

## **KENT COUNTY COUNCIL** **SCHEME FOR FINANCING SCHOOLS**

Approval Date: 20th November 2015

### **Amendments since November 2015**

#### Directed revisions

- 2.9 Requirement for maintained schools to publish a register of the business interests of their governors, along with any relationships with school staff.
- 3.6 Clarification that borrowing includes the use of the finance leases and is not allowable, with the exception of certain schemes approved by the Secretary of State. Currently only Salix loans have such approval.

#### Proposed directed revisions from April 2016

- 6.2 The proposed following minor change to section 6.2 so that local authorities are able to include funding for admission appeals.
- 6.2.20 *Costs incurred by the authority in administering admissions appeals, where the local authority is the admissions authority and the funding for admission appeals has been delegated to all schools as part of their formula allocation.*

#### Updates

- 4.9a Amendment to clarify loan scheme

Section 13 Responsibility for Repairs and Maintenance - Section revised to simplify the financial responsibility for repairs and maintenance.

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## **SECTION 1: INTRODUCTION**

### **1.1 The Funding Framework**

Since 1990 Kent County Council has delegated funding to schools in accordance with the Local Management of Schools scheme as approved by the Secretary of State. Under the terms of the School Standards and Framework Act 1998, Local Authorities (LAs) were required to draw up a new scheme for financing schools, which replaced the existing LMS scheme.

The funding framework that replaces Local Management of Schools is based on the legislative provisions in sections 45-53 of the School Standards and Framework Act 1998 as amended by the Education Act 2002, and further defined by the annual School and Early Years Finance (England) regulations 2012.

Under this legislation, the Authority determines the size of the Schools Budget. The Schools Budget includes expenditure on maintained schools, nursery schools, pupil referral units and the cost of pupils in independent and non-maintained special schools and pupils taught at home. A separate LA budget is set for LA central functions.

The LA may centrally retain funding within the Schools Budget for certain specified purposes. The amounts to be retained centrally are decided by the authority, subject to any limits or conditions (including gaining the approval of their Schools' Funding Forum or Secretary of State in certain instances) as prescribed by the Secretary of State. The balance of the Schools Budget left after deduction of centrally retained funds is termed the Individual Schools Budget (ISB).

The Authority must distribute amounts from their ISB amongst their maintained schools using a formula that accords with regulations made by the Secretary of State. This will enable the calculation of a budget share for each maintained school that is then delegated to the governing body. The regulations permit the authority to hold a proportion of the ISB unallocated at the start of the year. This is allocated to schools during the year in accordance with specified arrangements. The part of any balance remaining at the end of the year can be paid to schools as additional one-off funding, subject to the method of distribution being agreed by the Schools' Funding Forum.

The legislation requires the financial controls within which delegation works to be set out in a scheme made by the LA and approved by the Schools' Funding Forum. This document forms the required scheme for Kent County Council.

Subject to provisions of this scheme, governing bodies of schools may spend budget shares for the purposes of their school or for pupils on the roll of other maintained schools. They may also spend budget shares on any additional purposes prescribed by the Secretary of State.

The Authority may suspend a school's right to a delegated budget if the provisions of this scheme (or rules applied by the scheme) have been substantially or persistently breached, or if the budget share has not been managed satisfactorily. There is a right of appeal to the Secretary of State.

The LA is obliged to publish each year a statement setting out details of its planned Schools and LA Budgets, showing:

- the amounts to be centrally retained;
- the budget share for each school;
- the formula used to calculate those budget shares;
- the detailed calculation for each school

After each financial year the Authority must publish a statement showing out-turn expenditure at both central level and for each school, and the balances held in respect of each school.

The detailed publication requirements for financial statements and for schemes are set out in regulations. The scheme and any amendments, and each year's budget and out-turn statements so far as they relate to that school or central expenditure, will be published on a KCC website.

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

This scheme sets out the financial relationship between the Authority and the maintained schools that it funds. It contains requirements relating to financial management and associated issues, which are binding on both the Authority and on the schools. The terms of this scheme will take precedence over other financial rules and guidance issued by the Authority.

### **1.2.1 Application of the scheme to the Authority and maintained schools**

This scheme applies to all nursery, community (inc. community special), foundation (inc. foundation special), voluntary controlled and voluntary aided schools and pupil referral units (PRUs) in Kent. The scheme will also apply to any new maintained school that opens during the year.

Academies are not covered by this scheme.

## **1.3 Publication of the scheme**

A copy of the scheme is available to all schools electronically via Kelsi. Any approved revisions will be notified to each school covered by the scheme, via an e-bulletin.

## **1.4 Revision of the scheme**

Any proposed revisions to the scheme must be submitted to the Schools' Funding Forum for approval by members of the forum representing maintained schools. Where the Forum does not approve them or approves them subject to modifications that are not acceptable to the Local Authority (LA), the LA may apply to the Secretary of State for approval.

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

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Each governing body is asked 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 full governing body or delegated committee. The levels of delegation within each school should also be recorded in the school's own finance policy. The full governing body or delegated committee must formally approve the detailed annual budget plan together with the schools three year plan.

Governing bodies should set limits on the delegated powers of headteachers to enter into contractual commitments in accordance with "Spending the Council's Money". The Authority has no wish to impose uniformity on schools but recommends that the following limits strike a balance between practicality and financial control:

- Primary and special schools - £8,000
- Secondary schools - £25,000

## **1.6 Maintenance of schools**

The Authority is responsible for maintaining the schools covered by the scheme, and this includes the duty of defraying all the expenses of maintaining them (except in the case of a voluntary aided school where some of the expenses are, by statute, payable by the governing body). Part of the way an authority maintains schools is through the funding system put in place under sections 45 to 53 of the School Standards and Framework Act 1998.

## **SECTION 2: FINANCIAL CONTROLS**

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

In managing their delegated budgets schools must abide by the Authority's requirements on financial controls and monitoring. Governing bodies must operate within the County Council's Standing Orders and Financial Regulations and Procedures. The Financial Regulations and Procedures are detailed in the Schools Financial Services pages which all headteachers and Chairs of Governors can access electronically on our KELSI pages.

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

Schools are required to provide the authority with details of expected and actual expenditure and income. The detailed arrangements and the timetable for reporting to the LA are set out in the Financial Returns section of our KELSI pages.

