

**THE FUNDING FRAMEWORK**

**SCHEME OF DELEGATION TO SCHOOLS**

**LONDON BOROUGH OF LEWISHAM**

**Effective from 1 April 2014**



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## **THE OUTLINE SCHEME**

### **SECTION 1: INTRODUCTION**

#### **1.1 The Funding Framework**

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

Under this legislation, Local Authorities determine for themselves the size of their Schools Budget and their non-schools education budget- although at a minimum the full amount of the Dedicated Schools Grant must be appropriated to the schools budget.

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

The LA may retain funding for certain purposes<sup>1</sup>. The amounts to be retained centrally are decided by the LA concerned, subject to any limits or conditions (including gaining the approval of their School Forum or the Secretary of State in certain instances) as prescribed by the Secretary of State. The balance of the Local School Budget left after deduction of centrally retained funds 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).

LAs must distribute amounts from their 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<sup>2</sup>.

The Act<sup>3</sup> requires the financial controls within which delegation works to be set out in a scheme made by the LA and approved by the Schools Forum. All revisions to the scheme must also 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.. This document forms the required scheme for this LA

Subject to provisions of this scheme, governing bodies of schools may spend budget shares for the purposes of their school. They may also spend budget shares on any

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<sup>1</sup> These purposes are defined in regulations made by the Secretary of State under s.45A of the School Standards and Framework Act 1998.

<sup>2</sup> Unless the school is a new school which has not yet received a delegated budget, or the right to a delegated budget has been suspended in accordance with s.51 of the School Standards and Framework Act 1998 Act.

<sup>3</sup> S.48 of the School Standards and Framework Act 1998.

additional purposes prescribed by the Secretary of State<sup>4</sup>.

An LA may suspend a school's right to a delegated budget if the provisions of the school financing scheme (or rules applied by the scheme) have been substantially or persistently breached, or if the budget share has not been managed satisfactorily.<sup>5</sup>

The LA 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 LA must publish a statement showing outturn expenditure at both central level and for each school, and the balances held in respect of each school.

The detailed publication requirements for financial statements and for schemes are set out in directions issued by the Secretary of State, but each school must have access to each year's budget and out-turn statements so far as they relate to that school or central expenditure.

Regulations also require a local authority to publish their scheme and any revisions to it on a website accessible to the general public, by the date that any revisions come into force, together with a statement that the revised scheme comes into force on that date.

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

This scheme sets out the financial relationship between the LA and the maintained schools which it funds. It contains requirements relating to financial management and associated issues, which are binding on both the LA and on the schools.

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

From 1 April 2007 this scheme applies to all community, nursery, voluntary, foundation (including trust), community special and foundation special schools (including trust) and PRU's maintained by the LA. (as listed in Annex A). The scheme will also apply to any new maintained schools which open after 1 April 2007.

## **1.3 Publication of the scheme**

The LA will publish the scheme and any amendments to it in a manner they determine appropriate.

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<sup>4</sup> In regulations made under s.50 of the School Standards and Framework Act 1998. Section 50 has been amended to provide that amounts spent by a governing body on providing community facilities or services under section 27 of the Education Act 2002 are treated as if they were amounts spent for the purposes of the school (s50(3A) of the Act.

<sup>5</sup> A school's right to a delegated budget share may also be suspended for other reasons (s.17 of the SSAF Act 1998).

## **1.4 Revision of the scheme**

Any proposed revisions to the scheme will be the subject of consultation with the Schools Forum for approval by those forum members representing maintained schools.

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

Subject to the requirement that the first formal budget plan of each financial year must be approved by the Governing Body or a committee of the Governing Body, each Governing body is asked to consider the extent to which it wishes to delegate its financial powers to the Headteacher, and to record its decision (and any revisions) in the minutes of the Governing Body.

The LA has no wish to impose uniformity on schools but considers that the following level of delegation to Headteachers is desirable:

Governors adopt a scheme of delegation devolving defined responsibilities for day to day financial decisions to the Headteacher.

Any virement should either be authorised by the Head or Chair of Governors. It is recommended that all transfers valued at £1,000 or more are made by the Chair of Governors and any others by the Head. The Head however, must report to governors, if he/she makes a budget virement because the overall responsibility for managing the school's budget ultimately rests with the Governing Body.

Other guidance is included in the Schools Finance Manual.

## **1.6 Maintenance of Schools**

The LA 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 LA maintains schools is through the funding system put in place under sections 45 to 53 of the School Standards and Framework Act 1998.

## **SECTION 2: FINANCIAL CONTROLS & AUDIT**

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

In managing their delegated budgets schools must abide by the LA's requirements on financial controls and monitoring.

Certain of these are directly referred to in this scheme while others are included in the following documents already sent to schools as part of the existing LMS scheme:

Schools Finance Manual  
Council's Standing Orders,  
Council's Financial Regulations

As far as is possible schools will be given freedom to exercise choice which is compatible with exercising management autonomy over their budgets. Lewisham will seek only to impose regulations which are consistent with the need for accountability and control over expenditure of public funds.

The Council's Standing Orders, financial regulations and financial procedures ensure the control of expenditure within a framework of devolved management and fully delegated budgets. The School Finance Manual sets out detailed guidance for schools in all financial matters and will be updated as necessary.

Schools will be required to

- a) ensure that there are appropriate controls in place authorising expenditure and obtaining value for money,
- b) maintain accurate records of all income and expenditure transactions,
- c) provide the LA with copies of accounts, records, information and other relevant documents as required (this includes provision of information to Internal and External Audit, HM Revenue and Customs, etc).

Under Section 151 of the Local Government Act 1972, the Executive Director for Resources is responsible for the probity and regularity of Lewisham's financial activities. The Head of Resources has authority to act on their behalf in most instances relating to the financial affairs of the Directorate of Children and Young People. The Head of Resources will have the right to intervene in the financial affairs of schools where there are concerns about compliance with financial regulations or other guidance set out in the Schools Finance Manual.



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

Schools are required to provide the LA with details of forecast and actual expenditure and income, in a form and at times determined by the LA. During each year, schools will be required to submit financial and other returns to the LA on a regular basis (e.g. monthly, termly or annually) as set out in the Schools Finance Manual.

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

The procedures for these will vary according to the choices schools make about the holding of bank accounts and the buying back of the LA's payroll system.

The procedures which apply to the different choices made by schools are as set out in the following documents:

- Schools Finance Manual
- Personnel Guide for Schools
- Guidance for Schools on Personnel and Payroll Documentation

### **2.1.4 Control of assets**

Each school must maintain an inventory of its moveable non-capital assets, in a form determined by the LA, and setting out the basic authorisation procedures for disposal of assets.

The format of the required inventory for such assets with a value in excess of £1,000 and the basic authorisation procedures for disposal of assets is as set out in the Schools Finance Manual.

The format of the required inventory for such assets with a value of £1,000 or less shall be determined by the school.

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

Schools must abide by procedures issued by the LA in relation to accounting policies and year-end procedures. These procedures are as set out in the Schools Finance Manual.

### **2.1.6 Writing off of debts**

Governing bodies are only authorised to write off debts up to a level stipulated by the Chief Finance Officer. It is proposed that this level is £1,000. In the case of larger debts the school must carry out the following procedure:

The school must consult with the Head of Resources for Children and Young People and provide sufficient details of the debt and background to it as may be requested, to allow a decision to be taken.

1) The Head of Resources for Children and Young People shall have the power to write off debts not exceeding £5,000.

2) The Executive Director for Resources shall have the power to write off of debts exceeding £5,000.

NB Any debt written off will be charged to the school's budget share if appropriate. All non-delegated debt to be written off shall not be charged to delegated budgets.

### **2.2 Basis of accounting**

Reports and Accounts furnished to the LA must be on an accruals basis for year end returns.

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

Each school is required to submit a budget plan to the LA by a date in late May or early June each year. The date will be notified to the schools when the level of the budget is determined by the LA .

