



Derby City Council

# SCHEME FOR FUNDING SCHOOLS – DERBY CITY COUNCIL

Updated June 2024

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**DERBY CITY COUNCIL**

**SCHEME FOR FUNDING SCHOOLS**

**SECTION 1: INTRODUCTION**

- 1.1 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.

Under this legislation, local authorities determine for themselves the size of their schools budget and their non-schools education budget – although at a minimum an authority must appropriate its entire Dedicated Schools Grant to their schools budget. The categories of expenditure which fall within the two budgets are prescribed under regulations made by the Secretary of State, but included within the two, taken together, is all expenditure, direct and indirect, on an authority's maintained schools except for capital and certain miscellaneous items. Authorities may deduct funds from their schools budgets for purposes specified in regulations made by the Secretary of State under S.45a of the Act (the centrally retained expenditure). The amounts to be deducted for these purposes are decided by the authority concerned, subject to any limits or conditions (including gaining approval of their Schools Forum or the Secretary of State in certain instances) as prescribed by the Secretary of State. The balance of the schools budget left after deduction of the centrally retained expenditure is termed the Individual Schools Budget (ISB). Expenditure items in the non-schools education budget must be retained centrally (although earmarked allocations may be made to schools).

- 1.2 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 section 251 of the Act. All proposals to revise the scheme must be approved by the Schools Forum, although the authority may apply to the Secretary of State for the approval in the event of the Forum rejecting a proposal or approving it subject to modifications that are not acceptable to the authority.
- 1.3 Subject to any provisions made by or under the scheme, governing bodies of schools may spend such amounts of their budget shares as they think fit for any purposes of their school\* and for any additional

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purposes prescribed by the Secretary of State in regulations made under section 50 of the Act.

\* Section 50 has been amended to provide that amounts spent by a governing body on providing community facilities or services under Section 27 of the Education Act 2002 are treated as if they were amounts spent for the purposes of the school (S50(3A) of the Act).

- 1.4 The Council 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. A school's right to a delegated budget share may also be suspended for other reasons (S17 of the Act).
- 1.5 The Council is obliged to publish each year a statement setting out details of its planned Schools Budget and other expenditure on children's services, showing the amounts to be centrally retained and funding delegated to schools. After each financial year the Council must publish a statement showing out-turn expenditure at both central level and for each school, and the balances held in respect of each school.
- 1.6 The detailed publication requirements for financial statements are set out in directions issued by the Secretary of State, but each school must receive a copy of each year's budget and out-turn statements so far as they relate to that school or central expenditure.
- 1.7 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. The scheme sets out the financial relationship between the Council and the maintained schools which it funds. The scheme and accompanying financial procedure rules contain requirements relating to financial management and associated issues, binding both on the Council and on schools. The scheme identifies the responsibilities of the Director of Financial Services and governors. The Director of Financial Service's responsibilities are exercised, in most cases, through the Children and Young People's Finance Group. The Head of Finance or their team should, therefore, be the primary point of contact on most financial matters.
- 1.8 The scheme applies to all community, nursery, voluntary, foundation, community special or foundation special schools maintained by the Council.
- 1.9 Each governing body must consider the extent to which it wishes to delegate its financial powers to the head teacher. The decision, and any revisions, must be recorded in the minutes of the governing body and a written record must be maintained and updated. Although

governors can delegate certain powers, they will retain overall responsibility for any actions taken. The first formal budget plan of each financial year must be approved by the governing body, or by a committee of the governing body.

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

## **SECTION 2: FINANCIAL CONTROLS**

- 2.1 Schools must comply with the Council's requirements on financial controls and monitoring as set out in this scheme, in financial procedure rules and other documentation produced by the Council which is compatible with the scheme. The Director of Financial Services is the responsible officer for the proper administration of the financial affairs of the Council under Section 151 of the Local Government Act 1972. Taken together with the Accounts and Audit Regulations 1996, this means that all accounting procedures of the Council (including schools) should be determined by the Director of Financial Services, who must be satisfied that all systems and records take account of proper professional practices. Schools must comply with the financial procedure rules issued at Annex B and elsewhere.
- 2.2 Where there is an inconsistency between the scheme and any other rules or regulations relating to the funding or financial management of schools, the terms of the scheme shall prevail.
- 2.3 Schools operating their own bank accounts must provide information on their expenditure and income once every three months to the Council in a format and to a schedule determined by the Council. The Council may require a more frequent submission if the council has notified the school in writing that in its view the school's financial position or administrative arrangements requires it, or the school is in its first year of operation. VAT returns must be provided on a monthly basis to a given schedule. The restriction to a minimum three months interval does not apply to schools without a bank account whose accounts are prepared on the Council's on-line accounting system.
- 2.4 All schools will be required to provide information on accruals at the end of the financial year. These should be recorded only where goods have been received or work has been done and no payment has yet been made and, in the case of income, where it is due but has not been received. The Council will prescribe a minimum amount below which individual amounts are not regarded as material and do not have to be recorded on the year-end return.
- 2.5 Schools buying services, including payroll, from suppliers other than the Council must provide the Council with any information necessary to fulfil its statutory duties. Schools using the Council's services must comply with its procedural guidance.
- 2.6 Each school must maintain an inventory in some form of its moveable non-capital assets. The minimum amount of information recorded must be as set out in annex B for assets worth more than £1000, though governors may determine the format of the inventory. Governors should determine authorisation procedures for disposal of non-capital assets purchased from delegated funds. The disposal of assets

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purchased from centrally-funded budgets requires the approval of the Director of Financial Service.

