



# Rutland County Council

## Scheme for the Financing of Schools

# RUTLAND COUNTY COUNCIL

## SCHEME FOR THE FINANCING OF SCHOOLS

### TABLE OF CONTENTS

1	Introduction .....	5
1.1	The Funding Framework .....	5
1.2	The role of the scheme.....	6
1.3	Application of Schemes for Financing Schools to the Extended Services Power 6	
1.4	Publication of the Scheme.....	7
1.5	Revision of the Scheme.....	7
1.6	Maintenance of Schools .....	7
1.7	Delegation of Powers to the Head Teacher.....	7
2	Financial Controls and Audit .....	8
2.1	Application of Financial Controls to Schools.....	8
2.2	Provision of financial information and reports.....	8
2.3	Control of assets .....	8
2.4	Use and control of school buildings.....	9
2.5	Accounting Policies (including year-end procedures).....	9
2.6	Legal Responsibilities of Director of Resources and Deputy Director Resources .....	9
2.7	Writing off of debts .....	10
2.8	Basis of accounting .....	10
2.9	Submission of budget plans .....	10
2.10	Efficiency and Value for Money.....	10
2.11	Virement.....	11
2.12	Audit: Internal and External.....	11
2.13	Audit : Separate external certification.....	12
2.14	Administration and Audit of voluntary and private funds .....	12
2.15	Register of business interests .....	12
2.16	Pecuniary Interests and Financial Inducements.....	12
2.17	Purchasing, tendering and contracting.....	13
2.18	Contracts for financial services .....	14
2.19	Central fund and earmarking.....	14
2.20	Spending for the purposes of the school.....	15
2.21	Capital spending from budget shares.....	15
2.22	Schools Financial Value Standard (SFVS).....	15
2.23	Notice of concern .....	16
3	INSTALMENTS OF THE BUDGET SHARE AND BANKING ARRANGEMENTS 17	
3.1	Frequency of instalments .....	17
3.2	Proportion of budget share payable at each instalment .....	17
3.3	Payment of funds other than budget shares.....	17

3.4	Interest clawback.....	17
3.5	Interest on late budget share payments .....	18
3.6	Budget shares for closing schools.....	18
3.7	Bank and building society accounts .....	18
3.8	Restrictions on accounts .....	18
3.9	Borrowing by schools .....	19
3.10	Other provisions .....	19
4	THE TREATMENT OF SURPLUS AND DEFICIT BALANCES ARISING IN RELATION TO BUDGET SHARES.....	20
4.1	Right to carry forward surplus balances .....	20
4.2	Reporting on the intended use of surplus balances.....	20
4.3	Interest on surplus balances.....	20
4.4	Obligation to carry forward deficit balances .....	20
4.5	Planning for deficit budgets .....	21
4.6	Charging of interest on deficit balances.....	21
4.7	Writing off deficits .....	21
4.8	Balances of closing and replacement schools.....	21
4.9	Licensed deficits .....	21
4.10	Loan schemes.....	21
5	INCOME.....	23
5.1	Income from lettings .....	23
5.2	Income from fees and charges .....	23
5.3	Income from fund-raising activities .....	23
5.4	Income from the sale of assets.....	23
5.5	Administrative procedures for the collection of income.....	23
5.6	Purposes for which income may be used.....	24
6	THE CHARGING OF SCHOOL BUDGET SHARES.....	25
6.1	General provision .....	25
6.2	Circumstances in which charges may be made .....	26
6.3	Salaries of school based staff.....	27
7	TAXATION.....	28
7.1	Value Added Tax (VAT).....	28
7.2	Construction Industry Taxation Scheme (CIS) .....	28
8	THE PROVISION OF SERVICES AND FACILITIES BY THE LA .....	29
8.1	Provision of services from centrally retained budgets .....	29
8.2	Provision of services bought back from the LA using delegated budgets.....	29
8.3	Timescales for the provision of services bought back from the LA.....	29
8.4	Packaging.....	29
8.5	Service level agreements .....	29
8.6	Teachers' Pensions .....	30
9	PRIVATE FINANCE INITIATIVES / PUBLIC PRIVATE PARTNERSHIPS (PFI / PPP).....	31
9.1	General Arrangements .....	31

9.2	Charging of School Budget Shares .....	31
10	INSURANCE .....	32
10.1	Minimum cover .....	32
10.2	Risks Insured and claims .....	32
11	MISCELLANEOUS .....	33
11.1	Right of access to information .....	33
11.2	Liability of governors .....	33
11.3	Governors' expenses .....	33
11.4	Responsibility for legal costs .....	33
11.5	Health and Safety .....	34
11.6	Right of attendance for Chief Finance Officer .....	34
11.7	Delegation to new schools .....	34
11.8	Optional Delegation .....	34
11.9	Special Educational Needs .....	34
11.10	Whistleblowing .....	34
11.11	Child Protection .....	35
12	RESPONSIBILITY FOR REPAIRS AND MAINTENANCE .....	36
12.1	Statutory Requirements for Delegation .....	36
12.2	Responsibilities of schools to LA .....	36
13	Application of the Scheme to the Community Facilities Power .....	37
13.1	Consultation with the LA - Financial Aspects .....	37
13.2	Funding Agreements - LA Powers .....	37
13.3	Other Prohibitions, Restrictions and Limitations .....	37
13.4	Supply of Financial Information .....	38
13.5	Audit Requirements .....	38
13.6	Treatment of Income and Surpluses .....	38
13.7	Treatment of Expenditure and Deficits .....	39
13.8	Health and Safety .....	39
13.9	Insurance .....	39
13.10	Taxation .....	39
13.11	Banking .....	40

# 1 Introduction

## 1.1 The Funding Framework

The funding framework which replaces Local Management of Schools is based on the legislative provisions in sections 45-53 of the School Standards and Framework Act 1998 (The Act).

Local Authorities must distribute the ISB amongst their maintained schools using a formula which accords with regulations made by the Secretary of State, and enables the calculation of a budget share for each maintained school. This budget share is then delegated to the governing body of the school concerned, unless the school is a new school which has not yet received a delegated budget, or the right to a delegated budget has been suspended in accordance with s.51 of the Act. The financial controls within which delegation works are set out in a scheme made by the authority in accordance with s.48 of the Act and approved by the Secretary of State. All revisions to the scheme must also be approved by the Secretary of State, who has power to modify schemes or impose one.

Subject to provisions of the scheme, governing bodies of schools may spend budget shares for the purposes of their school. They may also spend budget shares on any additional purposes prescribed by the Secretary of State in regulations made under s.50 of the Act

An authority may suspend a school's right to a delegated budget if the provisions of the school financing scheme (or rules applied by the scheme) have been substantially or persistently breached, or if the budget share has not been managed satisfactorily. There is a right of appeal to the Secretary of State. A school's right to a delegated budget share may also be suspended for others.

The LA sets out its Schools Budget which will include the entire Dedicated Schools Grant (DSG) and LA Budget. The categories of expenditure, which must be included in the Schools Budget, are prescribed in regulations made by the Secretary of State. It does not include non-school related items such as adult/community education and lifelong learning programmes, student awards and the youth service, but does include the strategic management costs associated with those activities.