The budget plan must show the school's intentions for expenditure in the current financial year and the assumptions underpinning the budget plan.

When drawing up their budget plan, schools may take full account of estimated deficits/surpluses at the previous 31 March, or actuals where known.

The format of the budget plan should be as set out in the Schools Annual Budget Plan template which will be sent to schools with the annual notification of budget shares.

The LA may also require the submission of revised plans where the LA deems it necessary. Such revised plans shall not be required at intervals of less than three months.

The LA will supply schools with all school income and expenditure data which it holds and which is necessary to efficient planning by schools, and an annual statement detailing the times during the year when this information will be available.

### **2.3.1 Submission of Financial Forecasts**

The LA will require schools to provide budgets for the years they have received funding. These budgets will be used by the LA in conjunction with its "balance control mechanism" (see 4.2), as well as used to identify potential deficits.

### **2.4 Efficiency and Value For Money**

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

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

### **2.5 Virement**

Schools are free to vire between budget heads in the expenditure of their budget shares as long as this does not impair the exercise of statutory duties. Governors are advised to establish criteria for virements and financial limits above which the approval of the governors is required.

### **2.6 Audit: General**

Schools are required to cooperate with, and provide access to all School records to, both auditors employed by the LA (internal audit) and auditors appointed to audit the LA itself (external audit).

In regard to internal audit, all schools come within the audit regime determined by the LA. Details of this are set out in the Schools Finance Manual.

In relation to external audit all schools come within the LA external audit.

### **2.7 Separate external audits**

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

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

In addition to the normal internal and external audits, schools must provide 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 Consistent Financial Reporting framework requires that private funds under the control of the Governing Body be included.

The procedures for furnishing these audit certificates and advice on the handling of such voluntary and private funds is set out in the Schools Finance Manual

## **2.9 Register of business interests**

The Governing Body of each school is required to establish a register which lists for each member of the Governing Body, the Headteacher and any staff with financial responsibilities any business interests they or any member of their immediate family have; to keep the register up to date with notification of changes and through annual review of entries, and to make the register available for inspection by governors, staff, parents and the LA.

## **2.10 Purchasing, tendering and contracting requirements**

Schools are required to abide by the LA's financial regulations and standing orders in purchasing, tendering and contracting matters<sup>6</sup>. This should include a requirement to assess in advance, where relevant, the health and safety competence of contractors, taking account of the LA's policies and procedures

## **2.11 Application of contracts to schools**

Schools have the right to opt out of LA contracts.

## **2.12 Central funds and earmarking**

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

Such earmarked funding from centrally retained funds is to be spent only on the

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<sup>6</sup>However, any section of the LA's financial regulations and standing orders shall not apply if it requires schools:

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

purposes for which it is given, or on other budget heads for which earmarked funding is given, and is not to be vired into the school's budget share.

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

In order that schools may demonstrate compliance with this requirement, procedures are set out in the Schools Finance Manual, together with guidance on specific schemes e.g. Literacy and Numeracy projects; National Grid for Learning.

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

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

Governing bodies are free<sup>7</sup> to spend budget shares for the purposes of the school, subject to any provisions of this scheme. "Purposes of the school" includes spending on pupils at other maintained schools or academies and on community facilities.

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

Governing bodies are permitted to use their budget shares to meet the cost of capital expenditure on the school premises<sup>8</sup>.

If the expected capital expenditure from the budget share in any one year will exceed £15,000, the Governing Body must notify the LA and take into account any advice from the Executive Director for Children and Young People as to the merits of the proposed expenditure.

Where the premises are owned by the LA, or the school has voluntary controlled status, then the Governing Body shall seek the consent of the LA to the proposed works, however such consent can only be withheld on health and safety grounds

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<sup>7</sup> In accordance with s.50(3) of the School Standards and Framework Act 1998 (the SSAF Act 1998)

<sup>8</sup> This includes expenditure by the governing body of a voluntary aided school on work which is their responsibility under paragraph 3 of Schedule 3 of the SSAF Act 1998.

## 2.15 Notice of Concern

Lewisham 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 Executive Director of Children and Young People, the school has failed to comply with any provisions of the scheme, or where actions need to be taken to safeguard the financial position of the LA 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;
- insisting on regular financial monitoring meetings at the school attended by LA officers;
- requiring a Governing Body to buy into the LA's finance SLA or any other recommended by the LA.
- requiring a Governing Body to buy into a LA's recommended financial management systems; and
- imposing restrictions or limitations on the manner in which a school manages extended school activity funded from within its delegated budget share – for example by requiring a school to submit income projections and/or financial monitoring reports on such activities.

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

It should be noted that if a Notice of Concern is issued in relation to financial controls, this may affect the judgement of whether the School should be placed in LA category 4a (notice to improve)

## **2.16 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 which time of the year they wish to complete the form.

Governing bodies have formal responsibility for the financial management of their schools, and so the standard is primarily aimed at governors. Governors must demonstrate compliance through the submission of the SFVS assessment form signed by the Chair of Governors.

- The standard consists of questions which governing bodies should formally discuss annually with the head teacher and senior staff.
- The questions which form the standard are in sections A to D. Each question requires an answer of Yes, In Part, or No.
  - If the answer is Yes, the comments column can be used to indicate the main evidence on which the governing body based its answer.
  - If the answer is No or In Part, the column should contain a summary of the position and proposed remedial action.
- In Section E, governors should summarise remedial actions and the timetable for reporting back. Governors should ensure 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.
- The governing body may delegate the consideration of the questions to a finance or other relevant committee, but a detailed report should be provided to the full governing body and the chair of governors must sign the completed form.
- The school must send a copy of the signed standard to their local authority's finance department.
- There is no prescription of the level of evidence that the governing body should require. The important thing is that governors are confident about their responses.

## **2.17 Fraud**

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

The governing body and head teacher must inform all staff of school policies and procedures related to fraud and theft, the controls in place to prevent them and the

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



## **SECTION 3: AVAILABILITY OF CASH FOR LOCAL EXPENDITURE; BANKING ARRANGEMENTS**

### **3.1 Frequency of cash advances**

The LA will make available to schools sufficient cash to cover their local expenditure (that amount of expenditure made from schools' bank accounts). Advances of cash will be considered and, where necessary, will be made into schools' bank accounts by the 18<sup>th</sup> of April and the 18<sup>th</sup> of January of each year.

### **3.2 Amount of cash advances**

The amount of the cash advance will be calculated with the aim of providing sufficient cash to cover local expenditure and will be based primarily on the amount of local expenditure in the previous year, with increased regard given to the level of spend in the new year in the calculation of the January advance. Schools will receive the majority of their annual requirement in the April cash advance.

### **3.3 Ad hoc cash advances**

Schools are not permitted credit without express permission from the Secretary of State. This includes overdrafts. All schools should be completing regular cash flow forecasts to assess whether their bank accounts contain sufficient cash to cover anticipated expenditure.

Any school which is forecasting that their school bank account will be overdrawn should contact the LA to request an additional cash advance. A cash flow forecast will be required.

### **3.4 Late cash advances**

If a school incurs costs as a consequence of insufficient cash in its bank account that results from a late or erroneous cash advance, the LA shall meet those costs that it deems reasonable.

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

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

New bank account arrangements may only be made with effect from the beginning of each financial year.

When a school opens an external bank account, the LA shall, upon request from the school, transfer immediately to the account an amount agreed by both school and LA as the estimated surplus balance held by the LA in respect of the schools budget share. This transfer is made on the basis that there shall be a subsequent correction when accounts for the relevant year are closed.

### **3.5.1 Restrictions on accounts**

Accounts may only be held for the purpose of receiving budget share payments, at the following banks or building societies.

Santander UK plc (including Alliance and Leicester , Bradford and Bingley and Abbey National)  
Lloyds (including TSB , Halifax, Cheltenham and Gloucester, Bank of Scotland, Scottish Widows)  
Barclays (including Standard Life)  
Co-operative (including Britannia Building Society, Smile and Unity Trust)  
HSBC (including First Direct)  
Royal Bank of Scotland (including National Westminster)

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

Schools having accounts with financial institutions other than those listed above prior to April 1<sup>st</sup>, 2007 are permitted to retain those accounts.