- 2.7 Schools must comply with accounting policies and procedures, including those relating to the financial year-end, issued by the Council and must supply any relevant information in connection with these.
- 2.8 Governors may decide formally whether or not to take action to collect amounts owed to the delegated budgets which are unpaid.
- 2.9 Each year all schools must submit a minimum three-year budget forecast by 1 May. each year showing its planned spending for that financial year and the assumptions underpinning the budget plan. The format of the budget plan will be determined by the Council and will be compliant with the Consistent Financial Reporting framework. Schools must take full account of estimated deficits/surpluses at the previous 31 March in their budget plan. Each school must revise its budget plan when its out-turn position from the previous financial year has been finalised. Schools using the Council's financial system must adjust their budget on the system to ensure that the budget remains in balance or within any approved deficit. The Council may require schools to submit a financial forecast covering each year of a multi-year period.
- 2.10 Schools must seek to achieve efficiencies and value for money, to optimise the use of their resources and to invest in teaching and learning, taking into account the Authority's purchasing, tendering and contracting requirements.

It is for heads and governors to determine at school level how to secure better value for money. There are significant variations in efficiency between similar schools , and so it is important for schools to review their current expenditure, compare it to other schools and thinking about how to make improvements.

- 2.11 Schools are allowed to vire freely between budget headings within their delegated budgets subject to internal approval mechanisms agreed by governors. Virements cannot be made between their delegated budget and ring-fenced devolved funds.
- 2.12 Schools will be covered by, and must co-operate with, the internal audit procedures and structure determined by the Council, and the Council's external audit regime as determined by the National Audit Office. Schools must provide access to their records to both internal and external auditors as appropriate.
- 2.13 Schools may spend funds from their budget share to obtain external audit certification of their accounts, separately from the Council's internal and external audit processes. Any external audit commissioned by a school would have to take into account the status of the school as a spender of Council funds.

- 2.14 Schools must be able to provide audit certificates in respect of voluntary and private funds, and accounts of any trading organisations controlled by the school.
- 2.15 The governing body of each school must have a register which lists for each member of the governing body and every member of staff, any business interests they or any member of their immediate family have, any other educational establishments that they govern and any relationships between school staff and members of the governing body. Schools must keep the register up to date with notification of changes and through annual review of entries, and must make the register available for inspection by governors, staff, parents and the Council and to publish the register, for example on a publicly accessible website. A sample register of business interests is attached at Annex C
- 2.16 Schools must comply with the Council's financial procedure rules and rules of procedure in purchasing, tendering and contracting matters. Schools should assess in advance, where relevant, the health and safety competence of contractors, taking account of the Council's policies and procedures. Sections of the Council's financial procedure rules and rules of procedure do **not** apply if they would require schools:
- to do anything incompatible with any of the provisions of the scheme, or any statutory provision, or any EU Procurement Directive;
  - to seek fewer than three tenders in respect of any contract with a value exceeding £10,000 in any one year;
  - to select suppliers only from a Council approved list, though schools should be aware that there may be financial benefits in using the services of the Council's Procurement Officer;
  - to seek Council officer countersignature for any contracts for goods or services for a value below £60,000 in any one year.
- 2.17 For contracts below £10,000, schools are recommended to use existing relevant corporate contracts if there is one. If this is not used then three quotations should be obtained.

For contracts over £10,000 but below £100,000, three written quotes must be obtained. However, in cases of urgency, or for any other good reason, the Authorised Officer may obtain fewer quotes, provided the reasons are recorded in writing and retained on the Contract File. The Authorised Officer must record on the Contract File the subject matter of the quote, the names of the firms invited to quote, their responses – including details of any quotes received – and the reasons why the successful quote was accepted.

For contracts above £100,000, an invitation to tender must be sent to at least four organisations on an approved list, or to all of them if there are less than four. If a list is not available, or the Authorised Officer



decides not to use it in consultation with the chief Legal Officer, then either a public notice inviting direct tenders or expressions of interest should be issued. For contracts of a specialist nature, tenders can be sought from at least four organisations, provided that the Authorised Officer consults the Chief Legal Officer and the appropriate Council Cabinet Member and records, in writing on the Contract File, the justification for using this course of action rather than giving public notice.

- 2.18 Schools have the right to opt out of Council arranged contracts.
- 2.19 Although governing bodies are empowered under paragraph 3, section 1 of the Education Act 2002 to enter into contracts, in most cases they do so on behalf of the Council as maintainer of the school and the owner of the funds in the budget share. Other contracts may be made solely on behalf of the governing body, when the governing body has clear statutory obligations – for example, contracts made by aided or foundation schools for the employment of staff.
- 2.20 The Council may make sums available to schools from central funds in the form of allocations which are additional to and separate from the schools' budget shares. Such allocations will be subject to conditions setting out the purposes for which the funds will be used, and schools must be able to account for such earmarked funding. Earmarked funding may be spent only on the purposes for which it has been allocated and may not be vired into the school's budget share. The Council may require that earmarked funds are returned to the Council if they have not been spent in the course of the year, or within the period over which schools are allowed to use the funding if different. Where payments to schools of devolved specific or special grant are made the Council is barred from making any deduction in respect of interest costs to the Council.
- 2.21 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, section 3 of the School Standards and Framework Act 1998. The governing body must notify the Strategic Director of People Services of any planned capital expenditure (including any improvement work or change to a mechanical or electrical system) and, where this is greater than £15,000, must take into account any advice from the Strategic Director of People Services as to the merits of the proposed expenditure. *Notification should include which relevant professional adviser has been consulted.* If the premises are owned by the Council, or the school has voluntary controlled status, then the governing body must seek the consent of the Strategic Director of People Services to the proposed works, but such consent can be withheld only on health and safety grounds. If the premises are not owned by the Council, the governing body must obtain consent from the owner of the premises

where necessary. In voluntary-aided schools, the DfE grant aid returned to governors for projects financed from delegated funds must be transferred back to the budget share.

- 2.22 Any capital work which affects pupil accommodation must be notified to the Strategic Director of People Services to enable the Council to plan for pupil numbers.
- 2.23 Schools must report to the Director of Financial Services any expenditure from its delegated budget which would be classified as capital expenditure within the Council's accounts.

2.24 **Schools Financial Value Standard (SFVS)**

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

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

All maintained schools with a delegated budget must submit the form to the local authority before 31 March and annually thereafter.