In summary, schools must return the following information:

- Returns are required three times a year showing actual and expected income and expenditure in the Consistent Financial Reporting (CFR) coding structure. The same monitoring information must be reported to governors. In addition, the LA requires schools to submit other supporting documentation in order that it can close the accounts to the required standard in accordance with the annual published timetable.
- Some schools will be required by the Authority to submit returns on a more frequent basis. Schools will be notified if more frequent returns are required and how frequent those returns need to be. This would usually apply to schools in the following situations:
  - Schools in financial difficulty;
  - Special measures (if considered necessary);
  - Deemed as minimal assurance by Internal Audit;
  - Those which persistently fail to complete adequate returns;
  - Reorganised schools;
  - Schools choosing to make more frequent returns;
  - School removed from delegation



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

The payroll function is fully delegated to schools and therefore they must make their own arrangements to pay their staff, this can include buying the service from a payroll provider or operating the payroll in house. Schools must ensure that whichever route they take they are able to fulfil all statutory requirements.

Support Services purchased from KCC will be invoiced on a monthly basis for an agreed contractual sum.

### **2.1.4 Control of assets**

Each school must maintain an inventory of its moveable non-capital assets in the form of an Asset Register. Schools can determine their own arrangements for keeping a register of assets worth less than £1,000. Schools must also adopt a basic authorisation procedure for the disposal of assets.

Schools will be required to complete an annual check certifying the accuracy of the Asset Register.

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

Schools must abide by the Authority's accounting policies and year end procedures. These are outlined in KCC's Schools Financial Controls and supplemented with annual guidance in 'Schools closedown procedures'.

### **2.1.6 Writing off debts**

Every effort should be expended to avoid the need to write off a debt. Debts under £1,000 and considered irrecoverable, can be referred to the Full Governing Body (or delegated committee) for approval to write-off. Debts write offs over £1,000 must be referred to the LA Revenue Finance Manager for approval. Full details are included in KCC's Schools Financial Controls.

## **2.2 Basis of accounting**

All financial returns of actual expenditure and income should be submitted on an agreed accrual basis taking into account differences in schools local systems. Year-end accounts must be completed on a common accrual basis with details of debtors and creditors provided to the Authority upon request.

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

Each school is required to prepare an annual budget plan for the forthcoming financial year and an estimated budget plan for the following two financial years. This three-year plan (3YP) must be submitted to the Authority before 31<sup>st</sup> May each year. The 3YP must show the schools expected level of income and expenditure in the Consistent Financial Reporting coding structure. The Authority may also require the submission of revised plans at intervals of not less than three months.

The school's 3YP must be approved by the Full Governing Body (FGB) or delegated committee.

Schools must take full account of estimated deficits or surpluses at the previous 31<sup>st</sup> March in their three year plan.

The LA will supply schools with all income and expenditure data that it holds and which is necessary for efficient planning by schools.

Schools will be free to vary plans for years two and three in light of changed circumstances but at no stage should plan for a deficit.

The three year plan submitted to the LA must show a balanced budget, or budget surplus carried forward in each of the three years, unless agreed formally otherwise by the LA. If in years 2 or 3 a potential deficit situation is envisaged, correcting action must be identified.

## **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 purchasing, tendering and contracting requirements outlined in section 2.10.

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

Schools may find it useful to refer to the DfE website, Efficiency and value for money in schools, obtainable at <http://www.education.gov.uk/efficiency>

## **2.5 Virement**

Schools are free to vire (that is transfer sums) between budget heads in their budget plans but governors must establish criteria for virements and financial limits above which the approval of the governors is required. Schools are required to publish virement limits in their finance policy, above which Full Governing Body or delegated committee approval is required. In any event, virement decisions made by the headteacher under delegated powers should be reported to the governing body.

## **2.6 Audit: General**

Schools are required to co-operate both with auditors employed by the Local Authority (internal audit) and auditors appointed by the Audit Commission to audit the local authority itself (external audit). Internal and external auditors must be given full access to the school's records on request.

In regard to internal audit, all schools come within the audit regime determined by Kent County Council. This includes the Compliance regime undertaken by Schools Financial Services.

In relation to external audit all schools come within the LA external audit regime as determined by the Audit Commission.

## **2.7 Separate external audits**

In instances where a school wishes to seek an additional source of assurance at its own expense, a governing body is permitted to spend funds from its budget share to obtain an external audit certification, separate from any LA internal or external audit process. Where a school chooses to seek such an additional audit it does not remove the requirement that the school must also co-operate with the Authority's internal and external auditors.

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

Schools must make arrangements for the annual audit of their separate voluntary and private funds and/or trading organisations controlled by the school and certificates must be given to the school as evidence of this audit. These certificates should be presented to the Governing Body or delegated committee.

These certificates should be retained in school and be available for inspection by KCC internal audit or staff from the Schools Financial Services team.

Advice on the handling of such voluntary and private funds is set out in KCC's Schools Financial Controls and in the Voluntary Fund Guidelines on KELSI.

## **2.9 Register of business interests**

The governing body of each school is required to keep a register of business interests. The register must list for each member of the governing body, the headteacher and any member of school staff involved in purchasing decisions any business interests they or any member of their immediate family have, details of any other educational establishments they govern and any relationships between school staff and members of the governing body.

The register is formed from the Business Interest Forms, completed, signed and dated every 12 months by the individuals themselves. The governing body are required 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 the authority, governors, staff and parents. The register must be published, for example on a publicly accessible website. Anybody with a business interest should not participate in discussions relating to those interests.

## 2.10 Purchasing, tendering and contracting requirements

Schools are required to abide by the Authority's Financial Regulations and Standing Orders in purchasing, tendering and contracting matters. Schools should refer to the current guidance included in KCC's Schools Financial Controls.

Schools must assess in advance, where relevant, the health and safety competence and insurance cover of any contractors not included on KCC's approved list.<sup>1</sup>

Any section of the financial regulations and standing orders will not apply if it requires schools:

- to do anything incompatible with any of the provisions of this scheme, or any statutory provision, or any EU Procurement Directive;
- to seek LA officer countersignature for any contracts for goods or services for a value under £60,000 in any one year;
- to select suppliers only from an approved list, although schools should nominate alternative suppliers for inclusion in the list;

The financial limits regarding the need to obtain quotations and tenders are; for contracts and purchases greater than £8,000 but less than £50,000, three written **quotations** must be obtained. For contracts and purchases £50,000 and over, no fewer than three competitive **tenders** must be sought.

In addition European Union Directives, enacted in UK Law, set limits for public contracts above which specific procedures are required to be followed. The procedures cover the advertising of contracts, the rejection of suppliers, technical specifications, evaluation, selection and award criteria.

All procurements for goods, services and works above the financial thresholds are covered by the legislation.

The current levels at which these apply are for goods and services, £172,514 and for works, £4,332,012.

## 2.11 Application of contracts to schools

Schools have the right to opt out of LA arranged contracts except where they have lost that right for particular contracts (whenever started) in accordance with a specified written procedure; in which case they will be bound into the contract for its length or until the contract can be legally terminated (the contract might contain clauses allowing variance of its terms and conditions).