Schools are allowed to have accounts for budget share purposes which are in the name of the school rather than the LA<sup>9</sup>. However, the LA may require that the account mandate shows the LA to be 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.

The LA will continue with the arrangements already negotiated whereby the accounts are in the name of the LA but specific to each school, for schools that wish to use such arrangements.

The LA may restrict the signatories for schools' bank accounts as per provisions in the Schools Finance Manual, however such approved signatories shall include at least LA employees and school employees.

The LA shall not restrict the use of direct debits or standing orders for a bank account operated by schools, except where the account is part of an LA contract.

### **3.6 Borrowing by schools**

Governing bodies may borrow money only with the written permission of the Secretary

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<sup>9</sup> Money paid by the LA and held in such accounts remains LA property until spent (s.49(5) of the Act).

of State. See section 4.10 for the provisions for licensed deficits.

### **3.7 Other provisions**

The LA has formulated separate detailed rules and guidance in respect of other aspects of banking arrangements which are included in the Schools Finance Manual.

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

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

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

### **4.2 Reporting on and control of the use of balances (Balance control mechanism)**

The balance control mechanism will be used to enable schools to agree plans for surplus balances with the Authority or re-distribute funds to achieve this aim.

Surplus balances held by schools as permitted under this scheme are subject to the following restrictions with effect from 1 April 2007:

- 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 revenue balance (excluding any ring fenced grants) as reported to each school in writing by the authority.
- b. the authority shall deduct from the calculated balance any amounts for which the school has an accrual which could not be included in the schools accounts.
- 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 **agreed with the authority**. Amounts must not be retained beyond the agreed period without the consent of the authority. The authority must agree any changes to the assigned purpose. In doing so the authority will look at previous assignments and consider the needs of the school.

The Local Authority will only agree amounts for the following purposes unless exceptional circumstances occur

- Capital works.
- Savings made to make enhancements to new builds from the Building Schools for the Future programmes and Private Finance Initiatives.
- To cover funding shortfalls for future temporary drops in pupil numbers.
- Building up funds to dampen the effects of step increases in pupil numbers that occur in September but not funded until the next financial year.
- Single status.
- Holding the funds for joint schools collaboration project which run over more than one year.
- Accruals that should have taken place but it was not possible to action them in time for closing the accounts.
- Any administrative error in the accounts.

- d. if the result of steps a to c is a sum greater than 5% of the current year's budget share for secondary schools, 8% for primary and special schools, then the authority shall deduct from the current year's budget share an amount equal to the excess. This deduction will take place in a budget update in October of each year.

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

If a school has excessive balance at the start of the year, provides plans to spend the sum, but still has an excess at the end of the year, this will be automatically capped. This is to be effective from 31<sup>st</sup> March 2010.

#### **4.2.1 The right to appeal**

There will be the right of appeal. An appeals panel of two School Forum members and the Executive Director for Children and Young People, or their representative will sit to consider appeals against the decision of School Forum. The decision of the appeals panel will be final.

In determining the deductions in 4.2 above the LA will expect to draw upon information in the School Improvement Plan, the asset management plan and any other planning documents that the School Forum might agree over time. The process will be undertaken jointly between Finance and School Improvement Officers.

#### **4.2.2 Monitoring of approved plans**

Schools will be required to provide progress reports on the planned use of the excess

balance. Schools may not vary the plan in terms of the use of funds or the agreed timetable without good and proper reason and the approval of the LA. If such approval is not given, the balance may be clawed back, subject to ratification by Schools Forum.

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

Balances held by the LA on behalf of schools will attract interest.

### **4.4 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 4.10)

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

Schools may only plan for a deficit budget in accordance with the terms of para 4.9 below.

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

The LA shall charge interest on any unapproved deficit balances.

The basis of the calculation of interest shall be as follows:

- Deficit balance at start of year, multiplied by
- The rate of interest used by the LA in calculating the interest due to be paid will be interest rate given on schools' bank balances in credit + 1%.

### **4.7 Writing off deficits**

The LA has no power to write off the deficit balance of any school.

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

When a school closes, any balance (whether surplus or deficit) shall revert to the LA; it cannot be transferred as a balance to any other school, unless it is to convert to an Academy under the provisions of the Academies Act 2010 which requires the LA to pay over the schools surplus to the successor academy.

The LA may deduct any deficit balance from a closed school from any additional funding made available to a successor school, such as non-earmarked LA funding, but not from the ISB budget

### **4.9 Borrowing for agreed purposes**

The general provision in para 3.6 above forbidding Governing bodies to borrow money

shall not apply to schemes run by the LA as set out in the following sections:

#### **4.10 Licensed deficits**

The LA will permit schools which have no deficit at 31 March 2007 to plan for a deficit budget in particular circumstances. The funding to allow such a deficit budget shall be provided from the collective surplus of school balances held by the LA on behalf of schools<sup>2</sup>.

The detailed arrangements applying to this scheme are set in the "Licensed Deficit Scheme for Schools with Delegated Budgets" which is shown in Annex E.

*NB The maximum proportion of the collective balances held by the LA which will be used to back the arrangement, shall not exceed 40%.*

#### **4.11 Innovation Fund**

##### **Background**

The Innovation Fund seeks to change how major projects are implemented by allowing schools to incur the expenditure when a need is identified, then paying for the asset created. At present schools 'save up' for special projects and the impact is to create a high level of balances overall.

Schools may only borrow from the LA this is because any borrowing by a school counts as borrowing by the LA, which is regulated by government i.e. schools may not borrow independently from banks.

##### **Scheme Overview**

The Authority to operate a loan scheme for schools funded by the collective balances held by schools as per 4.9.

All schools maintained by the LA will be eligible to apply for a loan facility that can be for the:

- Purchase or replacement of equipment including computer equipment;
- Full or part funding of premises projects;
- Energy and environmental improvements;

The normal maximum loan will be up to 5% of the schools budget share, in 2008-09 terms this equates to £72,100 for an average primary school. However, subject to a detailed business plan, the Authority may approve a loan in excess of this limit, provided it is satisfied that the school can meet the ongoing commitment.

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<sup>2</sup> although it is open to the LA, in circumstances where there is no such surplus, to make alternative arrangements if it can do so within the relevant LA finance legislation.

It is generally assumed that the loans will be for expenditure that is capital in nature and will be between two and five years.

Equipment loans will normally be for a maximum period of three years. Only in exceptional cases will loans for equipment be extended to a maximum of five years.

### **Approval Arrangements**

- Loans up to £100,000 will be approved by the Head of Resources, Children and Young People;
- Loans between £100,000 and £500,000 will be approved by the Executive Director, Children and Young People following consultation with the Schools Forum;
- Loans over £500,000 will be approved by the Mayor and Cabinet following consultation with the Schools Forum.

These arrangements are in line with those for the approval of licensed deficits.

- Loans will be advanced to the schools as revenue contingency budget allocations and repayments<sup>10</sup> by deduction from budget share (after calculating minimum funding guarantee).
- Interest charges will be calculated at bank interest rate<sup>11</sup> + 1% upon commencement and will be fixed for the term of the loan and repayments will be calculated on a monthly basis.

There will be no charge for arranging the loan or for early repayment of the loan.

Loans to schools from the Innovation Fund will not exceed 20% of the collective balances held by schools of the total. In 2009/10 that would permit loans up to £1.8m to be made.

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<sup>10</sup> DfE rules do not allow Devolved Formula Capital (DFC) to be used to repay loans.