Local authorities may centrally retain funding in the Schools Budget for purposes defined in regulations made by the Secretary of State under s.45A of the Act. The amounts to be retained centrally are decided by the authority concerned, subject to any limits or conditions (including gaining the approval of their School Forum) as prescribed by the Secretary of State. The categories of centrally managed expenditure are;

- a. Specific grant
- b. Special Educational Provision
- c. School Improvement
- d. Access to Education
- e. Strategic Management

Full details of the expenditure included in the above categories are shown in the annual financial statement produced by the LA.

The balance of the Schools Budget left after deduction of centrally retained funds is termed the Individual Schools Budget (ISB). Expenditure items in the LA budget must be retained centrally (although earmarked allocations may be made to schools).

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

This is the scheme of the Rutland County Council District Council, as Local Authority (LA) for the county of Rutland. The Council and the LA are referred to as "the LA" in this scheme.

The scheme sets out the financial relationship between the LA and the maintained schools that it funds. It contains requirements relating to financial management and associated issues that are binding on both the LA and on schools. Reference is made in the scheme to other documents that provide guidance on best practice, and which may be amended or supplemented from time to time.

The LA will endeavour to enable well established financial procedures in schools to continue with the minimum of change, provided that they meet the minimum standards set by the LA, for example in quality of output and controls. The LA will wherever possible prescribe the standards to be achieved rather than the detailed procedures to be followed.

## **1.3 Application of Schemes for Financing Schools to the Extended Services Power**

Schools which choose to exercise the power conferred by s.27 (1) of the Education Act 2002 to provide extended services will be subject to a range of controls. First, regulations made under s.28 (2), if made, can specify activities which may not be undertaken at all under the main enabling power. Secondly, the school is obliged to consult its LA and have regard to advice from the authority. Thirdly, the Secretary of State Issues guidance to governing bodies about a range of issues connected with the exercise of the power, and a school must have regard to that

However, under s.28 (1), the main limitations and restrictions on the power will be:

- a. those contained on schools' own instruments of government, if any; and
- b. In the LA's scheme for financing schools made under section 48 of the School Standards Act 1998. Paragraph 2 of Schedule 3 to the Education Act 2002 extends the coverage of schemes to the powers of governing bodies to provide extended services.

Schools are therefore subject to prohibitions, restrictions and limitations contained within the Scheme for Financing Schools.

The budget share of a school may not be used to fund extended services - either start-up costs or on-going expenditure - or to meet deficits arising from such expenditure.

Mismanagement of extended services funds can be grounds for the suspension of the right to a delegated budget.

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

#### **1.4 Publication of the Scheme**

A copy of the scheme will be supplied to the head teacher and to the governing body of each school covered by the scheme, and any approved revisions will be notified to each such school. The scheme will also be published on the Rutland County Council website once approved.

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

Any proposed revisions to the scheme will be the subject of consultation with schools and will require approval by the Secretary of State. There will be two exceptions to this:

- Financial amounts referred to in the scheme may be amended in line with the Consumer Prices Index or similar index, provided that any such amended figures would not conflict with DFE guidance or legislation; and
- Changes in title or responsibilities of LA officers.

#### **1.6 Maintenance of Schools**

The LA is responsible for maintaining the schools covered by the scheme, which includes the duty of defraying all the expenses of maintaining them (except in the case of a voluntary aided school to the extent that expenses are, by statute, payable by the governing body) Part of the way an LA maintains schools is through the funding system put in place under s.45 to s.53 of the Act.

#### **1.7 Delegation of Powers to the Head Teacher**

The governing body is required to consider the extent to which it wishes to delegate its financial powers to the head teacher, and to record its decision (and any revisions) in the minutes of the governing body. Any delegation to a head teacher does not replace the responsibility of the governing body which remains with it and not the head teacher. Such decisions by the governing body will be subject to any requirements of regulations to be made under s.38 of the Act. The LA will publish guidance to assist schools in determining a desirable level of delegation and associated monitoring and reporting.

## **2 Financial Controls and Audit**

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

Schools are required to abide in the management of their delegated budgets by the LA's requirements on financial controls and monitoring. These requirements are set out both in the scheme and in more detailed publications that are either referred to in the scheme, or which will be issued by the LA from time to time. There is a general requirement upon schools to comply with the Council's financial regulations, insofar as they apply in the context of this scheme and national legislation. References within the Regulations to "Director" will mean the governing body and / or the head teacher in the context of schools. As an aid to clarity, reference is made throughout the scheme to specific elements of the financial regulations that are considered appropriate for schools to follow.

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

Schools are required to provide the LA with details of anticipated and actual expenditure and income, in a form and at times determined by the LA. Submission of these details will be quarterly to the end of June, September, December and March with the exception of schools detailed in a), b) or c) below who will be required to submit budget monitoring information monthly:

- a) deficit budgets at the beginning of the financial year
- b) an anticipated deficit budget at the close of the financial year
- c) If, in the LA's view, that circumstances are such that monthly reports are required to maintain a view of the school's financial position.

Returns will be required by the end of the following month.

The requirements will take into account the differing financial systems utilised by schools.

The LA will supply schools with details of expenditure and income processed through the LA's financial systems.

### **2.3 Control of assets**

Schools are required to make appropriate arrangements to safeguard assets, to ensure that they are used only for school purposes and to maintain an inventory of moveable assets in a form that meets guidance issued by the LA. The LA may determine the form of inventory for assets over £1,000. The inventory should be checked at least annually. Governors should receive a report from the Head detailing the result of the inventory check; approve the amendment of the inventory to reflect any surplus or deficiency revealed by the check; and approve the arrangements for disposing of surplus or obsolete items to ensure that, where appropriate, the best price is obtained. The LA's Director of Resources or his representative, must have access to all the property of the LA at the school at all reasonable times.



Each school must ensure that its maximum cash holdings do not exceed the amount insured, and the Governors should arrange for periodic checks and tests on cash in the school.

Schools must comply with the Council's financial regulations in so far as they apply to the category of each school.

Guidance on the control of assets is given in separate documents issued by the LA.

## **2.4 Use and control of school buildings**

No acquisition, disposal or exchange shall be made of immovable property owned by the LA at community and voluntary schools without the approval of the LA's Cabinet. All securities, agreements, contracts and such documents of title as relate to such land and property in the ownership of the LA shall be passed to Deputy Director of Corporate Governance.

The site or buildings or part thereof in so far as they are owned by the LA shall not be leased to a third party without the initial approval of the Director of Peoples, and other than by agreements drawn up by the Deputy Director Corporate Governance.

The occupation and use of school premises are under the control of the governing body unless the governors enter into a transfer of control agreement. This agreement provides for the use of the premises by another body or person. In the case of a community or community special school the agreement must be for the purpose of promoting community use of school premises. There are further detailed provisions contained in Schedule 13 to the Act which refers to the control of school premises by governing bodies.