Although governing bodies are empowered (para.3, Schedule 10 of School Standards and Framework Act 1998) 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.

However other contracts may be made solely on behalf of the governing body, when they have clear statutory obligations – for example, contracts made by aided or foundation schools for the employment of staff.

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<sup>1</sup> Schools must keep a record of their reasons for assessing and selecting particular contractors. This is not only considered good practice under best value but will also provide essential evidence to safeguard schools and the Authority from litigation claims.

## **2.12 Central funds and earmarking**

The LA is authorised to make sums available to schools from central funds, in the form of devolved allocations that are additional to and separate from the schools' budget shares (the Standards Fund regulations require LAs to do this with many grants). These could be funds either from the LA retained functions within the Schools Budget or from the LA Budget (any funds from the LA Budget would have to be devolved in this manner, as delegation of LA functions is not permitted). This does not include allocations from the unallocated ISB referred to in section 1.1 above which constitute part of schools delegated budgets.

Such devolved allocations may be subject to conditions setting out the purpose or purposes for which the funds may be used. Schools cannot use devolved allocations for any purpose other than any stated earmarked reason. Overspends on earmarked allocations must be charged to the school's budget share.

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

In order that schools may demonstrate compliance with these requirements, the procedure will be as set out in KCC's Schools Financial Controls. This may require schools to supply signed certification of expenditure under certain devolved headings. Devolved allocations from central funds will be notified to schools separately from delegated formula sums from the ISB.

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

Governing bodies are free to spend budget shares 'for the purposes of the school', or for other purposes specified in regulations made by the Secretary of State through regulations, subject to any provisions of this scheme. By virtue of section 50(3A) (which came into force on 1<sup>st</sup> 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.

These regulations allow schools to use their delegated budgets for the provision of teaching, learning materials, educational resources, transport, meals and accommodation for pupils registered at other maintained schools.

It is the Local Authority's responsibility to meet its statutory duties under section 19 of the Education Act 1996 for pupils educated other than at school (EOTAS), for reasons of illness, exclusion or otherwise. Where funding has not been provided to a school i.e. the pupil was not on the school roll for the October census, and that pupil is EOTAS, then the LA will meet the costs of the pupil's statutory educational entitlement from its centrally retained DSG budget. Where funding has been provided by the Local Authority to a school through its delegated budget and that pupil is EOTAS then the school is responsible for meeting the costs of the pupil's statutory educational entitlement. The Local Authority reserves the right to recover the appropriate funding from the schools budget if it fails to provide the statutory educational entitlement.

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

Governing bodies are permitted to use their budget shares to meet or contribute towards the cost of capital expenditure on the school premises<sup>2</sup>.

If the premises are owned by the LA or the school has voluntary controlled status then the governing body should seek the consent of the LA to the proposed works but such consent can be withheld only on health and safety grounds.

A school cannot make a revenue contribution to capital if it has not incurred capital expenditure of at least the amount being met from the revenue contribution. In addition, a school cannot make a revenue contribution to capital if the governing body has not authorised it.

If schools plan to retain a proportion of their revenue funding (budget share unspent at the end of the financial year) for a specific purpose, they must do so within the guidelines set out in the Balance Control Mechanism guidance on KELSI.

## **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 Corporate Director of Finance and Procurement and the Corporate Director of Education and Young People's Services.

- 1) the school has failed to comply with any provisions of the scheme, or
- 2) where actions need to be taken to safeguard the financial position of the LA or the school.

Such a notice will set out the reasons 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.

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

The notice will be withdrawn once the school has provided appropriate evidence that the requirements of the notice have been fully complied with.

Further information can be found in KCC's Schools Financial Controls.

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<sup>2</sup> 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.

## 2.16 Schools Financial Value Standard (SFVS)

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

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

All maintained schools with a delegated budget must submit the form to the local authority before 31<sup>st</sup> March each year.

## 2.17 Fraud

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

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

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

### **3.1 Frequency of instalments**

The budget share will be made available to governing bodies of schools operating bank accounts in twelve monthly instalments. The twelve monthly instalments will be paid to accommodate payroll dates. Top up payments for pupils with high needs will be made on a monthly basis.

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

A proportion of a school's total budget share will be advanced to schools each month. The proportion of the total amount available from these sources will be advanced as follows:

- $\frac{1}{12}^{\text{th}}$  per month between April and March (inclusive);

In year changes to schools' budget shares as a result of the re-determination, or adjustment to a school's budget share, or changes to earmarked allocations will be added to, or subtracted from, the amount advanced to the school's bank account. In general this will be calculated as an addition to the monthly advances in equal proportional instalments for the remainder of the financial year<sup>3</sup>. Where the sum involved is less than £500, or is an earmarked allocation which by its nature has to be spent as one lump sum, the whole amount will be paid into the school's bank account in a single month with no proportional instalments in other months.

In exceptional circumstances schools can request an additional advance of the total budget share available (including earmarked sums) to be included in the monthly payment. The additional amounts will be added to the month's instalment and deducted from a future month's advance during the financial year. These additional amounts will be subject to a separate interest charge (see 3.3 below).

### **3.3 Treatment of Interest**

The authority will make a deduction from the unallocated delegated budget to cover loss of interest to KCC. This is as a result of schools retaining balances in their individual bank accounts and because funds are advanced sooner than payments would have been made from the KCC central bank account.

Schools requesting additional advances (see 3.2 above) will pay an interest charge on the additional advance at the current bank base rate plus 0.5% on the additional amount included in their budget instalment. The interest charge will be calculated between the date of the additional advance and when it will be deducted from a future payment during the financial year.

Where budget share instalments are paid late due to LA error, interest will be added to the payment where the interest exceeds £20. The interest rate will equal Bank of England base rate.

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<sup>3</sup> Redetermination or adjustments to schools budget shares can be made under sections 18 and 21 to 25 of The Financing of Maintained Schools Regulations 2004.



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

The formula budget shares for new and closing schools are calculated on a part year basis with schools only funded for the proportion of the year in which they are in existence. The budget share instalments advanced to bank accounts will also reflect the dates of opening and closing.

### **3.5 Bank and building society accounts**

All schools will have a bank account into which their total budget share is paid in instalments. Schools will make all payments from the account, meet the cost of any bank charges and retain all interest earned on the account. Only one bank account per school is allowable.

Schools not in the KCC corporate scheme are allowed one additional account for investment purposes which must only be accessible via the current bank account. No other accounts may be held for official school budget purposes (voluntary funds are not “official school budget” monies).

