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Statutory guidance

Schemes for financing local authority maintained schools

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1. Summary

1.1 About this guidance

This is a new 31 st statutory guidance given by the Secretary of State pursuant to s.48(3) and (paragraph 24(2) of Schedule 14 to the School Standards and Framework Act 1998 (the School Standards and Framework Act 1998).

Local authorities are required to publish schemes for financing schools setting out the financial relationship between the local authority and the schools it maintains. Schools to the provisions which a local authority's scheme may impose, schools should read this follow the formal part of this guidance, except for the text of directed revisions.

In making any changes to their schemes, other than directed revisions, local authorities must have regard to this guidance. Local authorities must also have regard to the requirements which are in force when making maintained schools. Local authorities should also have regard to the guidance issued by the Secretary of State on financial management and oversight in maintained schools.

Find out what has changed in this issue

1.2 Directed revisions

The process of which a directed revision is the whole or any part of the schemes as from such date as may be specified in the direction. In order to make a directed revision to a scheme, the Secretary of State must consult the local authority and the governing bodies of the schools affected, in consul the relevant local authorities and governing bodies.

Amendments have been made to the scheme in this issue to incorporate the directed revisions listed below. To reflect more recent policy positions.

- Following consultation that ran between 4 November 2019 and 3 January consultation that ran between 4 November 2019 and 3 January 2020 the Secretary of State directed that the following directed revisions be incorporated into the schemes of all local authorities in England. The directed revisions were made on 31 March 2020 and 1 April 2020. The scheme will continue to exceed the threshold. The 2020 to 2022 funding year, which defines any measures up to 31 March 2021.

For details of earlier directed revisions please see Annex D, section 20.

1.3 Other important changes to the guidance

Following consultation that ran between 4 November 2019, the Secretary of State has made changes to the scheme to reflect the Government's policy that it should be able to join the collective arrangement. We are changing the guidance to reflect, we have not had time to conduct a consultation on a directed revision but we may do in future.

Section 12: Insurance

Instead of taking out insurance, a school may join the Secretary of State's risk protection arrangement (RPA) for risks that are covered by the RPA.

The scheme should contain a provision which allows schools to join the RPA after 1 April 2020. Schools may do this individually when any insurance contract of which they are a member ends.

The scheme should also provide for all primary maintained schools to be required to join the RPA collectively by opting through the schools forum to be delegate funding.

2. The outline scheme

We use the following references throughout this guidance:

- "the act" is the School Standards and Framework Act 1998
- "the authority" is the local authority
- "the regulations" are Schools and Early Years Finance (England) Regulations 2020

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

- the carrying forward of any surplus balances or deficits of schools and authority arising in relation to schools' budget shares
- the authority's power to withdraw or suspend delegated budget shares
- amounts received by schools which are retained by their governing bodies and the purposes for which such amounts may be used
- the authority's power to recover from schools amounts which must be complied with by schools in the management of their delegated budgets, including those made available to governing bodies by the local authority which do not form part of delegated budgets, including contingent sums being held in accounts for provisions
- terms on which services and facilities are provided by the local authority for schools maintained by it
- the capacity of schools to borrow money
- the times at which amounts equal to total to the school's budget share are to be made available to governing bodies and the proportions of the budget share to be made available at any one time
- the interest between budget heads within the delegated budget
- circumstances in which a school governing may delegate to the governing body the power to spend any part of the authority's non-schools education budget or schools budget which is delegated to the school, and the terms on which it may do so
- the use of delegated budgets and any other resources held by a governing body to a local authority which do not form part of delegated budgets
- the keeping of accounts
- the banking and keeping of bank accounts by governing bodies
- a statement as to the personal liability of governors in respect of schools' budget shares and other resources held by the governing body
- a statement as to the otherwise liability to governors of a school which has or will have a delegated budget in accordance with the scheme made by the local authority
- the keeping of a register of the business interests of the governors and the head teacher
- the provision of information by and to the governing body
- the maintenance of inventories of assets
- the keeping of records and accounts
- a statement as to the taxation of sums paid or received by a governing body
- insurance
- the ability of delegated budgets by governing bodies so as to satisfy the local authority's power to require a school to under the heads and Safety at Work etc. Act 1974
- the provision of legal advice to governing body
- funding for extended schools
- how complaints by persons working at a school or by school governors about matters relating to the school budget or the school's accounts will be dealt with, which such complaints should include
- expenditure incurred by a governing body in the exercise of the power conferred by section 27 or 28a of the act

3. Introduction

3.1 The funding framework

The scheme should have an introductory section which describes the main features of the current funding framework.

A question description at Annex E. This may be amended, added to or replaced by a different version, but the scheme should aim for at least this level of detail. In particular, it should make it clear that the local authority's duties are limited to those expressed expenditure are set out, those that are no longer in the scheme.

3.2 The role of the scheme

The scheme should contain a paragraph which explains the role of the scheme itself. This should explain that the scheme sets out the financial relationship between the authority and the schools it maintains. It should also explain that the main duties of the scheme covers requirements relating to financial management and associated issues, binding on both the local authority and on schools.

3.3 Application of the scheme to the local authority and maintained schools

As a description of its institutional coverage, the scheme should state that it applies in respect of all community nursery, primary, foundation, connected, secondary, special, foundation special schools and PRUs maintained by the local authority. The schools forum, the local authority and governing bodies should be clear how the scheme applies to the schools.

The scheme applies to all community, nursery, special, voluntary, foundation (including foundation special) and secondary schools maintained by the local authority. The schools forum is included in the area of the local authority's jurisdiction. It does not cover academy schools situated in the local authority's area which are maintained by another authority. Nor does it apply to academies.

3.4 Publication of the scheme

The publication requirements are contained in the regulations. They make clear that, as a minimum, the scheme must be published on a website which is accessible to the general public and that any revised version must be published by the date the revisions come into force, together with a statement that the revised scheme comes into force on that date.

3.5 Revision of the scheme

The scheme should contain a statement that 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 local authority. The scheme should also set out the timetable for their approval.

All proposed revisions must be submitted to the schools forum for approval by representatives of the local authority and representatives of schools. The schools forum must be prepared to approve those changes subject to modifications which are not unreasonable to the local authority, the authority may apply to the Secretary of State for approval.

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

3.6 Delegation of powers to the head teacher

The scheme should require the governing body to consider the extent to which it wishes to delegate its powers to the head teacher. The scheme should make it clear that schools may not approve their accounts subject to modifications which are not reasonable to the local authority, the authority may apply to the Secretary of State for approval.

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

3.7 Maintenance of schools

The scheme should have a provision stating that the local authority is responsible for maintaining community schools, and that it may do so by providing the school with the sum of the expenses of maintaining them (equal in the case of a voluntary school, after some of the expenses are, by statute, payable by the governing body). Part of the way is by providing a delegated budget. The scheme should also include a reference to sections 16 to 21 of the School Standards and Framework Act 1998.

4. Financial controls

4.1 General procedures

Application of financial controls to schools

The scheme should contain a paragraph requiring schools, in the management of their delegated budgets, to abide by the local authority's requirements on financial management, as set out in the scheme, in its financial regulations, in financial management guidance and in any publications referred to in the scheme.

The local authority's requirements can differ for schools with their own bank accounts.

Provision of financial information and reports

The scheme should contain a paragraph requiring schools to provide the local authority with details of anticipated and accounts expenditure and income in the manner and as determined by the authority. However, the scheme should not require submission of information before 1 April in the financial year to which it relates. The scheme should not be a stepping accountables. Local authority has notified the school in writing that it is to view the school's financial position requires more frequent submission or the schools to do the year in question.

The scheme should also make clear that the restriction to a minimum 3-month interval between 1 April and 31 March does not apply if an order has been made and approved by the local authority.

The form determined by the local authority for submission of information and/or for approval of budgets should be in accordance with the Financial Framework and the delegability of expenditure that framework.

This is different from a requirement for annual budget plans.

Payment of salaries and payment of bills

The scheme should contain a provision that makes separately published administrative procedures for these. These procedures will vary according to the position on delegation of funds and any duplicate of services which is in place.

Control of assets

The scheme should have a provision requiring each school to maintain an inventory of its movable accountable assets, in a form to be determined by the local authority, and setting out the basic authorisation procedures for disposal of assets.