2.25 **Fraud**

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

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

2.26 **Notices of financial concern**

The Council may issue a notice of concern to the governing body of any school it maintains where, in the opinion of the Head of Finance and the Strategic Director of People's Services, the school has failed to comply with any provisions of the scheme, or where actions need to be taken to safeguard the financial position of the Council or the school.

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

These may include:

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

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 Council may take where the governing body does not comply with the notice.

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

- 3.1 Where a school has a bank account separate from that of the Council, its budget share will be paid over in instalments. Any devolved funding will normally be paid in instalments as well. Schools without their own bank accounts may effectively draw on the whole of their budget share from the beginning of the year.
- 3.2 Where a school is operating a bank account for all its costs, the first instalment, of 8% of the school's budget share, will be paid into schools' bank accounts on the 1st of each month with a balancing 4% on the 30<sup>th</sup> March of each year. Where such days are not working days, payments will be made on the last previous working day. The Council will indemnify schools against any costs arising from the late payment of these installments and add interest at the current Bank of England base rate, where such late payments are the result of Council error.
- 3.3 Where a school chooses to operate a bank account for non-pay costs 8% of the budget share will be paid on 1<sup>st</sup> April. The subsequent monthly payments on the 1<sup>st</sup> of each month will be 8% of the budget share adjusted for the deduction of the previous month's actual salary costs. A balancing payment of circa 4% will be paid on the 30 March as per 3.2 however, where a school's salary costs exceed the budget share paid, schools will be required to pay back into the Council's bank account the difference.
- 3.4 The Council believes that there should be no cashflow advantages or disadvantages to schools as a consequence of the choice between use of a local bank account and use of the Council's banking facilities. It will, therefore, pay an amount to schools without local bank accounts equivalent to the additional net interest that the Council estimates that a school would earn, were they to operate a local bank account, calculated on a standard basis using an average school payment profile. It will also pay interest on the average of year-end brought forward and estimated carried forward balances, with an adjustment in the following financial year to reflect the actual carry forward. The rate of interest used will be broadly equivalent to the average interest rate earned by the Council in managing its cash balances.
- 3.5 The Council reserves the right to change the timing and amount of payments to schools in future revisions to this scheme, as circumstances dictate. However, it will ensure that any further changes to this scheme continue to maintain a policy of financial neutrality between local bank accounts and use of the Council's bank account.
- 3.6 All maintained schools have the choice to operate external bank accounts into which their budget share is paid and, that where schools have such accounts, they shall be allowed to retain all interest payable

on the account. Schools may also choose to operate a bank account for non-pay costs only. Where a school chooses to open a bank account the Council shall, if the school desires, transfer immediately to the account an amount agreed by both school and the Council as the estimated surplus balance held by the Council in respect of the school's budget share. There will be a subsequent correction when accounts for the relevant year have been finalised.

- 3.7 Any school wishing to operate a bank account for the first time must notify the Director of Financial Services by 1st January in the previous financial year. New bank accounts can only take effect from the beginning of each financial year.
- 3.8 Changes to existing accounts may normally only be made with effect from the beginning of each financial year. Any notification of changes for a new financial year must be made to the Council by 1st March. A school wishing to change its account during the financial year must give at least one month's notice to the Council.
- 3.9 The Director of Financial Services must be satisfied that schools operating their own bank account have sufficient controls and arrangements in place as defined in the financial procedure rules and other guidance issued by the Director of Financial Services.
- 3.10 For schools wishing to operate a bank account for the first time, bank accounts can only be set up on the authority of the Director of Financial Services.
- 3.11 Transfers will be made by BACS transfer.
- 3.12 No school will be permitted to operate a bank account for the first time if the school currently has a licensed deficit or if the Director of Financial Services estimates that it will have a deficit at the end of the previous financial year.
- 3.13 No school will be allowed to have a bank overdraft.
- 3.14 All bank accounts must be with an institution on the Council's approved list (see Annex E), except that schools having bank accounts with other banks prior to 1 April 2001 must be allowed to retain those accounts. Any new accounts opened subsequently must be on the list. The list of approved institutions will be reviewed periodically.
- 3.15 Schools will be allowed to have accounts for budget share purposes which are in the name of the school rather than the Council. However, if a school has such an account, the account mandate should provide that the Council is the owner of the funds in the account, that the Council is entitled to receive bank statements, and that it can take control of the account if the school's right to a delegated budget is suspended by the Council.

3.16 Authorised signatories for bank accounts should be either employees of the Council or the school.

3.17 **Borrowing by Schools**

Governing bodies of schools may borrow money (including the use of finance leases) from sources external to the Council only with the written permission of the Secretary of State. The introduction of IFRS16 for local authorities from 1 April 2024 ends the distinction between operating and finance leases at maintained schools for accounting purposes. Under the Education Act 2002, all leases will be classed as borrowing and will require the Secretary of State for Education's consent. Under the Education Act 2002, all leases will be classed as borrowing and will require the Secretary of State for Education's consent. The Secretary of State has, however, agreed to provide blanket consent to a range of the most common leasing activities, as set out in the IFRS16 Maintained Schools Finance Lease Class Consent (Refer to Annex F). Leases not included in this Order will still require the written consent of the Secretary of State, and it remains the general position that schools will only be granted permission for other types of borrowing in exceptional circumstances. The cost of servicing debts incurred by Trustees and Foundations cannot be charged directly from delegated budgets, though 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.

3.18 Schools are to be granted permission to borrow where the Secretary of State has introduced limited schemes in order to meet broader policy objectives. Schools are permitted to use these schemes without prior approval.

This provision does not apply to loan schemes run by the Council.

