

**Children and Education Directorate**



**Scheme for Financing Schools**  
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## **SECTION 1. SUMMARY**

### **1.1 About this guidance**

This is City of York Councils Scheme for Financing Schools which follows issue 16 of statutory guidance given by the Secretary of State pursuant to s.48(4) and paragraph 2A(2) of Schedule 14 to the School Standards and Framework Act 1998, School Standards and Framework Act 1998.

Local authorities are required to publish schemes for financing schools, setting out the financial relationship between them and the schools they maintain. The statutory guidance lists the provisions which an Authority's scheme must, should or may include. Schemes need not follow the format used in the Statutory guidance, except for the text of directed revisions.

In making any changes to their schemes, other than directed revisions, local authorities must consult all maintained schools in their area and receive the approval of the members of their schools forum representing maintained schools. Local authorities must take this guidance into account when they revise their schemes, in consultation with the schools forum.

### **1.2 Directed revisions**

The Secretary of State may by a direction revise the whole or any part of the scheme as from such date as may be specified in the direction. In order to make a directed revision to schemes, the Secretary of State is required, by provisions in the School Standards and Framework Act 1998, to consult the relevant local authorities and other interested parties.

This updated Scheme incorporates the DfE guidance updates for 2018 to 2023, including revisions to the paragraph numbering and Annexes.

### **1.3 Changes from issue 15 of this guidance**

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

- section 1.1 :About this guidance - we have updated the issue number of the statutory guidance from 'issue 15' to 'issue 16'
- Section 4.1.4 Control of Assets - we have changed the inventory replacement value to £500 in line with CYC Finance regulations. Previously the Inventory value was £1000
- section 5.7: Restrictions on accounts – we have updated guidance on the approved list of banks. Schools wishing to open a new bank account (current, deposit or investment accounts) should take advice and gain confirmation to proceed from the authority's Corporate Finance Treasury Management team to ensure that correct Treasury Management policy is followed.
- section 5.8: Borrowing by schools - we have updated guidance on borrowing to reflect the introduction of International Financial Reporting Standard 16

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(IFRS16) and the Secretary of State providing blanket consent to certain categories of finance lease.

- section 5.8: Borrowing by schools, first paragraph - the introduction of IFRS16 for local authorities from 1 April 2024 ends the distinction between operating and finance leases at maintained schools and in effect, all leases will be classified as finance leases for accounting purposes.
- section 9.1 Value Added Tax – we have updated the guidance on document retention of VAT records to comply with the authority’s document retention policy. VAT records should be kept for a statutory period of six years with the exception of VAT related capital expenditure for which records should be kept for a period of ten years.
- Section 14.3 We have amended the guidance to clarify that the de minimis limit of nil is the amount that is applicable to maintained schools. This sentence now states. The authority’s capital de minimis limit applicable to maintained schools is currently £0 (nil)

## SECTION 2. THE OUTLINE SCHEME

We use the following references throughout this statutory guidance:

- “the act” is the [School Standards and Framework Act 1998](#)
- “the authority” is the City Of York Council (Local Authority)
- “the regulations” are [School and Early Years Finance \(England\) Regulations 2023](#))

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

- the carrying forward from one funding period to another of surpluses and deficits arising in relation to schools’ budget shares
- amounts which may be charged against schools’ budget shares
- amounts received by schools which may be retained by their governing bodies and the purposes for which such amounts may be used
- the imposition, by or under the scheme, of conditions which must be complied with by schools in relation to the management of their delegated budgets and of sums made available to governing bodies by the authority which do not form part of delegated budgets, including conditions prescribing financial controls and procedures
- terms on which services and facilities are provided by the authority for schools maintained by them
- the payment of interest by or to the authority
- the times at which amounts equal in total to the school’s budget share are to be made available to governing bodies and the proportion of the budget share to be made available at each such time
- the virement between budget heads within the delegated budget
- circumstances in which a Authority may delegate to the governing body the power to spend any part of the authority’s non-schools education budget or schools budget in addition to those set out in section 49(4)(a) to (c) of the 1998 act
- the use of delegated budgets and of sums made available to a governing body by the authority which do not form part of delegated budgets
- borrowing by governing bodies
- the banking arrangements that may be made by governing bodies
- a statement as to the personal liability of governors in respect of schools’ budget shares having regard to section 50(7) of the 1998 act
- a statement as to the allowances payable to governors of a school which does not have a delegated budget in accordance with the scheme made by the authority for the purposes of section 519 of the 1996 act
- the keeping of a register of any business interests of the governors and the head teacher
- the provision of information by and to the governing body
- the maintenance of inventories of assets
- plans of a governing body’s expenditure



- a statement as to the taxation of sums paid or received by a governing body
- insurance.
- the use of delegated budgets by governing bodies so as to satisfy the authority's duties imposed by or under the Health and Safety at Work etc Act 1974
- the provision of legal advice to a governing body
- funding for child protection issues
- how complaints by persons working at a school or by school governors about financial management or financial propriety at the school will be dealt with and to whom such complaints should be made
- expenditure incurred by a governing body in the exercise of the power conferred by section 27 of the 2002 act

## **SECTION 3: INTRODUCTION**

### **3.1 The Funding Framework: Main Features**

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

Under this legislation, local authorities determine for themselves the size of their schools budget and their non-schools education budget, although at a minimum a local authority must appropriate its entire dedicated schools grant to its schools budget.

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

Local authorities may deduct funds from their schools budget for purposes specified in regulations made by the Secretary of State under section 45A of the act (the centrally retained expenditure).

The amounts to be deducted for these purposes are decided by the local authority concerned, subject to any limits or conditions, including gaining the approval of their schools forum or the Secretary of State in certain instances, as prescribed by the Secretary of State.

The balance of the schools budget left after deduction of the centrally retained expenditure is termed the individual schools budget (ISB). Expenditure items in the non-schools education budget must be retained centrally, although earmarked allocations may be made to schools.

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 section 51 of the Act.

The financial controls within which delegation works are set out in a scheme made by the authority in accordance with section 48 of the act and regulations made under that section.

All proposals to revise the scheme must be approved by the schools forum, though the authority may apply to the Secretary of State for approval in the event of the forum rejecting a proposal or approving it subject to modifications that are not acceptable to the authority.

Subject to any provision made by or under the scheme, governing bodies of schools may spend such amounts of their budget shares as they think fit for any purposes of

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their school and for any additional 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 (section 50(3A) of the act).

The authority may suspend a school's right to a delegated budget if the provisions of the authority's financial scheme, or rules applied by the scheme, have been substantially or persistently breached, or if the budget share has not been managed satisfactorily.

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

The authority is obliged to publish each year a statement setting out details of its planned schools' budget and other expenditure on children's services, showing the amounts to be centrally retained and funding delegated to schools; after each financial year the authority must publish a statement showing outturn expenditure.

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

A copy of each year's budget and outturn statement should be made easily accessible to all schools.

Regulations also require the 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.

### **3.2 The role of the Scheme**

The City of York Scheme for Financing Schools 2023 (the Scheme) sets out the financial relationship between the City of York Council and the maintained schools which it funds. It contains requirements relating to financial management and associated issues, binding on both the authority and on schools. It refers to certain other documents, including the Council's Standing Orders and Financial Regulations, and its Scheme of Delegation, to make clear that the provisions of those documents apply to schools carrying out the purposes of the authority's Children and Education Directorate. In particular, it refers to the formula used to calculate each school's budget share.