<sup>11</sup> The interest rate given on schools' bank balances in credit



## **SECTION 5: INCOME**

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

### **5.1 Income from lettings**

Schools may retain income from lettings of the school premises which would otherwise accrue to the LA, subject to alternative provisions arising from any joint use or PFI agreements. Schools are permitted to cross-subsidise lettings for community and voluntary use with income from other lettings, provided there is no net cost to the budget share and that 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. Schools whose premises are owned by the LA shall be required to have regard to directions issued by the LA as to the use of school premises as permitted under the School Standards and Framework Act 1998 for various categories of schools<sup>12</sup>. Any such income should not be paid into a school's voluntary or private fund.

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

Schools may retain income from fees and charges except where a service is provided by the LA from centrally retained funds. However, schools are required to have regard to any policy statements on charging produced by the LA from time to time. A summary of the current policy is included in the Schools Finance Manual.

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

Schools may retain income from fund-raising activities.

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

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

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

Because of the potential VAT implications of providing services which lead to fees and charges, fund raising activities and the sale of assets, the LA has established

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<sup>12</sup> The LA has limited powers to direct the use of Voluntary Aided schools premises, and no power to direct the use of Foundation Schools

administrative procedures for the collection of income which are set out in the Schools Finance Manual. These procedures shall apply only to income which accrues to the LA and may be varied from time to time in the light of advice from the VAT authorities.

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

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

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

### **6.1 General provision**

The LA must charge the salaries of schools based staff to the budget share of a school at actual cost. Otherwise, the budget share of a school may be charged by the LA without the consent of the Governing Body only in circumstances set out in 6.2 below.

The LA shall consult a school as to the intention to so charge, and shall notify a school when it has been done.

Schools are reminded that the LA cannot act unreasonably in the exercise of any power given by this scheme, or it may be the subject of a direction under s.496 of the Education Act 1996.

The LA shall make arrangements for a disputes procedure for such charges.

#### **6.1.1 Charging of salaries to schools budgets**

The LA shall charge salaries to school budgets on the basis of actual cost.

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

6.2.1 Where premature retirement costs have been incurred without the prior written agreement of the LA to bear such costs (the amount chargeable being only the excess over any amount agreed by the LA).

6.2.2 Other expenditure incurred to secure resignations where the school had not followed LA advice.

6.2.3 Awards by courts and industrial tribunals against the LA, or out of court settlements, arising from action or inaction by the Governing Body contrary to the LA's advice.

6.2.4 Expenditure by the LA in carrying out health and safety work or capital expenditure for which the LA is liable where funds have been delegated to the Governing Body for such work, but the Governing Body has failed to carry out the required work.

6.2.5 Expenditure by the LA incurred in making good defects in building work funded by capital spending from budget shares, where the premises are owned by the LA or the school has voluntary controlled status.

6.2.6 Expenditure incurred by the LA in insuring its own interests in a school where funding has been delegated but the school has failed to demonstrate that it has arranged cover at least as good as that which would be arranged by the LA.

6.2.7 Recovery of monies due from a school for services provided to the school, where a dispute over the monies due has been referred to a disputes procedure set out in a service level agreement, and the result is that monies are owed by the school to the LA.

6.2.8 Recovery of penalties imposed on the LA by HM Revenue and Customs, Environment Agency, the Contributions Agency or Teachers Pensions as a result of school negligence.

6.2.9 Correction of LA errors in calculating charges to a budget share (e.g. pension deductions).

6.2.10 Additional transport costs incurred by the LA arising from decisions by the Governing Body on the length of the school day, and failure to notify the LA of non-pupil days resulting in unnecessary transport costs.

6.2.11 Legal costs which are incurred by the LA because the Governing Body did not accept the advice of the LA (see also section 11.4).

6.2.12 Costs of necessary health and safety training for staff employed by the LA, where funding for training has been delegated but the necessary training not carried out.

6.2.13 Compensation paid to a lender where a school enters into a contract for borrowing beyond its legal powers, and the contract is of no effect.

6.2.14 Cost of work done in respect of teacher pension remittance and records for schools using non-LA payroll contractors, the charge to be the minimum needed to meet the cost of the LA's compliance with its statutory obligations.

6.2.15 Costs incurred by the LA in securing provision specified in a statement of SEN where the Governing Body of a school fails to secure such provision despite the delegation of funds in respect of low cost high incidence SEN and/or specific funding for a pupil with high needs.

6.2.16 Costs incurred by the LA where the school has failed to return information required by the LA on time, or where the information has to be corrected.

6.2.17 Recovery of amounts spent from specific grants on ineligible purposes.

6.2.18 Costs incurred by the LA as a result of the Governing Body being in breach of the terms of a contract.

6.2.19 Costs incurred by the LA or another school as a result of a schools withdrawal from a cluster arrangement into which they entered voluntarily; this is to remove disincentives to the employment of shared staff in clusters and partnerships. At present schools can agree to share the cost of a member of staff for, say, three years but one

school can then withdraw without notice putting extra costs on the school actually employing the member of staff.

6.2.20 Compensation for costs incurred by the LA if a school fails to pay a debt and which subsequently fall upon the LA to pay. This will include interest payments as per the Late Payment Of Commercial Debts Act 1998.

6.2.21 Sums outstanding for 30 days or more, where the school has entered into a service level agreement (SLA) with the LA, but has failed to pay an amount due under the SLA and has not disputed the payment through the relevant contracts dispute procedure; or has where the dispute procedure has held the school to be liable for a sum and it has not paid.

6.2.22 Sums outstanding for 30 days or more, where the school has entered into a contract managed by the LA, but has failed to pay an amount due under the contract and has not disputed the payment through the relevant contracts dispute procedure; or has where the dispute procedure has held the school to be liable for a sum and it has not paid.

6.2.23 Cost incurred by the LA in securing education outside of the school for a pupil where a school has not taken the advice of the Local Authority regarding the timely admission of a pupil including those with SEN.

6.2.24 Where the school has failed to notify the council of a change in circumstances of a member of staff and that this has resulted in an overpayment that is not recoverable the cost will be charged to the school. A debt recovery fee will also be charged if the employee has left the councils employment and a overpayment has been made.

6.2.25 Redundancy costs and support – see Annex E

### **6.3 Charges by schools to the LA**

Losses incurred by a school where the LA has failed to provide a service agreed between the school and the LA on time and this causes a direct financial loss to the school, or where there is an error which has to be corrected which causes a direct financial loss to the school.

#### **Examples of the circumstances which would be covered include:**

- ❖ failure by the LA to arrange for payment of instalments of budget shares in accordance with the published timetable, causing a school to incur interest on an overdraft, but not failure by the bank to process such payments (in this case, redress should be sought from the bank). Compensation would cover the interest charge incurred.
- ❖ failure to stop payment of a salary by the payroll section, if the correct notification has been received by the payroll section before the published deadline and if

attempts to recover the overpayment of salary from the member of staff fail. It would not cover cases where the school had not sent in the correct notification, or where these were received after the published payroll deadline.

Only direct losses will be covered. Where a delay by the LA causes administrative inconvenience, or means that a deadline for return of information by a school is not achievable, that deadline should be extended.

Arrangements covering remedies and compensation for poor performance or non performance under service level agreements will be covered in those agreements. Where these overlap with this provision, only one compensation payment will be made.

Losses due to policy decisions by the LA will not be compensated.

## **SECTION 7: TAXATION**

### **7.1 VALUE ADDED TAX**

The LA has established procedures to enable schools to utilise the LA's ability to reclaim VAT on expenditure relating to non-business activity. These are set out in the Schools Finance Manual.

Amounts reclaimed through these procedures will be passed back to the school.

### **7.2 Payments to individuals claiming to be self-employed**

Schools are required to abide by procedures issued by the LA in connection with payments to individuals claiming to be self-employed.

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

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

The LA shall determine on what basis services from centrally retained funds (including those for premature retirement compensation and redundancy pay, but excluding centrally funded premises and liability insurance) will be provided to schools, but the LA is debarred from discriminating in its provision of services on the basis of categories of schools except where (a) funding has been delegated to some schools only or (b) such discrimination is justified by differences in statutory duties.