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

- 4.1 Schools will carry forward from one financial year to the next any shortfall in expenditure relative to the school's budget share for the year, plus or minus any balance brought forward from the previous year. The Council cannot write off the deficit balance of any school. Where a school operates a bank account for the first time and requests an immediate transfer of the estimated surplus balance, the Director of Financial Services will make this estimate, in consultation with the school, on the basis of the financial information available at the end of the February preceding the new financial year. This will be paid as part of the first instalment in April. Any subsequent adjustment following the closure of the accounts will be made to the first installment after the Director of Financial Services has certified that the accounts for school expenditure have been completed.
- 4.2 Balances held by the Council on behalf of schools will attract interest. The method of calculation is to be found in separate guidance.
- 4.3 When a school closes, any balance (whether surplus or deficit) reverts to the Council. It cannot be transferred as a balance to any other school, except where in a funding period, a school has been established or is subject to a prescribed alteration as a result of the closure of a school, a local authority may add an amount to the budget share of the new or enlarged school to reflect all or part of the unspent budget share of the new or enlarged school (including any surplus carried over from the previous funding periods) of the closing school for the funding period in which it closes.

A surplus balance transfers to an academy where the school converts to academy status under section 4(1)(a) of the Academies Act 2010.

### 4.4 **Licensed Deficits**

Schools are normally required to set a balanced budget for each financial year, taking into account any brought forward surplus balance or deficit. In exceptional circumstances, the Council's Cabinet may approve a licensed deficit, whereby a school is allowed to plan for a deficit at the end of the financial year. Licensed deficits will normally only be approved where there has been a significant reduction in pupil numbers or an overspend has arisen because of large items of expenditure which could not have been anticipated. The purpose of the deficit must be agreed with the Council in advance and in writing, and must be clearly set out and included in the minutes of the governing body. Where a school has a local bank account, it must submit quarterly interim budgeted cash-flow forecasts. Schools will not be permitted to operate a licensed deficit concurrently with a budget support arrangement facilitated by diocesan authorities.

4.5 A school requesting a licensed deficit must submit a detailed plan for scrutiny by the Director of Financial Services and the Strategic Director of People Services by 1 May in the first financial year of the proposed plan. The plan must be approved by the Council's Cabinet. Normally, schools would be expected to remove the deficit by the end of the second financial year; the maximum period allowable would be by the end of the third financial year. The Council's Cabinet will be asked to consider removing delegated powers from the school if it has failed to remove the deficit by the end of the third financial year.

4.6 The maximum permitted size of a licensed deficit will be 5% of a school's budget share. The maximum proportion of the collective school balances held by the Council which can be used to back the scheme is 20%. Balances held by schools in external bank accounts, which remain the property of the Council if made available by the Council initially, may be used to back this arrangement if agreed with those schools.

4.7 **Loan Schemes**

The Council will operate a loan scheme for schools where a school wishes to incur a major item of expenditure and spread the cost over more than one year. The maximum period will be three years. The loan scheme will operate only in respect of expenditure falling within the Individual Schools Budget. Actual payments will be made into the school's budget on condition that a corresponding sum, together with a fee for administration, is repaid from the school's budget share within an agreed timescale. The maximum amount by which any school can benefit from the scheme in any financial year is 5% of its budget share, and the maximum proportion of the collective balances held by the Council which is used to back the scheme is 20%. Balances held by schools in external bank accounts, which remain the property of the Council if made available by the Council initially, may be used to back this arrangement if agreed with those schools. Any request must be approved by the Director of Financial Services. Details of the scheme will be issued and updated by the Director of Financial Services.

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 its power under paragraph 13(4)(d) of section 1 of the Academies Act 2010 to make a direction to the effect that such a loan does not transfer, either in full or part, to the new Academy school.



**SECTION 5: INCOME**

- 5.1 Schools will retain income from lettings of the school premises which would otherwise accrue to the Council, subject to any PFI (Private Finance Initiative) agreements. Schools may cross-subsidise lettings for community and voluntary use with income from other lettings, provided that there is no net cost to the budget share. Income from lettings of school premises should not normally be payable into voluntary or private funds held by the school.
- 5.2 Schools must have regard to directions issued by the Council as to the use of school premises as permitted under the School Standards and Framework Act 1998 for various categories of schools.
- 5.3 Schools will retain income from fees and charges, except where a service is provided by the Council from centrally retained funds. Schools must have regard to any policy statements on charging produced by the Council.
- 5.4 Schools will retain income from fund-raising activities.
- 5.5 Schools will retain the proceeds of sale of assets except in cases where the asset was purchased with non-delegated funds, or the asset concerned is land or buildings forming part of the premises and is owned by the Council. Income from the sale of assets purchased with delegated funds may only be spent for the purposes of the school.
- 5.6 Schools must comply with guidance issued relating to Value Added Tax on income.
- 5.7 Schools must comply with the directions within financial procedure rules relating to collection of income.

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

- 6.1 The budget share of a school may be charged by the Council without the consent of the governing body only in the circumstances listed in 6.2, and where the Council had necessarily incurred the expenditure. Salaries of school-based staff will be charged to school budget shares at actual cost. The Council must consult with a school as to the intention to charge and must notify a school when this has been done.
- 6.2 The circumstances in which charges may be made as outlined in paragraph 6.1 are:
- (a) where premature retirement costs have been incurred without the prior written agreement of the Council to bear such costs, the amount chargeable being only the excess over the amount agreed by the Council;
  - (b) other expenditure incurred to secure resignations where the school had not followed Council advice;
  - (c) awards by courts and industrial tribunals against the Council, or jointly against the Council and the governing body, or against the governing body directly, or out of court settlements, arising from action or inaction by the governing body contrary to the Council's advice;
  - (d) expenditure by the Council in carrying out health and safety work or capital expenditure for which the Council 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;
  - (e) expenditure by the Council incurred in making good defects in building work funded by spending from budget shares, where the premises are owned by the Council or the school has voluntary controlled status;
  - (f) expenditure incurred by the Council 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 Council;
  - (g) 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 Council;
  - (h) recovery of penalties imposed on the Council by HM Revenues and Customs, the Teachers Pensions organisation or regulatory authorities, as a result of school negligence;
  - (i) correction of Council errors in calculating charges to a budget share - for example, pension deductions;
  - (j) additional transport costs incurred by the Council arising from decisions by the governing body on the length of the school day, and failure to notify the Council of non-pupil days resulting in unnecessary transport costs;
  - (k) legal costs which are incurred by the Council because the governing body did not accept its advice;
  - (l) cost of work done in respect of teacher pension remittance and records for schools using payroll contractors other than the Council, the

charge to be the minimum needed to meet the Council's compliance with its statutory obligations;