### **3.3 Application of the Scheme to the authority and maintained schools**

This scheme applies to all community, nursery, special, voluntary, foundation (including trust), foundation special schools and PRUs maintained by the authority, whether they are situated in the area of the authority or situated elsewhere. It does not apply to schools situated in the authority's area which are maintained by another authority. Nor does it apply to academies

### **3.4 Publication of the Scheme**

The publication requirements are contained in the Regulations. The scheme will be available on the council's website which is accessible to the general public. Any revised version will be published by the date the revisions come into force, together with a statement that the revised scheme comes into force on that date.

### **3.5 Revision of the Scheme**

Any proposed revisions to the scheme will be the subject of consultation with the governing body and the head teacher of every school maintained by the authority before they are submitted to the York Schools Forum for approval by members of the forum representing maintained schools.

All proposed revisions must be submitted to the schools forum for their approval by members of the forum representing maintained schools. Where the Schools Forum does not approve them or approves them subject to modifications which are not acceptable to the authority, the authority may apply to the Secretary of State for approval.

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

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

Each governing body will consider the extent to which it wishes to delegate its financial powers to the head teacher, and each will record its decision (and any revisions) in the minutes of governing body meetings.

The scheme should state the responsibilities of the head teacher and governing body in respect of the annual budget plan; the first formal budget plan of each financial year must be approved by the governing body, or by a committee of the governing body.

The authority has no wish to impose any particular level of delegation to headteachers but considers that a desirable level of delegation may be referred to within the template financial management policy document.

### **3.7 Maintenance of Schools**

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



## **SECTION 4: FINANCIAL CONTROLS**

### **4.1 General Procedures**

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

Schools are required, in the management of their delegated budgets, to abide by this scheme and the authority's other requirements on financial controls and monitoring. In particular the Standing Orders of the City of York Council and its Financial Regulations, including the Bank Accounts for Schools (BAFS) Scheme.

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

Schools will provide the authority with details of anticipated and actual expenditure and income. This report will be in the form of a City of York Monitoring Report (Summary and CFR version) regardless of the choice of finance system used, taking due account of the [Consistent Financial Reporting \(CFR\) framework](#), and submitted once each term after it has been presented and agreed by governors. Schools should note however, that the [Schools Financial Value Standard \(SFVS\)](#) refers to six reports per year.

The only exceptions to this will be connected with tax or banking reconciliation which should be provided monthly or where the authority has notified the school in writing that in its view the schools' financial position requires it, or the school is in its first year of operation. If a school is not using the authority's recommended accounting software the authority may require more frequent reporting.

#### **4.1.3 Payment of salaries and payment of bills**

The procedures to be followed by schools in accounting for the payment of salaries and invoices are contained within guidance documents available through the York Education on line platform. These will be amended from time to time in consultation with schools.

Schools using the central payroll must submit, by the appropriate deadline, timesheets and other information to the authority.

Schools using payroll services other than those provided by the authority must provide a range of information (on National Insurance and pensions contributions for instance) needed by the authority to complete its financial returns. These will be notified in writing to schools at the time they are required. See paragraph 10.5 Teachers' Pensions for more details.

#### **4.1.4 Control of assets**

Each school must maintain an inventory of its moveable non-capital assets with a replacement value in excess of £500, in a form to be determined by the authority. Disposal of those assets will be authorised at school level according to the authority's procedures. Schools are free to determine their own arrangements for keeping a register of assets worth less than £500 and encouraged to maintain a register of items that are portable and attractive, such as cameras, phones, tablets etc.

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

Schools must abide by the accounting policies and procedures set out in the authority's financial standing orders and regulations and those issued periodically by the authority to provide guidance on particular issues such as year-end accounting procedures.

#### **4.1.6 Writing off of debts**

Governing bodies may write off debts up to the level stipulated in the authority's Financial Regulations. The procedure is explained in the Debt Management guidance.

#### **4.2 Basis of accounting**

Reports and accounts provided to the authority will be on an accruals basis, to conform to its accounting practices.

The authority does not seek to impose either method (Cash or accruals basis) on schools' internal systems. Schools are recommended to use the authority's procured finance system. However, schools may use whatever financial software they wish, providing the school meets any costs of support and any modification required by either the school or the authority to provide the output required by the authority.

#### **4.3 Submission of budget plans**

Each school will submit a formal budget plan to the authority, taking due account of the Consistent Financial Reporting framework (CFR), showing its intentions for income and expenditure in the current financial year, income and expenditure projections for the following two years and the assumptions underpinning the whole three-year period. Schools will include estimated surpluses and deficits as at the previous 31st March in the plan. Prior to submission to the authority, the plan must be approved by the governing body or a committee of the governing body where the governing body has delegated this function.

The date by which this signed budget plan will be submitted to the authority will be 15<sup>th</sup> May each year.

Where a school is considering setting a deficit budget, the guidance contained in paragraphs 6.5 and 6.9 should be followed.

Each school will also be required to submit revised budget plans by the end of the Autumn Term each year.

To assist schools with budget plan work, the authority will supply all income and expenditure data it holds, including guidance on assumptions, e.g. inflation, to facilitate efficient financial planning by schools. The authority offers budget planning software for schools which conforms with the authority's reporting requirements.

The authority will use the three year forecasts as evidence in support of effective financial planning and also as part of the authority's assessment of schools financial value standards. Forecasts may also be used as part of the authority's balance control mechanism.

#### **4.4 School Resource Management**

Schools must seek to achieve effective management of resources 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 headteachers and governors to determine at school level how to optimise the use of resources and maximise value for money.

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

Schools may also find it useful to refer to the tools on [School Resource Management section of the DfE website](#).

#### **4.5 Virement**

Schools may vire freely between budget heads in the expenditure of their budget shares.

#### **4.6 Audit: General**

Schools and governing bodies will co-operate in the arrangements made by the authority's Section 151 Officer (Chief Finance Officer) for the audit of its affairs as determined by the Local Audit and Accountability Act 2014. These may involve both internal and external auditors, for which a school must make access available to its records. Reviews may cover any activity in which the authority has a financial interest, including the application of its resources, delegated or otherwise, and the security of its assets.

#### **4.7 Separate external audits**

Each governing body may spend funds from its budget share to obtain external audit certification of its accounts, separate from any internal or external audit process arranged by the authority.

There is no expectation by the authority or the Secretary of State that routine annual external audit at school level of budget share expenditure should be a usual feature of the funding system; merely that schools should not be prevented from seeking an additional source of assurance at their own expense.

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

Voluntary and Private School Funds relate to income and activities that are not normally supported by financial assistance from the authority and may have a separate legal identity from that of the authority. The legal identity would be established by the fund

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having its own written constitution and officers appointed in accordance with that constitution.

Other school funds not having a separate legal identity are considered to be legally owned by the authority but are only held on trust by the authority for use of that particular school. These funds are the legal responsibility of the authority which, therefore, assumes liability for the fund and the actions of its officers. Funds of a Parent/Teacher Association are not the responsibility of the authority.

In addition to the normal internal and external audits, schools must provide the Section 151 Officer (Chief Finance Officer) with audit certificates in respect of any voluntary and private funds they hold and of the accounts of any trading organisations controlled by the school.

The purpose of such a provision is to allow the authority to satisfy itself that public funds are not being misused. The authority does not seek to impose through the scheme a right to audit such funds itself but Internal Auditors will need to satisfy the council that arrangements to administer the funds are of a good standard to ensure financial control. Any other requirement as to audit of such funds is a matter for those making the funds available, and any Charity Commission requirements.