The scheme should also make it clear that the governing body is responsible for keeping a register of assets worth less than £1,000. The scheme should encourage schools to register anything that is portable and attractive, such as a camera. They should keep a register in some form.

Although local authorities can determine the form of inventory for items above the threshold, the Department for Education strongly urges that schools use Google guidance, rather than a spreadsheet.

Accounting policies, including year-end procedures

The scheme should have a provision requiring schools to abide by procedures issued by the local authority for this.

Writing off of debts

The scheme may authorise governing bodies to write off debts up to a stipulated level, with brief details of the procedure to be followed for larger debts.

4.2 Basis of accounting

The scheme may contain a provision requiring that records and accounts furnished to the local authority for an either a cash or accruals basis, but the scheme must not seek to impose a requirement for a school to keep accounts on an accruals basis.

The scheme may contain a provision to ensure that although local authorities may be able to have reports furnished on the basis they need, they should not be able to dictate the form in which schools keep their accounts. The scheme should make it clear that it should be able to use the software they wish, provided they meet any costs of modification to provide output required by the local authority.

4.3 Submission of budget plans

The scheme should contain a provision requiring each school to submit a plan to the local authority in a form determined by the local authority, showing how it proposes to use its financial year and the assumptions underpinning the budget plan. The scheme must require the submission of revised plans throughout the year.

The scheme should also contain a provision binding the local authority to supply schools with all relevant income and expenditure data which it holds which is necessary for the school to make a budget plan. The scheme should also make it clear that any specific information will be notified at times through the year.

The scheme should contain a provision which allows schools to take full account of estimated staffs in the provision of their budgets. Effective from 1 April 2020.

The form determined by the local authority for submission of budget plans should or for approval of budgets should be in accordance with the Financial reporting framework and the delegability of expenditure that framework.

Local authorities may insert in their schemes a requirement that provisional budget plans are submitted by a specified date and that these should be differentiated from those which are based on a full budget for the following financial year.

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

The stipulated date for the initial submission of the plan should not be earlier than 1 May or later than 30 June.

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

The format of the plan should be specified by the local authority in a separate document. The scheme should make it clear that the local authority is ultimately likely to be the same for all schools, inflation, for example.

Submission of financial forms

From the 2020 to 2021 funding year each school submits a 3-year budget forecast and a 3-year budget plan to the local authority in accordance with the DfE's guidance.

Local authorities should consider the extent to which such forms may be used for more than just confirming schools are undertaking effective financial planning or not. The DfE's 3-year budget forecast and 3-year budget plan templates provide the assessment of schools' financial position and could be used in support of the scheme's balance control mechanism.

Local authorities must inform schools of the process for which they intend to use these 3-year budget forecasts. such a forecast may be used in conjunction with an authority's balance control mechanism.

4.4 School resource management

The scheme must include the following provision, which imposes a requirement on schools to manage their resources to maximise good outcomes.

Schools must seek to achieve effective management of resources and value for money, taking into account the local authority's duties to secure sufficient school places, taking account the local authority's purchasing, tendering and contracting requirements.

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

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

4.5 Virement

The scheme should contain a provision allowing schools to vire freely between budget heads in the expenditure of their budget shares.

4.6 Audit: general

The scheme should contain a provision which requires schools to abide by the local authority's financial rules and standards in relation to auditing, tendering and contracting. The scheme should also contain a provision requiring schools to abide by the local authority's compliance of any contractors to ensure such as compliance with health and safety, employment and equality legislation and so on, taking account of the local authority's policies and procedures.

However, this scheme provision should not contain a provision which has the effect of disapplying from schools any provision of those rules or standing orders which would require them.

To do anything incompatible with any of the provisions of the scheme, or any requirement of the local authority's financial regulations.

To seek loan authority officer approval for any contracts for goods or services for a value below £50,000 in any one year.

To do anything which would cause the local authority to be in breach of relevant provisions to make them, for example, in breach of the procurement directives, relevant or any discrete contracting local authorities.

The local authority may issue more detailed guidance and specified wording for such clauses, allowing schools to identify appropriate or inappropriate contracts to avoid or improve the requirement.

Schools may seek advice on or assign of compulsorily procured ones due to Source for schools.

4.11 Application of contracts to schools

The scheme should contain a provision which makes clear the right of schools to opt out of local authority arranged contracts.

The scheme should include a provision which makes clear that although governing bodies are responsible for the day to day, the local authority is, in the case of long term contracts, is ensure that the school is not stuck with a contract that is not in its interest. The scheme should include a provision which makes clear that it is the school's reason for allowing authorities to require school governing bodies to operate contracts exceeding a certain value).

The provision should also, however make clear that other contracts may be made solely between the governing body and the contractor, without involving the local authority. Exceptions, for example, contracts for meals, are added in foundation schools for the employment of staff.

4.12 Central funds and earmarking

The scheme must contain a general provision authorising the local authority to make contributions to central funds, and to earmark, for specified purposes, sums from delegated to and separate from the schools' budget share.

The scheme should stipulate that such allocations should be subject to conditions agreed by the schools forum, to ensure that the local authority is not able to use the power to earmark funds for purposes which are not in the interest of the schools. The scheme must require for allowing authorities to require school governing bodies to operate contracts exceeding a certain value).

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4.13 Spending for the purposes of the school

Although section 100 of the School Governance Framework and Procedures Act allows governing bodies to spend budget shares for the purposes of the school, this is subject to regulations made by the Secretary of State and to any other enactment.

As well as the main regulations governing school budgets, there are many important legal restrictions on the freedom, among from local circumstances. By virtue of section 100(2) of the School Standards and Framework Act 1998 the Secretary of State has discretionary spending powers to make certain grants to local authorities and to impose conditions on the grants. Section 100 is treated as if spent for any purpose of the school.

Under section 50(2)(b) the Secretary of State may prescribe additional purposes for which expenditure of the budget share may occur. They have done so in the School Standards and Framework Act (Prescribed Purposes) Regulations 1999 (SI 1999/2564) and the School Standards and Framework Act (Prescribed Purposes) (England) (Amendment) Regulations 2010 (SI 2010/1960).

These allow schools to spend their budgets on pupils who are on the roll of other maintained schools or academies.

4.14 Capital spending from budget shares

The current school capital grant allocation and prudential borrowing guidelines to use their budget shares to meet the cost of capital expenditure on the school premises. This is taken into account by the government in determining the amount of capital grant to be allocated to individual local authorities and voluntary aided schools.

However the local authority may if it wishes (disapprove that if there is expected capital expenditure from the budget share of the governing body exceeds the authority, and that it must take into account any advice from the Director of Children's Services as to the extent to which the expenditure is desirable in the light of the School Asset Management Plan (Organisational Requirements) 2010 (SI 2010/1960).

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The scheme may specify that the premises are owned by the local authority, or that include voluntary aided premises, then the governing body should meet the consent of the authority to the proposed works, but such consent can be withheld only on specified grounds.

The reason for these provisions is to ensure that they meet requirements with the Health Premises (England) Regulations 2012, the Workplace (Health, Safety and Welfare) Regulations 1992, the Construction (Design and Management) (CDM) Regulations 2015, and the Building 2005.

Where any cash values appear in schemes local authorities may wish to update them when they revise the scheme.

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

4.15 Notice of concern

The scheme should include provisions that allows the local authority to issue a notice of concern to the governing body of a school. Reasons for issuance of a notice of alternative wording could be used, including any additional conditions, prohibitions or requirements a local authority consider to be relevant in support of a notice of concern.

The local authority may issue a notice of concern to the governing body of any school if it is satisfied that: the school is not complying with the requirements of the Children's Services Act; the school is not complying with any prescribed requirements or where actions need to be taken to safeguard the financial position of the authority or the school.

Such a notice will set out the reasons and evidence for it being made and may place on the governing body of the school a requirement to undertake a review of the management of school finances.

These may include:

- ensuring that relevant staff undertake appropriate training to address any identified weaknesses in the financial management of the school
- ensuring that the governing body and qualified person chairs the finance committee of the governing body
- placing more stringent restrictions or conditions on the day to day financial management of the school than those specified in this scheme, such as the provision of monthly accounts to the local authority
- insisting on regular financial monitoring meetings at the school attended by local authority officers
- requiring a governing body to follow a local authority's financial management systems
- requiring governing body's consultations on the manner in which a school manages its budget, including but not limited to the delegated budget share. For example, by requiring a scheme to submit income projections, financial monitoring reports on such activities, or both.