(m) costs of necessary health and safety training for staff employed by the Council, where funding for training had been delegated but the necessary training not carried out;

(n) 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

(o) where a supplier has made a claim for interest on a late payment, and a school did not make proper arrangements for prompt payment

(p) where the Council has incurred penalties as a result of a school withdrawing from an existing contract where the school has entered into the contract voluntarily or has been bound by the scheme

(q) where the Council is recovering an underspend on earmarked funding

(r) expenditure in complying with the requirements of an Education Health and Care Plan, where relevant funding has been delegated and the school has failed to arrange appropriate provision;

(s) costs incurred by the Council due to submission by the school of incorrect data;

(t) recovery of amounts spent from specific grants on ineligible purposes;

(u) costs incurred by the Council as a result of the governing body being in breach of the terms of a contract.

(v) the Council is able to charge schools whose withdrawal from a cluster arrangement, into which they entered voluntarily, results in additional costs to the other schools in the cluster or to the LA. This charge will be proportionate to the additional costs incurred.

## **SECTION 7: TAXATION**

- 7.1 HM Revenues and Customs have agreed that VAT incurred by schools relating to non-business activity when spending any funding made available by the Council is treated as being incurred by the Council, which can therefore reclaim it. All schools must separately account for and accurately record VAT and, where schools operate their own bank account, must report VAT separately on their monthly expenditure and income returns. Reimbursement of VAT will take place as part of the next payment following receipt of the monthly expenditure return.
- 7.2 The facility to reclaim VAT applies only to expenditure incurred by the school's budget. It does not apply to:
- expenditure incurred by the governors of a voluntary aided school when carrying out their statutory responsibilities to maintain the interior and exterior of their school premises;
  - expenditure incurred by any private fund.
- 7.3 Schools must comply with any guidance on tax issued by the Director of Financial Services, and with the statutory requirements of HM Revenues and Customs, and Teachers Pensions organisation.
- 7.4 Schools must comply with statutory requirements and guidance issued by the Council relating to self-employment.
- 7.5 In order to ensure that the performance of the duty on the Council to supply Teachers Pensions with information under the Teachers' Pensions Regulations 1997, the following conditions are imposed on the Council and governing bodies of all maintained schools covered by this Scheme in relation to their budget shares and come into effect on 1 November 2002. The conditions only apply to governing bodies of maintained schools who have not entered into an arrangement with the Council to provide payroll services.
- 7.6 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 Council to provide payroll services, shall ensure that any such arrangement or agreement is varied to require that person to supply salary, service and pensions data to the Council which the Council requires to submit its annual return of salary and service to Teachers' Pensions and to produce its audited contributions certificate. The Council will advise schools each year of the timing, format and specification of the information required. A governing body shall also ensure that any such arrangement or agreement is varied to require that Additional Voluntary Contributions (AVCs) are passed to the Council within the time limit specified in the AVC scheme. The governing body shall meet any consequential costs from the school's budget share.

- 7.7 A governing body of any maintained school which directly administers its payroll shall supply salary, service and pensions data to the Council which the Council requires to submit its annual return of salary and service to Teachers' Pensions and to produce its audited contributions certificate. The Council will advise schools each year of the timing, format and specification of the information required. A governing body shall also ensure that Additional Voluntary Contributions (AVCs) are passed to the Council within the time limit specified in the AVC scheme. The governing body shall meet any consequential costs from the school's budget share.
- 7.8 Redundancies and early retirements are charged against school delegated budgets in respect of all school based posts. Where costs are incurred through a Council led reorganisation, closure or amalgamation of schools the balances of the closing schools will be considered for use in the first instance. Redundancy payments can be charged to the central part of the schools budget if there are resultant savings to the schools budget.

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

- 8.1 It is for the Council to determine on what basis services from centrally retained funds will be provided to schools. The Council will not discriminate in its provision of services and other centrally-funded support on the basis of categories of schools except where funding has been delegated to some schools only or such discrimination is justified by differences in statutory duties or legal status.
- 8.2 Any arrangement with a school starting on or after 1 April 1999 to buy services or facilities from the Council (other than for centrally funded premises and liability insurance) is limited to a maximum of three years from the inception of the scheme or the date of the agreement, whichever is the later, and a maximum of five years for any subsequent agreement relating to the same services.
- 8.3 When a service is provided for which expenditure is not retainable centrally by the Council 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.
- 8.4 Any service which the Council is providing on a buyback basis, other than premises and liability insurance, will be offered in a way which does not unreasonably restrict schools' freedom of choice among the services available, and where practicable, this will include provision on a service-by-service basis as well as in packages of services.
- 8.5 Service level agreements must be in place by 1 March each year for any services available from the Council to schools for the whole of the following financial year. If services are available to schools for the first time from 1 September in any given year, the service level agreements will be available from 15 June in that year.
- 8.6 If services or facilities are provided under a service level agreement - whether free or on a buyback basis - the terms of any such agreement starting on or after the inception of the scheme will be reviewed at least every three years if the agreement lasts longer than that.
- 8.7 Services, if offered at all by the Council, will be available on a basis which is not related to an extended agreement, as well as on the basis of such agreements. Where schools choose to buy into either annual or extended agreements, they will not be able to withdraw from the service until the end of the agreed period.

- 8.8 Centrally arranged premises and liability insurance are specifically excluded from the requirements set out in this section, as the limitations envisaged may be impracticable for insurance purposes.

**SECTION 9: PFI (PRIVATE FINANCE INITIATIVE)/PPP (PUBLIC PRIVATE PARTNERSHIP) PROJECTS**

- 9.1 The Council shall have the power to issue regulations from time to time relating to PFI/PPP projects. Amongst other issues these may deal with the reaching of agreements with governing bodies of schools as to the basis of charges relating to such schemes; and the treatment of monies withheld from contractors due to poor performance. The Council will retain the power to charge to the school's budget share amounts agreed under a PFI/PPP agreement entered into by the governing body of a school.