#### **4.9 Register of business interests**

The governing body of each school must:

- have a register that lists, for each member of the governing body, head teacher and others with financial responsibilities, any business interests they or any member of their immediate families have.
- provide details of other educational establishments they govern.
- provide details of any relationship between school staff and members of the governing body.
- keep the register up to date by notification of changes and through annual review of entries.
- make the register available for inspection by governors, staff, parents and the authority and publish the register on a publicly accessible website.

More detailed guidance is available as part of the [DfE Schools Financial Value Standard guidance](#).

#### **4.10 Purchasing, tendering and contracting requirements.**

Schools will abide by the authority's standing orders and financial regulations in purchasing, tendering and contracting matters. Schools may refer to the authority's Contract Procedure Rules (Appendix 11 of the Constitution) [here](#). This should include a requirement to assess in advance the professional competence of any contractors in areas such as compliance with health and safety regulations, safeguarding practices and so on, taking account of the authority's policies and procedures.

Schools may seek advice on a range of compliantly procured deals via [buying for schools](#).



#### **4.11 Application of contracts to schools**

Schools have a right to opt out of the local authorities arranged contracts except where this scheme provides otherwise.

Although school governing bodies are empowered under paragraph 3 of Schedule 1 of the Education Act 2002 to enter into contracts, in most cases they do so on behalf of the authority as maintainer of the school and owner of the funds in the budget share.

Other contracts may, however, be made solely on behalf of the governing body, where the governing body has clear statutory obligations - for example, contracts made by Aided or Foundation Schools for the employment of staff.

#### **4.12 Authority funds and earmarking**

The authority may make sums available to schools from the authority's funds, in the form of allocations which are additional to and separate from the schools' budget shares. Such allocations will be subject to conditions setting out the purpose or purposes for which the funds may be used.

Such allocations might, for example, be sums for initiatives funded from the central expenditure of the authority's Schools Budget or another local authority budget. Where the funding for such an allocation is supported by a specific grant which the authority itself is not permitted to vire there can be no virement within the school. Since these are allocations in addition to the budget share the general power of virement in clause 4.5 is not applicable.

Such earmarked funding from centrally retained funds may be spent only on the purposes for which it is given, or on other budget heads for which earmarked funding is given and may not be vired into the budget share. The authority will provide an accounting mechanism for schools to be able to demonstrate that this requirement has been complied with. Where such earmarked funds are not spent in full within the period over which schools are allowed to use the funds, the authority may revise the allocation to a level not lower than the actual amount spent, and clawback any unspent funding.

The authority will not make deductions to cover interest costs it incurs in respect of devolved special or specific grants.

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

Governing bodies are free to spend their budget shares for the purposes of the school, subject to the provisions of this scheme including pupils who are on the role of other maintained schools and academies, and community facilities. 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.

The authority reserves the right to prescribe additional purposes for which expenditure of budget share may be used, as local circumstances may require from time to time, or prescribe local restrictions on the expenditure of the budget share. Such prescriptions will be applied only following consultations with schools and with the approval of the Schools Forum.

The Secretary of State under section 50(3)(b) may prescribe additional purposes for which expenditure of the school's budget share may occur. These powers have been exercised in the School Budget Shares (Prescribed Purposes) (England) Regulations 2002 (SI 2002/378), which have been amended by the School Budget Shares (Prescribed Purposes)(England)(Amendment) Regulations 2010 (SI 2010/190).

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

#### **4.14 Capital spending from budget shares**

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.

However if the expected capital expenditure from the budget share in any one-year will exceed £15,000 the governing body will notify the authority. The governing body will take into account the advice of the Corporate Director of Children and Education as to the merits of the proposed expenditure if it exceeds the figure of £15,000.

If the premises are owned by the authority (or the school has voluntary controlled status) then the governing body will seek the consent of the authority to the proposed works. Consent will only be withheld on health and safety grounds.

The reason for these provisions is to help meet responsibilities with the school Premises (England) Regulations 2012, the Workspace (Health, Safety and Welfare) Regulations 1992, the Regulatory Reform (Fire Safety) Order 2005, the Equality Act 2010, and the Building Regulations 2010.

#### **4.15 Notice of concern**

The authority may issue a notice of concern to the governing body of any school it maintains where, in the opinion of the Chief Finance Officer and the Corporate Director of Children and Education, 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 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 authority or authority authorisation of expenditure over a specified threshold set by the authority;
- insisting on regular financial monitoring meetings at the school attended by authority officers;

- requiring a governing body to buy into the 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, or both.

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. Once a governing body can clearly evidence compliance with the requirements of a Notice of Concern, the authority will withdraw notice.

The purpose of this provision is to enable a local authority to set out formally any concerns it has regarding the financial management of a school it maintains and require a governing body to comply with any requirements the authority deems necessary.

The principal criterion for issuing a notice, and determining the requirements included within it, must be to safeguard the financial position of the authority or the school.

The notice will be used in place of withdrawal of financial delegation where that is the appropriate action to take; however, it may provide a way of making a governing body aware of the authority's concerns short of withdrawing delegation and identifying the actions a governing body should take in order to improve their financial management to avoid withdrawal.

Annex D provides more information on suspension of financial delegation.

There is no formal right of appeal to the issue of a notice but any dispute regarding the issue or contents of the notice should be made formally in writing to the Chief Finance Officer within one week of the issue of the notice.

#### **4.16 Schools Financial Value Standard**

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 completed review and signed form to the authority annually, prior to 31<sup>st</sup> January each year.

#### **4.17 Fraud**

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

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



## **SECTION 5: INSTALMENTS OF THE BUDGET SHARE AND BANKING ARRANGEMENTS**

For the purposes of this section, Budget Share includes any place-led funding for special schools or the PRU.

### **5.1 Frequency of instalments**

Budget shares will be made available to governing bodies each calendar month.

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

Where budget shares are paid into a school's bank account the share will be calculated in accordance with the Bank Accounts for Schools (BAFS) Scheme. In accordance with the BAFS Scheme monthly instalments are paid net of expenditure paid on a school's behalf through the authority's financial system. Arrangements for this must be in place prior to 1st April.

Top up payments for pupils with high needs should be made on a monthly basis unless alternative arrangements have been agreed with the provider.

Where a school uses the authority's bank account the entire budget will be available in April each year.

### **5.3 Interest clawback**

The authority will deduct from a school's budget share instalments, an amount up to the estimated interest lost in making available the budget share in advance by 10 days. The calculation is as set out in the BAFS Scheme.

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

The authority will add interest to late payments of budget share instalments, where the delay is a result of its error, at the same rate applied under clause 5.3.

### **5.5 Budget shares for closing schools**

The budget share of a school for which approval for discontinuation has been secured will be made available until closure on a monthly basis net of pay and other costs, even where a different basis was previously used.

### **5.6 Bank and building society accounts**

All maintained schools may have external bank accounts into which their budget share instalments (as determined by other provisions) will be paid. Where schools have such accounts they may retain all interest payable on the account unless they choose to have an account within an authority contract that makes other provisions.

Schools may only opt into the BAfS Scheme with effect from the beginning of a financial year, except where a school opens at some other time and wishes to operate a bank account immediately. Schools without bank accounts may not have one until any deficit balance is cleared; and any school requesting a bank account at a later date may not have one until any deficit is cleared.