Schools can choose between joining the KCC corporate scheme (currently with NatWest Bank), or opening an external account with one of the permitted institutions (see 3.5.1 below). The provisions of this financial scheme are precisely the same for either option with the exception that under the KCC corporate scheme schools may under certain circumstances go overdrawn subject to the approval of the LA. This exception is only permitted as a result of the pooled nature of funding under the corporate scheme with the consolidation of all funds by the bank. Further details and guidance on the local bank account scheme is included in KCC’s Schools Financial Controls.

Schools choosing an external banking option must provide the LA with a copy of their accounts’ terms and conditions. Schools opting to transfer from the KCC corporate scheme to an external account will have all funds transferred including accumulated surpluses.

Schools can change banks at any time during the financial year subject to informing the LA, but those wishing to withdraw from the corporate scheme must give the Authority four months notice before the change can be effected. Schools which choose their own bank will be responsible for negotiating terms and conditions which must not contravene the provisions of this scheme. Schools negotiating their own terms and conditions with banks must also have regard for the provisions included in this scheme and KCC’s Schools Financial Controls.

Schools are allowed to have a separate bank account for their voluntary fund. Schools are not permitted to transfer any funds from their main school bank account into their voluntary fund account.

### 3.5.1 Restrictions on accounts

Accounts may only be held, at the following banks or building societies:

- Barclays Bank Plc
- HSBC Bank Plc
- Lloyds Banking Group – Lloyds/HBOS
- RBS Group – Royal Bank of Scotland /NatWest
- Santander UK Plc
- Nationwide Building Society
- Other institutions with the express approval of KCC Finance (in line with the authority's Treasury Management Policy)

The name of the account must include Kent County Council, or KCC, or if the name of the bank account does not include KCC, the scheme requires that the account mandate should provide that the Local Authority (LA) is the owner of the funds in the account. The account's terms and conditions must state the LA 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.

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

Signatories for bank accounts may include LA employees, school employees and school governors. Where more than one school governor is a signatory, schools must ensure they are covered by appropriate insurance. Those schools that contract to buy KCC insurance (Safe Hands) are not insured for this risk.

There is no restriction on the use of direct debits or standing orders for school bank accounts.

Budget share funds paid by the LA and held in a school bank account remain LA property until spent.

### 3.6 Borrowing by schools

Borrowing or going overdrawn is not permitted, except:-

- i) Where a capital loan has been agreed by the LA
- ii) Where a revenue loan linked to a deficit recovery plan has been approved
- iii) Where a short-term cash flow loan has been agreed by the LA.
- iv) Where the overdrawn balance is less than £10,000 and the school is in the corporate banking scheme
- v) Where the written permission of the Secretary of State<sup>4</sup> has been received (the granting of permission is via the LA).  
(the KCC loan scheme does not constitute borrowing as these loans are financed from the accumulated reserves of other schools)
- vi) Where a scheme has been made available to schools by the Secretary of State, currently the Salix scheme which is designed to support energy saving.

Hire Purchase Agreements/Finance Leases constitute a credit arrangement and are classified as borrowing. Schools are not permitted to enter into such agreements.

Credit cards constitute a credit arrangement and are also classified as borrowing. Schools are not permitted to have credit cards. However, payment cards that must be paid off in full each month and do not offer any form of credit facility are allowed.

Schools should seek advice before entering into any lease or asset rental or buy-back scheme to ensure it is legal. All lease agreements are subject to the rules on contracts and the relevant limits apply.

### 3.7 Other provisions

The Authority has issued further guidance to schools on the operation of school bank accounts through KCC's Schools Financial Controls. These guidelines supplement the provisions of this scheme and no aspect of them conflicts with the scheme's requirements.

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<sup>4</sup> This does not apply to Trustees and Foundations, whose borrowing, as private bodies, makes no impact on Government accounts. These debts may not be serviced directly from the delegated budgets, but schools are free to agree a charge for a service which the Trustees or Foundation are able to provide as a consequence of their own borrowing. Governing bodies do not act as agents of the LA when repaying loans.

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

### **4.1 The right to carry forward surplus balances**

Schools may carry forward from one financial year to the next any surplus/deficit in net expenditure relative to the school's budget share for the year plus/minus any balance brought forward from the previous year.

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

Surplus balances held by schools as permitted under this scheme are subject to the following restrictions:

- a. the authority shall calculate by 31<sup>st</sup> May each year the surplus balance, if any, held by each school as at the preceding 31<sup>st</sup> March. For this purpose the balance will be the total revenue balance as defined in the Consistent Financial Reporting Framework;
- b. the authority shall then deduct from the resulting sum any amounts which the governing body of the school has declared to be assigned for specific purposes permitted by the authority and which the authority is satisfied are properly assigned. To count as properly assigned, amounts must not be retained beyond the period stipulated for the purpose in question, without the consent of the Authority.
- c. if the result of steps a-b is a sum greater than 5% of the current year's budget share for secondary schools, 8% for primary schools, or £10,000 (where that is greater than either percentage threshold), then the authority shall deduct from the following year's budget share an amount equal to the previous year's excess.

Certain defined funds deriving from sources other than the authority will be taken into account in this calculation if paid into the bank account of the school, whether under provisions in this scheme or otherwise.

Surplus funds held in relation to a school's exercise of powers under s.27 of the Education Act 2002 (community facilities) are included within the LA's definition of total revenue balances.

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

If, after the financial year end, a school's declared total revenue balance is deemed by the LA to be incorrect, then the LA reserves the right to recalculate the school's total revenue balance and reconsider it against the restrictions outlined in sections a-c above. In this context, an incorrect revenue balance may have arisen because of an error in the school's financial system and/or an incorrect accounting treatment.

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

All schools will retain interest earned on surplus balances under the bank account arrangements.

Schools in the corporate scheme will receive interest on a quarterly basis as a share of that earned on the collective pool at 0.5% below bank base rate pro rata to their individual surplus balance. The Authority will produce guidance on how interest is to be calculated within the corporate scheme. Schools choosing their own bank account will have to negotiate the interest rates and payment dates with their bank/building society.

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

Schools that end the financial year with a deficit balance must carry it forward within their accounting system into the next financial year.

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

Schools cannot plan for a year end deficit budget when submitting budget plans at the start of the year i.e. expenditure exceeding funding and income for the year plus the accumulated surplus brought forward. Schools that submit deficit plans will be required to resubmit their budget with plans to bring the budget back into balance. The authority will intervene if a school refuses to set a balanced budget by identifying the action a school could take and ultimately by suspending delegation.

Any unplanned deficit incurred during the year would be a first call on the following year's budget and the school would need to include the deficit in its balanced budget plan for the following year. Schools that incur unplanned deficits in successive years would be treated the same as schools submitting deficit plans and the authority would need to intervene.