**SECTION 10: INSURANCE**

- 10.1 If funds for insurance are delegated to any school, the Council will require the school to demonstrate that cover relevant to the Council's insurable interests, under a policy agreed by the governing body, is at least as good as the relevant minimum cover arranged by the Council. The Council will have regard to the actual risks which might reasonably be expected to arise at the school in question in operating such a requirement, rather than applying an arbitrary minimum level of cover for all schools.
- 10.2 Schools which request full delegation of insurances must notify the Director of Financial Services by 1 February preceding the financial year in question.



## **SECTION 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 to enable the Council to satisfy itself as to the school's management of its delegated budget share, or the use made of any central expenditure by the Council, such as earmarked funds, on the school.
- 11.2 **Liability of governors**  
As the governing body is a corporate body, and because of the terms of section 50(7) of the School Standards and Framework Act 1998, governors of maintained schools will not incur personal liability in the exercise of their power to spend the delegated budget share provided they act in good faith.
- 11.3 **Governors expenses**  
The Council may delegate to the governing body of a school yet to receive a delegated budget, funds to meet governors' expenses. Governing bodies would not normally have any discretion in the amounts of such allowances.
- 11.4 **Only allowances in respect of purposes specified in regulations under section 19 of the Education Act 2002 may be paid to governors from a school's delegated budget share. Schools may not pay expenses duplicating those paid by the Secretary of State to additional governors appointed by him to schools under special measures.**
- 11.5 **Responsibility for legal costs**  
Costs of legal action, including costs awarded against the Council, incurred by the governing body, although the responsibility of the Council as part of the cost of maintaining the school unless they relate to the statutory responsibility of aided school governors for buildings, may be charged to the school's budget share unless the governing body acts in accordance with the advice of the Council. If there is a conflict of interest between the Council and the governing body, a school would need to obtain legal advice from a private solicitor.
- 11.6 **Health and Safety**  
In expending the school's budget share, governing bodies are required to have due regard to duties placed on the Council and schools as owners of premises and employers in relation to health and safety, and the Council's policy on health and safety matters in the management of the budget share.
- 11.7 **Right of attendance for Chief Finance Officer**  
Governing bodies must permit the Director of Financial Services or his or her nominated representative to attend meetings of the governing body at which any agenda items are relevant to the exercise of his or

her responsibilities. Such attendance will not be regarded as routine and will be limited to items which relate to issues of probity or overall financial management. Prior notice will be given unless it is impracticable to do so.

**11.9 Special Educational Needs**

Schools are required to use their best endeavours in spending their budget share to secure the effective provision of special educational needs.

**11.10 Whistleblowing**

Where a person working at a school or a school governor wishes to complain about financial management or financial propriety at the school, they should follow the procedures set out in the School Financial Regulations, coupled with the school's own whistleblowing policy.

**11.11 Child protection**

Schools should release staff to attend child protection case conferences and other related events. The Council does not make any payments to schools to help meet these costs.

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

- 12.1 Annex D shows the categories of work which governing bodies of community, foundation, special and voluntary controlled schools must expect to finance from their own budget. From April 2002, governing bodies of aided schools are responsible for financing all repairs (both revenue and capital) to all school grounds and buildings except capital repairs to playing fields and associated buildings. The Council expects governing bodies with delegated powers to maintain school buildings to a reasonable standard, and to make proper financial provision so as to achieve this, within the resources made available to them.
- 12.2 The Council will ensure that its assets are safeguarded through regular inspections. To assist in the Council's monitoring of health and safety, community and voluntary controlled schools must submit a schedule of plant and equipment servicing annually.
- 12.3 Governing bodies are expected to conform to all statutory requirements, including health and safety legislation, in maintaining or carrying out repairs and maintenance to school premises.
- 12.4 In any contract for the execution of any work or for the supply of goods or materials, the contractor should be required to indemnify the Council or school against:
- (a) any claim which may be made in respect of employers' liability against the Council, school or the contractor by any workers employed by the contractor or any sub-contractor in the execution of the contract;
  - (b) any claim for injury or damage to property of third parties; and the contractor shall produce, if required, satisfactory evidence that he or she is insured against any such claims.
- 12.5 The Council is responsible for any additional duties which result directly from action or omission in undertaking capital expenditure not funded from delegated budgets.

# **EXTENSION FOR THE POWER TO PROVIDE COMMUNITY FACILITIES**

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## **SECTION 1: INTRODUCTION**

- 1.1 Schools which choose to exercise the power conferred by section 27(1) of the Education Act 2002 to provide community facilities will be subject to a range of controls. First, regulations made under section 28(2), if made, can specify activities which may not be undertaken at all under the main enabling power. Secondly, the school as a public body is expected to consult those affected by the decisions made. . Thirdly, the Secretary of State issues guidance to governing bodies about a range of issues connected with exercise of the power, and a school must have regard to that.
- 1.2 However, under section 28(1), the main limitations and restrictions on the power will be
  - a) those contained in schools' own instruments of government, if any; and
  - b) in the Council's scheme for funding schools made under section 48 of the School Standards and Framework Act 1998. Paragraph 2 of Schedule 3 to the Education Act 2002 extends the coverage of schemes to the powers of governing bodies to provide community facilities.
- 1.3 This section of the scheme does not extend to joint-use agreements; transfer of control agreements, or the provision of adult education by schools whether with or without reference to the Council.
- 1.4 The budget share of a school may be used to fund community facilities.
- 1.5 The mismanagement of community facilities funds can be grounds for suspension of the right to a delegated budget.

## **SECTION 2: CONSULTATION WITH THE COUNCIL – FINANCIAL ASPECTS**

- 2.1 Section 28(4) of the Education Act 2002 requires that before exercising the community facilities power, governing bodies must consult the Council, and have regard to the advice before exercising a community facilities power. Schools wishing to exercise the power must send proposals to the Director of Financial Services, setting out the planned activity, together with a detailed three-year budget plan including all income and expenditure relating to the activity. The proposals should be sent no less than three months before the planned start of the activity.