When a school opens its first bank account the amount to be paid into it will be estimated jointly by the authority and the school and transferred immediately. The calculation will be based on the budget share up to that date net of transactions made centrally on the school's behalf. When the accounts for the period are closed a correction will be made if necessary.

### **5.7 Restrictions on accounts**

Where a school wants to open a new bank account for the purpose of receiving and managing its budget share it will ask the authority for the latest approved list of banks.

Schools' accounts for budget share purposes may be in the name of the school rather than the authority but with the prefix "CYC". The authority will continue arrangements whereby the accounts are in the name of the authority but specific to each school and will continue to offer such arrangements to schools. Where the bank account is in the school's name the account mandate must provide that the authority is the owner of the funds in the account; that it is entitled to receive statements; and that it can take control of the account if the school's right to a delegated budget is suspended. Governors who are not members of staff are barred from being bank signatories. The authority will set in place two officers as bank signatures.

Budget share funds paid by the authority and held in such accounts remains the authority's property until spent (s.49(5) of the Act).

There is no restriction on the use of direct debits or standing orders for bank accounts operated by a school, except where the account is part of the authority's contract.

Where schools wish to open deposit or investment accounts, advice and confirmation to proceed should be sought from the authority's Corporate Finance Treasury Management team to ensure that correct Treasury Management policy is followed.

### **5.8 Borrowing by schools**

Governing bodies may only borrow money (which includes the use of finance leases) with the express 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.

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 2024](#). 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. From time to time, however, the Secretary of State may introduce limited schemes to meet broader policy objectives.

This does not apply to Trustees and Foundations, whose borrowing, as private bodies, makes no impact on government accounts. However, these debts may not be serviced directly from the delegated budget. Governing bodies do not act as agents of the authority when repaying loans. This provision does not apply to loan schemes run by the authority (see paragraphs 6.9/6.10).

Schools are not permitted to use credit cards or set in place a bank overdraft facility as this constitutes borrowing. However, schools are encouraged to use procurement cards as a means of facilitating electronic purchase. These must be used as laid out by the authority's regulations.

Schools may use any loan scheme that the Secretary of State has said is available to schools without specific approval.

## **5.9 Other provisions**

From time to time, the authority, in consultation with schools, may make detailed rules and guidance in respect of other aspects of banking arrangements. No aspect of those rules and guidance will conflict with the scheme's own requirements.



## **SECTION 6: THE TREATMENT OF SURPLUS AND DEFICIT BALANCES ARISING IN RELATION TO BUDGET SHARES**

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

Schools may carry forward from one financial year to the next any surplus of income over expenditure for the year plus or minus any balance brought forward from the previous year.

The amount of a surplus balance would be shown in the relevant out-turn statement published in accordance with directions given by the Secretary of State under s.251 of the Apprenticeships, Skills, Children and Learning Act 2009 (any commitments against this figure will be shown in the school's year end statements).

The amount to be transferred to a new bank account opened by a school will equal the balance(s) from any account(s) closed by the school. If a school is opening an account for the first time, the amount to be transferred will be calculated using the method set out in the BAfS Scheme.

### **6.2 Controls on Surplus balances**

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

- a. the authority shall calculate by 31 May each year the surplus balance, if any, held by each school as at the preceding 31 March. For this purpose, the balance will be the recurrent balance as defined in the Consistent Financial Reporting Framework.
- b. the authority shall deduct from the calculated balance any amounts for which the school has a prior year commitment to pay from the surplus balance and any unspent grants received in the previous financial year.
- c. the authority shall then deduct from the resulting sum any amounts which the governing body of the school has declared to be assigned for specific purposes permitted by the authority, and which the authority is satisfied are properly assigned. To count as properly assigned, amounts must not be retained beyond the period stipulated for the purpose in question, without the consent of the authority. In considering whether any sums are properly assigned the authority may also take into account any previously declared assignment of such sums but may not take any change in planned assignments to be the sole reason for considering that a sum is not properly assigned.

The condition outlined here is intended to ensure schools can build up reserves towards particular projects or make early efficiencies to support their medium-term budgeting in a tighter financial climate but cannot defer implementation indefinitely. In deciding whether a sum is properly assigned the scheme may make explicit the right of the authority to take account of a school's previous plans for any surplus balances in the event that such plans have changed. However,



the authority may not take a change in the plans of a school as the only criterion by which it can consider a sum to be properly assigned or not.

- d. if the result of steps a-c is a sum greater than 5% of the current year's budget share for secondary schools, 8% for primary and special schools, or £25,000 (where that is greater than either percentage threshold), then the authority may deduct from the current year's budget share an amount equal to the excess.

Funds deriving from sources other than the authority will be taken into account in this calculation if paid into the budget share account of the school, whether under provisions in this scheme or otherwise.

Funds held in relation to a school's exercise of powers under s.27 of the Education Act 2002 (community facilities) will not be taken into account unless added to the budget share surplus by the school as permitted by the authority.

The total of any amounts deducted from schools' budget shares by the authority under this provision will be retained within the Schools Budget of the authority.

Specific purposes permitted by the authority under paragraph 6.2.c are defined as:

- a. Capital building or refurbishment projects
- b. Major ICT or equipment acquisition or replacement
- c. Specific redundancy or early retirement costs outside the scope of the LA scheme.
- d. Dealing with the short-term implications of falling pupil numbers whilst class and/or staffing structures are reorganised.
- e. Provisions for long-term unexpected staff sickness for those schools not in the Staff Absence Scheme.

Other purposes may be considered in exceptional circumstances on a case-by-case basis.

### **6.3 Interest on surplus balances**

Balances held by the authority on behalf of schools will attract no interest. The exception to this will be for schools who invest money in the authority's High Interest Scheme.

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

Deficit balances will be carried forward by the deduction of the relevant amounts from the following year's budget share (see also 6.9)

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

## **6.5 Planning for deficit budgets**

Schools must submit a recovery plan to the authority when their cumulative revenue deficit rises above the lower of 1% of their core funding or £25,000, at 31 March of any year. This deficit threshold will apply when deficits are measured as at the 31<sup>st</sup> March for the current financial year.

Guidance on what forms part of core funding is set out in Annex C and will be updated annually to reflect the latest funding streams. Schools may plan for deficits only with the written consent of the Corporate Director of Children and Education. This consent will indicate the date by which the deficit must be cleared. The date can only be extended by a replacement plan made necessary by exceptional circumstances. This is known as a licensed deficit. See paragraph 6.9 for further details.

Where a school reaches the threshold to submit a recovery plan, they must submit this recovery plan to the authority at their earliest opportunity and no later than specified date for submission of their next start budget or revised budget.

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

The authority will charge interest on any deficit balance, where not to do so would lead to additional costs for the authority.

## **6.7 Writing off deficits**

The authority cannot write off the deficit balance of any school. The authority may give assistance towards elimination of a deficit balance. This would be funded through the allocation of a cash sum from the authority's Schools Budget (from a centrally held budget specified for the purpose of expenditure on special school and PRUs in financial difficulty or, in respect of mainstream schools, from a de-delegated contingency budget where this has been agreed by Schools Forum.)

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

Where in the funding period, a school has been established or is subject to a prescribed alteration as a result of the closure of a school, the authority may adjust an amount to the budget share of the new or enlarged school to reflect all or part of the unspent budget share (including any surplus or deficit carried over from previous funding periods) of the closing school for the funding period in which it closes.

Where a preceding school had a deficit the authority may also, at Members discretion, reduce additional funding in recognition of that deficit but will not reduce any normal funding, and will inform the school of the basis of calculation.

