schools;
- c) if the result of steps a-b is a sum greater than 15% of the current year's budget share and the balance has remained greater than 15% over three successive years then the City Council may deduct from the current year's budget share an amount equal to the excess, where schools have built up significant excessive uncommitted balances and/or where some level of redistribution would support improved provision across the local area.

Funds deriving from sources other than the City Council 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 section 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 City Council.

Whilst no excess balance will be recovered where a balance is over 15% for less than three years all schools with balances over 15% will be required to submit a statement covering the anticipated use of the balance.

Where any School meets the threshold under (c) above having carried forward a balance of over 15% for three years a panel of members of the Schools Forum will review the reasons for holding the balance and make a recommendation to the Director of Children's Services regarding any proposed clawback.

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

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

Balances held by the City Council on behalf of schools will not attract interest.

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

Any deficit will be carried forward and be deducted from the following year's budget share (see also 4.9).

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

Schools may plan for deficits only in certain approved circumstances (see 4.9)

Schools must submit a recovery plan to the local authority when their revenue deficit rises above 5% at 31 March of any year. Local authorities may set a lower threshold than 5% for the submission of a recovery plan if they wish. The 5% deficit threshold will apply when deficits are measured as at 31 March 2021

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

Interest will not be charged on deficit balances.

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

The City Council cannot write off the deficit balance of any school, but assistance towards the elimination of a deficit balance can be provided through the allocation of a cash sum from the authority's schools budget under the centrally-held de-delegated schools in financial difficulties budget agreed by Schools Forum.

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

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

#### **4.9 Licensed deficits**

In certain circumstances schools will be allowed to plan for a deficit budget.

Detailed guidance on the procedure to be undertaken is held within the Finance Manual for schools, however the following principles will hold:

- a) A school must reach at least a zero balance within a three year period, and progress towards this position will be open to termly review to ensure that the deficits are not simply extended indefinitely;
- b) Deficits will only be agreed where the Director of Children's Services agrees it would be impractical to balance the budget in year;
- c) The maximum size of the deficit which may be agreed for any school will be 12½% of the school budget share, and the minimum size for a licensed deficit will be the minimum of £10,000 or 3% of a schools budget share;

d) A maximum of 40% of the collective balances held by the LA will be used to back the arrangement

e) All arrangements will require the approval of the Director of Children's Services and the Chief Finance Officer of the City Council.

## **SECTION 5: INCOME**

The basic principle will be that schools should be able to retain income except in certain specified circumstances. Where income is derived as a direct result of letting school premises or facilities, from the sale of assets or from fees and charges, the income shall always be credited to the school budget share and not to any other school fund. However, school fund income may at any time be credited to the school's budget share through the procedure set out in guidelines issued by the Director of Children's Services.

### **5.1 Income from lettings**

Schools will be allowed to retain income from lettings of the school premises which would otherwise accrue to the LA, subject to alternative provisions arising from any joint use or PFI agreements. Schools are allowed to cross-subsidise lettings for community and voluntary use with income from other lettings, provided there is no net cost to the budget share. However, schools are required to have regard to directions issued by the LA as to the use of school premises, as permitted under the School Standards and Framework Act 1998 for various categories of schools.

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

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

The LA will provide, and keep under review, a statement of its charging and remission policies. Governing bodies are required to do likewise with their own charging policies. The LA charging policy is contained within the Finance Manual for schools.

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

Schools are allowed to retain income from fund-raising activities.

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

Schools are allowed to retain the proceeds of sale of assets except in cases where the asset was purchased with non-delegated funds (in which case it will be for the LA to decide whether the school should retain the proceeds), or the asset concerned is land or buildings forming part of the school premises and is owned by the LA.

### **5.5 Administrative procedures for the collection of income**

The detailed requirements referring to the receipt, safeguarding and banking of income are stated in Financial Regulations for schools with delegated budgets. The main issues are:

- all income to be receipted on approved receipts
- money, whilst on school premises, or in transit, must be safeguarded in accordance with the City Council's money insurance policy
- banking must be regular
- cash income must never be used to make refunds or to pay invoices or staff
- personal cheques must not be cashed out of income.