Disposal or leasing of land and buildings at Foundation and Voluntary schools must receive the prior approval of the Secretary of State, in accordance with current guidance.

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

Schools are required to abide by procedures issued by the LA to regulate accounting policies, practices and processes. Such procedures will cover the preparation of budgets, monitoring of expenditure, closure of annual accounts and accounting policies and conventions.

## **2.6 Legal Responsibilities of Director of Resources and Deputy Director Resources**

The Director of Resources is responsible under s.151 of the Local Government Act 1972 for the proper administration of the Council's financial affairs. He/ she is also required to make any necessary reports under s.114 of the Local Government Finance Act 1988 in respect of unlawful actions or expenditure, and draw any other matter of concern to the attention of its Cabinet and Children & Young People Scrutiny Panel.

The Monitoring Officer under s.5 of the Local Government and Housing Act 1989, must report to the Council in respect of unlawful acts, mal-administration or injustice.

The detailed responsibilities and procedures are set out in the Council's financial regulations.

## **2.7 Writing off of debts**

The Governing Body of each school is authorised to write off debts against the school's delegated budget of up to £2,500 per individual debtor. The approval of the LA's Cabinet is required for the write off of larger sums.

## **2.8 Basis of accounting**

The final accounting statement and report for the financial year furnished by schools to the LA will be on an accruals basis. The LA will inform schools of the basis to be used for the each report and return during the financial year. The LA will issue guidance on the operational definitions of cash and accruals accounting from time to time.

## **2.9 Submission of budget plans**

Schools are required to submit a plan to the LA in a specified form showing the intended income and expenditure in the current financial year and the assumptions underpinning the budget plan. The plan shall be in a form specified by the LA and shall be submitted by a specified date during May. The LA may request that provisional budget plans be submitted by 1 April, although would not do so as a matter of routine. The first formal budget plan of each financial year must be approved by the governing body.

Schools are required to take into account estimated deficits / surpluses at 31 March of the preceding financial year in the budget plan.

Revised plans may also be required by the LA throughout the year at intervals of at least three months. The LA shall give guidance to schools as it considers appropriate on assumptions likely to be common to all schools, and schools shall take due account of it in preparing plans. The Director of Resources is responsible for ascertaining that plans are submitted to the LA as required.

The LA is required to supply schools with all income and expenditure data held by it which is necessary to allow efficient planning by schools.

The LA may require schools to submit a financial forecast covering each year of a multi-year period for which schools have been notified of budget shares beyond the current year.

## **2.10 Efficiency and Value for Money**

The annual budget plan shall be supported by a statement by the governing body setting out the steps to be taken in the course of the year to ensure that expenditure, particularly in respect of large service contracts, will achieve efficiencies and value for money to optimise the use of resources.

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

It is for the Head teacher and the Governing Body to determine at school level how to secure better value for money. This should include a review of current expenditure, compare it to other schools, and consider how to make any improvements.

### **2.11 Virement**

Schools may vire between budget heads in the expenditure of their budget shares. The governors may delegate to the head teacher the power to vire up to a specified limit.

### **2.12 Audit: Internal and External**

The LA will determine the level and nature of internal audit of schools, having regard to the legal responsibilities of the Director of Resources with the Chief Executive, the extent to which financial transactions are carried out at each school, and to representations by schools. The Director of Resources with the Chief Executive will periodically audit the accounting and financial activities of each school, report the outcome to the head teacher and Chair of Governors, and submit in conjunction with the head teacher a report on any irregularity to the Governing Body. The Director of Resources with the Chief Executive shall report the outcome of any audit to a Council Committee as is considered appropriate.

Schools are also subject to the external audit regime prescribed for the LA

The Governing Body shall consider all internal and external audit reports relating to the school, including any relevant aspects of the external auditor's annual Management Letter to the Council under Accounts and Audit Regulations 2015.

Schools shall ensure that auditors are afforded full co-operation, and in particular that the Director of Resources the Internal Audit Team or nominated representatives and auditors

- are given entry to any school premises and land at all reasonable times and have access to all property financed from the school's budget share;
- have access to (and where necessary to copy or retain) all records (whether manually or electronically held), documentation, correspondence and computer systems relating to any financial and other transactions of the school;
- are furnished with such explanations as considered necessary concerning any matter under examination;
- can require any employee of the school to produce or account for cash, stores or any other school property under his/her custody or control;
- can examine any work or services carried out for the school by an employee or contractor, and any goods purchased on behalf of the school or issued from store;

- are able to review, appraise and report on the adequacy and application of financial controls, and on the protection of the school's and LA's resources, property and assets against loss due to fraud or wasteful practices.

Responsibility for the prevention and detection of fraud and wasteful practices lies with the governing body. Schools shall notify the Director of Resources, the Monitoring Officer and Director of People's immediately of any financial irregularity, or of any circumstances which may suggest the possibility of an irregularity affecting cash, stores or other property.

The reporting rights of the Council's Internal Auditors are in the Council's financial regulations.

### **2.13 Audit: Separate external certification**

A governing body may allocate funds from its budget share to obtain external audit certification of its accounts, separate from any LA internal or external audit process, should it wish to gain additional assurance. However, there is no expectation by the Secretary of State that routine annual external audit at school level of budget share expenditure should be usual. Any such audit would be expected to recognise the status of the school as a spender of LA funds, and would not replace or diminish the requirement for statutory internal and external audit of the LA.

### **2.14 Administration and Audit of voluntary and private funds**

Governors are responsible for the proper administration of unofficial funds.

Schools should arrange for the annual audit of voluntary and private funds and of any trading organisations controlled by the school, and should provide the LA with an annual audit certificate for each fund. The audit certificate should as a minimum state that the accounts present a true and fair view for the period, and of the funds in hand at the end date. It should be signed by a competent person (having regard to the size and complexity of the fund), with no personal involvement in the administration of the fund. Schools must comply with any additional auditing requirements, for example by the Charity Commission.

### **2.15 Register of business interests**

The governing body of each school is required to have established a register which lists for each member of the governing body and the head teacher, any business interests they or any member of their immediate family have; to keep the register up to date with notification of changes and through annual review of entries, and to make the register available for inspection by governors, staff, parents and the LA. The LA may issue more detailed guidance on its maintenance, and may request that a copy be sent to the Chief Executive so that it may be made available for public inspection at the Council's offices.

### **2.16 Pecuniary Interests and Financial Inducements**

It is important that staff employed by the LA (i.e. staff in community schools and LA community staff in foundation schools) comply with s.117 of the Local Government

Act 1972 and the Council's financial regulations relating to the disclosure of pecuniary interest. Such staff should respond appropriately to offers of financial inducements, gifts, hospitality, promotional offers, etc. (This section of the Act requires that the LA be informed in writing if staff have an interest in any contract, that fee or rewards arising from employment shall not be accepted, and that criminal liability may result from any contravention).

It is equally important that foundation schools have in place a similar requirement, to protect the actual and perceived use of public funds from the LA.