## **6.9 Licensed deficits**

The LMS Scheme requires schools to provide budget information to the authority twice a year. If a school forecasts that its budget is going into cumulative revenue deficit, it will need to make plans as to how it can bring the budget back into a balanced position. If it is not possible in the current year, the school will need to apply to the authority for an approved deficit.

To obtain approval the school will have to draw up a recovery plan; Then a request for a licensed deficit is submitted to the Head of Children and Education Finance. A licensed deficit is subject to the following conditions:

- maximum length over which schools may repay the deficit (i.e. reach at least a cumulative revenue zero balance) is not greater than three years,
- copies of the relevant minutes of the Governing Body evidencing the actions taken to address the budget deficit are sent to the authority,
- regular updated budget monitoring statements for the school (frequency may vary and will be advised in the Licensed Deficit Agreement) are sent to the authority,
- the authority is notified of any changes to the school's financial position should the Licensed Deficit be exceeded.
- The cumulative revenue deficit will be no greater than the higher of either 1% of the school's core revenue funding or £25,000 as set out in Annex C, or such other limits as the Corporate Director of Children and Education shall set following consultation with the Chief Finance Officer.
- The combined cumulative projected revenue deficits of all the authority's maintained schools do not amount to more than then cumulative projected revenue surpluses in any year.

The Corporate Director of Children and Education will have regard to the advice of the Chief Finance Officer of the authority in agreeing arrangements for individual schools.

The agreement of a Licenced Deficit will not result in any additional funding. Where a school is under a licensed deficit agreement any additional cash payments made, in order to ensure that the school is not overdrawn at the bank, will be treated as a cash advance and not a loan. This will have no effect on the school's budget and outturn statement.

#### **6.10 Loan Schemes**

The authority does not offer a loan scheme. Loans will not be available as a means of funding a deficit that has arisen because a school's recurrent costs exceed its current income.



## **SECTION 7: INCOME**

The basic principle which the scheme adheres to is that schools should be able to retain income except in certain specified circumstances.

Schools share the authority's VAT registration and must account for VAT on income correctly. The authority issues a VAT guidance manual for schools to refer to.

### **7.1 Income from lettings**

Schools will retain income from lettings of the school premises which would otherwise accrue to the authority, subject to alternative provisions arising from any joint use of Private Finance initiative (PFI) agreements or public private partnership (PPP) agreements.

Schools may cross-subsidise lettings for community and voluntary use with income from other lettings, provided 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 and there is no net cost to the budget share.

However, schools should have regard to directions issued by the authority (as permitted for various categories of schools under the Act) as to the use of school premises.

Income from lettings of school premises should not normally be payable into voluntary or private funds held by the school. However where land is held by a charitable trust it will be for trustees to determine the use of any income generated by the land

### **7.2 Income from fees and charges**

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

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

Schools will retain income from their own fund-raising activities.

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

Schools will retain the proceeds of sale of assets except in cases where the asset:

- was purchased with non-delegated funds (in which case it will be for the authority to decide whether the school should retain the proceeds), or

- is land or buildings forming part of the school premises and is owned by the authority. See paragraph 4.1.4
- Any retention of funds from the sale of land assets is subject to the consent of the Secretary of State, and any conditions the Secretary of State may attach to that consent relating to use of proceeds.

The retention of proceeds of sale for premises not owned by the authority will not be a matter for the scheme.

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

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

## **SECTION 8: THE CHARGING OF SCHOOL BUDGET SHARES**

### **8.1 General Provision**

The authority will charge the budget share of a school without the consent of the governing body only in circumstances as set out below. Schools will be consulted as to the intention so to charge, and notified when it has been done.

The authority may de-delegate funding for permitted services without the express permission of the governing body, provided this has been approved by the appropriate phase representatives of the York Schools Forum.

The right of local authorities to protect their financial position from liabilities caused by the action or inaction of governing bodies by charging budget shares is well established. Schools are reminded that the authority cannot act unreasonably in the exercise of any power given by the scheme, or it may be the subject of a direction under s.496 of the Education Act 1996.

### **8.2 Charging salaries at actual cost**

The authority will charge salaries of school-based staff to school budget shares at actual cost.

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

The following are circumstances in which charges may be made.

- 8.3.1 Where premature retirement costs have been incurred without the prior written agreement of the authority to bear such costs (the amount chargeable being only the excess over any amount agreed by the authority).
- 8.3.2 Other expenditure incurred to secure resignations where there is good reason to charge this to the school (see Annex B).
- 8.3.3 Awards by courts and employment tribunals against the authority, or out of court settlements, arising from action or inaction by the governing body contrary to the authority's advice. Awards may sometimes be against the governing body directly and would fall to be met from the budget share. Where the authority is joined with the governing body in the action and has expenditure as a result of the governing body not taking authority advice, the charging of the budget share with the authority expenditure protects the authority's position. Local authorities should ensure in framing any such advice that they have taken proper account of the role of aided school governing bodies.
- 8.3.4 Expenditure by the authority in carrying out health and safety work or capital expenditure for which the authority 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.
- 8.3.5 Expenditure by the authority incurred in making good defects in building work funded by capital spending from budget shares, where the premises are owned by the authority or the school has voluntary controlled status.
- 8.3.6 Expenditure incurred by the authority in insuring its own interests in a school where funding has been delegated but the school has failed to demonstrate that

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- it has arranged cover at least as good as that which would be arranged by the authority. The authority itself needs to consider whether it has an insurable interest in any particular case. (see also 12 – Insurance)
- 8.3.7 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 authority.
  - 8.3.8 Recovery of penalties imposed on the authority by His Majesty's Revenue and Customs (HMRC), Teachers' Pensions, the Environment Agency or other regulatory authorities as a result of school negligence.
  - 8.3.9 Correction of Authority errors in calculating charges to a budget share; for example, pension deductions. Before applying any such provision, the authority should consider whether it is reasonable to do so. If the error dates back several years it may be questionable whether such charging is reasonable.
  - 8.3.10 Additional transport costs incurred by the authority arising from decisions by the governing body on the length of the school day, or failure to notify the authority of non-pupil days resulting in unnecessary transport costs.
  - 8.3.11 Legal costs which are incurred by the authority because the governing body did not accept the advice of the authority.
  - 8.3.12 Costs of necessary health and safety training for staff employed by the authority, where funding for training had been delegated but the necessary training not carried out.
  - 8.3.13 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.
  - 8.3.14 Cost of work done in respect of teacher pension remittance and records for schools using non-Authority payroll contractors, the charge to be the minimum needed to meet the cost of the authority's compliance with its statutory obligations.
  - 8.3.15 Costs incurred by the authority in securing provision specified in an education, health and care (EHC) plan where the governing body of a school fails to secure Such provision despite the delegation of funds in respect of low cost high incidence SEN or specific funding for a pupil with high needs.
  - 8.3.16 Costs incurred by the authority due to submission by the school of incorrect data.
  - 8.3.17 Recovery of amounts spent from specific grants on ineligible purposes.
  - 8.3.18 Costs incurred by the authority as a result of the governing body being in breach of the terms of a contract.
  - 8.3.19 Costs incurred by the authority or another school as a result of a school withdrawing from a cluster arrangement, for example where this has funded staff providing services across the cluster.
  - 8.3.20 Costs incurred by the authority in administering admissions appeals, where the authority is the admissions authority and the funding for admission appeals has been delegated to all schools as part of their formula allocation



## **SECTION 9: TAXATION**

### **9.1 Value Added Tax**

HM Revenue and Customs have agreed that VAT incurred by schools when spending any funding made available by the authority is treated as being incurred by the authority and qualifies for reclaim by the authority.