- VAT must be accounted for where there is a VAT liability.

## **5.6 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 LA has a right to protect its financial position from liabilities caused by the action or inaction of governing bodies by making a charge on the budget share of a school. The budget share of a school will be charged by the LA without the consent of the governing body only in circumstances expressly permitted by the scheme, after consultation with schools as to the intention to so charge, and schools will be notified when it has been done.

6.1.2 For a school that has determined to operate a separate bank account, charges will be actioned by a reduction in the next available monthly advance.

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

6.1.4 The LA is allowed to de-delegate funding for permitted services without the express permission of the governing body of maintained primary and secondary schools, provided this has been approved by the appropriate phase (primary/secondary) representatives of the Schools Forum. The LA cannot de-delegate funding from SILCs, PRUs or academies but they can buy-back these services if required and if offered.

### **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 Director of Children's Services to bear such costs (the amount chargeable being only the excess over any amount agreed by the Director of Children's Services);

6.2.2 Other expenditure incurred to secure resignations where the school had not followed LA advice;

6.2.3 Awards by courts and industrial tribunals against the City Council, or out of court settlements, arising from action or inaction by the governing body contrary to the LA's advice

6.2.4 Expenditure by the LA in carrying out health and safety work or capital expenditure for which the LA is liable where funds have been delegated to the governing body for such work, but the governing body has failed to carry out the required work;

6.2.5 Expenditure by the LA incurred in making good defects in building work funded by capital spending from budget shares, where the premises are owned by the LA or the school has voluntary controlled status;

6.2.6 Expenditure incurred by the LA in insuring its own interests in a school where funding has been delegated but the school has failed to demonstrate that it has arranged cover at least as good as that which would be arranged by the LA;

6.2.7 Recovery of monies due from a school for services provided to the school, where a dispute over the monies due has been referred to a disputes procedure set out in a service level agreement, and the result is that monies are owed by the school to the LA;

6.2.8 Recovery of penalties imposed on the LA by the Board of Inland Revenue, the Contributions Agency, HM Customs and Excise, West Yorkshire Pensions Fund, Teachers Pensions, the Environment Agency or regulatory authorities as a result of school negligence.

6.2.9 Correction of LA errors in calculating charges or credits to a budget share (e.g. pension deductions)

6.2.10 Additional transport costs incurred by the City Council arising due to decisions made by the governing body on the length of the school day, or failure to notify the Council of non-pupil days.

6.2.11 Legal costs which are incurred by the City Council because the governing body did not accept the advice of the Director of Children's Services (see also section 11).

6.2.12 Costs of necessary health and safety training for staff employed by the LA, where funding for training had been delegated but the necessary training not carried out.

6.2.13 Compensation paid to a lender where a school enters into a contract for borrowing beyond its legal powers, and the contract is of no effect.

6.2.14 Cost of work done in respect of teacher pension remittance and records for schools using non-LA payroll contractors, the charge to be the minimum needed to meet the cost of the City Council's compliance with its statutory obligations;

6.2.15 Costs incurred by the LA in securing provision specified in a statement of SEN where the governing body of a school fails to secure such provision despite the delegation of funds in respect of low cost high incidence SEN and/or specific funding for a pupil with high needs;

6.2.16 Costs incurred by the LA due to submission by the school of incorrect data;

6.2.17 Recovery of amounts spent from specific grants on ineligible purposes;

6.2.18 Costs incurred by the LA as a result of the governing body being in breach of the terms of a contract;

6.2.19 Costs incurred by the authority or another school as a result of a school withdrawing from a cluster arrangement, for example where this has funded staff providing services across the cluster.

6.2.20 Interest payable for late payment of a commercial debt under the Late payment of Commercial Debts (Interest) Act 1998, where the school is responsible for the delay.

## **SECTION 7: TAXATION**

### **7.1 Value Added Tax**

When a Governing Body enters into a contract to spend part of its delegated budget it does so on behalf of the City Council. The City Council retains the ownership of any items purchased in this way.

Under Section 33 of the VAT Act 1994, the City Council is able to claim refunds of VAT on purchases in respect of its non business activities, of which purchases by governing bodies are one. Therefore, there is no need for any school to register for VAT in connection with its activities involving the use of its delegated budget.