- 2.2 Schools are required to seek the Council's advice in order that both schools and the Council are alerted to any potential financial and other operational liabilities; the Council has adopted a formal procedure for considering schools' proposals. This should ensure that, from the outset, both parties are aware of all pertinent issues before any resource commitments are entered into.
- 2.3 This procedure seeks to include reasonable requirements as to timeliness and the amount of information which schools must supply in seeking the Council's advice. This procedure will be published to all schools and schools will be advised of any revisions which may, from time to time, be necessary.
- 2.4 The Council is required to provide schools with advice within 6 weeks of being consulted, although the Council will seek to offer advice earlier, if at all possible. Schools are required to inform the Council of any action taken following receipt and consideration of the Council's advice, within 4 weeks of receiving such advice. Section 3 provides additional information in respect of funding agreements.

### **SECTION 3: FUNDING AGREEMENTS – COUNCIL POWERS**

- 3.1 The provision of community facilities in many schools may be dependent on the conclusion of a funding agreement with a third party, which will either be supplying funding or supplying funding and taking part in the provision. A very wide range of bodies and organisations are potentially involved. The Council's requirement in relation to funding agreements with third parties (as opposed to funding agreements with the Council itself) are that any such proposed agreement should be submitted to the Council for its comments, giving the Council at least 4 weeks to allow adequate time to consider and respond.
- 3.2 The scheme may not impose a right of veto for the Council on such agreements, either directly or through requiring a right to countersign the agreement. If the third party requires the Council's consent to the agreement for it to proceed, such a requirement and the method by which the Council's consent is to be signified is a matter for that third party, not for the scheme.
- 3.3 Although the Council does not have a power of veto, if an agreement has been or is to be concluded against the wishes of the Council, or has been concluded without informing the Council, which in the view of the Council is seriously prejudicial to the interests of the school or the Council, that may constitute grounds for suspension of the right to a delegated budget.

#### SECTION 4: OTHER PROHIBITIONS, RESTRICTIONS and LIMITATIONS

- 4.1 Section 28 provides that the exercise of the community facilities power is subject to prohibitions, restrictions and limitations in the scheme for funding schools.
- 4.2 The Council may, if it wishes, propose other scheme provisions which it believes to be necessary for inclusion within this section. This option will be kept under review and, where the Council feels additional provisions are required to safeguard the financial position of the Council or school, or to protect pupil welfare or education, it will make application to the Secretary of State for this Scheme to be amended.
- 4.3 In considering any proposals for the provision of community facilities, the Council will need to be satisfied regarding the use or change of use of buildings, access, fire and other safety aspects, restrictions on use (where covenants on use bar certain activities or limit the use of the building to educational use), provision of additional accommodation by third parties and the maintenance responsibilities and liabilities.
- 4.4 The scheme may not give a right of veto either to funding agreements with third parties, or for other proposed uses of the community facilities power. The Council may, however, require that in a specific instance of use of the community facilities power by a governing body, the governing body concerned shall make arrangements to protect the financial interests of the Council by either carrying out the activity concerned through the vehicle of a limited company formed for the purpose, or by obtaining indemnity insurance for risks associated with the project in question, as specified by the Council. The Council is required to operate this provision in a reasonable fashion, imposing such a requirement only where it has good reason to believe that the proposed project carries significant financial risks.
- 4.5 For staff employed under the community facilities power, the default position is that any costs must be met by the governing body, and can be funded from the school's delegated budget if the governing body is satisfied that this will not interfere to a significant extent with the performance of any duties imposed on them by the Education Acts, including the requirement to conduct the school with a view to promoting high standards of educational achievement. Section 37 now states:

*(7) Where a local education authority incur costs—*

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

*(b) in respect of the dismissal, or for the purpose of securing the resignation, of any member of the staff of a maintained school who is employed for those purposes,*

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

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

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

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

## **SECTION 5: SUPPLY OF FINANCIAL INFORMATION**

- 5.1 Schools which exercise the community facilities power are required to provide the Council every six months with a summary statement, in a form determined by the Council. This must show the income and expenditure for the school arising from the facilities in question for the previous six months and on an estimated basis, for the next six months.
- 5.2 The Council may, on giving notice to the school that it believes there to be cause for concern as to the school's management of the financial consequences of the exercise of the community facilities power, require such financial statements to be supplied every three months. If the Council sees fit, it may also require the submission of a recovery plan for the activity in question.
- 5.3 The Council requires such information in order to ensure that schools are not at financial risk. Schedule 3 of the Education Act 2002 inserts a new provision into Schedule 15 of the Act to make mismanagement of



funds received for community facilities a basis for suspension of the right to delegation of the budget share. The Council will suspend the right to delegation, if necessary.

- 5.4 Expenditure and income relating to community facilities must be included in returns made for Consistent Financial Reporting (CFR) and in any returns made by schools with their own local bank accounts.
- 5.5 These provisions do not preclude the insertion of other provisions in specific funding agreements between schools and the Council as to the financial reporting requirements arising from the funding in question.

## **SECTION 6: AUDIT**

- 6.1 The school is required to grant access to the school's records connected with exercise of the community facilities power, in order to facilitate internal and external audit of relevant income and expenditure.
- 6.2 Schools, in concluding funding agreements with other persons pursuant to the exercise of the community facilities power, must ensure that such agreements contain adequate provision for access by the Council to those persons, their records and other property held on the school premises, or held elsewhere insofar as they relate to the activity in question, in order for the Council to satisfy itself as to the propriety of expenditure on, and income from, the facilities in question.