Detailed guidance is provided in KCC's Schools Financial Controls for schools to follow if they suspect they are likely to encounter budget difficulties.

School bank accounts are not allowed to go overdrawn (other than up to £10,000 if in the corporate scheme). If a school gets into financial difficulty and is facing a potential unplanned deficit they will need to apply for a cash flow or revenue budget deficit loan in order to be able to continue meeting their liabilities.

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

Schools in the corporate bank account scheme will be charged interest on the unplanned overdraft at bank base rate. Above the upper overdraft limit of £10,000, these schools will need to apply for a revenue loan if necessary. Schools not in the KCC corporate scheme are not permitted any overdraft and must apply for a loan if an overdrawn balance is otherwise unavoidable. Loans attract interest charges at the current bank base rate plus 0.5%.

## 4.7 Writing off deficits

The LA has no power to write off the deficit balance of any school.<sup>5</sup>

## 4.8 Balances of closing and amalgamating schools

When a school closes any balance (whether surplus or deficit) shall revert 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 (or deficit) transfers to an academy where a school converts to academy status under section 4(1)(a) of the Academies Act 2010. A new school created out of the amalgamation of existing schools will receive an amount in its formula budget in the first year equal to the net unspent balances of the predecessor schools.

## 4.9 Loan Scheme

- a. The total amount available to loan will be limited to £15m (as agreed by the Corporate Director of Finance and Procurement). The terms of the loan scheme will be reviewed annually by the Corporate Director of Finance and Procurement.
- b. The length of the loan period should not normally exceed 7 years for premises, 3 years for IT and other equipment, and 3 years for revenue loans. However schools may be able to borrow over a longer time period (for premises related projects only) if sufficient evidence is provided to demonstrate an ability to afford the repayments. Approval will be given by the Director - Education Planning and Access.
- c. The minimum loan will be £10,000. Smaller amounts will be considered for schools with less than 200 pupils.
- d. Loans for schemes that need planning permission will not be agreed until this has been approved.
- e. The maximum size of loans will be calculated by an ability to pay formula based on current and projected allocations for delegated formula budget and devolved formula capital.
- f. If the demand for loans is greater than the amount available, schemes will be ranked in priority order according to the Loans Scheme Guidance.
- g. Loans will only be granted when approved according to the guidance set out in KCC's Schools Financial Controls.

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<sup>5</sup> *If an authority wishes to give assistance towards elimination of a deficit balance this should be through the allocation of a cash sum, from the authority's schools budget (from a centrally held budget specified for the purpose of expenditure on special schools and pupil referral units in financial difficulty or, in respect of mainstream maintained schools, from a de-delegated contingency budget where this has been agreed by the Schools' Funding Forum).*

## **SECTION 5: INCOME**

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

### **5.1 Income from lettings**

Schools may retain income from lettings of the school premises, which would otherwise accrue to the LA, subject to alternative provisions arising from any joint use or PFI agreements. The LA will receive 1/3 of rental income where third parties have entered into a formal lease to occupy property in a community school.

Schools are permitted to cross-subsidise lettings for community and voluntary use with income from other lettings, provided there is no net cost to the budget share. Schools are required to have regard to directions issued by the Authority 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 may retain income from fees and charges except where a service is provided by the LA from centrally retained funds. However, schools must adhere to any policy statements on charging produced by the LA.

Income received from boarding charges should not exceed that needed to provide board and lodging for the pupils concerned.

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

Schools may retain income from fund-raising activities.

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

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

Sale of assets to staff should be subject to a policy approved by governors.

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

The LA will establish administrative procedures for the collection of income that may vary from time to time in the light of advice from the VAT authorities. Schools will be required to charge and remit VAT to the Authority in accordance with the guidance in the VAT manual.

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

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



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

### **6.1 General provision**

The budget share of a school may be charged with costs by the LA without the consent of the governing body only in circumstances set out in 6.2<sup>6</sup> below.

The LA shall consult a school as to the intention to so charge, and shall notify a school before it makes a charge. Schools will have the right of appeal to a representative group dealing with complaints<sup>7</sup>.

The salaries for school based staff paid by the Authority must be charged to school's budget shares at the actual cost.

### **6.2 Circumstances in which charges may be made<sup>8</sup>**

- 6.2.1 Premature retirement costs incurred without the prior written consent of the LA to meet such costs (the amount chargeable being only the excess of any amount agreed by the LA).
- 6.2.2 Other expenditure incurred to secure resignations where the school has not followed LA advice.
- 6.2.3 Awards by courts and employment tribunals against the LA, or out of court settlements, arising from action or inaction by the governing body contrary to the LA's agreement and/or 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. This includes work required by the HSE following any intervention / involvement in the school.
- 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 an appeal under the disputes procedure has determined the school's liability.

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<sup>6</sup> For each of these circumstances (other than 6.2.11) the Authority will have to demonstrate that it has necessarily incurred the expenditure to be charged to the school's budget share. The Authority cannot incur a liability where the statutory responsibility lies elsewhere which could affect the charging to different categories of school. The LA may de-delegate funding for permitted services without the express permission of the governing body provided this has been approved by the Schools' Funding Forum.

<sup>7</sup> The LA cannot act unreasonably in the exercise of any power given by this scheme, or it may be the subject of a direction under s.496 of the Education Act 1996.

<sup>8</sup> Other clauses can be included during the year as necessary following consultation with schools and Secretary of State approval.

- 6.2.8 Recovery of penalties imposed on the LA by the Board of Inland Revenue, the Contributions Agency, HMRC, Teachers Pensions, the Environment Agency (for the Carbon Reduction Commitment scheme) or regulatory authorities as a result of school negligence.
- 6.2.9 Correction of LA errors in calculating charges to a budget share (e.g. pension deductions).
- 6.2.10 Additional transport costs (incurred by the LA) arising from decisions by the governing body on the length of the school day and/or school term dates. In addition, failure to notify the LA of non-pupil days resulting in unnecessary transport costs.
- 6.2.11 Legal costs incurred by the LA because the governing body did not accept the advice of the LA, or follow the LA procedures.
- 6.2.12 Costs of necessary health and safety training for staff employed by the LA, where funding for training has been delegated but the necessary training not carried out.
- 6.2.13 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 The cost of any work done in respect of teacher pension remittance and records for schools using non-LA payroll contractors. The charge can not be greater than the minimum needed to meet the cost of the Authority'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 or in enforcing the provision of statutory financial returns or returns required under this scheme
- 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 of another school as a result of a school withdrawing from a cluster arrangement, for example where this has been funded staff providing services across the cluster.