### **8.2 Timescales for the provision of services bought back from the LA using delegated budgets**

The term of any arrangement with a school starting on or after 1 April 2007 to buy services or facilities from the LA (excluding those dealing with centrally funded premises and liability insurance) shall be limited to a maximum of three years from the inception of the scheme or the date of the agreement, whichever is the later, and periods not exceeding five years for any subsequent agreement relating to the same services, or five and seven years respectively for contracts for supply of catering services.

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

#### **8.2.1 Packaging**

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

### **8.3 Service level agreements**

8.3.1 If services or facilities are provided under a service level agreement - whether free or on a buyback basis - the terms of any such agreement starting on or after the inception of the scheme will be reviewed at least every three years if the agreement lasts longer than that.

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

8.3.3 Service level agreements must be agreed one week before the beginning of a financial year to be effective for that financial year and schools shall have at least one month prior to the agreement date to consider the terms of the agreement.



## **8.4 Teachers' Pensions**

In order to ensure that the performance of the duty on the LA to supply Teachers Pensions with information under the Teachers' Pensions Regulations 1997, the following conditions are imposed on the LA 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 LA 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 LA 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 LA which the LA requires to submit its annual return of salary and service to Teachers' Pensions and to produce its audited contributions certificate. The LA will advise schools each year of the timing, format and specification of the information required. A Governing Body shall also ensure that any such arrangement or agreement is varied to require that Additional Voluntary Contributions (A.V.C.'s) are passed to the LA 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 LA which the LA requires to submit its annual return of salary and service to Teachers' Pensions and to produce its audited contributions certificate. The LA will advise schools each year of the timing, format and specification of the information required from each school. A Governing Body shall also ensure that Additional Voluntary Contributions (AVCs) are passed to the LA within the time limit specified in the AVC scheme. The Governing Body shall meet any consequential costs from the school's budget share.

## **SECTION 9: PFI/PPP Clauses**

The LA shall have the power to charge a school's budget share amounts agreed under a PFI/PPP agreement entered into by the Governing Body. Governing bodies will be asked to sign specific agreements for each PPP/PFI and these agreements will contain the contract terms, mechanisms for charging budget shares and other relevant details. Once agreements have been signed governing bodies will be bound by these and will be required to make contributions towards the cost of the contract.

## **SECTION 10: INSURANCE**

If funds for insurance are delegated to any school, the LA may require the school to demonstrate that cover relevant to an LA's insurable interests, under a policy arranged by the Governing Body, is at least as good as the relevant minimum cover arranged by the LA if the LA makes such arrangements, either paid for from central funds or from contributions from schools' delegated budgets. Details of the minimum cover required will be circulated to schools and may be amended annually. When establishing the minimum cover required, the LA shall have regard to the actual risks which might reasonably be expected to arise at each individual school.

## **SECTION 11: MISCELLANEOUS**

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

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

### **11.2 Liability of governors**

Because the Governing Body is a corporate body<sup>13</sup>, governors of maintained schools will not incur personal liability in the exercise of their power to spend the delegated budget share provided they act in good faith.

### **11.3 Governors' expenses**

The LA shall have the power to delegate to the Governing Body of a school yet to receive a delegated budget, funds to meet governors' expenses

Only allowances in respect of purposes specified in regulations<sup>14</sup> may be paid to governors from a school's delegated budget share. Schools are expressly forbidden from paying any other allowances to governors.

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

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

Legal costs incurred by the Governing Body, although the responsibility of the LA as part of the cost of maintaining the school - unless they relate to the statutory responsibility of aided school governors for buildings - may be charged to the school's budget share unless the Governing Body acts in accordance with the advice of the LA.

Where there is a conflict of interest between the LA and the Governing body, the Governing Body should seek their own independent legal advice. Governing bodies should be aware that the costs of such advice will be their responsibility.

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<sup>13</sup> and because of the terms of s.50(7) of the SSAF Act

<sup>14</sup> schedule 11 of the School Standards and Framework Act 1998,

## **11.5 Health and Safety**

### **Background**

The Health & Safety at Work Act 1974 together with the specific supporting Regulations and associated Approved Codes of Practice, places overall responsibility for health & safety with the employer. Who the employer is, varies with the type of school i.e.:

- for community schools, voluntary controlled schools, pupil referral units and maintained nursery schools, the employer is usually the LA.
- for voluntary aided schools, foundation schools and independent schools the employer is usually the governing body.

Where relevant the governing body in all categories of school will also have health and safety responsibilities when exercising its role as the controller of school premises.

The Health & Safety Executive (HSE) is the organisation who enforces health & safety responsibilities imposed on LA's, School's and Governing Bodies. The HSE will usually take action against the employer for non-compliance but they may take action against employees who have failed to undertake their health & safety responsibilities.

Schools may take advice on health & safety from other bodies but must heed the advice and recommended policies of the LA.

Schools are also required to ensure, as far as is reasonably practical, that relevant Governors and staff attend appropriate health & safety training.

### **Health & Safety Responsibilities**

The LA has delegated the responsibility for health & safety to schools: this includes the requirement for all schools to have a health & safety policy and associated protocols & practices in place & arrangements to implement this. The employer retains the ultimate responsibility for health & safety, and who the employer is, varies according to the school (see above).

In complying with its responsibilities and to assist governing bodies to comply with their responsibilities the LA will:

- undertake regular health and safety audits to confirm that these responsibilities are being undertaken.
- provide health & safety guidance
- provide training for various categories of staff on their health & safety responsibilities and in particular the roles & responsibilities of "Responsible, Nominated & Competent" persons within the meaning of the Act.

- direct schools to release staff for health & safety training as necessary, the cost of which can be recharged to schools.
- request Governing Bodies to supply financial & other information to ensure that the school is managing it's budget satisfactorily. This will include the use of both the school's Individual School Budget (ISB) and their Devolved Formula Capital (DFC) budget.
- require Governing Bodies to assess in advance the health & safety competence of contractors taking into account the LA's procurement policies.

### **Monitoring of Health & Safety responsibilities by the LA & financial implications for schools**

The LA has a statutory duty to monitor robustly how schools are complying with their responsibilities & to take appropriate action where there is non compliance. This will include recharging schools the costs for health & safety work which have been delegated to them but which have not been undertaken eg: statutory maintenance costs; staff training. The LA can also withhold funds to cover the strategic management of health & safety ie: establishing policies; setting standards; providing competence at a strategic level; undertaking monitoring; reviewing policies & standards & advising schools.

Where the LA believes that the health & safety of anyone on-site or of anybody engaged on school activities off-site, is at risk, it will make a direction to the Governing Body & Head Teacher to remedy this as a matter of urgency.

Substantial or persistent non-compliance is a ground for suspending delegation, subject to the Governing Body's right of appeal.

### **LA intervention in Schools**

The LA can & will give a warning notice to any school in its area where the safety (not health) of staff or pupils is threatened.

### **Reserve Power of Entry**

LA's may need to obtain information in order to exercise their health & safety responsibilities & if necessary have a right of entry to any school maintained by them.

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

Governing bodies are required to permit the Chief Finance Officer of the LA or any officer of the LA nominated by the Chief Finance Officer to attend meetings of the Governing Body at which any agenda items are relevant to the exercise of her or his responsibilities.

The Chief Finance Officer's attendance shall normally be limited to items which relate to issues of probity or overall financial management and shall not be regarded as routine.

## **11.7 'Whistleblowing'**

Persons working at a school or school governors who wish to complain about financial management or financial propriety at said school should consult the LA's whistleblowing policy contained in Annexe F.

## **11.8 Special Educational Needs**

Schools should use their best endeavours in spending the budget share or any specific funding provided to secure the special educational needs of their pupils. Where collaborative funding is available for SEN provision, all schools must ensure that the funding is used in the most effective way for all pupils within the collaborative schools.

## **11.9 Child Protection**

The LA acknowledges the need to release staff to attend child protection case conferences and other related events but shall not make specific payments to the schools to contribute towards the associated costs.