The notice will clearly state what these requirements are and the ways in which and the timeline in which the governing body must demonstrate that it has met the notice of withdrawal. It will also state the actions that the local authority may take where the governing body does not comply with the notice.

The purpose of this provision is to enable a local authority to set out formally any concerns it has regarding the financial management of a school if exercises and require the governing body to take specified steps to address the concerns.

Educational schools with a delegated budget must submit to the local authority before the end of the financial year.

4.17 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 and ensure that they are aware of the need for vigilance and the potential consequences of breaching these controls. This information must also be included in the induction for new school staff and governors.

5. Instruments of the budget share and banking arrangements

Local authorities have adopted the CIPFA Code of Practice for Treasury Management in Local Authorities' may wish to refer to the scheme to the fact that they have done so.

The scheme should include provisions that allows local authorities to set up a separate bank account for the purposes of the school. Provisions in the scheme should include arrangements for the school to be able to operate a cheque book, payment at a date closer to that on which cashes are due will not lead to interest charges.

5.1 Frequency of instalments

The scheme should contain a provision which sets out the frequency with which the budget share will be made available to governing bodies. This should be at least once a month. Local authorities may wish to make budget shares available more frequently. Budget share instalments are expected by schools which are required to pay creditors in cash, request should be made prior to the start of the relevant financial year.

Local authorities may provide that schools should be made on a monthly basis unless alternative arrangements have been agreed with the provider.

Local authorities may wish to make budget shares available to governing bodies for schools with no bank account. Section 50(1)(d) of the Education Act 2002 provides that a school shall make budget shares available at times and in such a manner as prescribed by the Secretary of State. Regulations 2002 provide that budget shares are to be made available to a school bank account.

If a local authority wishes to provide that in effect a non-bank account school may draw on the entire budget share for the year (although in practice it would not normally be expected to happen), it should say so in the scheme.

If a local authority is administering payroll for a school, the authority can ask the school concerned to consider whether it actually needs to take up the option, granted under the scheme, of having the budget share in one payment.

5.2 Proportion of budget share payable at each instalment

The scheme should make clear at what basis the proportion of the budget share will be made available at each instalment. Local authorities may wish to make budget shares available in equal instalments, or they may wish to make instalments are not of equal size.

Where monthly instalments are made available, the scheme should allow schools to set the instalments of the budget share to be made available to their governing bodies to a school bank account, although budget shares net of estimated pay costs can be offered monthly as well.

The scheme should also set out the way in which the local authority will calculate the proportion of the budget share payable at each instalment. Local authorities may wish to include provisions, which set out the differentiation between categories of schools except where the scheme takes account of information supplied by individual schools.

Local authorities may wish to make budget shares available to governing bodies for schools with no bank account. Section 50(1)(d) of the Education Act 2002 provides that budget shares are to be made available to a school bank account.

Schemes may make different provisions as to frequency and proportion of instalments for schools with bank accounts and those without.

5.3 Interest claawback

The scheme may provide for the local authority to deduct from budget share instalments an amount equal to the estimated interest lost by the authority in making budget shares available to schools.

Where such provision is made the scheme should explain the justification for the clawback and clearly show the calculation basis of the deduction. Setting account of the frequency payments offered by the scheme.

The precise methodology for clawback calculations is for the local authority to determine. It may be based on the actual interest lost by the authority in making delayed payments and does not go beyond the interest required. Where the clawback is to be paid into accounts on a monthly basis, payment at a date closer to that on which cashes are due will not lead to interest charges.

5.4 Interest on late budget share payments

The scheme should include a provision requiring the local authority to add interest to late payments of budget share instalments, where such payment is the result of the authority error.

The interest rate used should be that used for clawback calculations or if no such clawback mechanism is in place, at least the current Bank of England base rate.

5.5 Budget shares for closing schools

The scheme may provide for budget shares to be withheld in advance of decommissioning has been secured, to be made available until closure or in monthly lines of the school's budget share, or a combination of the two, as the local authority sees fit.

5.6 Bank and building society accounts

The scheme should permit all maintained schools to have external bank accounts into which their budget share instalments are to be deposited by the prescribed date.

The scheme should also provide that where schools have such accounts, they shall be allowed to retain all interest earned on the account unless they choose to have an account within a local authority contract which makes other provision.

Local authorities may provide that schools without bank accounts cannot have any interest any deficit balance is cleared, and that any schools requesting a bank account at a later date should be treated as if they had requested it at the start.

Schemes should include provisions stipulating that if a school ceases to have an account the local authority must, if the school decreed, transfer immediately to the school the balance of any budget share held by the authority. Local authorities may wish to include a provision that the balance of the school's budget share, at the time that there is then a subsequent correction when accounts for the relevant year are closed.

Schemes can require such accounts to be interest bearing accounts, but it is expected that this would normally be the case.

Bank accounts or referred to here do not include imprest accounts, although there is nothing to prevent local authorities offering imprest accounts to schools as an alternative.

5.7 Restrictions on accounts

The scheme should specify which banks or building societies accounts may be held with and may include provisions that the local authority may require that accounts be consistent with the local authority's treasury management policy.

The scheme should allow schools to have accounts for budget share purposes which are in the name of the school rather than the local authority. However, if a school has such an account the scheme should require that the account mandate provides that the local authority, as well as the school, can sign cheques, authorise electronic payments, and that a copy of the account statement of the account of the school and delegated budget is supplied to the authority.

The authority can continue to have arrangements negotiated with certain banks and building societies for the provision of bank services and credit facilities to schools and offer such arrangements to schools.

Budget shares held in accounts held by local authority need to be accounted for separately by property with parent (section 49(3) of the act).

Schemes may contain a provision restricting the organisations the bank accounts, but such provisions should allow at least local authority employees and school employees to be signatories.

Such provisions should be limited to local authority financial officers, where it is not practicable for foundation or aided schools. Schemes may register governors who are ex-members of staff from signing cheques.

The scheme should not contain provisions restricting the use of direct debits or standing orders to those authorised if operated by a school, except where the account is part of a local authority contract.

5.8 Borrowing by schools

The scheme should contain provisions reminding schools that governing bodies may borrow money (which includes the use of finance leases) only with the written permission of the Secretary of State.

The Secretary of State's general position is that schools will only be granted permission to borrow for cash flow purposes. Requests for borrowing for other purposes will be in line with the Department's treasury management policy.

The scheme should contain provisions that allows schools to use any scheme that the local authority may have in place for the provision of credit facilities to schools (including the Cashflow scheme), which is designed to support energy saving.

Schemes may exclude/limit schools from using internal borrowing credit cards and overdrafts, which are deemed to be borrowing. However, they should provide for use of procurement cards by schools, as these cards can be a useful means of facilitating payments and budget control and can be used to ensure that VAT is reclaimed. However, no interest charges should be incurred by the school for credit card transactions cleared on a monthly basis.

The scheme should include provisions that Foundations, and Voluntary, schools, as private companies, are required to be incorporated as companies.

These debts may not be serviced directly from the delegated budget, but schools are free to agree a charge for a service such as Information Technology or Facilities Management as a consequence of their own borrowing.

Governing bodies do not act as agents of the local authority when requesting loans.

This provision does not apply to schemes run by the local authority.

5.9 Other provisions

Schemes may apply separate detailed rules and guidance in respect of other aspects of financial management, including in respect of those issues not specifically covered by this scheme's own requirements.

Such additional rules and guidance may relate in particular to types of account as well as operating procedures.

6. The treatment of surplus and deficit balances arising in relation to budget shares

6.1 Right to carry forward surplus balances

The scheme must contain a provision which allows schools to carry forward from one financial year to the next any shortfall in expenditure relative to the school's budget share. The year surplus/deficit balance is brought forward from the previous.

The scheme should expect the basis on which the amount of any balance to be carried forward is calculated. This should include any commitments against the authority's school having a new bank and, and the date by which the new bank account is expected to be opened.

Any such commitments should be shown in the relevant subject statement. Additional commitments against the budget share for the Secretary of State under section 20 of the Apprenticeship, Skills, Children and Learning Act 2009, although there may be commitments against the budget share in such a statement.

6.2 Controls on surplus balances

The scheme may contain a mechanism to claw back excess surplus balances.

Any mechanism should have regard to the principle that schools should be revenue funded organisations, and that the local authority should not unreasonably withhold funds to support their mainstream budgeting in higher financial crisis and would not be burdened by bureaucracy.