From April 2016

- 6.2.20 *Costs incurred by the authority in administering admissions appeals, where the local authority is the admissions authority and the funding for admission appeals has been delegated to all schools as part of their formula allocation.*

## **SECTION 7: TAXATION**

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

The LA has established procedures to enable all schools to utilise the Authority's ability to reclaim VAT on expenditure relating to non-business activity. These provide for schools to submit a monthly return of all VAT expended (and collected through income) from schools' bank accounts. Amounts reclaimed through these procedures will be paid into the school's bank account with the following month's advance of the budget share. Further guidance on the procedure is included in KCC's Schools Financial Controls and details of which goods and services are liable for VAT are included in the Schools VAT manual.

Goods and services supplied by the Authority will not include VAT even if they are VAT related supplies.

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

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

The LA shall determine on what basis services from centrally retained funds will be provided to schools. The LA is debarred from discriminating in its provision of services on the basis of categories of schools<sup>9</sup> except where (a) funding has been delegated to some schools only or (b) such discrimination is justified by differences in statutory duties.

When a service is provided for which funds are delegated, it must be offered at prices which are intended to generate income which is no less than the cost of providing those services.

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

Any agreement between the Authority and its schools for the provision of services or facilities bought from the Authority shall initially be limited to a maximum of three years from the date of the agreement. Subsequent agreements for the same services or facilities are limited to periods not exceeding five years. Contracts for the supply of catering services can be for five and seven years respectively. This requirement excludes school buildings and liability insurance.

When a service is provided for which expenditure is not retainable centrally by the Authority under Regulations made under section 45A of the Act, it must be offered at prices which are intended to generate income which is no less than the cost of providing these services. The total cost of the service must be met by the total income, even if schools are charged differently.

#### **8.2.1 Packaging**

The LA may provide to schools any services for which funding has been delegated. Where the LA is offering the service on a buyback basis it must do so in a way which does not unreasonably restrict schools' freedom of choice among the services available<sup>10</sup>.

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<sup>9</sup> This will encompass all services and functions funded from centrally retained budgets including the requirements for the consistent treatment of premature retirement and redundancy costs under the authority's policies.

<sup>10</sup> This clause does not prevent the Authority offering a discount for the purchase of more than one service, but does provide the scope for schools to purchase services singularly.

### **8.3 Service level agreements**

The terms and conditions for the provision of services and facilities, whether free or on a buy back basis, will be contained in the Edukent terms and conditions. These will be agreed in consultation with schools and will contain compensation arrangements and a procedure for resolving disputes. Schools must have at least a month to consider changes to the terms of agreements.

The terms of agreements for services or facilities whether free or on a buyback basis, starting on or after the inception of the scheme will be reviewed at least every three years if the agreement lasts longer than that.

Services offered by the LA will be available on an ad hoc basis to schools not covered by extended agreements.

### **8.4 Teachers' Pension scheme**

In order to ensure that the performance of the duty on the Authority to supply Teachers Pensions with information under the Teachers' Pensions Regulations 1997, 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 annual 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.

A governing body of any maintained school which directly administers its payroll shall supply salary, service and pensions data to the Authority which the Authority requires to submit its annual 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 from each school. A governing body shall also ensure that Additional Voluntary Contributions (AVCs) are passed to the Authority within the time limit specified in the AVC scheme. The governing body shall meet any consequential costs from the school's budget share.

## **SECTION 9: Private Finance Initiative (PFI) clauses**

The LA shall have 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 bodies of schools as to the basis of charges relating to such schemes; and the treatment of monies withheld from contractors due to poor performance.

The LA shall have the power to charge the school's budget share amounts agreed under a PFI/PPP agreement entered into by the governing body of the school. The LA will use the schools advances system to recover charges from the monthly budget share advance.

The LA will pass any service performance shortfall deductions from the PFI Company to schools via the advances system.

Funding specifically for the shortfall in PFI contracts (sometimes referred to as the affordability gap funding) will be delegated to PFI Schools only, through the PFI factor in the delegated budget, and any change to the total value of this factor will be agreed by the Schools' Funding Forum.

## **SECTION 10: INSURANCE**

### **10.1 Insurance Cover**

Funding for buildings and liability insurance is delegated to all schools.

Governing bodies are required to demonstrate that where they have delegated funding for insurance, policies are in place that provide sufficient cover for the Authority's insurable interests. This will include cover which is at least as good as the relevant minimum under the LA's arrangements either funded from central funds or schools delegated budgets. The LA will provide guidance on the minimum levels of cover.

If a schools cover is deemed to be below the required minimum levels, the LA reserves the right to purchase additional cover up to the minimum level and the costs of this additional cover will be charged to the school budget.

## **SECTION 11: MISCELLANEOUS**

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

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

### **11.2 Liability of governors**

Because the governing body is a corporate body<sup>11</sup>, 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.

### **11.3 Governors' expenses**

The LA shall have the power to delegate to the governing body of a school yet to receive a delegated budget, funds to meet governors' expenses in accordance with guidance issued by the Authority on what it considers to be reasonable expenses.

Only allowances in respect of purposes specified in regulations<sup>12</sup> may be paid to governors from a school's delegated budget share. Schools are expressly forbidden from paying any other allowances to governors.

Schools are also barred from payment of expenses duplicating those paid by the Secretary of State to additional governors appointed by him/her 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 (other than those relating to the statutory responsibility of aided school governors for buildings), may be charged to the school's budget share unless the governing body acts in accordance with the advice of the Authority.

Legal costs relate to the costs of actions, including any awards against the Authority, and not the cost of LA legal advice. The provision of legal advice in relation to the Authority's statutory functions is funded from the central retention for strategic management. Legal advice for schools delegated responsibilities is delegated and the responsibility of the school.

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<sup>11</sup> and because of the terms of s.50(7) of the School Standards and Framework Act 1998

<sup>12</sup> The Education (Governors Allowances) Regulations 1999 made under School Standards and Framework Act 1998 ( Schedule 11),



## **11.5 Health and Safety**

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

LAs may issue directions<sup>13</sup> to the governing body and headteacher of a community, community special or voluntary controlled school on health and safety matters<sup>14</sup>.

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

Governing bodies are required to permit any officer nominated by the Corporate Director of Finance and Procurement (Kent County Council) to attend meetings of the governing body at which any agenda items are relevant to the exercise of her or his responsibilities.

The Revenue Finance Manager, or any officer nominated by the CFO reserves the right to attend a governing body meeting of any school where appropriate accurate financial returns have regularly not been submitted. Prior notice of this will be given (in accordance with the Code of Practice on LA School Relations).

Officer attendance shall normally be limited to items that relate to issues of probity or overall financial management and shall not be regarded as routine.

## **11.7 Delegation to new schools**

The LA is empowered to delegate selectively and optionally to the governing bodies of schools that have yet to receive delegated budgets<sup>15</sup>.