## **SECTION 12: COMMUNITY FACILITIES**

**12.1** 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. First, regulations made under s.28 (2), if made, can specify activities which may not be undertaken at all under the main enabling power. Secondly, the school is obliged to consult its LA and have regard to advice from the LA. Thirdly, the Secretary of State issues guidance to governing bodies about a range of issues connected with exercise of the power, and a school must have regard to that.

However, under s.28(1), the main limitations and restrictions on the power will be those contained in the maintaining LA's scheme for financing schools made under section 48 of the School Standards and Framework Act 1998. Paragraph 2 of Schedule 3 to the Education Act 2002 extends the coverage of schemes to the powers of governing bodies to provide community facilities.

Schools are therefore subject to prohibitions, restrictions and limitations in the scheme for financing schools.

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

**12.2** The budget share of a school can be used to fund community facilities – either start-up costs or ongoing expenditure - or to meet deficits arising from such activities.

**12.3** Mismanagement of community facilities funds can be grounds for suspension of the right to a delegated budget.

#### Consultation with the LA – Financial aspects

**12.4** Section 28(4) of the Education Act 2002 requires that before exercising the community facilities power, governing bodies must consult the LA, and have regard to advice given to them by their LA.

Schools should therefore adopt the following procedure before providing community facilities.

- a. Details of the proposal should be supplied to the LA. Which will include:
  - i. Nature of the facilities
  - ii. How they fit in with the extended schools agenda
  - iii. How they will benefit the pupils of the school or the community
  - iv. An income and expenditure statement indicating how the facilities will be funded.
- b. The school should allow 2 weeks for the LA to respond with any suggestions or comments before the facilities are adopted. In their response the LA will consider the benefits to the pupils/community and the financial viability of the facility.
- c. Schools should confirm the arrangements they have decided on following the advice given by the LA.

The LA may not charge the school for any advice given.

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

**12.5.** Schools must provide the LA with details of any third party funding agreements before they are signed. The LA must be given at least 2 weeks to comment on the agreement.

**12.6** The LA does not have a right of veto over any such agreements. However if an agreement is signed against the wishes of the LA, which the LA considers is contrary to Financial standing orders or seriously prejudicial to the interests of the school or the LA, that may constitute grounds for suspension of the rights to a delegated budget.



## **Other Prohibitions, restrictions, and limitations**

**12.7.** The LA may require that in the interests of the LA the Governing Body should carry out the facilities through a schools company or must obtain indemnity insurance. The LA will only impose this request if it considers that the project carries significant financial risk.

## **Supply of Financial Information**

**12.8** Where the LA has notified a school that they believe there is cause for concern with the schools management of the community facility, they may request detailed income and expenditure statements every three months. If necessary the LA may also request the submission of a recovery plan for the activity.

**12.9** All income and expenditure on Community facility should be reported under the CFR Framework.

## **Audit**

**12.10** Schools must grant access to the school's records connected with exercise of the community facilities power, in order to facilitate internal and external audit of relevant income and expenditure.

**12.11** Schools, in concluding funding agreements with other persons pursuant to the exercise of the community facilities power, must ensure that such agreements contain adequate provision for access by the LA 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 LA to satisfy itself as to the propriety of expenditure on the facilities in question.

## **Treatment of income and surpluses**

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

**12.13** The school may 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 LA at the end of each financial year, transfer all or part of it to the budget share balance.

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

## **Health & Safety**

**12.15** The Health and Safety provision (11.5) is also applicable to Community Facilities.

**12.16** Governing bodies will have responsibility for the costs of securing Criminal Records Bureau clearance for all adults involved in community activities taking place during the school day. Governing bodies will be free to pass on such costs to a funding partner as part of an agreement with that partner.

## **Insurance**

**12.17** 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 can not be funded from the school budget share. The school should seek the LA's advice before finalising any insurance arrangement for community facilities.

**12.18** The LA may undertake its own assessment of the insurance arrangements made by a school in respect of community facilities, and if it judges those arrangements to be inadequate, make arrangements itself and charge the resultant cost to the school. Such costs can not be charged to the school's budget share.

## **Taxation**

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

**12.20** Schools are reminded that if any member of staff employed by the school or LA 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), the school is likely to be held liable for payment of income tax and National Insurance, in line with Inland Revenue rules.

## **Banking**

**12.21** Schools may maintain a separate bank account or use the schools main account for Community Facilities.

Where a separate bank account is used, transaction must be recorded under the CFR Framework and audited copies of the year end accounts must be submitted to the LA.

Where the schools main bank account is used separate identification of the Community Facilities funds from the Schools Budget share will be facilitated through the use of the CFR framework.

**12.22** Restrictions on banking arrangements for Community Facilities are the same as

those for the schools main bank account (see section 3.5.1)

**12.23** Schools are reminded that they may not borrow money without the written consent of the Secretary of State. This requirement does not extend to monies lent to schools by their maintaining LA.

## ANNEX A

### LIST OF SCHOOLS TO WHICH THE SCHEME APPLIES

#### PRIMARY SCHOOLS

Adamsrill	Launcelot
All Saints	Lee Manor
Ashmead	Lucas Vale
Athelney	Marvels Lane
Baring	Myatt Garden
Brindishe Green	Our Lady & St Philip Neri
Brindishe Lee	Perrymount
Beecroft Garden	Rangefield
Childeric	Rathfern
Christchurch	Rushey Green
Coopers Lane	Sandhurst Infants
Dalmain	Sandhurst Junior
Deptford Park	Sir Francis Drake
Downderry	St. Augustine's
Edmund Waller	St. Bartholomew's
Elfrida	St. James Hatcham
Eliot Bank	St. John the Baptist
Fairlawn	St. Joseph's
Forster Park	St. Margaret's Lee C of E
Good Shepherd	St. Mary Magdalene's
Gordonbrock	St. Mary's
Grinling Gibbons	St. Michael's
Haseltine	St. Saviour's
Holbeach	St. Stephen's
Holy Cross	St. William of York
Holy Trinity	St. Winifred's Infants
Horniman	St. Winifred's Junior
John Ball	Stillness Infants
John Stainer	Stillness Junior
Kelvin Grove	Torridon Infants
Kender	Torridon Junior
Kilmorrie	Turnham

#### SECONDARY SCHOOLS & ALL THROUGH SCHOOLS

Addey & Stanhope	Prendergast Hilly Fields
Bonus Pastor	Prendergast Ladywell Fields
Conisborough College	Prendergast Vale College
Deptford Green	Sedgehill
Forest Hill	Sydenham
	Trinity, Lewisham

#### SPECIAL SCHOOLS

Brent Knoll	New Woodlands
Drumbeat	Watergate
Greenvale	

#### NURSERY SCHOOLS

Chelwood	Clyde
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#### PUPIL REFERRAL UNIT

Abbey Manor College	
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ANNEX B

**Deleted**

## ANNEX C

### **LICENSED DEFICIT SCHEME FOR SCHOOLS WITH DELEGATED BUDGETS**

#### **1 About the scheme**

- 1.1 The licensed deficit scheme enables schools to apply to the LA for permission to end a financial year with a deficit, which will be eliminated in subsequent years. It is a way of carrying out works or making large purchases which some schools cannot fund out of their annual allocations and any budget surpluses they have set aside to date. The projects to be funded should make a demonstrable contribution to the achievement of the schools development plan.
- 1.2 A licensed deficit can also be granted where a school, has founds itself in a deficit position due to changes in circumstances e.g. significant fall in pupil numbers. The licensed deficit will be granted to reflect that cost reductions may not be possible immediately without detrimental impact on the curriculum.
- 1.3 The scheme means that governing bodies would be authorised by the LA to set a deficit budget. Governing bodies may not set a deficit budget unless they have the written permission of the LA.
- 1.4 Before a planned deficit is approved, the school will need to be able to demonstrate that they will be able to eliminate the deficit over the agreed timescale.