The mechanism should, therefore, be focused on only those schools which have built up significant balances and demonstrate a lack of some level of redistribution support beyond mainstream school funding.

6.3 Interest on surplus balances

Schemes must contain a provision which makes it clear whether balances held by the local authority on behalf of a school will earn interest. The scheme should set out the interest that itself may show the basis of calculation, or there may be reference to separate guidance issued from time to time.

6.4 Obligation to carry forward deficit balances

The scheme must contain a provision which has the effect of carrying forward deficit balances, by excluding the deficit to be deducted from the following year's budget share.

The deficit balance would be shown on the authorised statement published in accordance with directions given by the Secretary of State under section 251 of the Apprenticeships, Skills, Children and Learning Act 2009, although this might be shown in the Balance Sheet section and therefore appear lower than would otherwise be the case.

6.5 Planning for deficit budgets

Schools must submit a recovery plan to the local authority when their revenue deficit exceeds 5% (2.5 if they are over 3,000 pupils) or a sum agreed between them and the local authority, if it is lower than the 5% or 2.5 limit. The DfE is interested in what steps deficits are measured as of 31 March 2020.

6.6 Charging of interest on deficit balances

The scheme may contain a provision permitting the authority to charge interest on deficit balances. If so, the basis on which interest is charged must be made clear in the scheme itself.

6.7 Writing off deficits

The scheme should contain a provision which makes it clear that the local authority cannot write off the deficit balance of any school.

If a local authority wishes to give assurance towards elimination of a deficit balance this should be made clear in the scheme. The scheme should also make it clear that governing bodies and local authorities should not take decisions that are not in the best interests of pupils and must refrain only in financial difficulties. In respect of mainstream expenditure, the DfE has also delegated configuring budget where this has been agreed by schools Forum.

6.8 Balances of closing and replacement schools

Where the funding period, a school has been established or subject to a replacement identified as a result of the closure of a school, a local authority may wish an amount to be set aside from the budget share for the closing school to meet the future liabilities of the budget share, including any liabilities arising from pension funding periods, of the closing school for the funding period in which it closes.

6.9 Licensed deficits

A local authority may include in its scheme provision for an arrangement whereby schools are allowed to plan for a deficit budget.

Such an arrangement is normally funded from the collective surplus of school balances held by the local authority on behalf of schools, although it is open to an authority with sufficient resources to use its own arrangements if it can do so within the relevant financial regulations.

Although such a provision may refer to either the guidance on the operation of the deficit arrangement. The scheme should specify the:

- maximum length, not to exceed 3 years, over which schools may repay the deficit
- the circumstances in which the local authority would consider a request for a deficit budget and not simply extended deficits
- purposes for which the deficit arrangement may be agreed
- maximum size of the deficit which may be agreed, this may be by reference to the size of the budget share or to each item or some combination
- the circumstances in which a deficit budget agreed by the local authority which will be used to track the arrangement
- role of the Director of Children's Services and the Chief Finance Officer of the Local Authority in agreeing an arrangement for individual schools.

It is open to a local authority to extend such an arrangement by inviting schools making a request to submit a three year budget plan. The local authority may wish to make arrangement. If so the scheme should make clear the basis on which this would be made.

Balances held by a school in an external bank account remain the property of the local authority. The local authority may wish to make it clear in its scheme that it will not take any action to recover the balance of a school's bank account, and the circumstances in which it might wish to make to schools.

However, the Secretary of State believes that it is right that schools be asked to give a view as to whether the local authority should take these into account in this, and consider the impact on the school's budget share.

Under a licensed deficit scheme the deficit can be kept and carried forward to the next year, that is the latter, the balance goes into deficit because expenditure is at a higher level than income. In the case of a school with a budget share, the deficit is not carried forward because the school has to contain its expenditure to reflect the repayment. No 'payment' to the school is recorded.

6.10 Loan schemes

It is open to a local authority to include in its scheme a form of loan arrangement for schools experiencing difficulty in balancing their budget over a period of time. Such payments to schools is expenditure by the authority in respect of schools and is a discretionary condition that a corresponding sum is required from the budget share. If, the same authority is not prepared to make such a loan arrangement, it may be open to other authorities to do so.

Loans, a local authority may wish to make schools with balances in external accounts to use some or all of those balances to cover a loan scheme, and the conditions under which clear or what basis this would occur.

Under a loan scheme, the amount, the local authority must show in its budget statement the amount similarly made available to voluntary aided and community schools, and the statement should appear in the authority statements.

Loans must only be used to avoid schools is spreading the cost over more than one year of large one-off individual items of a capital nature that have a benefit to the school lasting more than one financial accounts year.

Loans must not be used as a means of funding a deficit that has arisen because a school has overspent its budget share.

Loans are made to fund a deficit, the Secretary of State will consider using the power under paragraph 13(4)(b) of Schedule 1 to the Academies Act 2010 to make a direction that the school's budget share does not transfer, either in full or part, to the new academy trust in relation to that school.

Credit union approach

In some areas, as an alternative to other scheme is available, schools may wish to consider the possibility of using a credit union as a means of providing loan facilities to staff. The local authority should include provisions in its scheme to allow such certification, if the authority does not hold such an administration of the arrangement.

7. Income

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

7.1 Income from lettings

The scheme should contain a provision which allows schools to retain income from lettings of the school premises which would otherwise accrue to the local authority subject to alternative provisions arising from any joint use of private finance initiative schemes or other joint use agreements.

The scheme should specify where lettings income from community facilities and voluntary use with income from other lettings, provided the governing body is satisfied that the lettings are in accordance with the school's charging and remission policy and that the income should be retained by the educational establishment to contribute to the costs of providing the school with a view to promoting high standards of educational achievement.

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authority as the use of other private services, as permitted under the act for various categories of service.

Income from lettings of school premises should not normally be applied into secondary school budgets. Income from lettings of school premises should be retained by the school and for the school's business to determine the use of any income generated by the let.

7.2 Income from fees and charges

The scheme should contain a provision allowing schools to retain income from fees and charges except where a service is provided by the local authority from centrally retained budgets. The local authority should have regard to proportionality when considering charging and setting fees and charges.

Income from boarding charges is collected on behalf of the local authority and should not exceed their models to provide board and lodging for the pupils concerned.

7.3 Income from fund-raising activities

The scheme should contain provisions which makes it clear that schools are allowed to retain income from fund-raising activities.

7.4 Income from the sale of assets

The scheme should contain a provision which allows schools to retain the proceeds of the sale of assets except where the local authority has retained ownership of the fund(s) in which case it should be for the local authority to decide whether the school should retain the proceeds, or the asset concerned is land or buildings forming part of the school premises, in which case it should be the school.

The sale of assets of small ticket value purchased not owned by the local authority will not be a matter for the scheme.

7.5 Administrative procedures for the collection of income

The scheme may have a provision which applies separate rules on this schools, but should at a minimum include the local authority's expected scheme to be practiced by contracted with the school business service.

The local authority may wish to take advice from its local VAT business advice centre as to whether schools should charge VAT on lettings and on the services which attract fees and charges, and on the VAT implications of fund raising activities and sale of assets.

7.6 Purposes for which income may be used

The scheme may have a provision that income from sale of assets purchased with delegated funds may only be spent for the purposes of the school.

8. The charging of school budget shares

8.1 General provision

The scheme should contain a provision which allows the budget share of a school to be charged with any costs which are properly chargeable against the budget share in circumstances prescribed by the scheme, and requires local authority and school schools as to the intention to so charge, and notify schools when it has been done.

Schemes may provide for a dispute procedure for such charges.

Although the right of local authorities to protect their financial position (subject to the provisions of the scheme) is not in question, the DfE would like to see, where it is established, the government's analysis to ensure that schools are clearly aware of the circumstances in which this may happen.

Schemes must therefore list the circumstances in which such charging is permitted. Schools should be informed of the local authorities may also wish to use and cost they consider their unnecessary.

It may be useful to remind schools that the local authority cannot act unreasonably in the exercise of any power given by the scheme, or it may be the subject of a challenge under section 496 of the Education Act 1996.

Schools should be informed of what the local authority would have to be able to demonstrate that they have acted in accordance with the expenditure to be charged to the budget share. This means that where the local authority cannot incur a liability because it is contingent on something happening in the future, it may not charge the budget share in advance and may not delay consideration of such charges.