## **2.17 Purchasing, tendering and contracting**

Schools must comply with the LA's financial regulations and standing orders for schools in purchasing, tendering and contracting. These are set out in a separate document. Schools must assess in advance, where relevant, the health and safety competence of contractors, taking account of the LA's policies and procedures. However, any provisions that would require the following will not apply to schools:

- a. to do anything incompatible with any of the provisions of the scheme, or any statutory provision, or any EU Procurement Directive;
- b. to seek countersignature from an officer of the LA for any contracts for goods or services for a value below £60,000 in any one year;
- c. to select suppliers only from an approved list supplied by the LA;
- d. to seek fewer than three tenders in respect of any contract with a value exceeding £10,000 in any one year.

Notwithstanding the above, schools are encouraged to use any lists of approved suppliers made available by the LA, as advantages may be gained in areas such as health and safety, price and quality. Schools are also encouraged to nominate suppliers for inclusion on such lists. Schools and the LA are expected to take a responsible approach to the packaging of work, so as not to artificially aggregate or disaggregate orders to circumvent these requirements.

The written approval of the Director of Resources is required to:

- the leasing or hire of any buildings (except by a Foundation or Foundation Special School), equipment or other services for a period exceeding three years;
- any contract involving finance leasing, hire purchase or any other credit purchase arrangement.

Governors are responsible for approving the procedures under which orders are issued and for approving the persons authorised to sign orders, within the requirements stipulated by the LA's financial regulations and standing orders.

The LA may issue advice on a prudent level of maximum forward commitment by schools against future years' budgets. Governors are advised to discuss any potentially significant commitment with the LA before entering into contracts, so that it can be viewed in the light of any funding or other relevant projections by the LA.

## **2.18 Contracts for financial services**

Contracts entered into by schools for the provision of financial services are required to contain a provision to allow a right of access for the Director of Resources, Internal Audit Manager, and the Council's External Auditors, upon reasonable notice and free of charge, to all records relevant for audit and statutory purposes held on behalf of the school. Where records are held other than at the school, information concerning them must be made available at the school, the Council's offices or other specified address. Information shall also be made available to the Rutland County Council, again free of charge, for the purpose of enabling compliance with the National Fraud Initiative.

To safeguard public funds guidance will be issued to the standards any such contracts should meet. The Director of Resources must be satisfied that any contract for financial services meets the required standard and should be consulted before any such contract is entered into.

## **2.19 Central fund and earmarking**

The LA is authorised to make sums available to schools from the central funds, in the form of allocations which are additional to and separate from the school' budget shares. Such allocations will be subject to conditions setting out the purpose or purposes for which the funds may be used. Whilst these conditions need not be preclude virement (expect, of course, where the funding is supported by a specific grant which the LA itself is not permitted to vire), the LA should not carry this to the point of assimilating the allocations into the Schools' budget shares.

Earmarked funding from centrally retained funds (for example SEN) must be sent by schools only on the purposes for which it is given, and it must not be vired into the budget share.

Similarly, the LA may make earmarked funds available to support lifelong learning, community and similar activities. Schools are required to use such funds for the intended purpose, which will be agreed with the funding organisation from time to time.

The LA may make capital funds available to schools on a basis to be determined by the LA from time to time. Such funds must be used for the purpose for which they are allocated.

Schools should use appropriate accounting procedures to enable them to demonstrate how earmarked funds have been used, and the LA may support this process by issuing accounting guidelines from time to time. The LA may also require funds given for purposes other than maintaining the school (e.g. lifelong learning and community) to be held in a separate bank account in the name of the LA.

The LA may require earmarked funds to be returned if not spent in the period over which schools are allowed to use the funding.

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

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

Section 50 (3) of the Act empowers the Governing Body to spend its delegated budget as it sees fit for the purposes of the school, and for any other purposes, which may be prescribed in regulations by the Secretary of State. The right to spend for such additional purposes may be the subject of associated conditions prescribed in the regulations.

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

Section 50(3)(b) allows schools to spend their budgets on pupils who are on the roll of other maintained schools. However, these powers to spend is subject to any provisions included in the Scheme (e.g. capital spending detailed in section 2.21 below) and LAs are able to impose their own restrictions on this freedom, arising from local circumstances.

It is not proposed to limit this freedom over & above the conditions already included elsewhere in the Scheme itself.

## **2.21 Capital spending from budget shares**

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

Schools must comply with the definition of capital expenditure set by the LA within national regulations and codes of practice and the related accounting policies. The LA will issue periodic guidance on the definition of capital expenditure.

The LA must be notified of all capital spending from budget shares. Where the expected capital expenditure from the budget share in any one year will exceed £15,000, the governing body must additionally take into account advice from the Director of Resources as to the merits of the proposed expenditure, before committing any of the budget share. Where the premises (or other buildings in the case of voluntary controlled schools) are owned by the LA, the governing body should additionally seek the consent of the LA to proposed capital works, any such consent may only be withheld by the LA where such works are deemed to be in contravention of health and safety legislation. The LA will include such works where appropriate within its capital programme in accordance with the Council's financial regulations and statutory requirements

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

All local authority maintained schools and Pupil Referral Units (PRUs) must demonstrate compliance with the Schools Financial Value Standard (SFVS) and complete the assessment form on an annual basis. Schools must submit the form to the LA by the end of the Autumn half term, together with the London Borough of

Enfield Risk Assessment form. Both these documents will be assessed and used to inform the Audit programme for the following financial year.

Governing bodies 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.

### **2.23 Notice of concern**

The authority may issue a notice of concern to the governing body of any school it maintains where in the opinion of the Director of Resources the Director of People., the school has failed to comply with any provisions of the scheme, or where actions need to be taken to safeguard the financial position of the local authority or the school.

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

- insisting that relevant staff undertake appropriate training to address any identified weaknesses in the financial management of the school;
- insisting that an appropriately trained/qualified person chairs the finance committee of the governing body;
- placing more stringent restrictions or conditions on the day to day financial management of a school than the scheme requires for all schools - such as the provision of monthly accounts to the local authority;
- insisting on regular financial monitoring meetings at the school attended by local authority officers;
- requiring a governing body to buy into a local authority's financial management systems; and
- imposing restrictions or limitations on the manner in which a school manages extended school activity funded from within its delegated budget share - for example by requiring a school to submit income projections and/or financial monitoring reports on such activities.

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



### **3 INSTALMENTS OF THE BUDGET SHARE AND BANKING ARRANGEMENTS**

#### **3.1 Frequency of instalments**

The appropriate part of the budget share will be made available to governing bodies monthly.

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

All schools will receive their full budget share transferred into their bank account. However, in exceptional circumstances, the LA may grant approval for alternative arrangements. Where staff are to be paid by Rutland County Council, it will be assumed that the part of the budget share relating to pay costs is not required unless the LA is notified to the contrary. The budget share will be made available to schools in monthly instalments of One-Twelfth of the annual budget share on the fifteenth day of the month, or the next available banking day.

Schools receiving all their budget share, which do not have their staff paid by the LA, must pay to the LA all statutory and other contributions due via the LA three banking days before the payment is due to be made by the LA to the external body concerned.