The Authority can delegate spending powers to temporary governing bodies of new schools without allocating a delegated budget. The LA will determine how and when this power is exercised.

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<sup>13</sup> These directions are enforceable on governing bodies via S.497 of the Education Act 1996 if not complied with.

<sup>14</sup> Section 39(3) of the School Standards and Framework Act 1998 enables LA to direct schools to take specific action (e.g. remedy a health and safety failing) or require a governing body or headteacher to comply with a specific aspect of the LA's Health and Safety policy.

<sup>15</sup> Section 49(1) to (3) of the SSFA requires LAs to delegate funding to a new school no later than the date on which it opens unless the Secretary of State has agreed to a postponement. LAs can delegate funding in advance of the opening date s.49(3)(a). " By virtue of the act a new school must receive a delegated budget in the funding period prior to the funding period within which it opens ( that is funding period during which it first admits pupils"

## **11.8 Pupils with Statutory Assessments of Special Educational Need**

Schools receive delegated funding for pupils with statutory assessments of SEN. The governing body of a school is responsible to the LA for making the provision specified in each pupil's statutory assessment. Failure to do this may lead to LA having to use their powers of intervention, as outlined in DfE Code of Practice, LA School Relations.

## **11.9 “Whistleblowing”**

The policy, or code of practice, applies to schools in common with the rest of the Authority. It will allow members of staff and governors to raise concerns, confidentially, within a framework which will provide for a thorough and appropriate investigation to bring the matter to a satisfactory conclusion. The policy can be accessed via the SFVS pages on KELSI.

## **11.10 Child Protection**

There may be a need to release school staff to attend child protection case conferences, and other related events. Travel costs have been delegated to schools and these should be met from schools' delegated budgets.

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

The costs arising from redundancy/early retirement of school based staff will normally be funded centrally by the Local Authority, in accordance with the relevant legislation, except:

- 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

## **SECTION 12: COMMUNITY FACILITIES**

### **INTRODUCTION**

#### **12.1 The legal framework**

The Education Act 2002 confers a new power on governing bodies to provide community facilities. Community facilities and services can be provided for the benefit of pupils at the school, their families, or people that live or work locally to the school. The power provides the ability to incur expenditure on the facilities, enter into funding and other agreements (not borrowing, and provide staff time and other services.

The legislation includes a range of controls:

- The Secretary of State can specify activities which cannot be undertaken under this power;
- Schools must consult the LA prior to exercising the new power and have regard to advice given in response;
- Schools must have regard to advice issued by the Secretary of State;
- Schools cannot do anything that is contrary to their own instruments of government;
- Schools must comply with the requirements of the LAs scheme for financing schools which has been extended to include community facilities;

#### **12.2 The role of the scheme**

This document sets out the extension of the financial scheme covering the provision of community facilities. Schools should be aware that mismanagement of community facility funds could be grounds for suspension of the delegated budget.

This document does not apply to joint-use agreements, transfer of control agreements, or agreements between the Authority and schools to secure the provision of adult and community learning.

## **CONSULTATION WITH THE LA – FINANCIAL ASPECTS**

### **12.3 Consultation with the LA**

There is a statutory requirement to consult and to have regard to advice given by the LA before exercising the power to provide community facilities.

Schools should set out in their proposals:

- the community activity they intend to support
- the anticipated beneficiaries
- proposed funding agreements with third parties (see section 3)
- school accommodation and resources to be used by the facility either during or after the school day
- a budget plan setting out anticipated expenditure and income for three years

The consultation should also include information the governing body has considered to satisfy itself that the provision of the community facilities will not to a significant extent interfere with their statutory duty to promote high standards of educational achievement or any other statutory duties.

### **12.4 Advice from the LA**

The Authority will respond to the consultation and give advice on the proposals within six weeks of receipt. Advice given in response to consultation would be free of charge. Schools must notify the Authority of action they have taken following advice within a reasonable period of time.

Free advice could be limited to a recommendation to purchase support from professional services (finance, legal, personnel, IT, etc.) where these services have been delegated. Services would not have to be purchased from the Authority but schools should satisfy themselves that providers are in a position to offer sound advice without a conflict of interest.

### **12.5 Other consultation**

Schools are reminded that section 28(4) of the Education Act 2002 also requires consultation with staff, parents, Pupils (where appropriate) and other interested parties. Consultation with these groups is not covered by this scheme.

## **FUNDING AGREEMENTS – LOCAL AUTHORITY POWERS**

### **12.6 Third party agreements**

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.

Proposed agreements with third parties (i.e. other than with the Authority) must be submitted to the LA for comment before being signed. Comments would be provided within three weeks. The Authority cannot veto or require that it countersign third party agreements.

Where the third party requires LA consent for an agreement to proceed, this would be a matter for the third party and not this scheme.

### **12.7 Suspension of delegation**

Schools are reminded that an agreement concluded against the Authority's wishes expressed in its comments, or concluded without informing the Authority, which in the view of the Authority is seriously prejudicial to the interests of the school or the Authority, may constitute grounds for suspension of the school's delegated budget.

### **12.8 Agreements with the LA**

The Authority may enter into funding agreements with schools for the provision of community facilities.

## **OTHER PROHIBITIONS, RESTRICTIONS and LIMITATIONS**

### **12.9 Limited companies**

Section 11(1) of the Education Act 2002 enables governing bodies to form, or participate in forming, limited companies. The liabilities of companies can be limited by share or guarantee.

The Authority can require a school to form a limited company to provide community facilities where it has serious concerns about the financial viability of a proposal with a significant proportion of income derived from usage charges. The concerns must have been expressed in its response to consultation and not adequately addressed by the school.

### **12.10 Indemnity insurance**

The Authority can require a school to take out indemnity insurance where it has serious concerns about funding agreements with third parties. These concerns must have been expressed in its comments on the proposed agreement and not adequately addressed by the school or the third party.

### **12.11 Use of surplus accommodation**

The Authority can prohibit the use of surplus accommodation for community facilities where it is identified as necessary to deliver the School Organisation Plan or Asset Management Plan or where it would result in an unacceptable increase (or the risk of an unacceptable increase) on the LAs revenue or capital budgets.

### **12.12 Pupil welfare**

The Authority can prohibit a community facility where there are serious concerns about pupil welfare. The concerns must have been expressed in its response to consultation and not adequately addressed by the school.

## **SUPPLY OF FINANCIAL INFORMATION**

### **12.13 Initial budget plan**

Schools should supply a budget plan showing estimated expenditure and income for the community facility for three years as part of its consultation with the Authority. The plan would identify expenditure according to the standard Consistent Financial Reporting (CFR) headings used for delegated budgets e.g. staff, premises, etc. and sources of income.