In some cases, the ability to charge budget shares depends on the local authority having given prior advice to the governing body. Local authorities should ensure that they have taken steps that enable them to give advice whenever possible, and will be able to demonstrate this.

The exceptions of that duty to consider advice may be delegated to the headteacher, but this authority of the executive permission of the governing body, provided this has been approved by the appropriate person representatives of the schools forum.

8.2 Charging of salaries at actual cost

The scheme should have a provision which requires the local authority to charge salaries of school based staff to school budget shares at actual cost.

8.3 Circumstances in which charges may be made

1. Where a provision retirement costs have been incurred in the past and the actual agreement of the local authority to bear such costs (the amount chargeable being the actual cost to the local authority of the provision).
2. Other expenditure incurred to secure resignations where there is agreement to charge this to the school (see Section 7.2).
3. Costs of any successful legal action against the local authority, or out of court settlements, arising from action in relation to the governing body's duties to the authority's advice. Awards may sometimes be against the governing body directly and not the local authority, for example, where the governing body has acted in breach with the governing body's duties to the school and has expenditure as a result of the governing body not taking authority advice, the charging of the budget share with the authority's expenditure in such cases is a matter for the local authority to determine, taking any such advice that they have been given account of school and local authority school governing bodies.
4. Costs of any successful legal action relating to carrying out health and safety work or capital expenditure for which the authority has advised the governing body that the governing body for such work, but the governing body has failed to carry out the work within a reasonable time.
5. Expenditure by the local authority to remedy breach of statutory duties in relation to such funded by capital spending from budget shares, where the premises are owned by the local authority and the school is a community school.
6. Expenditure incurred by the local authority in relation to litigation in respect of a school where funding has been delegated but the school has failed to demonstrate that it has taken reasonable and proper advice in the matter in question, or where the local authority found it necessary to consider whether it has an obligation to incur the particular case.
7. Costs of any work done to a school for services provided to the school, where a charge is made for such services and the school has agreed to pay for such a service level agreement, and the result is that monies are owed to the school to the local authority.
8. Recovery of penalties imposed on the local authority by the Inland Revenue (HM Revenue and Customs Agency, the Pensions Contributions Agency, the Pensions Agency) or Revenue and Customs (HPRC), Teachers' Pensions (TP) or other bodies where the penalty is attributable to the school's action or service level agreement, and the result is that monies are owed to the school to the local authority.
9. Recovery of penalties imposed on the local authority by the Inland Revenue (HM Revenue and Customs Agency, the Pensions Contributions Agency, the Pensions Agency) or Revenue and Customs (HPRC), Teachers' Pensions (TP) or other bodies where the penalty is attributable to the school's action or service level agreement, and the result is that monies are owed to the school to the local authority.
10. Recovery of penalties imposed on the local authority by the Inland Revenue (HM Revenue and Customs Agency, the Pensions Contributions Agency, the Pensions Agency) or Revenue and Customs (HPRC), Teachers' Pensions (TP) or other bodies where the penalty is attributable to the school's action or service level agreement, and the result is that monies are owed to the school to the local authority.
11. Correction of local authority errors in calculating charges where the local authority has agreed to charge the budget share in advance, the local authority should consider whether it is appropriate to do so. If the error has been made in the past, it may be worthwhile whether such charging is reasonable.
12. Costs of any successful legal action against the local authority for decisions by the governing body in the length of the school day, or failure to lawfully delegate to school non-staff days including in unnecessary transport costs.
13. Costs of any successful legal action against the local authority because the governing body did not exercise discretion in the school day.
14. Costs of unnecessary health and safety training for staff employed by the local authority, where training has been delegated but the necessary training has not been undertaken.
15. Compensation paid to a leaver where a school enters into a contract for terminating (against its guidance) or of no effect.
16. Cost of work done in respect of teacher pension remittance and records for schools where the local authority has agreed to undertake this work, but the school has failed to meet the cost of the authority's compliance with its statutory obligations.
17. Costs incurred by the local authority in securing pension specialist in education advice in respect of a school, where the local authority has agreed to provide the pension despite the legislation of schools in respect of low cost high incidence SEN or specific funding for a pupil with high needs.
18. Costs incurred by the local authority for a caretaker by the school of incorrect data.
19. Recovery of amounts spent from specific grants on ineligible purposes.
20. Costs incurred by the local authority as a result of the governing body being in breach of the terms of a contract.
21. Costs incurred by the local authority or another school as a result of a school ceasing to be a school maintained by the local authority, or a school where the local authority provides services to the school.
22. Costs incurred by the local authority in administering admissions appeals, where the local authority has agreed to charge the budget share, but where expenditure against fees been delegated to all schools as part of their formula allocation.

9. Taxation

9.1 Value Added Tax (VAT)

The scheme should include a provision which summarises the procedures schools should follow in order to allow the local authority's liability to be identified and VAT on expenditure relating to nonbusiness activity. The provision should stipulate that schools should account for VAT on such activities.

The scheme should include a provision that reflects the following detailed guidance issued by the local authority should make clear what the normal timescales for reimbursements.

HPRC has agreed that VAT incurred by schools when operating any funding made available by the local authority, instead of being incurred by the authority and subsidies the recipients by authority.

This does not include expenditure by the governors of a voluntary aided school when carrying out their statutory responsibilities to maintain the premises and land of the school.

Local authorities may find it useful to consult local VAT business advice centres on issues regarding VAT certification.

9.2 Construction Industry Scheme (CIS)

The scheme should contain a provision requiring schools to apply tax procedures issued by the local authority in connection with CIS.

10. The provision of services and facilities by the local authority

10.1 Provision of services from centrally retained budgets

The scheme should contain a provision which makes it clear that it is the local authority's decision as to which services from centrally retained budgets are provided to schools.

The provision should be drawn in a way that clearly encompasses existing premature retirement costs and redundancy payments, which may not unfairly be charged to schools.

The scheme should contain a provision barring the local authority from discriminating in the provision of services on the basis of categories of school, except where it would be permitted under the School and Early Years Finance Regulations or the dedicated schools grant conditions of grant.

10.2 Provision of services bought back from the local authority using delegated budgets

The scheme should contain a provision limiting the term of any arrangement with a school to buy services or facilities from the local authority to a maximum of 3 years from the date of the agreement. Schools should be free to buy services from any provider they wish, including from other local authorities.

However, schemes for contracts for supply of catering services may be limited to a maximum of 3 years, with a maximum agreement of 3 years if the contract is competitive.

There is no minimum period, although arrangements lasting less than 3 years may well be uneconomic.

The scheme should contain a provision which requires that where a service is provided to schools by the local authority, the price to be charged is made clear at the time the agreement is entered into, and that any subsequent charges made against the agreed price are identified as such.

A governing body of any maintained school, or the governing body of any academy or teachers of such a school, which has entered into any arrangement or agreement with the local authority for services to be provided to the school by the local authority that any such arrangement or agreement is varied to require the provision of services, services and pensions liable to the authority which the authority requires to be provided to the school, or to be provided to the school by the local authority, shall be in accordance with the following provisions.

1. The local authority and school schools such period of the timing, format and information requirements for the school to provide the local authority with any such arrangement or agreement is varied to require that additional employer contributions (AEC) are passed to the local authority within the time limit specified by the local authority, or, if no such time limit is specified, within a reasonable time.
2. A governing body of any maintained school which directly administers its payroll shall supply salary, service and pension details to the local authority within the time limit requires to submit its monthly return of salary and service to Teachers' Pensions and Teachers' Pensions Regulations 2010 (SI 2010/1050).

The local authority will advise schools of the time limit for receipt of the specification of the information required from each school. A governing body shall provide the information required by the local authority in such form as the local authority advises the school and specified in the AEC scheme. The governing body shall meet any consequential costs from the school's budget share.

11. Private finance initiative (PFI) and public private partnerships (PPP)

Local authorities may wish to insert into a scheme other provisions relating to PFI and PPP projects. Amongst other issues these might deal with the reaching of agreements between the local authority and schools as to the use of the school premises, and of income additional from such activity, as part performance.

Among PFI and PPP projects may be one which formally sets out the power of the local authority to charge to the school the local authority's agreed share of PFI PPP agreement entered into by the governing body in the school.