Schools receiving all their budget share, which have their staff paid by the LA, must pay to the LA the estimated payroll cost (including employer's contributions) three banking days before pay day.

In exceptional circumstances the LA may approve alternative arrangements to monthly transfers of One-Twelfth of the full budget share to school bank accounts. The frequency and amount of budget share instalments will then be subject to an agreement between the LA and the school and will reflect local circumstances.

There will be no in-year adjustment to schools budget shares once they are agreed by the Schools' Forum,

#### **3.3 Payment of funds other than budget shares**

All other payments due to schools (for example VAT refunds, Standards Fund monies) will be paid with the next available monthly budget share payment.

#### **3.4 Interest clawback**

Interest will be payable to the LA by a school if its budget share is paid in advance at the school's request. This will be calculated daily using the national base rate set by the Bank of England plus 2%.

Interest will be chargeable on the same basis where a school receiving its full budget share uses the LA's payroll service but does not reimburse the pay costs to the LA by the due date. This also applies if external contributions payable via the LA are not paid to the LA by the due date.

The LA may at its discretion waive such charges. The LA will work with schools to avoid wherever possible a situation of late payments or interest charges occurring.

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

Interest will be paid to the school if a payment of budget share is late as a result of an error by the LA. This will be calculated daily using the national base rate set by the Bank of England plus 2%.

### **3.6 Budget shares for closing schools**

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

### **3.7 Bank and building society accounts**

All maintained schools in Rutland have bank accounts. Schools are able to retain all interest earned on their accounts.

### **3.8 Restrictions on accounts**

Accounts for the purpose of receiving budget share payments must be held with the UK clearing banks and building societies.

The accounts for budget share purposes may be in the name of either 1) the school or 2) the LA with reference to the school. Accounts must not be opened in the name of any individual. The LA may enter into an arrangement with a bank whereby the accounts are in the name of the LA but specific to each school, and offer such arrangements to schools.

If a bank account is held in the name of the school, the LA requires that the account mandate should provide that:

- A. The LA is the owner of the funds in the account,
- B. That the LA is entitled to receive statements,
- C. That the LA may take control of the account if the school's right to a delegated budget is suspended by the LA

Mandates should also state that authorisation for bank transactions i.e. cheques, standing orders, direct debits be authorised by at least two signatories.

Copies of mandates are required to be submitted to the Director of Resources Money paid by the LA and held in such accounts remains the property of the LA until spent (s.49 (5) of the Act).

Personal cheques must not be cashed or money borrowed from the accounts.

Schools must obtain the Director of Resources written agreement to any arrangement involving the transfer of funds to an account controlled by a third party (for example, a payroll agency where school funds are paid into a service provider's account, from which staff are then paid).

### **3.9 Borrowing by schools**

Governing bodies may borrow money only with the written permission of the Secretary of State, with the exception of loan schemes run by the LA.

Trustees and Foundations may borrow, but such debts may not be serviced directly from the schools' budget shares. However, schools are free to agree a charge for a service which the Trustees or Foundation are able to provide as a consequence of their own borrowing. Governing bodies do not act as agents of the LA when repaying loans.

### **3.10 Other provisions**

The LA may from time to time issue supplementary rules and guidance in respect of other aspects of banking arrangements, provided no aspect of those rules and guidance conflicts with this scheme's own requirements.

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

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

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

A school's surplus balance at 1 April is equal to that at the preceding 31 March

The balance transferred to a schools bank account is equal to the estimated outturn for the preceding financial and adjusted for non-cash transactions. The transfer will be effected on April 1st and subject to reconciliation of the s52 outturn statement for the preceding year.

### **4.2 Reporting on the intended use of surplus balances**

Where the total balance at 31 March in any year exceeds the relevant % (5% in the case of secondary schools and 8% in the case of primary and special schools) of the school's budget share, the Governing body shall report to the LA by the following 31st May on the use which the school intends to make of its surplus balances. The agreed purposes are:

- A. To provide surplus funds for the replacement of JCT facilities, including computer hardware, software, renewal or installation of cabling and telephone systems. Funding retained in each year for this purpose should not be retained for any longer than three years.
- B. To provide surplus funds for planned maintenance undertaken by the school on a three year rolling programme.
- C. To provide contingency funds which, if necessary, can be used to manage the impact of future budget reductions over a period of no more than three years
- D. To provide contributions from revenue budgets each year towards capital projects undertaken within three years.

There will be a requirement for the school to provide a three year financial plan as to how it intends to use the balance.

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

All schools operating local banking arrangements and as such interest will be earned and paid into their accounts directly by their bankers or by the Authority where the school has opted to join the LA's Schools' Banking Scheme. Interest will be paid at 1% below bank base rate for those schools receiving monthly advances, subject to the minimum interest being 0%.

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

Deficit balances must be carried forward, by deduction from the following year's budget share (see also 4.10)

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

Schools may plan a deficit budget in exceptional circumstances and with the prior agreement of the LA (see 4.10)

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

The LA will not charge interest on deficits arising from a deficit budget agreed under Para. 4.5 above. The LA may at its discretion charge interest on unplanned deficits. Such interest would be charged at the national base rate set by the Bank of England, calculated on a monthly basis on the deficit on the first day of each monthly accounting period.

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

The LA cannot write off the deficit balance of any school. Any such request would require the approval of the Secretary of State.

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

Should a school close, any balance (whether surplus or deficit) reverts to the LA; it cannot be transferred as a balance to any other school, even where the school is a successor to the closing school. Any adjustments to successor schools' budgets in this respect are the subject of regulations under s.47 of the Act.

#### **4.9 Licensed deficits**

Schools may be allowed to plan for a deficit budget, with the agreement of the LA. The maximum length of repayment shall be two years following the deficit year; the purpose of the deficit arrangement will be to allow a planned and orderly progression to a more robust financial situation; the maximum deficit shall be 5% of the school's budget share for the year; the sum of deficits across all schools shall not exceed 30% of the collective balances available to back the arrangements at the preceding 31 March; the agreement of the Director of People and the Director of Resources of the LA will be required.

Where a school has a licensed deficit, the LA must agree to the proposal unless in its view the proposed expenditure is unreasonable in the school's financial circumstances.

#### **4.10 Loan schemes**

Schools may apply to the LA for a loan, which does not operate by way of a licensed deficit but rather by way of actual payments to schools or expenditure by the LA in respect of a particular school. A corresponding sum would be repaid subsequently from the school's budget share. The conditions that would need to be met for such an arrangement to proceed are as detailed in para. 4.9 above. The LA would at its discretion be able to charge interest. Any such interest would be calculated on a daily basis at the national base rate set by the Bank of England.

The LA may invite schools with balances in external accounts to use some or all of those balances to back a loans scheme. The schools involved, together with the LA,

would need to agree the terms of any such arrangement, including any interest payable.

Such a loan scheme can only operate in respect of expenditure deductible from the SB under regulations made under s.46 of the act.