As regards **Voluntary Aided Schools**, the City Council cannot claim refunds of VAT on items of expenditure which are the responsibility of the governors (e.g. external repairs to buildings).

In order to reclaim VAT on purchases schools will have to follow procedures detailed in the Finance Manual for schools. Any amounts of VAT reclaimed will be passed back to the school.

### **7.2 Construction Industry Taxation Scheme**

Schools are required to abide by procedures issued by the City Council in connection with CITS. Procedures can be found in the Finance Manual for schools.



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

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

It is for the City Council to determine on what basis services from centrally retained funds will be provided to schools. This includes all expenditure included within the Section 251 Statement outside of the Individual Schools Budget. However, there will be no discrimination in the provision of services on the basis of categories of schools except where (a) funding has been delegated to some schools only or (b) such discrimination is justified by differences in statutory duties.

This includes access to any funding to cover premature retirement costs and redundancy payments which may not ordinarily be thought of as services.

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

The term of any arrangement with a school to buy services or facilities from the LA is limited to a maximum of three years from the date of the agreement, whichever is the later, and periods not exceeding five years for any subsequent agreement relating to the same services.

When a service is provided for which expenditure is not retainable centrally by the LA under the regulations made under section 46 of the Act, it will be offered at prices which are intended to generate income which is no less than the cost of providing those services. The total cost of the service will be met by the total income, even if schools are charged differentially.

#### **8.2.1 Packaging**

Any service that is being provided on a buy-back basis will be offered in a way that does not unreasonably restrict schools' freedom of choice among the services available, and where practicable, will include provision on a service by service basis as well as in packages of services.

### **8.3 Service level agreements (SLAs)**

Service level agreements will operate on an academic year basis where practical for them to do so, although some may have to operate on financial years. However, service level agreements will be issued at least one month prior to the date from which they will be effective, and schools will have at least a month to consider the terms of agreements.

8.3.1 If services or facilities are provided under a service level agreement – whether free or on a buyback basis – the terms of any such agreement will be reviewed at least every three years if the agreement lasts longer than that.

8.3.2 Services, if offered at all by the LA, will be available on a basis which is not related to an extended agreement, as well as on the basis of such agreements.

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

Centrally arranged premises and liability insurance are exempt from the requirements of sections 8.2 and 8.3 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 City Council to supply Teachers Pensions with information under the Teachers' Pensions Regulations 1997, the following conditions are imposed on the City Council 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 City Council 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 City Council 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 City Council which the City Council requires to submit its annual return of salary and service to Teachers' Pensions and to produce its audited contributions certificate. The City Council 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 City Council within the time limit specified in the AVC scheme. The governing body shall meet any consequential costs from the school's budget share.

A governing body of any maintained school which directly administers its payroll shall supply salary, service and pensions data to the City Council which the City Council requires to submit its annual return of salary and service to Teachers' Pensions and to produce its audited contributions certificate. The City Council will advise schools each year of the timing, format and specification of the information required from each school. A governing body shall also ensure that Additional Voluntary Contributions (AVCs) are passed to the City Council within the time limit specified in the AVC scheme. The governing body shall meet any consequential costs from the school's budget share.

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

The LA has the power to charge to a school's budget share any amounts incorporated within a PFI/PPP agreement entered into by the governing body of a school with the LA, in relation to a PFI/PPP scheme involving the school.

## **SECTION 10: INSURANCE**

### **10.1 Insurance cover**

The City Council requires that any school wishing to arrange its own insurance must demonstrate that cover relevant to the City Council's insurable interests, under a policy arranged by the governing body, is at least as good as the relevant minimum cover arranged by the City Council if the City Council makes such arrangements, either paid for from central funds or from contributions from schools' delegated budgets. The LA will have regard to the actual risks which might reasonably be expected to arise at the school in question in operating such a requirement, rather than applying an arbitrary minimum level of cover for all schools.