#### **2 How the scheme is funded**

- 2.1 The scheme is funded on the basis that there will be significant balances accumulated by schools. It is not likely that all the schools which have surpluses will spend them in the same financial year
- 2.2 The LA can use up to a maximum of 40% of the collective balances of all schools to fund the scheme. The LA will be responsible for monitoring the overall level of school balances and will not authorise deficits if the 40% limit would be exceeded

#### **3 What the scheme can be used for**

- 3.1 Where schools are in special measures the scheme is designed to ensure they can sustain a level of expenditure which will enable them to deliver the national curriculum.
- 3.2 Action plans which arise from OFSTED findings which require additional expenditure and where the school has no balances to fund the expenditure.

- 3.3. Schools that wish to invest in major equipment, projects or building works and who do not have sufficient balances to enable them to do this. These projects should be linked to either the School Development Plan or Asset Management Plan.
- 3.4 A licensed deficit can also be granted where a school, has found itself in a potential deficit position due to a change in circumstances e.g. significant fall in pupil numbers. The licensed deficit will be granted to reflect that cost reductions may not be possible immediately

#### 4 **How the process will work**

- 4.1 As soon as the schools identifies the need for a Licensed Deficit they must formally notify the LA in writing and contact the Finance Team for the application forms.
- 4.2 The application forms will require the following information:
- a. The period of the deficit. This will be a maximum of 5 years for Secondary schools and 3 years for Primary schools.
  - b. The amount of the deficit. This can be no higher than 10% of the schools ISB budget.
  - c. A brief explanation of the purpose of the deficit.
  - d. A recovery plan. This will consist of a number of specific actions being taken by the school to bring the budget into balance. The costed impact of each action must be shown for each year of the deficit.
  - e. A summary budget plan for the period of the deficit with cross reference to the recovery plan.
  - f. Be authorised and signed by both the Headteacher and Chair of Governors.
- 4.3 The completed application forms must be sent to the Finance Department. Finance Officers and School Improvement Officers will scrutinise the application before recommendation for approval is made.
- 4.4 The application will need the following authorisation
- a. Up to £100k the Head of Resources for Children and Young People
  - b. Up to £500k Executive Director for Children and Young People
  - c. Above £500k Mayor and Cabinet
- 4.5 Once approved a confirmation letter and copy of the authorised application will be sent to the school. **A Licensed Deficit is not approved until this letter is received by the school.**
- 4.6 The school must the produce revised budget plans, which must include a resolution of the Governing Body.

- 4.7 Both the school and the LA must continually monitor the schools budget to ensure the agreed amount of deficit is not exceeded.

## **5 LA Responsibilities**

The LA will be responsible for ensuring that :-

the scheme is operated fairly

governors have satisfied themselves that the purpose for which the licensed deficit is sought is in the interest of the school and linked to the schools' development plans

the amount of the deficit will not exceed that which a school will be able to repay over the specified period

the medium and long term interests of the Council are safeguarded e.g. against over commitment

Requests for authorised deficits are accompanied by the appropriate forms and are checked for accuracy and compliance with guidance.

## **6 School Responsibilities**

Governing bodies will be responsible for ensuring that :-

The Licensed Deficit will make a demonstrable contribution to the school

The proposals are consistent with the school's Development Plan

Background information and cost estimates are accurate to the best of their knowledge

Application forms are completed and signed by the Headteacher and chair of governors

Deficit funds are used for the specified purpose

## **7 Timing**

- 7.1 Schools are required to submit budget plans to the LA before the end of the summer term and once their budget balance from the previous year has been verified. Applications for authorised deficits will need to be made and approved before the school sets a deficit budget by the end of May.
- 7.2 If a potential deficit is identified throughout the financial year, then the application must be made and approved before the end of the financial year.



## ANNEX D

### **WHISTLEBLOWING POLICY**

The Council is committed to the provision of the highest quality services for local people and to full accountability for the services it provides. The Council is also committed to the highest standards of conduct and has in place detailed rules, regulations, quality standards and procedures to ensure that these standards are observed. However, sometimes malpractice and wrongdoing may occur. Lewisham is not prepared to tolerate any such malpractice or wrongdoing in the performance of its services.

The Council acknowledges that the greatest deterrent to malpractice or wrongdoing is the probability that it will be discovered, reported and investigated thoroughly and that those responsible will be held to account. This policy is intended to be a clear and unequivocal statement that whenever any malpractice or wrongdoing by the Council, its employees, contractors or suppliers is identified or reported to the Council, it will be promptly and thoroughly investigated and rectified. The Council will also investigate means of ensuring that such malpractice or wrongdoing can be prevented for the future.

#### **The scope of the whistleblowing policy**

##### **The principles**

The policy is based upon the overriding principle that the public interest and the needs of service users must come first.

##### **What's covered?**

It is intended that any significant concern which a member of staff, service user, Councillor or member of the public has about

- any aspect of service provision
- the conduct of officers or Members of the Council, or
- the conduct of any other parties acting on behalf of the Council

which may be

- unlawful (including fraud or corruption)
- against the Council's Standing Orders or policies
- contrary to established professional or other standards, the Council's Member and Employee Code of Conduct or any other established Codes of Practice can be reported under this procedure.

It is not intended however, that this procedure should replace existing processes such as the grievance or disciplinary codes. Instead it may be that once the whistle has been blown, action under other processes (such as the disciplinary code) may ensue.

## **A supplement not a substitute**

Anyone, including Councillors, employees, service users and members of the public are encouraged to raise complaints or matters of genuine concern with the Council. There are already in existence a number of channels available to raise such concerns. Where an appropriate avenue exists to deal with that concern, people are urged to use it. This whistleblowing policy is intended to supplement, rather than replace the existing procedures wherever practicable. These channels are:-

- **Service Managers/Directors**

Anyone with a complaint about Council services is encouraged to contact the manager directly responsible for that service or the relevant service Director. In most cases where there is concern this avenue will be the first point of reference. If a complaint relates to a Director, it should be referred to the Chief Executive.

- **The Council's Complaints Procedures**

The Council has a corporate complaints procedure by which it invites any person to raise a complaint they may have about Council Services. Information about this procedure is available from the Advice and Information Service.

- **Local Councillors**

Members of the public are encouraged to refer matters of concern to their local Councillor who can then either identify the best point of contact for them to report the matter or take up the issue on their behalf. Information about how to contact local Councillors is available from the Members Services at Lewisham Town Hall.

- **The Council's Grievance Procedure**

This deals with complaints relating to an individual employee's conditions of employment. The whistleblowing policy is not intended to replace the grievance procedure and should not be used to deal with matters which relate to an individual's contract of employment. If a concern is raised through the whistleblowing procedure which would be more properly dealt with through the grievance procedure, it will be referred to the Director of Personnel and Administration.

- **Anti-fraud Procedures**

The Council's Financial Regulations provide that any suspected fraud, corruption or other financial irregularity should be reported to the Head of Audit Services who will conduct an investigation and make recommendations for appropriate action. Information about this procedure can be obtained from Phil Adamson, the Head of Audit Services.

- **Housing Benefit Fraud**

The Council also has two anti-fraud teams to tackle housing benefit abuse. One deals with public sector housing benefit. Information about this team can be obtained from the Assistant Director of Housing.

A second team investigate housing benefit fraud in the private sector and are based in Finance and Support Services.

- The Council also runs a fraud hotline where anyone with information about possible fraud may raise concerns with the anti-fraud teams.

- **Social Services Whistleblowing Procedure**

This may be used where there is a reasonable suspicion of malpractice or abuse affecting the Social Services Directorate or service users.

In addition the Council also has senior officers who have particular responsibility for regulating the conduct of the Council and its activities. They are as follows:-

**Director of Finance**

The Council's officer with responsibility for the financial management, audit and financial probity of the Council.

**Chief Executive**

Head of the Paid Service and Monitoring Officer responsible for the overall management and direction of the Council and for ensuring that its services are satisfactorily resourced. He is also responsible for the overall legal probity of the Council's decision making.