### **12.14 Actual income and expenditure statements and subsequent plans**

Schools are required to submit a statement of actual expenditure and income after six months and a revised plan for the following six months. If this is satisfactory future returns will be part of the normal arrangements under the Consistent Financial Reporting (CFR) framework.

### **12.15 Unsatisfactory statements**

If the authority is not satisfied with financial submissions and has concerns about the financial management of the community facility it can give the school notice that it requires a statement every three months. Three monthly statements would continue until the Authority is satisfied with the financial management of the facility. Schools showing a deficit on the community facility may be required to submit and agree a recovery plan.

### **12.16 Audit**

Schools must grant access to their records for the community facility in order to facilitate internal and external audit of relevant income and expenditure.

Funding agreements should include a clause allowing the Authority's auditors to have access to the records and property of third parties relating to the community facility either held on school sites or elsewhere in order to satisfy itself as to the propriety of expenditure on the facilities.

## **TREATMENT OF INCOME AND SURPLUSES**

### **12.17 Retention of income and surpluses**

Schools will retain all surplus income over expenditure from the community facility unless funding agreements provide for a sharing arrangement. Surplus income earned on community facilities should be kept separate from the school's delegated budget and carried forward within the community facilities account.

### **12.18 Transfer of surpluses to the delegated budget**

Surplus income can be paid into the school's delegated budget following agreement with the LA. In these circumstances the Authority will require that a reasonable surplus be retained within the community facilities account to offset potential future deficits.

### **12.19 Treatment of surpluses for closing schools**

Surplus income on facilities run by community or community special schools will revert to the Authority if it ceases to maintain the school unless otherwise provided for in funding agreements. Surplus income for other categories of school will remain the property of the governing body if the Authority ceases to maintain the school.

### **12.20 Deficits**

The LA expects schools to meet outstanding liabilities on community facilities from their delegated budget where there are insufficient surplus funds within the community facilities account.



## **HEALTH AND SAFETY**

### **12.21 Health and safety policy**

Governing bodies must have due regard to health and safety including compliance with the Authority's policy on health and safety matters when managing community facilities. The Authority may issue directions to the governing body of community, community special or voluntary controlled schools on health and safety matters for the community facility<sup>16</sup>.

### **12.22 Police checks**

Governing bodies must secure Disclosure Barring Service Disclosure for any adults involved in community activities during the school day. The costs of checks should be charged to the school's delegated budget or passed to the funding partner as part of an agreement with that partner.

## **INSURANCE**

### **12.23 Insurance policy**

Governing bodies are responsible for ensuring adequate insurance cover for community facilities. Schools should seek professional advice where necessary. The cost of additional premiums and advice should be charged to the school's delegated budget.

Schools must notify the Authority of insurance arrangements they have made for community facilities. The Authority can make its own assessment and if cover is inadequate make appropriate arrangements. The cost of such arrangements can be charged to the school and should be charged to the community facilities account and not the school's delegated budget.

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<sup>16</sup> These directions are enforceable on governing bodies under Section 497 of the Education Act 1996

## TAXATION & EMPLOYMENT

### 12.24 Value Added Tax (VAT)

Schools cannot reclaim VAT on expenditure on community facilities financed from third party funding agreements. VAT can be reclaimed on other expenditure and should be charged on the use of facilities and repaid to HM Customs and Excise. The Authority will provide VAT forms.

Schools should seek advice from the LA and the local VAT office on issues relating to the community facility. Any penalties imposed by HMRC can be charged to the school. If there are insufficient surplus funds in the community facilities account, penalties could be charged to the school's delegated budget in accordance with [section 6.2.8](#) of the main financial scheme.

### 12.25 Employment

Staff employed in community, community special, and voluntary controlled schools for community facilities would be LA employees<sup>17</sup>. Staff employed in foundation and voluntary aided schools would be employees of the governing body. In either case schools would be responsible for ensuring deductions are made for income tax, National Insurance and other statutory deductions and returns.

Penalties imposed by HMRC, the Contributions Agency, and Teacher Pensions Agency can be charged to the school.

The LA would meet the cost of redundancies, premature retirement, or securing the resignation of staff, in the same way as staff funded from the delegated budget.

## BANKING

### 12.26 Bank accounts

Schools should maintain a single bank account for all income and expenditure from the delegated budget but must ensure that suitable accounting controls are in place to separately identify income and expenditure on community facilities via the use of the appropriate CFR codes.

The same arrangements regarding the choice of bank, name of accounts and signatories as detailed in [section 3.5.1](#) would apply. Funding partners cannot be signatories to an account for community facilities.

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<sup>17</sup> Unless the facilities are provided by a limited company

## SECTION 13 – RESPONSIBILITY FOR REPAIRS AND MAINTENANCE

The Authority delegates all funding for repairs and maintenance to schools through the schools' budget. The Authority has a duty to ensure that schools are maintaining buildings and fixtures in line with best practice, to ensure health and safety requirements are met, and we will inspect school buildings in discharging this duty (see below). Failure to maintain buildings and fixtures to an acceptable standard may lead to charges against the school budget (section 6.2), the issuing of a formal Notice of Concern (section 2.15) or even the suspension a school's right to a delegated budget (section 1.1).

The Authority has agreed with the Schools' Funding Forum to set the following de-minimus limits to assigning initial responsibility for meeting the costs of repairs and maintenance.

	£
Primary	7,500
Secondary	20,000
Special	7,500

Schools are responsible for the funding all of their repairs and maintenance where the costs are below the relevant de-minimus limits.

Where the costs of repairs and maintenance exceed the de-minimus limits, the LA will prioritise available funding based on the condition grading of the works.

Capital funding is retained by the Authority, with the exception of Devolved Formula Capital. Expenditure may be treated as capital only if it fits the definition of capital used by the local authority for financial accounting purposes which is in line with the CIPFA Code of Practice on Local Authority Accounting.

### **Statutory Health and Safety Inspections**

Statutory health and safety inspections are funded by the authority (dependant on the school designation) from its revenue budget and are undertaken on Voluntary Aided, Voluntary Controlled, Community and Foundation Schools. For the avoidance of doubt the inspections for Academies, Free Schools and University Technology Colleges (UTC) are not funded by the authority.

Any servicing and repairs required as a result of the inspections will be treated as maintenance expenditure and will be in line with the threshold stated above. If works are identified on a Voluntary Aided school these works are required to be addressed by the school / Diocese given KCC does not receive funds for Voluntary Aided Schools.

### **Voluntary Aided Schools**

For voluntary aided schools, the liability for repairs and maintenance (albeit by delegation of funds through the budget share) is the same as for other maintained schools.