## **5 INCOME**

### **5.1 Income from lettings**

Income from lettings of school premises should not normally be paid into any voluntary or private funds held by the school. However, income relating to premises owned by voluntary school trustees and foundations may be paid into another account under the control of the governors. Where such an account is used, any material additional expenditure that falls to be met from the school's budget share as a result of the letting should be reimbursed to the school.

The remainder of this section applies only to school premises owned by the LA.

Schools are allowed to retain income from lettings of the school premises which would otherwise accrue to the LA, other than income arising from any joint use or Private Finance Initiative agreements which may be shared between the school and the LA as agreed from time to time. Schools may cross-subsidise commercial and non-commercial lettings, but there must be no net cost to the budget share. Schools should have regard to directions issued by the LA as to the use of school premises as permitted under the Act for various categories of schools.

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

Schools may retain income from fees and charges except where a service is provided by the LA from centrally retained funds. Schools should have regard to any policy statements on charging produced by the LA.

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

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

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

Schools may retain the proceeds of sale of assets except where:

- the asset was purchased with non-delegated funds (in which case the LA will decide whether the school should retain the proceeds);
- the asset concerned is land or buildings forming part of the school premises owned by the LA;
- the asset concerned is land or buildings at a foundation or voluntary school, in which case the Secretary of State will determine how the proceeds should be distributed.

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

The LA will issue separate guidance on the procedures for collecting income accruing to the LA, including provisions to ensure compliance with VAT legislation. Schools will comply with the Council's financial regulations on income in so far as they are not over-riden by this scheme.

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

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



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

### **6.1 General provision**

The budget share of a school can be charged by the LA without the consent of the governing body only in circumstances expressly permitted below. The LA must consult schools as to the intention to so charge, and notify schools when it has been done.

The LA cannot act unreasonably in the exercise of any power given by this scheme, or it may be the subject of a direction under s.496 of the Education Act 1996. For each of the circumstances (except 6.2.11) the LA would have to be able to demonstrate that it had necessarily incurred the expenditure now charged to the budget share. This means that where the LA cannot incur a liability because the statutory responsibility rests elsewhere, no charging is possible. Therefore the position on charging will vary between categories of school.

In the event of a dispute about such charges, a panel will be convened comprising the Director of Children & Young People's Services, Director of Corporate Services, the Chair of the Rutland Head teachers' Forum and the Chair of the Rutland Governors' Forum. Their decision shall be binding on the LA and schools, although shall not preclude any further legal remedy or procedure being invoked.

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

- 6.2.1 Where premature retirement costs have been incurred without the prior written agreement of the LA to bear such costs (the amount chargeable being only the excess over any amount agreed by the LA);
- 6.2.2 Other expenditure incurred to secure resignations where the school had not followed the LA's advice;
- 6.2.3 Awards by courts and industrial tribunals against the LA, or out of court settlements, arising from action or inaction by the governing body contrary to the LA advice;
- 6.2.4 Expenditure by the LA in carrying out health and safety work or capital expenditure for which the LA is liable where funds have been delegated to the governing body for such work, but the governing body has failed to carry out the required work;
- 6.2.5 Expenditure by the LA incurred in making good defects in building work funded by capital and revenue spending from budget shares, where the premises are owned by the LA, where the school has voluntary controlled status, or where the LA has a clear legal interest on health and safety grounds;
- 6.2.6 Expenditure incurred by the LA in insuring its own interests in a school where funding has been delegated but the school has failed to demonstrate that it has arranged cover at least as good as that which would be arranged by the LA. The LA itself needs to consider whether it has an insurable interest in any particular case;
- 6.2.7 Recovery of monies due from a school for services provided to the school, where a dispute over the monies due has been referred to a disputes procedure set out in a Service level agreement, and the result is that monies are owed by the school to the LA;
- 6.2.8 Recovery of penalties imposed on the LA by the Board of Inland Revenue, the Contributions Agency, HM Customs and Excise, Teachers Pensions or regulatory authorities as a result of school negligence;
- 6.2.9 Correction of LA errors in calculating charges to a budget share (e.g. pension deductions). Before applying this provision, the LA should consider whether it is reasonable to do so;
- 6.2.10 Additional transport costs incurred by the LA arising from decisions by the governing body on the length of the school day, and failure to notify the LA of non-pupil days resulting in unnecessary transport costs;
- 6.2.11 Legal costs which are incurred by the LA because the governing body did not accept the advice of the LA (see also para. 12.4);
- 6.2.12 Costs of necessary health and safety training for staff employed by the LA, where funding for training had been delegated but the necessary training not carried out;
- 6.2.13 Compensation paid to a lender where a school enters into a contract for borrowing beyond its legal powers, and the contract is of no effect;
- 6.2.14 Recovery of monies due to the LA from a school for services provided to the school, where the monies have been due for at least six months and no dispute is known to exist;

- 6.2.15 Recovery of a payment by the LA under order of a court of law that is chargeable to a school's budget share;
- 6.2.16 Amounts agreed under a PFI / PPP scheme entered into by the governing body;
- 6.2.17 Repayment via the LA to the Secretary of State of loans made to GM or GM Special Schools under s255 of the Education Act 1996.
- 6.2.18 Costs of work done in respect of teacher pension remittance and records for schools using non-LA payroll contractors, the charge to be the minimum needed to meet the cost of the Authorities compliance with its statutory obligation where the school has failed to adhere to laid down procedures.
- 6.2.19 Costs incurred by the LA in securing provision specified in a statement of SEN where the governing body of a school fails to secure such provision despite the delegation of funds in respect of that statement.
- 6.2.20 Costs incurred by the LA due to submission by the school of incorrect data.
- 6.2.21 Recovery of amounts spent from specific grants on ineligible purposes.
- 6.2.22 Costs incurred by the LA as a result of the governing body being in breach of the terms of a contract.

### **6.3 Salaries of school based staff**

- 6.3.1 The LA is required to charge the salaries of school based staff paid by the LA to school budget shares at actual cost.
- 6.3.2 The LA is required to fund any trade union facility time expenditure incurred, from the centrally held element of the Schools budget.

## **7 TAXATION**

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

Schools should submit a monthly return to the LA showing details of input and output tax relating to the funds made available by the LA. This will enable tax on income to be passed to Customs and Excise and tax on non-business expenditure funded from the school's budget share to be reclaimed. More detailed guidance on the procedure will be issued from time to time. The amounts so reclaimed will be passed back to the school.

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

Schools are required to abide by procedures issued by the Authority in connection with CIS.

## **8 THE PROVISION OF SERVICES AND FACILITIES BY THE LA**

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

The LA will determine from time to time the basis on which services from centrally retained funds will be provided to schools. In this context, "services" includes premature retirement costs and redundancy payments, which the LA may elect to fund from centrally retained budgets.

The LA must not discriminate in its provision of services on the basis of categories of schools except where (a) funding has been delegated to some schools only or (b) such discrimination is justified by differences in statutory duties.