## **In the First Place....**

People are primarily encouraged to use any and all of the mechanisms for raising concerns as set out above. For Councillors, public and staff it is likely that the majority of concerns will be dealt with by bringing the matter to the attention of management in the relevant Directorate. Such references are positively welcomed by the Council and once the issue is brought to light the manager will treat the complaint seriously, investigate it promptly and inform the complainant of the outcome. The investigation officer will be expected to interview both the individual raising the complaint and the person complained against, as well as any other individuals as appropriate. If no further action is proposed, the complainant will be given an explanation. If further action is proposed under a separate Council procedure (such as the disciplinary code) the complainant will also be informed.

If a concern is raised by a member of staff, it would be normal for their first reference to be to their direct line manager. However, depending on the nature and sensitivity of the issue, or the identity of the alleged wrongdoer, the line manager may not be the appropriate manager. In such cases it may be more appropriate to raise the issue with an Assistant Director, Head of Service, or the Directorate's complaints officer. A member of staff may be accompanied by a friend when meeting management to raise a concern. In short, managers within Directorates will adopt a flexible and open approach so that those having concerns feel confident that they may raise them.

**But if the usual channels aren't appropriate?**

Circumstances may arise where none of the channels above are reasonably available. It may be that the whistleblower fears repercussions for example, or senior members of staff or Councillors may be implicated. Alternatively the whistleblower may have used those channels but still feel that there is real cause for concern. In such circumstances the whistleblower may refer their concern to the Chief Executive directly.

The Chief Executive will then ensure that the matter is dealt with either personally or by a whistleblowing officer operating under his supervision. The functions of the whistleblowing officer shall be performed by the Head of the Chief Executive's personal office, who currently also deals with complaints made to the Local Government Ombudsman.

## **How will the whistleblowing officer respond?**

Acting under the supervision of the Chief Executive the whistleblowing officer will first receive and record the complaint in a register kept specially for the purpose. An initial assessment will then be made to decide what sort of investigation ought to take place.

In the most serious cases, it may be that a Police enquiry will ensue, or an independent investigation may be called for. In some cases the issue will be referred for a management investigation, possibly by the Chief Executive himself or by another senior officer nominated to act on his behalf. Allegations of fraud, corruption or financial irregularity will be referred to the Head of Audit Services for investigation.

In other cases however, it may not be appropriate to conduct any further enquiry at all. People are encouraged to raise genuine concerns and do not have to prove them. But understandably they do need to demonstrate that there is a sufficient basis for investigation. This initial consideration will allow the Council to decide on the appropriate method of enquiry and to ensure that resources are not wasted where investigation would be inappropriate.

Unless the issue is raised anonymously then the whistleblowing officer will interview the whistleblower as part of this initial assessment. If the whistleblower requests that his or her identity remains confidential then all possible steps will be taken to respect that wish.

If an investigation is to ensue then the whistleblower will be informed of the fact and given an estimate of the time by when the investigation will be completed. Normally the investigation will be conducted within 28 days, though the time taken to conduct an enquiry will depend on the nature of the concern and its complexity. The whistleblower will be informed of the outcome and this will be noted in the register.

In appropriate circumstances the Chief Executive and/or the whistleblowing officer will prepare a report for the Council and/or relevant Committee or Sub-Committee dealing with the outcome of a particular investigation, the action taken to rectify the situation and prevent a recurrence.

Each year the whistleblowing officer on behalf of the Chief Executive will prepare for the Policy and Resources Committee a report dealing with the application of the whistleblowing procedure in the previous year, and making suggestions where necessary for changes to improve its efficiency.

Issues raised by Members of the council or by the public shall be dealt with in a similar manner to those raised by employees, though serious concerns about the conduct of Councillors will in all cases be referred to the Chief Executive for investigation as appropriate.

## **Some General Safeguards**

- **No Victimisation**

The Council recognises that the decision to blow the whistle can be a difficult one to make, not least because there is a fear of reprisal from those who may be perpetrating malpractice or others. The Council will not tolerate any victimisation of a person who raises a concern in good faith and will take appropriate steps to protect them, including where appropriate disciplinary action.

- **Confidentiality and Anonymity**

The Council will, wherever possible, protect the identity of the whistleblower who raises a concern and does not want his/her name to be disclosed. However this may not be possible in all circumstances as the very fact of the investigation may serve to reveal the source of the information and the statement of the whistleblower may be needed as part of evidence against the perpetrator.

- **False and Vexatious Complaints**

Just as the Council will seek to protect those who raise concerns in good faith, so it will seek to protect those against whom claims are made which turn out to be unfounded. A concern which is made in good faith and sincerely expressed may transpire to have no basis in reality. In addition it is possible that vexatious or malicious claims may be made. The Council will take disciplinary action against any employee who makes a vexatious claim. In either case, where it turns out that the claim was without foundation, the Council will use its best endeavours to ensure that any negative impact on the person complained of is minimised. However the Council acknowledges that it may not be able to prevent all such impact in every case.

### **Alternative methods of complaint**

As well as the initial complaints and whistleblowing procedures set out in this policy, any member of the public who wishes to make a complaint about the Council may contact one of the following organisations:

- Local Government Ombudsman - who receives and investigates complaints of mal-administration against the Council. He can be contacted at 21 Queen Ann's Gate, London SW1H 9BU, telephone 020 7915 3210.
- The District Auditor - who investigates complaints of financial irregularity or unlawful expenditure leading to financial loss by the Council. To contact the District Auditor write to him at Millbank Tower, 4th Floor, Millbank Road, London SW1P 4QP. Telephone 020 7233 6400.

Further information about this whistleblowing procedure can be obtained from the Head Of The Chief Executives Office.

## Annex E

### **Financial support for redundancy, premature retirement costs and severance payments in schools**

Schools are responsible for managing their budget and with this comes the responsibility to manage their budget in the short term as well as the long term. This responsibility should include forecasting future levels of funding and developing plans to adjust expenditure in line. This will include avoiding redundancies by vacancy management wherever possible. On this basis schools are responsible for dismissal costs the relevant resources have been delegated to schools and the LA retains no central budget to meet such costs

In certain circumstances events may transpire that make it very difficult for schools to manage the budget and a fund exists to support schools with this. This provision is called Schools in difficulty.

In deciding whether funding support should be approved the following will be considered

- The circumstances are the result of an outcome in that the school could not have reasonably foreseen, e.g. a perverse decision at employment tribunal which is contrary to that expected from the HR advice provided.
- Where a fall in income is so great and requires additional redundancies that is disproportional to the annual budget and would create instability to the delivery of the curriculum and is in accordance with section 21 of the Education Act 2011

Any submission will be considered by the Head of School Improvement and the Head of Resources with the advice of the group finance manager and head of schools HR. This panel will decide the level of support.

There will be a right of appeal on any decisions to the Schools Forum in the case of dispute.

Any school receiving such support must agree to achieve a balanced budget and [meet the conditions expected of any school operating with a licensed deficit] submit budget monitoring plans in accordance with the standard timetable.

The Education Act 2002 states the position in relation to the funding of premature retirement costs or the costs associated with dismissal. For the purposes of this Act dismissal includes redundancy.

The position is as follows:

Section 37(4)– costs incurred by the Local Authority (LA) in respect of any premature retirement (PRC) of a staff member at 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 that they shall not be so met.

Section 37(5) – costs incurred by the LA 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 a 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.

The default position is therefore that PRC costs are met from the school's delegated budget. In the case of redundancy there has to be a good case for it not to be centrally funded unless there is provision contained in the Scheme for Financing Schools

The above provisions are subject to the following:

Where the local authority incur costs -

- (a) in respect of any premature retirement of any member of 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 staff who is employed for community purposes,

the local authority shall recover those costs from the governing body except in so far as the authority agree with the governing body in writing that they shall not be so recoverable.

Any amount payable by the governing body to the local authority may be met out of the school's budget share for any funding period if the governing body is 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 provisions specifically of section 21(2) Education Act 2002 (conduct the school with a view to promoting high standards of educational achievement) or any other provisions of the Education Acts.