This does not include expenditure by the governors of a voluntary aided school when carrying out their statutory responsibilities to maintain the external fabric of their buildings.

The authority has agreed with HM Revenue and Customs a set of procedures to enable schools to reclaim VAT on expenditure relating to non-business activity. Amounts reclaimed in this way will be passed back to the school.

Those Schools not using the authority's Financial Management System must submit digital VAT reports and hold supporting documents which comply with the schools document retention policy. To comply with the authority's document retention policy VAT records should be kept for a statutory period of six years with the exception of VAT related capital expenditure for which records should be kept for a period of ten years.

### **9.2 CIS (Construction Industry Scheme)**

Schools will abide by procedures issued by the authority in connection with CIS.





## **SECTION 10: THE PROVISION OF SERVICES AND FACILITIES BY THE AUTHORITY**

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

The authority will determine on what basis services from centrally retained funds, including existing premature retirement compensation (PRC) and redundancy repayments, will be provided to schools.

The authority cannot discriminate in its provision of services on the basis of categories of school except where this would be permitted under the School and Early Years Finance Regulations, or the dedicated schools grant conditions of grant.

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

The term of any arrangement between the authority and a school to buy services or facilities from the authority will be of a maximum of three years from the date of the agreement. Any subsequent agreement relating to the same services shall have a maximum term of five years except in the case of catering services contracts, which may extend to seven years.

When a service is provided to schools for which expenditure is not retainable centrally by the authority i.e. traded services with schools, the prices being charged 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. However, it is recognised that absolute break-even is not achievable over fixed financial years and consequently it is for the LA to show that the charging policy can reasonably be expected to avoid any central subsidy of the services provided to schools.

### **10.3 Packaging**

Any service which the authority provides on a buyback basis 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.

This provision will not prevent the authority offering packages of services which offer a discount for schools taking up a wider range of services.

### **10.4 Service level agreements**

The authority will make draft service level agreements available for consideration by Governing bodies at least one month before they must be agreed. They must be in place at the commencement of the financial year in order to allow proper financial management. The authority will usually publish draft agreements by the end of the Autumn term before agreements become operational on 1<sup>st</sup> April.

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.

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

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

Centrally arranged premises and liability insurance are specifically excluded from these requirements as to service supply, as the limitations envisaged may be impracticable for insurance purposes.

## **10.5 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 monthly 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 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 monthly 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. The governing body shall also ensure that AVCs are passed to the authority within the time limit specified in the AVC scheme. The governing body shall meet any consequential costs from the school's budget share.

## **SECTION 11: PRIVATE FINANCE INITIATIVE (PFI) and PUBLIC/PRIVATE PARTNERSHIPS (PPP)**

The authority will not enter any PFI/PPP contract without the agreement of the governing body of the school concerned on the relative liabilities of the authority and the school over the payments of charges to the contractor, or the method of withholding of payments due to poor performance.

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



## SECTION 12: INSURANCE

### 12.1 Insurance cover

Where funds for insurance are delegated to any school, the authority will require the school to demonstrate that cover relevant to its insurable interests, under a policy arranged by the governing body, is at least as good as the relevant minimum cover arranged by the authority if the authority makes such arrangements, either paid for from central funds or from contributions from schools' delegated budgets. The authority will have regard to the actual risks which might reasonably be expected to arise at the school in question and will not apply an arbitrary minimum level of cover for all schools.

The authority allows schools to join the [DfE's RPA scheme](#). Schools may do this individually when any insurance contract of which they are part, expires. All primary and secondary maintained schools may elect to join the RPA collectively, by agreeing through the schools forum to de-delegate funding.

*(see also 8.3.6)*



## **SECTION 13: MISCELLANEOUS**

### **13.1 Right of access to information**

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

### **13.2 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 collectively in good faith.

An example of behaviour which is not in good faith is the carrying out of fraudulent acts. Breaches of the scheme are not in themselves failures to act in good faith; neither is rejection of authority advice as to financial management.

### **13.3 Governors' Allowances**

The authority 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 discretion in the amounts of such allowances, which would be set by the authority.

Under section 50(5) of the school standards and framework act 1998, only allowances in respect of purposes specified in regulations made under section 19 of the Education Act 2002 may be paid to governors from a school's delegated budget share.

Payment of any other allowances will not be made by schools.

Schools are barred from payment of expenses duplicating those paid by the Secretary of State to additional governors appointed by them to schools under special measures.

### **13.4 Responsibility for legal costs**

Legal costs incurred by the governing body, although the responsibility of the authority, are part of the cost of maintaining the school (unless they relate to the statutory responsibility of voluntary aided school governors for buildings) and will be charged to the school's budget share.

In the event of a dispute between the authority and the governing body which would lead to a conflict of interest for the authority's legal advisor, governors should consult the Head of Legal Services. See also section 8.

The effect of this is that a school cannot expect to be reimbursed with the cost of legal action against the authority itself; although there is nothing to stop an authority making such reimbursement if it believes this to be desirable or necessary in the circumstances.

The costs referred to are those of legal actions, including costs awarded against the authority; not the cost of legal advice provided.

### **13.5 Health and Safety**

Governing bodies will have due regard to duties placed on the authority in relation to health and safety, and the authority's policy on health and safety matters in the management of the budget share.

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

Governing bodies in expending the school's budget share will permit the Chief Finance Officer of the authority, or any officer of the authority nominated by the Chief Finance Officer, to attend meetings of the governing body at which any agenda items are relevant to the exercise of their responsibilities.

The Chief Finance Officer's attendance will normally be limited to items which relate to issues of probity or overall financial management; such attendance will not be regarded as routine. The authority will give prior notice of such attendance unless it is impracticable to do so.

### **13.7 Special Educational Needs**

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

This is a statutory requirement placed on schools. Where this is not the case the authority has the right to suspend delegation were the situation considered serious enough to warrant it.

### **13.8 Interest on late payments**

The terms of the scheme will not affect statutory requirements.

### **13.9 Whistleblowing**

The authority has approved a procedure to be followed by anyone who wishes to complain about financial management or financial propriety at a school. Governors should adopt a Whistleblowing Policy, appropriate to their school, which allows any member of staff to make their concerns known without fear of victimisation, and to be confident that they will be taken seriously.

The authority has published a whistleblowing policy on the York Education website to refer to.

### **13.10 Child protection**

Governing bodies are required to release staff to attend child protection case conferences and other related events. The cost of attendance will be met from the school's budget share.

### **13.11 Redundancy/Early retirement costs**

The 2002 Education Act sets out how premature retirement and redundancy costs should normally be funded. Further information can be found at Annex B.



## **SECTION 14: RESPONSIBILITY FOR REPAIRS AND MAINTENANCE**

### **14.1 School Responsibilities**

The authority will delegate all revenue funding for repairs and maintenance to schools. Governing bodies will fund all repairs and maintenance from their delegated budgets.

### **14.2 Capital Expenditure**

For these purposes, expenditure may be treated as capital only if it fits the definition of capital used by the authority for financial accounting purposes in line with the Chartered Institute of Public Finance and Accountancy (CIPFA) code of practice on local authority accounting.

### **14.3 The de minimis Limit**

The authority's capital de minimis limit applicable to maintained schools is currently £0 (Nil).