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

Where a service is provided for which expenditure is not retainable centrally by the LA under the Regulations made under section 45A of the Act, it must be offered at prices which are intended to generate income which is no less than the cost of providing those services. The

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

### **8.3 Timescales for the provision of services bought back from the LA**

Any arrangement with a school to buy services or facilities from the LA starting on or after 1 April 1999 will be limited to a maximum of three years from the inception of the scheme or the date of the agreement, whichever is the later, and periods not exceeding five years for any subsequent agreement relating to the same services. However, where the contract extends to the supply of catering services this period may be extended to seven years. There is no minimum period, although the LA may decline to accept arrangements for less than two years.

The above does not apply to premises and liability insurance, which may be subject to different timescales.

### **8.4 Packaging**

Any service made available by the LA on a buyback basis must be offered in a way which does not unreasonably restrict schools' freedom of choice amongst the services available. Where practicable, there will be provision for buyback on a service by service basis as well as in packages of services. The LA may, however, offer any such package of services at a lower price than if each component service were purchased individually.

### **8.5 Service level agreements**

If services or facilities are provided under a service level agreement lasting longer than three years, whether free or on a buyback basis, the terms of any such agreement starting on or after the inception of the scheme will be reviewed at

least every three years. Schools must have a month to consider the terms of the any agreement. Schools will be in receipt of the terms of the agreement by March 31 All agreements must be in place by April 1st to be effective for the following financial year.

All services made available by the LA will be available on a basis which is not related to an extended agreement. However, a different charge may be levied for services purchased on an ad-hoc basis to those subject to an extended agreement. This excludes centrally arranged premises and liability insurance from these requirements as to service supply, as the limitations envisaged may be impracticable for insurance purposes.

## **8.6 Teachers' Pensions**

In order to ensure that the performance of the duty on the Authority to supply Teachers Pensions with information under the Teachers' Pensions Regulations 1997, the following conditions are imposed on the Authority and governing bodies of all maintained schools covered by this Scheme in relation to their budget shares.

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

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

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

## **9 PRIVATE FINANCE INITIATIVES / PUBLIC PRIVATE PARTNERSHIPS (PFI / PPP)**

### **9.1 General Arrangements**

Proposals for any school to be the subject of a PFI / PPP project will require early discussion involving the governing body and the LA (Director of Corporate Services and the Director of Children and Young People's Services), and will need the eventual agreement of both parties. The issues surrounding such a project, including the payment of on-going charges and retention of monies from contractors due to poor performance will need to be agreed for each such project. The LA may from time to time produce guidance on PFI / PPP, or make proposals involving one or more schools.

### **9.2 Charging of School Budget Shares**

The LA shall have the power to charge to a school's budget share amounts agreed under a PFI / PPP agreement entered into by the governing body.

## **10 INSURANCE**

### **10.1 Minimum cover**

Where funds for insurance are delegated, the school must ensure that adequate and appropriate insurance cover is obtained, the LA may require the school to demonstrate that cover relevant an LA's insurable interests, under a policy arranged by the governing body, is at least as good as the relevant minimum cover arranged by the LA if the LA makes such arrangements, either paid for from central funds or from contributions from schools' delegated budgets. The LA will have regard to the risks which might reasonably be expected to arise at the school in making this assessment.

As detailed in Section 6 of the scheme, in the absence of such evidence the LA may take out the relevant insurance and charge it to the schools budget share.

### **10.2 Risks Insured and claims**

Where insurance is arranged by the LA, schools shall immediately notify the Director of Resources of any new, changed or discontinued risks, and of any actual or potential claim or event likely to lead to a claim.

Schools with their own insurance shall similarly notify the LA of any risk or claim in which the LA may have an insurable interest.



## **11 MISCELLANEOUS**

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

Governing bodies are required to supply all financial and other information which might reasonably be required (see 2.19) to enable the LA to satisfy itself as to the school's management of its delegated budget share, or the use made of any central expenditure by the LA (e.g. earmarked funds) on the school.

### **11.2 Liability of governors**

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

### **11.3 Governors' expenses**

Under schedule 11 of the Act, only allowances in respect of purposes specified in regulations may be paid to governors from a school's delegated budget share. The payment of any other allowances is forbidden. Schools are also barred from payment of expenses that duplicate those paid by the Secretary of State to additional governors appointed by him to schools under special measures. The rate of allowances payable to Governors are normally set by the LA, and cannot be varied by schools. The LA may publish separate guidance on what it considers to be reasonable expenses.

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

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

For the purposes of this Section, "legal costs" are those of legal actions, including costs awarded against the LA. The cost of legal advice provided is not covered.

Costs arising from legal action involving the Governing Body may be charged to the school's budget share if the Governing Body does not follow such advice and general guidelines provided by the Authority, for example, if the LA's advice that a dismissal is likely to be judged unfair is ignored by the Governing Body. (See also section 6)

The LA will work with governing bodies and support them in cases of legal action. If a Governing Body has failed to act on the advice of the LA, or has ignored LA guidelines on specific issues, the LA will write formally giving notice that it will no longer indemnify the Governing Body against legal costs arising from any action taken.

Charges for legal costs will only be made to a school's delegated budget if the above procedure has been followed.

Although every effort will be made to resolve situations before legal action is taken, where there is a conflict of interest between a Governing Body and the LA, governing bodies will be advised to seek independent legal advice.

### **11.5 Health and Safety**

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

Under s.39(3) of the Act the LA may issue directions to the governing body and head teacher of a community, community special or voluntary controlled school on health and safety matters, these are enforceable, so far as governing bodies are concerned, via s.497 of the Education Act 1996 where there is non-compliance.

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

Governing bodies shall permit the Chief Finance Officer (CFO) of the LA, or any officer of the LA nominated by the CFO, to attend meetings of the governing body at which any agenda items are relevant to the exercise of her or his responsibilities. The LA should give prior notice of such attendance, where practicable. The CFO's attendance should normally be limited to items which relate to issues of probity and financial management; such attendance should not be regarded as routine.

### **11.7 Delegation to new schools**

The LA may delegate spending powers to new schools without delegated budgets on a selective basis. It will be for the LA to decide whether and to what extent to exercise the power in each individual case.

### **11.8 Optional Delegation**

A school may wish to exercise an option to receive delegated funding for an item, this option can only be exercised once a year and will commence on the following 1 April, unless otherwise agreed with the LA. Notice must be given to the LA by the preceding 31 December.

### **11.9 Special Educational Needs**

Schools are required to use their best endeavours in spending their budget share to secure effective provision for pupils with special educational needs, as required by s317 of the Education Act 1996.

### **11.10 Whistleblowing**

School employees and governors must have due regard to the LA's Anti-laud and Corruption Policy where concerns regarding the financial management or financial propriety exist. Complaints will be dealt with, in the first instance, by the Internal Audit Manager and in accordance with this policy.

### **11.11 Child Protection**

Schools should provide within their delegated budgets for staff to be released from duties for the purpose of attending child protection case conferences and other related events.