The following are pre-requisites for any school wishing to arrange its own insurance:

- 1) A valuation of the buildings on a reinstatement basis in accordance with the specification determined by the City Council's Asset Management Service. The cost of the valuation will be at the school's expense.
- 2) A complete inventory of school contents with replacement values as referred to in the section on control of assets.
- 3) Agreement that all policies will be in the joint names of the governing body and Leeds City Council.
- 4) Agreement that the indemnity limits currently insured by Leeds City Council will be matched for Employers' and Public Liability insurances.

Detailed guidance on the subject of insurance is available to all schools from the City Council's Insurance Service  
(see also 6.2.6)

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

With effect from 1 April 2020 rather than 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. Alternatively 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**

There is a requirement on governing bodies to supply all financial and other information which might reasonably be required to enable the City Council to satisfy itself as to the school's management of its delegated budget share, or the use made of any central expenditure by the City Council (e.g. earmarked funds) on the school.

### **11.2 Liability of governors**

As the governing body is a corporate body, and because of 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 share provided they act in good faith.

#### **Insurance for Governors**

The City Council will indemnify, and will not seek a financial contribution from, Governors in relation to claims arising out of any neglect, error or omission by the governors in the course of their duties and within the scope of their authority, subject to the following exceptions:

- a) Loss or damage directly or indirectly caused by or arising from:
  - (i) fraud, dishonesty or criminal offence on the part of a governor
  - (ii) the use of a motor vehicle belonging, hired, leased or loaned to a governor.
- b) Liability in respect of surcharges made by the auditor.
- c) Ten per cent (10%) of the total cost of a libel or slander claim (subject to a maximum contribution by a governor of £500)
- d) Liability which is already insured under a policy of insurance.
- e) Liability falling on the governor but not the City Council (i.e. there is no vicarious liability)

The indemnity will not apply if a governor admits liability or negotiates or attempts to negotiate settlement of a claim without the written authority of the City Council.

This indemnity will also extend to:

- Representation at any Coroner's inquest or fatal Inquiry in respect of any death.
- Defending any proceedings in respect of any act or omission or alleged breach of statutory regulations (which includes the Health and Safety at Work Act) relating to any event which may result in a claim for compensation.

Where there is the need for legal advice and representation to a governing body, ordinarily this would be met by the Council's Legal Services team. Where a conflict of interest arises between the Council and the governing body/named members of staff, then Legal Services will only be able to act for the Council, in accordance with the rules and guidelines issued by the Law Society in respect of the professional conduct of solicitors, as laid down from time to time by the Law Society.

### **11.3 Governors' expenses**

The LA may delegate to the governing body of a school yet to receive a delegated budget, funds to meet governors' expenses

Under section 50(5) of the Act, only allowances in respect of purposes specified in regulations made under section 19 of the Education Act 2002 may be paid to governors from a school's

delegated budget share. The payment of any other allowances is forbidden. Schools are also barred from payment of expenses duplicating those paid by the Secretary of State to additional governors appointed by him to schools under special measures.

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

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

Should a conflict of interest arise between the City Council and the governing body and the governing body requires independent legal advice, then they should follow the arrangements set out in 2.10 above.

#### **11.5 Health and Safety**

The primary responsibility for Health and Safety rests with the LA, as the employer. However, for Foundation and Trust schools the governing body replaces the LA as the employer.

A secondary responsibility does rest with the occupier and under section 4 and 36 of the 1974 Health and Safety Act is also placed on individual staff to ensure they work in ways which are without risk to themselves, other staff, pupils and visitors to premises.

The LA has provided a written statement of health and safety policy, but it requires each governing body to have considered the issues as they affect their schools and either to have accepted the LA's policy as sufficient or to have prepared and approved a written health and safety policy for the school.

The LA's Statement of Safety Policy and all ensuing guidance has been sent to schools in the manual 'Health & Safety in Education Premises, and is not contained in this scheme.

Under section 39(3) of the School Standards and Framework Act the LA may issue directions to the governing body and head teacher of a community, community special or voluntary controlled school on health and safety matters; these directions are enforceable, so far as governing bodies are concerned, via section 497 of the Education Act 1996 if not complied with.

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

Governing bodies are required to permit the Chief Finance Officer of the City Council (or his/her representative) to attend meetings of the governing body at which any agenda items are relevant to the exercise of her or his responsibilities.