## **SECTION 15: COMMUNITY FACILITIES**

### **15.1 Introduction**

Schools which choose to exercise the power conferred by s.27 (1) of the Education Act 2002 to provide community facilities will be subject to a range of controls. Regulations made under s.28 (2), if made, can specify activities which may not be undertaken at all under the main enabling power.

Section 88 of the Children and Families Act 2014, has removed the requirements in section 28(4) and section 28(5) of the Education Act 2002 for maintained schools in England. Under section 28(4) a school was obliged to consult its authority and under section 28(5) a school must have regard to advice or guidance from the Secretary of State or their Authority when offering this type of provision.

However, under s.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 authority's scheme for financing schools, i.e. this scheme, made under section 48 of the School Standards and Framework Act 1998. Paragraph 2 of Schedule 3 to the Education Act 2002 extends the coverage of schemes to the powers of governing bodies to provide community facilities.

Schools are therefore subject to the prohibitions, restrictions and limitations detailed in this scheme.

This section of the scheme does not extend to joint-use agreements or agreements between the authority and schools to secure the provision of adult and community learning.

### **15.2 Consultation with the authority: financial aspects**

Changes made by the Children and Families Act 2014 mean that schools no longer need to consult the authority when establishing community facilities under Section 27 of the Education Act 2002. Nor do they have to have regard to advice given to them by the authority.

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

### **15.3 Funding Agreements – LA Powers**

The provision of community facilities in many schools may be dependent on the conclusion of a funding agreement with a third party which will either be supplying funding or supplying funding and taking part in the provision. A very wide range of bodies and organisations are potentially involved.

Any proposed financial agreements with third parties shall be submitted to the authority for its comments at least two months before the intended commencement date for the

agreement. The authority's specific approval will be required only for agreements which exceed the contract values which require the authority's approval as set out in LMS Contract Procedure Rules. The authority will prepare model agreements to assist schools in preparing draft agreements.

The third party to the agreement may, however, require authority consent to the agreement for it to proceed. Furthermore, if an agreement has been or is to be concluded against the wishes of the authority, or has been concluded without informing the authority, which in the view of the authority is seriously prejudicial to the interests of the school or the authority, that may constitute grounds for suspension of the right to a delegated budget.

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

The authority, at its discretion, in a specific instance of use of the community facilities power by a governing body, may require the governing body to make arrangements to protect the financial interests of the authority 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 authority. This requirement will be exercised only where, in the view of the authority, the proposed project carries significant financial risks.

The community facility shall not be used for activities which, in the view of the authority, create an unacceptable risk to the financial position of the authority or school, or to the protection of pupils' welfare or safety.

#### **15.5 Supply of Financial Information**

The authority will not usually require ongoing financial information as the income and expenditure arising from the facilities will be shown separately in CFR returns of actual spending and in start budgets for planning spending. However, the authority may require, information more frequently; either quarterly or every six months, where the operation of the facility is not breaking even or a recovery plan has been agreed between the school and the authority.

Financial information relating to community facilities will be included in returns made by schools under the consistent financial reporting (CFR) framework, and these should be relied upon by the authority as their main source of information for the financial aspects of community facilities.

However, the CFR timetable is such that authority's are likely to want supplementary information in order to ensure that schools are not at financial risk. Schedule 15 of the act provides that mismanagement of funds spent or received for community facilities is a basis for suspension of the right to delegation of the budget share

The requirement to account separately for the operation of the facility means that the licensed deficit arrangements shall apply separately to community facilities.

## **15.6 Audit**

The provisions on internal and external audit in the scheme (Section 4.6) shall apply to the accounts and other supporting records for the facility.

In concluding funding agreements with other persons pursuant to the exercise of the community facilities power any such agreements shall contain adequate provision for access by the authority to the records and other property of those persons held on the school premises, or held elsewhere insofar as they relate to the activity in question, in order for the authority to satisfy itself as to the propriety of expenditure on the facilities in question.

## **15.7 Treatment of Income and Surpluses**

Schools shall retain all net income derived from community facilities except where otherwise agreed with a funding provider, whether that be the authority or some other person.

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

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

## **15.8 Health and Safety Matters**

The health and safety provisions of this scheme shall apply to the community facilities power.

The governing body is responsible for the costs of securing Disclosure and Barring Service 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.

## **15.9 Insurance**

It is the responsibility of the governing body to ensure adequate arrangements are made for insurance against risks arising from the exercise of the community facilities power, taking professional advice as necessary. Such insurance should not be funded from the school budget share. The school shall seek the authority's advice before finalising any insurance arrangement for community facilities as part of the wider consultation arrangements set out in Section 15.1.

The authority may, at its discretion, 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.

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

### **15.10 Taxation**

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

If any member of staff employed by the school or the authority in connection with community facilities at the school is paid from funds held in a school's own bank account (whether a separate account is used for community facilities or not – see section 15.11), the school is likely to be held liable for payment of income tax and National Insurance, in line with HMRC rules. However, in cases where the authority provides the school's payroll service, or the school uses another payroll provider, no salary, wages or other potential taxable emoluments shall be paid by the school from its school bank account. The required procedures, which shall be followed (see Section 4.1.3 on payment of salaries), are set out in the LMS Financial Procedure Rules.

Schools are still to required follow authority advice in relation to the Construction Industry Scheme (CIS) where this is relevant to the exercise of the community facilities power.

### **15.11 Banking**

Schools are able to separately account for community facility income and expenditure without setting up a separate bank account. The creation of any specific bank account shall be the subject of the arrangements set out in Section 5 of the scheme and shall be operated in accordance with provisions in this scheme and related LMS Financial Procedure Rules on banking and bank accounts, cheque signature, etc. Where schools use the same bank account for community facilities as for their budget share the bank mandate, which requires the specification that the authority is the owner of the funds shall also specify that the requirement does not apply to community funds (unless funds have been provided by the authority itself for community purposes. The mandate for any separate community facilities account shall make clear that the authority has provided funds for community purposes.

Schools may not borrow money for community facilities without the written consent of the Secretary of State. This requirement does not extend to monies lent to schools by their maintaining authority.



## **ANNEXES**

The following pages contain:

Annex A	Schools Maintained by City of York Council, covered by this Scheme
Annex B	Responsibility for Redundancy and Early Retirement Costs
Annex C	Guidance on Core Grant Funding
Annex D	Suspension of Financial Delegation
Annex E	Information Requirements & Guidance

**ANNEX A Schools maintained by City of York Council covered by this Scheme.**

This list is correct at the time of writing, although subject to change as maintained schools convert to academies.