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

### **12.1 Statutory Requirements for Delegation**

In line with the guidance from the DfE, under the new funding framework the LA has delegated all repairs and maintenance responsibilities to schools except for capitalised repairs. Capitalised repairs are defined in accordance with the CIPFA Code of Practice and relate to works that will:

- Lengthen substantially the useful life of the building;
- Increase substantially the open market value of the building;
- Increase substantially the extent to which the building can be used for local authority purposes.

If appropriate, low value works can be amalgamated into a single project, which can then be considered for capitalisation.

There are agreed de minimis limits which are used for the definition of capital and revenue in assigning responsibility for types of work. In accordance with DfE requirements, these de minimis limits must also be used in defining what is delegated.

### **12.2 Responsibilities of schools to LA**

All schools should bear in mind the LA's interests for both health and safety and insurance / liability purposes, and where appropriate as owner of the premises, when undertaking any works to the building, fixtures and fittings or the school site generally. Advice should be sought wherever any interest or liability on the part of the LA may arise, and the consent of the LA obtained where appropriate.

The consent of the Director of Corporate Services must be obtained in advance for any work likely to affect the structural integrity or health & safety aspects of premises owned by the LA.

## **13 Application of the Scheme to the Community Facilities Power**

### **13.1 Consultation with the LA - Financial Aspects**

Schools which choose to exercise power conferred by Section 27(1) of the Education Act 2002 to provide extended services will be subject to a range of controls. The regulations made under s.28 (2) can specify activities which may not be undertaken at all under the main enabling power. The school is obliged to consult its authority and have regard to advice given to them by their LA. The Secretary of State issues guidance to governing bodies about a range of issues connected with exercise of the power, and a school must have regard to that.

Before exercising the extended services power, governing bodies should submit to the Director of Resources

- A. Details of the extended services to be provided, in terms of its purpose, staffing and impact upon general school activities;
- B. A risk assessment of the proposals;
- C. A two year business plan detailing all income and expenditure i.e. sources of funding and spending plans;
- D. What plans the governing body have to deal with any surpluses/ deficits arising from undertaking the extended services power.

The LA will undertake the necessary analysis of the documentation and provide advice to the governing body with a written response setting out the LA's views on the proposals within 6 weeks of receiving the documents detailed above.

### **13.2 Funding Agreements - LA Powers**

Where provision of extended services is dependent upon a funding agreement with a third party, any proposed agreement should first be submitted to the Director of Resources for comment and advice prior to the governing body entering into such an arrangement.

The LA may not veto any such arrangement. However, if an agreement has been or is to be concluded against the wishes of the LA, or has been concluded without informing the LA, which in the view of the Authority is seriously prejudicial to the interests of the school or the LA, this may constitute grounds for the suspension of the schools delegated budget.

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

Should the LA assess that the proposed project carries a significant financial risk, the Governing body should, in exercising the extended services power via a funding agreement with third parties, make arrangements to secure the financial interests of the Authority, specifically:

- A. the activity concerned. should be carried out through the vehicle of a limited company formed for the purpose, or

- B. by obtaining indemnity insurance for risks associated with the project in question

### **13.4 Supply of Financial Information**

Schools exercising the extended services power will be required to submit, in a format determined by the LA, a summary statement with details of anticipated and actual income and expenditure, for the financial year. Submission of these details will be required at a minimum of six monthly intervals, at the end of September and March. However the Authority currently requires this information on a quarterly basis.

However, where the LA believes there to be cause for concern regarding the schools management of the financial consequences of the exercise of the extended services power, and notice has been given to the school, the financial statements will be required to be submitted at monthly intervals. Any schools required to provide monthly reports will be notified of this requirement and the reason for it to be applied. A recovery plan for the activity in question will also be required.

Schools will be required to adhere to the report requirements of any third party funding agreement.

Financial information relating to extended services will be included in returns made by school under the Consistent Financial Reporting Framework.

### **13.5 Audit Requirements**

The LA will determine the level and nature of internal audit of records pertaining to the provision of extended services, having regard to the legal responsibilities of the Director of Corporate Services and the Chief Executive. The precise nature of any audit will be as contained within the provision within paragraph 2.13 of this scheme.

Schools are also subject to the external audit regime prescribed for the LA by the Audit Commission. A school should grant access to the school's records connected with exercise of the extended services power, in order to facilitate internal and external audit of relevant income and expenditure.

Where funding agreements with other persons pursuant to the exercise of the extended services power are concluded, the school should ensure that such agreements contain adequate provision for access by the Authority to the records and other property of those persons held on the school premises in order for the Authority to satisfy itself as to the propriety of expenditure on the facilities in question.

The LA reserves the right to advise on access requirements during assessment of the financial aspects of extended services as detailed within paragraph 7.1.

### **13.6 Treatment of Income and Surpluses**

Income derived from extended services may be retained by the school except where otherwise agreed with a funding provider, whether the LA or a third party. Retained income may be carried over from one financial year to the next, and may be added

to any budget share surplus or to be retained as a separate extended services surplus.

For community and community special schools, should the LA cease to maintain the school, any accumulated retained income obtained from the exercise of the extended services power reverts to the LA unless otherwise agreed with a funding provider.

### **13.7 Treatment of Expenditure and Deficits**

If a deficit arises on extended services, should the LA need to recover funds to meet third party liabilities it may only do so from any accumulated extended services surplus

Expenditure incurred by the governing body in the exercise of the extended services power may not be met from the budget share unless such a purpose is prescribed by regulations under s.50(3) of the School Standards and Framework Act 1998.

### **13.8 Health and Safety**

Paragraph 11.5 of the scheme is extended to apply to the exercise of the extended services power.

Criminal Records Bureau clearance should be sought for all adults involved in extended services activities taking place during the school day and the governing body retain responsibility for the associated cost. However, the governing body are free to pass on such costs to a funding partner as part of an agreement with that partner.

### **13.9 Insurance**

The governing body are responsible for making adequate arrangements for insurance against risks arising from the exercise of the extended services power (section 11 of the main scheme refers). Schools proposing to provide extended services should, as an integral part of its plans, undertake an assessment of the insurance implications and costs, seeking the advice of the LA and other professionals if necessary.

The LA reserves the power to undertake its own assessment of the insurance arrangements made by the school in respect of extended services, and if the arrangements are deemed to be inadequate, make arrangements itself and charge the resultant cost to the school.

### **13.10 Taxation**

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

Where Staff employed by the school or LA in connection with extended services are paid from funds held in a school's own bank account, the school is likely to be held

liable for payment of income tax and National Insurance, in line with Inland Revenue rules.

Schools should have due regard to any advice and guidance issued by the LA in relation to the Construction Industry Scheme where this is relevant to the exercise of the extended services power.

### **13.11 Banking**

Schools should maintain separate bank accounts for budget share and transactions associated with the exercise of the extended services power, or can have one account if they can demonstrate adequate internal accounting controls to maintain separation of funds.

All bank accounts must adhere to the LA criteria prescribed within paragraphs 3.7 and 3.8 of the scheme

Governing bodies may borrow money only with the written consent of the Secretary of State, with the exception of loan schemes run by the LA.