#### **11.7 Special Educational Needs**

Schools are required to use their best endeavours in spending the budget share, to secure the special educational needs of their pupils. As this is anyway a statutory requirement, it would be possible for the LA to suspend delegation where a situation is serious enough to warrant it. This would not normally relate to an individual pupil.

#### **11.8 Whistleblowing**

The City Council has a Whistleblowing Policy that details the procedure to be followed by persons working at a school or school governors who wish to complain about financial management or financial propriety at the school, and how such complaints will be dealt with. The policy is contained within the Finance Manual for schools.

## **11.9 Child Protection**

Schools are required to release staff to attend child protection case conferences and other related events, and the funding is delegated to schools within the school's budget share.

## **11.10 Redundancy and early retirement costs**

The 2002 Education Act sets out how premature retirement and redundancy costs should normally be funded. The City Council follows this procedure.

The default position is that for staff funded from a school's budget, premature retirement costs must be charged to the Schools Budget, unless the local authority agrees otherwise, and redundancy costs should be charged to a local authority's budget, unless there is a good reason that they should be met from the Schools' Budget. Where an employee is over the age of 55, termination of employment situations can involve both a redundancy payment and a premature retirement payment.

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.

Further guidance is provided in Appendix A.

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

### **12.1 Categories of work**

Governing bodies must expect to finance from their budget all categories of work treated as revenue expenditure.

Governing bodies may finance from their budget categories of work treated as capital expenditure. However, voluntary aided schools may not seek to recover VAT where such expenditure is a governing body responsibility.

### **12.2 Delegation**

The City Council will delegate all revenue funding for repairs and maintenance to schools. Only capital expenditure is to be retained, under the definition of capital used by the City Council for financial accounting purposes in line with the CIPFA Code of Practice on Local Authority accounting.

For voluntary aided schools, the liability of the City Council for repairs and maintenance 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 DfES to categorise such work, not the de minimis used by the City Council.



## **SECTION 13: COMMUNITY FACILITIES**

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

However, under 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. Paragraph 2 of Schedule 3 to the Education Act 2002 extends the coverage of schemes to the powers of governing bodies to provide community facilities.

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

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

The City Council has the right to require a school to make a charge against its school budget share to meet an accumulated deficit. This right will not be applied automatically where an activity shows an accumulated deficit but would be applied following consideration of individual circumstances. This right will not be exercised where the school can provide a working business plan showing that the deficit will be cleared within a two year period.

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

### **13.2 Consultation with the City Council – financial aspects**

Section 28(4) of the Education Act 2002 requires that before exercising the community facilities power, governing bodies must consult the City Council, and have regard to the advice given.

Before any decision is taken by a governing body to exercise its power to provide community facilities the governing body must notify the Director of Children's Services in writing of its intention to do so and seeking his/her advice.

The notification should include such details as:

- proposed activities to take place
- planned income and expenditure
- use of school buildings (within and outside the normal school day)
- insurance arrangements
- health and safety
- assessment of any risk (financial or otherwise) associated with the proposal
- involvement of third parties
- proposed banking arrangements

as well as specific information as to how the school will ensure compliance with the requirements of this section. In particular the governing body should indicate the benefits for the school and community of exercising this power.

The City Council will respond within six weeks of receiving formal notification so this time should be built into the plan for implementing the proposal. Schools are required to notify the Director of Children's Services of their decision following his/her advice before formally committing itself to exercising its power.

If a governing body fails to inform the Director of Children's Services of its intention to use its community facilities power, or chooses not to comply with his/her advice to the extent that, in the view of the City Council, is seriously prejudicial to the interests of the school or Council, that may constitute grounds for suspension of the right to a delegated budget.

### **13.3 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.

If the provision of community facilities is dependent upon the conclusion of a funding agreement with a third party, details of any such proposed agreement should be submitted to the Director of Children's Services for his/her comments as part of its proposal. The LA may not impose a right of veto over a school entering into such agreements directly or by requiring any agreement to be countersigned. Schools are advised to seek legal advice before entering into any such agreement.