12. Insurance

12.1 Insurance cover

The scheme should contain a provision which stipulates that if funds for insurance are delegated to any school, the local authority may require the schools to demonstrate that cover relevant to an authority's insurable interests, under a policy arranged by the authority, is in place. The scheme should also contain a provision which requires the authority to be informed of any such arrangements, either partial or total (including such or from contributions from schools' delegated budgets.

The evidence required to demonstrate the parts of cover should be reasonable, not place an undue burden upon the school, nor act as a barrier to the school exercising its delegated budget.

The scheme must require the local authority to have regard to the school's risk which might reasonably be expected to arise at the school in question in operating such a delegated budget. The local authority should be aware that it may be liable to pay a fine instead of claiming an insurance. In some circumstances the Secretary of State's Risk Protection Arrangement (RPA) for risks that are covered by the RPA.

The scheme should contain provision which allows schools to join the RPA after 1 April 2020. Schools may do this individually under any insurance contract of which they are part/aware.

The scheme should also provide for all primary and for secondary maintained schools to join the RPA collectively by joining through the a Schools Forum to be delegated funds.

13. Miscellaneous

13.1 Right of access to information

As well as specific requirements listed above, the scheme may require governing bodies to supply all financial and other information which might reasonably be required to enable the local authority to discharge its duties in relation to monitoring school delegated budget plans, or the use made of any central expenditure by the authority on the school, for example, earmarked funds.

Under section 50(5) of the Act, only elsewhere in respect of expenditure specified in regulations made under section 50 of the Education Act 2002 may be paid to governors from a school's delegated budget share.

The scheme should contain a provision forbidding payment of any other allowances, fees or expenses to governors. Such payments would be unlawful and should be reported to the Secretary of State for additional government approvals by them to schools under special measures.

Schools with delegated budgets

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

13.2 Responsibility for legal costs

The scheme may contain provision pointing out that legal costs incurred by the governing body may be charged to the school's budget share, unless the governing body acts in accordance with the advice of the local authority, although this is the discretion of the local authority. The local authority may also wish to remind governing bodies to the statutory responsibility of voluntary aided school governing bodies.

The effect of this is that a school cannot expect to be reimbursed for the cost of legal action against the local authority if it has acted against the advice of the local authority, making such reimbursement if it believes this to be desirable or necessary in the circumstances.

The costs referred to are those of legal advice, including costs associated with a court authority, not the cost of legal advice provided.

A scheme should contain the procedure which schools should follow in obtaining legal advice where there is a conflict of interest between the local authority and the governing body.

This does not mean that a special procedure should be established, but governing bodies should be aware of the potential problems that may arise and how they may resolve those.

13.3 Health and safety

The scheme should include a provision requiring governing bodies, in expending the school's budget share, to have regard to policies placed on the local authority in discharging its responsibilities for health and safety and to have regard to guidance in the management of budget plans.

13.4 Right of attendance for Chief Finance Officer

The scheme should include a provision giving to the Chief Financial Officer of the local authority or a nominee the right to attend a governing body meeting (Officer) to attend meetings of the governing body at which any agenda items are relevant to the exercise of their responsibilities.

The Chief Finance Officer's attendance should normally be limited to items which relate to the budget share, and the Officer should be given the opportunity to speak on any agenda item. The Chief Finance Officer's attendance should give prior notice of such attendance unless this is impracticable.

13.5 Special educational needs

Local authorities may wish to insert a provision requiring schools to use their best endeavours, spending on the budget share, to secure the provision to meet special educational needs.

Although this is anyway a statutory requirement, the existence of such a scheme provision would enable it to be suspended delegation where a situation is serious enough to warrant it. We would not normally relate to an individual pupil.

13.6 Interest on late payments

The terms of the scheme cover affect statutory requirements now introduced on this matter, but local authorities may wish to include a reminder in their schemes.

13.7 Redundancy and early retirement costs

The 2010 Education Act sets out how premature retirement compensation costs should normally be funded. If the local authority proposes to make local arrangements for such costs, it must first consult the Secretary of State and obtain his consent setting out the rate and work. Further guidance is provided at Annex A.

14. Responsibility for repairs and maintenance

The scheme should include a statement drawing the categories of work which governing bodies expect Revenue from their budget.

Local authorities should delegate funding for repairs and maintenance to schools, only subject exceptions to be delegated by agreement.

For these purposes, exceptions may be treated as capital only if it fits the definition of capital expenditure in the Accounts and Audit Regulations (Statutory Instrument 2003 Chartered Institute of Public Finance and Accountancy (CIPFA) Code of Practice on local authority accounting.

The scheme should state by reasons (and the local authority intends to use for the distribution of capital and revenue in accordance responsibility for repairs and maintenance, and the local authority's assessment of the school's ability to undertake the work and ability to meeting the Premises guidance, the local authority's assessment of the school's ability to undertake the work and ability to meeting the Premises guidance.

Some local authorities may wish to consider whether the level of the de minimis limit for capital work, which is set by the local authority, is appropriate in relation to the size of the school budget share.

the level of revenue funding the local authority actually provides to schools for repairs and maintenance of buildings and of devolved capital for other schools.

For instance, a local authority may have a relatively high de minimis limit, above a relatively high proportion of the school's budget share (for example, 5%), and a local authority does not regularly release revenue funding to provide the maximum share of the school meeting prior revenue repairs cost, the school may, as a result have difficulty in meeting the cost of a repair, even if it has the funds in its budget share and capital pot because the repair is considered revenue. This might be a problem for schools with a relatively small budget share.

For voluntary aided schools, the liability of the local authority for repairs and maintenance (which includes heating) is limited to those for which the local authority has 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 or improvements to premises of voluntary aided schools is limited to those for which the local authority has, or the diocesan authority has, the power to incur expenditure.

There is no obligation on local authorities to include a list of illustrative examples provided the way in which expenditure is treated as capital or revenue is explained.

15. Community facilities

The scheme should contain an illustrative list of services which describes the manner in which the scheme relates to the power to provide community facilities.

Community facilities are defined at section 27(1). The main purpose of the school must be to promote the social well-being and physical health of persons in the community in relation to the provisions.

The scheme may have a provision which explains that management of community facilities funds can be grounds for suspension of the right to a delegated budget. This provision should be consistent with the suspension provisions in section 48 and the provision to be used, and from enhancement, should be clearly linked.

15.1 Consultation with the local authority: financial aspects

Changes made by the Children and Families Act 2014 mean that schools no longer need to consult the local authority when establishing community facilities under Section 27 of the School Standards and Framework Act 1998. They do have to have regard to advice from the local authority.

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

15.2 Funding agreements: local authority powers

The local authority's power to make a funding agreement with a school for the provision of community facilities is contained in Section 27A of the School Standards and Framework Act 1998. Funding or supplying funding and taking part in the provision. A very wide range of bodies can be parties to a prescribed instrument.

The scheme should include a provision describing the local authority's requirements in relation to financial and other administrative aspects of community facilities provided by the school staff.

The local authority may impose a requirement that any such proposed agreement should be submitted to the Secretary of State for approval, and may require a school to carry out the activity concerned through the vehicle of a limited company formed for the purpose. The local authority may also require the first executive and first governors in question, as specified by the authority.

If the local authority has such a provision in its scheme it should operate it in a reasonable fashion. Governors and headteachers should be given time to consider and believe that the proposed project carries significant financial risks.

The Secretary of State does not consider that it is appropriate for local authorities to have a general power of veto for these agreements.

However, the scheme may remind schools that an agreement has been or is to be submitted to the local authority for approval. The local authority's responsibility in scrutinising the proposal, and the advice that the authority is expected to give in the interests of the school as the authority, that may constitute grounds for suspension of the right to a delegated budget.

15.3 Other prohibitions, restrictions and limitations

Although the scheme should not give a right of veto either to funding agreements with third parties, or to other proposals of the community facilities power, the scheme may make provision for the local authority to require that a specific instance of use of the power should be subject to the local authority's prior approval. Governors must make arrangements to ensure the financial interest of the local authority in carrying out the activity concerned through the vehicle of a limited company formed for the purpose. The local authority may also require the first executive and first governors in question, as specified by the authority.

If the local authority has such a provision in its scheme it should operate it in a reasonable fashion. Governors and headteachers should be given time to consider and believe that the proposed project carries significant financial risks.

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However, the scheme may remind schools that an agreement has been or is to be submitted to the local authority for approval. The local authority's responsibility in scrutinising the proposal, and the advice that the authority is expected to give in the interests of the school as the authority. that may constitute grounds for suspension of the right to a delegated budget.