## **SECTION 7: TREATMENT OF INCOME AND SURPLUSES**

- 7.1 Schools are permitted to retain all net income derived from community facilities except where otherwise agreed with a funding provider, whether that be the Council or some other person. Schools are also permitted to carry such retained income over from one financial year to the next as a separate community facilities surplus, or, subject to the agreement of the Council at the end of each financial year, transfer all or part of it to the budget share balance.
- 7.2 If the school is a community or community special school, and the Council ceases to maintain the school, any accumulated retained income obtained from exercise of the community facilities power reverts to the Council unless otherwise agreed with a funding provider.
- 7.3 If there is a deficit on a school's community facilities and the Council needs to recover funds to meet third party liabilities it may only do so from any accumulated community facilities surplus held by the school. If this is insufficient the Council will have to meet the liabilities from its

own resources. This arises from the provision of section 51A of the School Standards and Framework Act 1998 (inserted by paragraph 4 of Schedule 3 to the Education Act 2002), which provides that such liabilities are part of the expenses of maintaining the school; may be recovered from the governing body but the expenditure incurred by the governing body in the exercise of the community facilities power may not be met from the budget share unless such a purpose is prescribed by regulations made under section 50(3)(b) of the 1998 Act.

## **SECTION 8: HEALTH AND SAFETY MATTERS**

- 8.1 The health and safety provisions of the main scheme are extended to the community facilities power exercised by schools. These include that the governing body is required to have due regard to duties placed on the Council in relation to health and safety, and the Council's policy on health and safety matters in the management of the budget share.
- 8.2 Schools are reminded that where they directly employ a contractor using delegated funding, they must ensure that the contractor is competent, adequately insured and that the contractor has an appropriate health and safety policy and arrangements. The contractor should demonstrate to the school's satisfaction that they have considered all the health and safety implications of working on the school site.
- 8.3 Some work commissioned by schools may fall under the requirements of the Construction Design and Management Regulations 1994 and schools must ensure that all the requirements of these regulations are met.
- 8.4 The governing body is responsible for the costs of securing Criminal Records Bureau clearance for all adults involved in community activities taking place during the school day. Governing bodies would be free to pass on such costs to a funding partner as part of an agreement with that partner.

## **SECTION 9: INSURANCE**

- 9.1 It is the responsibility of the governing body to make adequate arrangements for insurance against risks arising from the exercise of the community facilities power. Such insurance should not be funded from the school budget share.
- 9.2 In principle, the insurance issues arising from use of the community facilities power are the same as those which already arise from non-school use of school premises. However, a school proposing to provide

community facilities should, as an integral part of its plans, undertake an assessment of the insurance implications and costs, seeking professional advice if necessary. All schools are required to provide information to the Council to confirm the details of its insurance arrangements/cover for any community facilities provision. This enables the Council to check that any insurable interest it may have is covered. The Council's policy will not provide cover for other organisations which may participate in activities relating to community facilities.

- 9.3 It may be necessary for insurance to be in the joint names of the governing body and the Council. All schools are strongly recommended to contact the Council's Insurance Manager for advice on all issues relating to insurance, before they arrange any additional cover. All schools are required to seek the Council's advice before finalising any insurance arrangement for community facilities.
- 9.4 The Council may undertake its own assessment of the insurance arrangements made by a school in respect of community facilities, and if it judges those arrangements to be inadequate, make arrangements itself and charge the resultant cost to the school. Such costs could not be charged to the school's budget share. These provisions are necessary in order for the Council to protect itself against possible third party claims.

## **SECTION 10: TAXATION**

- 10.1 Schools can use the Council's VAT reclaim facility to recover VAT on their budget shares because by virtue of section 49(5) of the Act the funds belong to the Council. The same facility can also be used for expenditure on community activities where these are financed from funds owned by the Council, and this includes funds donated to the Council (through the school) by an external body such as the private fund. The school must place a formal order for the goods/services, receive an invoice addressed to it, make payment in the normal manner and retain ownership of any goods or services purchased. Under no circumstances can this facility be used to reclaim VAT on behalf of someone else.
- 10.2 Schools should seek advice at an early stage, from the Council's Tax Manager (not the local VAT office) on the VAT treatment of income derived from the provision of community facilities and the use of the VAT reclaim facility. Charges for many community activities are likely to be exempt from VAT and this could impact on the Council's ability to reclaim VAT across a wide range of other activities. The Council will make further, specific advice available to schools, as appropriate.
- 10.3 If any member of staff employed by the school or Council in connection

with community facilities at the school is paid from funds held in the school's own bank account (whether a separate account is used for community facilities or not - see section 11), the school is likely to be held liable for payment of income tax and National Insurance, in line with Inland Revenue rules.

- 10.4 Schools are required to abide by procedures issued by the Authority in connection with the Construction Industry Tax Deduction Scheme (CIS).

## **SECTION 11: BANKING**

- 11.1 Where a school opts to provide community facilities, it must either maintain separate bank accounts for budget share and community facilities, or have one account but with adequate internal accounting controls to maintain separation of funds, through use of specific accounting codes for community facilities. Where a school is using the Council's banking arrangements, the Council will ensure that separate accounting codes are available which will permit adequate separation of such community facility funds from the school budget share and other Council funds.
- 11.2 The provisions for banking arrangements are otherwise as set out in section 3 of the scheme for funding schools. The Authority's main Scheme for Financing Schools continues to apply in respect of banks which may be used, signing of cheques, the titles of bank accounts, the contents of bank account mandates (except that such mandates may provide that funds for community facilities not provided by the Council are not the property of the Council), and similar matters.
- 11.3 Governing bodies may borrow money only with the written permission of the Secretary of State. (refer to 3.17) This requirement does not extend to the school loan scheme operated by the Council. The Government's requirement on borrowing does not apply to Trustees and Foundations, whose borrowing, as private bodies, makes no impact on Government accounts. These debts may not be serviced directly from the delegated budgets, but schools are free to agree a charge for a service which the Trustees or Foundation are able to provide as a consequence of their own borrowing. Governing bodies do not act as agents of the Council when repaying loans.
- 11.4 Schools must follow the requirements set out in sections D3 to D6 of the school financial regulations regarding any proposed leasing arrangements. These state that all rentals and leases must be checked by the Director of Financial Services and governors may not arrange any lease or credit arrangement. This is because of the potential impact on the Council's borrowing powers, to protect the Council

against entering into unapproved credit arrangements and to make sure value for money is being obtained.