If agreement has been or is to be concluded against the wishes of the City Council, or has been concluded without informing the Director of Children's Services, which in the view of the City Council is seriously prejudicial to the interests of the school or the Council, that may constitute grounds for suspension of the right to a delegated budget.

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

If the City Council has good reason to believe that a proposed project carries significant financial risks it may require that the governing body make arrangements to protect the financial interests of the City Council by either carrying out the activity concerned through the vehicle of a limited company formed for the purpose, or by obtaining indemnity insurance for risks associated with the project in question, as specified by the LA.

The City Council does not intend to impose any further specific restrictions on schools with regard to this provision but would expect governing bodies to be aware of the need to safeguard the financial position of the City Council or school and to protect pupil welfare or education as well as the sensitivities and needs of the community in exercising this power.

### **13.5 Supply of financial information**

Schools which exercise the community facilities power will be required to provide the City Council every six months with a summary statement, showing the income and expenditure for the school arising from the facilities in question for the previous six months and on an estimated basis, for the next six months. Guidance on the provision of this information will be provided by the City Council.

The Director of Children's Services, on giving notice to a school that it believes there to be cause for concern as to the school's management of the financial consequences of the exercise of the community facilities power, reserves the right to require such financial statements to be supplied more regularly and, if the City Council sees fit, to require the submission of a recovery plan for the activity in question.

### **13.6 Audit**

Schools are required to grant access by the City Council's internal and external auditors 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.

Any funding agreements with other persons pursuant to the exercise of the community facilities power, must contain adequate provision for access by the City Council or its representatives to the records and other property of those persons held on the school premises, or held elsewhere insofar as they relate to the activity in question, in order for the Council to satisfy itself as to the propriety of expenditure on the facilities in question.

### **13.7 Treatment of income and surpluses**

All net income derived from community facilities except where otherwise agreed with a funding provider, whether that be the City Council or some other person, may be retained by the school.

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

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

### **13.8 Treatment of deficits**

If the activity results in a deficit this must be charged against any accumulated community facilities surplus previously generated by the school.

Where a deficit cannot be charged against any accumulated surplus the City Council has the right to require a school to make a charge against its school budget share, or other funding that may be applied to support community facilities, to meet the accumulated deficit. This right will not be applied automatically where an activity shows an accumulated deficit but would be applied following consideration of individual circumstances.

This right will not be exercised where the school can provide a working business plan showing that the deficit will be cleared within a two year period

If the City Council incurs any third party liabilities as a result of a governing body using its community facilities power it reserves the right to charge the cost against any accumulated community facilities surplus maintained by the school.

### **13.9 Health and safety matters**

The health and safety provisions as set out in para 11.5 of the Leeds Scheme for Financing Schools apply equally in regard to the community facilities power.

The governing body will be responsible for meeting the costs of securing Disclosure and Barring Service clearance for all adults involved in community activities.

### **13.10 Insurance**

It is the responsibility of the governing body to make adequate arrangements for insurance against risks arising from the exercise of the community facilities power.

Any school proposing to provide community facilities should, as an integral part of its plans, undertake an assessment of the insurance implications and costs, seeking professional advice if necessary. The school must seek the advice of the City Council's Insurance Officer before finalising any insurance arrangement for community facilities.

The City Council reserves the right to 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.

### **13.11 Taxation**

Schools should seek advice from the City Council on any issues relating to the possible imposition of Value Added Tax on expenditure in connection with community facilities including the use of the City Council VAT reclaim facility.

If any member of staff employed by the school or City Council in connection with community facilities at the school is paid from funds held in a school's own bank account, 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 LA advice in relation to the Construction Industry Scheme where this is relevant to the exercise of the community facilities power.

### **13.12 Banking**

Schools must maintain separate accounts from the school budget share for income and expenditure in connection with the community facilities power.

If a school wishes to maintain a separate bank account for these funds then the requirements set out in para 3.5 of the Leeds Scheme for Financing Schools will apply, save that, where a bank account is set up specifically for community facilities, the account mandate should not imply that the City Council is the owner of the funds in the account except insofar as those funds have been provided by the City Council itself.

Schools are reminded that they may not borrow money without the written consent of the Secretary of State.

## **Appendix A: 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 incur costs:

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

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

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

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

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