15.4 Supply of financial information

The scheme may contain provision requiring schools which exercise the community facilities power to provide the local authority every 6 months with a summary statement of the school's financial position. The local authority may require consultation for the school arising from the local authority's question for the provision of information, extended basis, for the next 6 months.

The scheme may contain provision which allows the local authority, on giving notice to the school that it believes there to be a serious risk to the school's management of the financial consequences of the exercise of the community facilities power, to require the school to provide the local authority with a report on the school's finances specified in the notice. The local authority may require the school to pay for the report.

Financial information relating to community facilities will be included in returns made to the local authority under the delegated budget (DFV) framework, and should not be taken up to local authorities as their share of the community facilities power.

However, the DFV framework is not a local authorities' right to seek supplementary information in order to ensure that schools are not at financial risk. Schools'DFV returns do provide the local authority with information on the community power as it relates to the school's budget share.

These provisions do not preclude the creation of other provisions in funding agreements between schools and the local authority as to the financial reporting requirements arising from the building in question.

15.5 Audit

The scheme should contain a provision which requires the school to grant access to the school's records connected with exercise of the community facilities power, in order to facilitate internal and external audit of relevant income and expenditure.

The scheme should contain provision requiring schools, in conducting lending agreements with other persons pursuant to the exercise of the community facilities power, to include in the agreement a provision which requires the other party to the agreement to allow the auditors and the agents of those persons held on the school premises for the purpose of the community facilities power, to grant access to the school premises for the authority to satisfy itself as to the propriety of expenditure on the facilities in question.

15.6 Treatment of income and surpluses

The scheme should contain a provision which allows schools to retain all net income derived from community facilities except where otherwise agreed with a funding provider, whether that is the local authority or some other person.

The scheme should contain a provision which allows the school to carry such retained net income over from one financial year to the next as a separate community facilities account.

15.7 Health and safety

The scheme should contain a provision which extends any health and safety provisions of the main scheme to the community facilities power.

The scheme should contain a provision which places on the governing body responsibility for ensuring that the premises and equipment are in a condition which is appropriate for all persons intended to benefit from the community facilities power to school day.

Governing bodies would be free to open or close such facilities as they see fit and on agreement with that partner.

15.8 Insurance

The scheme should include a provision which makes it clear that it is the responsibility of the governing body to ensure that adequate insurance cover is in place for activities arising from the exercise of the community facilities power, taking professional advice as necessary.

The scheme may require that the school uses the local authority's advice before entering into any insurance arrangements.

In principle, the insurance issues arising from use of the community facilities power are the same as those which arise from other non-school use of school premises. However, a school proposing to provide community facilities should, as an integral part of its risk management, ensure that adequate insurance is in place, taking professional advice.

The scheme should include a provision which empowers the local authority to determine the terms of the insurance arrangements made by a school in respect of community facilities, and if it plays those arrangements to be inadequate, to require the school to take out the insurance cover specified.

Such a provision is necessary in order for the local authority to protect its interest in possible third-party claims.

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

15.9 Taxation

The scheme should contain a provision which makes it clear that schools should take professional advice on the tax liabilities arising from the community facilities power, particularly the VAT implications in connection with community facilities, including the use of the local authority VAT receipt facility.

The scheme should contain a provision reminding schools that if any member of staff employed by the school is local authority in connection with community facilities at the school, the school should ensure that PAYE and NIC are properly accounted for.

Such a provision is necessary in order for the local authority to protect its interest in possible third-party claims.

The scheme should contain a provision requiring schools to follow local authority advice in relation to the VAT where this is relevant to the exercise of the community facilities power.

15.10 Banking

The scheme should contain a provision notifying the school that it is the responsibility of the governing body to ensure that adequate banking arrangements are in place in connection with the community facilities power.

The scheme may also contain provisions relating to the banks which may be used, signing of cheques, the rotation of bank accounts, the contents of bank account mandates, and similar matters. The general approach to these matters should mirror those in the main part of the scheme.

16. Changes from Issue 11 of this guidance

References below are to the section number in Issue 11 (April 2020) of this guidance.

We have made the following updates to reflect current policy positions and changes in legislation:

- Paragraph 1.1 Issue of the following guidance changed: - "Issue 8" to "Issue 12"
- Paragraph 1.2 Prior change - removed "Currently there are no new directed grants."
- Paragraph 1.2 Changes made to the guidance - added "The most recent directed grants are detailed below".

Following consultation that ceased on 23 September 2019, the Secretary of State directs that from 1 April 2020 the text below shall be incorporated into the scheme of all local authorities in England.

Section 4.9. Submission of Financial Records

From the 2020 to 2021 funding year each school must submit a 3-year budget forecast and a 12-month outturn forecast to their local authority by 30 June each year.

- Paragraph 4.9 Changes made to the guidance - added "Following consultation that ceased on 23 September 2019, the Secretary of State directs that from 1 April 2020 it shall be incorporated into the scheme of all local authorities in England that each school must submit a 3-year budget forecast and a 12-month outturn forecast to the local authority by 30 June each year."

Section 6.9. Planning for deficit budgets

Schools must submit a recovery plan to the local authority when their revenue deficit is more than 5% of their total budget share, or when it is more than the local authority 5% for the submission of a recovery plan if they wish. The DfE's threshold will apply when deficits are measured as at 31 March 2020.

- Paragraph 6.9 Prior change - "Section 6.9 Deficits of earlier directed revisions to the Scheme" to "Section 6.9 Deficit budgets" - "Deficits of earlier directed revisions" changed to "Deficit budgets".
- Paragraph 6.9 Changes made to the guidance - deleted "The local authority may require schools to submit a recovery plan if their revenue deficit is more than 5% of their total budget share."
- Paragraph 6.9 Changes made to the guidance - added "From the 2019 to 2020 funding year, the DfE's threshold for a 3-year budget forecast and a 12-month outturn forecast determined by the local authority between 1 May and 30 June."
- Paragraph 6.9 Changes made to the guidance - deleted "However the requirement for a recovery plan to be agreed should not place undue burden on schools and should be proportionate to need."
- Paragraph 6.9 Changes made to the guidance - added "In respect to the forecast local authorities should state the purpose for which they intend to use this information, and how it will be used in conjunction with school budget monitoring and central resource control."
- Paragraph 6.9. Changes to the guidance - added "Schools must submit a recovery plan to the local authority when their revenue deficit is more than 5% of their total budget share. Local authorities may also submit a recovery plan if they wish. The DfE's threshold will apply when deficits are measured as at 31 March 2020."
- Paragraph 6.9. Changes to the guidance - deleted "The scheme may provide for planning for deficits, in a way above schools to plan for deficits only in certain approved circumstances."

17. Annex A: The funding framework main features

The funding framework which replaces Local Management of Schools is set out in the legislative provisions in sections 45 to 53 of the School Standards and Framework Act 1998.

Under this legislation, local authorities determine for themselves the rate of their contribution to the central school budget and the rate at which the local authority must aggregate its entire dedicated school grant to fund schools' budgets.

The categories of expenditure which fall within the 2 budgets are prescribed under regulations made by the Secretary of State, but included within the budgets are, in general, all expenditure, direct and indirect, on a local authority's maintained schools except for capital and certain pension costs.

Local authorities may deduct from their share of the dedicated schools grant such sums as regulations made by the Secretary of State under section 45A of the School Standards and Framework Act 1998 specify.

The amounts to be deducted for these purposes are decided by the local authority after consultation with the Schools Forum and must be reported to the Schools Forum and subsequently forum or the Secretary of State in certain instances, as prescribed by the Secretary of State.

The balance of the schools budget after deduction of the centrally retained amounts is known as the local authority's schools budget (SBS). Expenditure on non-schools education budget must be retained centrally, although earmarked allocations may be made to schools.

Local authorities must distribute the SBS amount their maintained schools using a formula that is in accordance with the requirements of the School Standards and Framework Act 1998 and the School Finance (England) Regulations 2018.

The budget share is then delegated to the governing body of the school concerned, unless the school is a new school and the governing body has not been established, or the right to a delegated budget has been suspended in accordance with section 51 of the School Standards and Framework Act 1998.