<b>DfE No.</b>	<b>SCHOOL NAME</b>	
1000	St Paul's Nursery including ERC	

<b>DfE No.</b>	<b>SCHOOL NAME</b>	<b>NURSERY UNIT</b>
3222	Askham Richard St Mary's CE	
2003	Carr Infant including ERC	✓
2018	Clifton Green Primary	✓
2013	Copmanthorpe Primary	✓
2007	Dringhouses Primary	
3152	Elvington CE Primary	
2008	Fishergate Primary	✓
3156	Fulford St Oswald's CE including ERC	
2241	Headlands Primary	
3158	Lord Deramore's Primary	
2058	Ralph Butterfield Primary	
3002	St Barnabas' CE Primary	
3003	St Paul's CE Primary	
2227	Stockton-on-the-Forest Primary	
2017	Westfield Primary	✓
2240	Wigginton Primary	
2015	Yearsley Grove Primary	✓

<b>DfE No.</b>	<b>SCHOOL NAME</b>	<b>SIXTH FORM</b>
4063	Huntington School	✓
4508	Joseph Rowntree School	✓

<b>DfE No.</b>	<b>SCHOOL NAME</b>	
7032	Applefields School	

<b>DfE No.</b>	<b>SCHOOL NAME</b>	
1100	Danesgate Community	

## **ANNEX B     Responsibility for Redundancy and Early Retirement Costs**

This guidance summarises the position relating to the charging of voluntary early retirement and redundancy costs. It sets out what is specified in legislation and provides some examples of when it might be appropriate to charge an individual school's budget, the central Schools Budget or the Local Authority's non-schools budget. Section 37 of the 2002 Education Act says:

(4) costs incurred by the local education authority in respect of any premature retirement of a member of the staff of a maintained school shall be met from the school's budget share for one or more financial years except in so far as the authority agree with the governing body in writing (whether before or after the retirement occurs) that they shall not be so met.

(5) costs incurred by the local education authority in respect of the dismissal, or for the purpose of securing the resignation, of any member of the staff of a maintained school shall not be met from the school's budget share for any financial year except in so far as the authority have good reason for deducting those costs, or any part of those costs, from that share.

(6) The fact that the authority have a policy precluding dismissal of their employees by reason of redundancy is not to be regarded as a good reason for the purposes of subsection (5); and in this subsection the reference to dismissal by reason of redundancy shall be read in accordance with section 139 of the Employment Rights Act 1996 (c. 18)."

The default position, therefore, is that premature retirement costs must be charged to the school's delegated budget, while redundancy costs must be charged to the authority's budget.

In the former case, the authority has to agree otherwise for costs to be centrally funded, while in the latter case, there has to be a good reason for it not to be centrally funded, and that cannot include having a no redundancy policy.

Ultimately, it would be for the courts to decide what was a good reason, but the examples set out below indicate the situations in which exceptions to the default position might be taken.

### Charge of dismissal or resignation costs to delegated school budget:

- if a school has decided to offer more generous terms than the authority's policy, then it would be reasonable to charge the excess to the school
- if a school is otherwise acting outside the authority's policy
- where the school is making staffing reductions which the authority does not believe are necessary to either set a balanced budget or meet the conditions of a licensed deficit
- where staffing reductions arise from a deficit caused by factors within the school's control
- where the school has excess surplus balances
- where a school has refused to engage with the authority's redeployment policy

### Charge of premature retirement costs to Authority non-schools budget or central schools budget:

- where a school has a long-term reduction in pupil numbers and charging such costs to their budget would impact on standards
- where a school is closing, does not have sufficient balances to cover the costs
- where charging such costs to the school's budget would prevent the school from complying with a requirement to recover a licensed deficit within the agreed timescale
- where a school is graded as inadequate by Ofsted, does not have excess balances, and employment of the relevant staff is being or has been terminated as a result of Authority or government intervention to improve standards

Whilst each case will be considered on its merits, this will be within the above framework agreed with the Schools Forum. The school must provide whatever information is requested to enable the authority to consider the case. As a minimum this will include a full detailed costing of the school staffing structure both before and after the proposed staffing changes, and an updated 3 year budget plan.

In some cases the costs may be shared between the school and the authority. Where the outcome of any case is in dispute, the school should write to the Corporate Director of Children and Education in the first instance to set out the reasons for the dispute.

### Premature Retirement and redundancy in relation to Community facilities staff

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.

Where a member of staff is employed partly for community purposes and partly for other purposes the previous provisions will be applied to reflect the percentage of time employed for each purpose.

This is set out in Section 37 which 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 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.

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

## **ANNEX C     Guidance on Core Grant Funding**

The funding streams outlined below, which are ordinarily available to schools each financial year are those which will be used to calculate the thresholds referred to in sections 6.2d for the calculation of excessive revenue balances which may be subject to clawback under the policy, and 6.5, to calculate whether a school is required to submit a recovery plan.

Delegated Budget (also referred to as ISB or NFF funding)

High Needs Place funding

High Needs Top-Up funding

High Needs SEN Contingency

Sixth Form funding

Early Years funding (delivered through the EY Single Funding Formula)

Infant Class Size funding

Pupil Premium Grant funding

Universal Infant Free School Meals Grant

PE and Games Grant

In addition, such other funding as provided by the DfE to enable schools to meet their ordinary revenue expenditure will be taken into account. For example, in 2023/24 this will therefore include:

Mainstream Supplementary Grant

When calculating both the excess reserves threshold at the end of 2023/24 and the thresholds for deficit budgets for 2024/25, the 2023/24 funding figures will be used.

## **ANNEX D      Suspension Of Financial Delegation**

1. Governing bodies and headteachers are required to manage their delegated budgets with due propriety and to the standards of stewardship required for public money. If they fail to do so the authority will be entitled to take the following action:
  - Give advice
  - Issue warnings
  - Take other direct remedial action in accordance with the Scheme for Financing Schools
2. The authority will consider the suspension of a governing body's right to a delegated budget where: -
  - there is evidence of substantial or persistent failure to comply with any requirements applicable under the Scheme for Financing Schools.
  - there is evidence of financial mismanagement, where the governing body is not managing the appropriation or expenditure of the sum put at their disposal for the purposes of the school in a satisfactory manner.
  - there has been mismanagement of the educational affairs of the school.
3. Where delegation is withdrawn, the following conditions will apply:
  - the authority will give at least one month's notice of the suspension to the governing body and the headteacher
  - the authority will withdraw delegation before the expiry of the period of notice in an emergency situation but must provide immediate written notification and justification of the action to the Secretary of State.
  - the Governing Body has a right of appeal to the Secretary of State against withdrawal of delegation where the grounds are either failure to comply with the Scheme or financial mismanagement, but not in the case of mismanagement of the educational affairs of the school.
4. Where a school has been the subject of an inspection which identified the school as being in need of special measures, the authority is empowered to suspend the governing body's right to a delegated budget subject to conditions specified in section 17 of the School Standards and Framework Act 1998.
5. Schools will continue to have limited delegation as laid down in para.4 of schedule 15 to that Act. The authority will be responsible for ensuring that the school budget is not overspent, the following procedures will apply to schools where delegation has been withdrawn:
  - When financial delegation is suspended, schools operating a bank account may, in certain circumstances, also have the cheque book facility suspended and the school may be required to transfer to the council's central debtor, creditor and banking systems.

- The school bank account will be frozen, and any balance retained in the bank account under the control of the authority. However, interest accruing to the account may be used to support the financial plans of the school.
- A limit on a school's authority to incur expenditure (this limit will normally be restricted to £1,000) and other financial processes to be followed will be set down in a school specific agreement document produced by the authority. The document will define the roles and responsibilities of both school based staff and the designated authority monitoring and support officers.

**ANNEX E Information requirements and guidance are provided through the York Education Shared drive available through your schools google account**

- 3.6 Template financial management policy document
- 4.1.1 and 4.10 Bank Account for Schools document (BAfS)
- 4.1.4 Inventory of moveable non-capital assets
- 4.1.4 Procedure for the disposal of assets
- 4.1.5 Year-end accounting procedures
- 4.1.6 Debt Management guidance
- 5.7 Restriction of bank accounts

The authority's list of banks which is consistent with the authority's Treasury Management policy should be requested from Schools.business@york.gov.uk.

- 5.8 Procurement cards guidance
- 7.0 VAT guidance manual