The financial control with delegated powers and a set out in section 50 of the Act gives the local authority in accordance with section 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 local authority may disapprove a proposal only if it is satisfied that it would be wrong for reasons specified in regard to modifications proposed to be made by 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 purpose of their school, or of any community facilities or community services, subject to regulations made under section 50 of the School Standards and Framework Act 1998.

Section 50 has been amended to provide that amounts spent by a governing body on community facilities or community services, or on premises or facilities to be used as or provided as if they were amounts to be spent for the purposes of the school (section 50(2A) of the act).

A local authority to 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 persistently or seriously breached, or if the budget share for a school has been mismanaged.

A school's right to a delegated budget share may also be suspended for other reasons, under schedule 17 to the act.

Each local authority is obliged to publish each year a statement setting out details of its proposed schemes for the financial management of schools and of the formula for allocating its resources to maintained schools holding delegated budgets, after consultation with the schools forum and publishing a statement showing outturn expenditure.

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

Schools Forums can't budget and outturn statement should be made easily accessible to all schools.

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.

18. Annex B: Responsibility for redundancy and early retirement costs

This guidance is commended. The positive making to the changing of voluntary early retirement and redundancy costs. It sets out what is specified in legislation and regulations, and what is not. It also sets out the principles that local authorities should adopt. The positive notice changes in the local authority's non-schools budget.

Section 37 of the 2002 Education Act says:

"(1) Costs incurred by the local education authority in respect of any premature retirement of any person employed to work at a school maintained by the authority, or a school's budget share for a new financial year, except in so far as the authority agree with the governing body in writing (whether before or after the retirement) not to be so charged, shall be a charge.

"(1) Costs incurred by the local education authority in respect of the dismissal, or for the purpose of securing the dismissal, of any person employed to work at a school maintained by the school's budget share for any financial year, except in so far as the authority have agreed not to be so charged, shall be a charge on the school's budget share for the next financial year.

(2) The fact that the local authority have agreed to the premature retirement of an employee by reason of redundancy is not to be regarded as a good reason for the dismissal of the employee, or for the purpose of securing the dismissal, by reason of redundancy, shall be deemed to accordance with section 98 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 non-schools budget.

In the further case, the local authority has to agree otherwise for costs to be charged, further, while in the latter case, there has to be a good reason for it not to be centrally funded, and that could include reasons to do redundancy.

Ultimately, it would be for the courts to decide what was a good reason, but the guidance below sets out the principles in which exceptions to the default position might be classed.

Charge of dismissal or resignation costs to delegated school budget:

- Where a school has a deficit budget share and the local authority agrees to cover it they would be reasonable to charge the excess to the school.
- If a school is where a deficit budget share the local authority is asked
- where the schools is making redundancy where the local authority does not agree to cover the costs of redundancy, the local authority would be reasonable to charge it to the school.
- where staffing reductions arise from a deficit caused by factors within the school's control.
- where the school has exceeded its resource allocation and is agreed not to cover it
- 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 would seriously jeopardise its future
- 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 meet the costs
- where charging such costs to the school's budget would prevent the school from balancing its budget and would result in a formal deficit arrangement being put in place
- where a school is in special measures, does not have excess balances, and where the local authority agrees that the school should be able to draw on the local authority's organisational instability in improve standards.

Costs of early retirement or redundancies may be charged to the central school budget (DSG) where the local authority has a de minimis provision in place. Local authorities to be sure not as a result of retirement and redundancy charges exceeded their 2021-2022. Costs may not exceed the amount budgeted in the previous financial year.

The local authority can retain a contribution from the schools budget to fund the actual costs of new early retirements or redundancies by a deduction from maintained school budget shares. Local authorities should be able to show that the contribution members of the schools forum agree.

It is important that the local authority discusses its policy with its schools forum. Although such costs are considered to be a charge on the school budget share.

For staff employed under the community facilities power, the default position is that costs should be borne by the school budget share, unless the governing body or delegated staff in governing body is satisfied that this will cause the school significant difficulties with the performance of any duties imposed on them by the education law. In such circumstances, the governing body may choose to seek to promoting high standards of educational achievement.

Section 37 now states:

(1) 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 community purposes, shall recover those costs from the governing body except in so far as the local authority agree with the governing body in writing (whether before or after the retirement, dismissal or resignation) that they shall not be so recovered.

(1A) Any amount payable by virtue of subsection (1) by the governing body of a maintained school in respect of any costs incurred by a local education authority in body out of the school's budget share for any financial year unless it appears that the condition in subsection (1B) is met.

(1B) The condition is that the governing body are satisfied that meeting the amount out of the school's budget share will not be a significant restriction the with the performance of any duties imposed on them by or under the law relating to education.

(2) Where a person is employed partly for community purposes and partly for other purposes, the amount payable by the governing body under this section shall be between the 2 purposes, and the provisions of this section shall apply separately to each part of the person's employ.

19. Annex C: Application of schemes for financing schools to the community facilities power

Schools which choose to exercise the power conferred by section 27 (1) of the School Standards and Framework Act 1998 to provide community facilities must follow regulations made under section 27A. These, can specify activities which may not be undertaken at all under the main enabling power.

Section 48 of the Education and Inspections Act 2006, has removed the requirements in section 28(5) and section 28(7) of the Education Act 2002 for maintained schools in England to have a power to do anything which they think appropriate for the benefit of the pupils at the school, or for the benefit of persons registered at a pupil-referral unit by Secretary of State or their local authority when offering this type of provision.

Under section 28(1), the local authorities and restrictions on the power will be now contained in the transitioning local authority's scheme for financing schools made under section 48 of the School Standards and Framework Act 1998 and regulations made under 27A(1)(a)(iii) to the Education Act 1998.

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

Schools are therefore subject to prohibitions, restrictions and limitations in the scheme made under section 48 of the School Standards and Framework Act 1998 and regulations made under section 27A(1)(a)(iii) of the Education Act 1998 and local authorities should be able to secure the provision of adult and community learning.

20. Annex D: Earlier directed revisions

Following consultation that ceased on 16 March 2020, the Secretary of State directs that from 1 April 2020 the text below shall be incorporated into the scheme of all local authorities in England. The revised text was included in the 28 March 2020 version of the guidance.

Voluntary and cease for money

The scheme must include the following provision, which imposes a requirement on governing bodies to ensure that the school's budget share is used to secure goods and services required to be provided by the school, including the curriculum, the pupil-teacher ratio, teaching and contracting requirements.

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 local authority's purchasing, marketing and contracting arrangements.

It is for heads and governors to determine what is considered best to secure better value for money for their school, taking into account the local authority's advice. It may be more important for schools to review their current commitments, compare to other schools and think about how to make improvements.

Secure financial management (SFM)

Although authority maintained schools, including nursery schools and pupil-referral units, are responsible for their own financial management and administration, the local authority is responsible for ensuring that its maintained schools are managed in a way that secures proper use of public funds. Local authorities will need to be satisfied that schools are managing their budgets and administering their finances in a way that secures proper use of public funds. Local authorities will need to be satisfied that schools are managing their budgets and administering their finances in a way that secures proper use of public funds.

at which time of 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.

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 those controls. This information must also be included in the induction for new school staff and governors.

Following consultation, the Secretary of State directs that from 19 August 2015 the text below shall be incorporated into the schemes of all local authorities in England.

Register of business interests

The scheme must contain a provision which requires the governing body of each maintained school to have a register which lists for each member of the governing body and the head teacher:

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

And to keep the register up to date with notification of changes and through annual review of entries, to make the register available for inspection by governors, staff and parents, and the local authority, and to publish the register, for example on a publicly accessible website.

Borrowing by schools

The scheme should contain a provision reminding schools that governing bodies may borrow money (which includes the use of finance leases) only with the written permission of the Secretary of State. The Secretary of State's general position is that schools will only be granted permission for borrowing in exceptional circumstances.

From time to time, however, the Secretary of State may introduce limited schemes in order to meet broader policy objectives. The scheme must contain a provision that allows schools to use any scheme that the Secretary of State has said is available to schools without specific approval, currently including the including the Salix scheme, which is designed to support energy saving.

Following consultation, the Secretary of State directs that from 22 March 2018 the text below shall be incorporated into the schemes of all local authorities in England.

Loan schemes

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

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

If loans are made to fund a deficit and a school subsequently converts to academy status, the Secretary of State will consider using the power under paragraph 13(4)(d) of Schedule 1 to the Academies Act 2010 to make a direction to the effect that such a loan does not transfer, either in full or part, to the new academy school.

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