



London Borough of Bromley
Children and Young People Department

Scheme for Financing Schools

Section 48
Schools' Standards and Framework Act 1998

December 2013

THE BROMLEY SCHEME FOR FINANCING SCHOOLS: SECTION 48 OF THE SCHOOLS STANDARDS AND FRAMEWORK ACT 1998

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1. INTRODUCTION

1.1 The Funding Framework

The Funding Framework: Main Features

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 Local Authority Budget – although at a minimum a Local Authority (LA) must appropriate its entire Dedicated Schools Grant to their Schools Budget. The categories of expenditure which fall within the two budgets are prescribed under regulations made by the Secretary of State, but included within the two, taken together, is all expenditure, direct and indirect, on an authority's maintained schools except for capital and certain miscellaneous items. Local authorities may centrally retain funding in the Schools Budget for purposes defined in regulations made by the Secretary of State under s.45A of the Act. The amounts to be retained centrally are decided by the authority concerned, subject to any limits or conditions (including gaining the approval of their School Forum or the Secretary of State in certain instances) as prescribed by the Secretary of State. The balance of the Schools Budget left after deduction of centrally retained funds is termed the Individual Schools Budget (ISB). Expenditure items in the Local Authority budget must be retained centrally (although earmarked allocations may be made to schools).

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

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

A Local Authority may suspend a school's right to a delegated budget if the provisions of the school financing scheme (or rules applied by the scheme) have been substantially or persistently breached, or if the budget share has not been managed satisfactorily. There is a right of appeal to the Secretary of State. A school's right to a delegated budget share may also be suspended for other reasons (s.17 of the SSAF Act 1998) but in that case there is no right of appeal.

Each authority is obliged to publish each year a statement setting out details of its planned Schools Budget and Local Authority Budget, showing the amounts to be centrally retained, the budget share for each school, the formula used to calculate those budget shares, and the detailed calculation for each school. After each financial year the authority must publish a statement showing out-turn expenditure at both central level and for each school, and the balances held in respect of each school.

The detailed publication requirements for financial statements and for schemes are set out in regulations, but each school must receive a copy of the scheme and any amendment, and each year's budget and out-turn statements so far as they relate to that school or central expenditure.

1.2 The role of the scheme

This scheme sets out the financial relationship between London Borough of Bromley as the Local Authority and the schools which it funds. This scheme contains requirements relating to financial management and associated issues which are binding on both the Authority and on the individual schools.

1.2.1 Application of the scheme to the Authority and maintained schools

This scheme applies in respect of all community, voluntary, foundation, community special schools and PRUs maintained by the authority. It contains requirements relating to financial management and associated issues, binding on both the Authority and schools.

1.3 Publication of the scheme

A copy of this scheme will be supplied to the Head Teacher and to the Governing Body of each school covered by the scheme, it and any approved revisions will be notified to each such school and placed on the Bromley website.

1.4 Revision of the scheme

Any proposed revisions to the scheme will be the subject of consultation with schools and will require approval by members of the Schools Forum representing maintained schools. Where the Schools Forum does not approve them, or approves them subject to modifications which are not acceptable to the Authority, the Local Authority may apply to the Secretary of State for approval.

1.5 Delegation of powers to the Head Teacher

Governing Bodies must consider the extent to which it wishes to delegate its financial powers to the Head Teacher, and should record its decision, and any revisions, in the minutes of the Governing Body.

The scheme should state the responsibilities of the Head Teacher and Governing body in respect of the annual budget plan.

The first formal budget plan of each financial year must be approved by the Governing Body. The Governing body is ultimately responsible for the annual budget and must approve and submit this to the Local Authority each year.

1.6 Maintenance of schools

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

2. FINANCIAL REQUIREMENTS; AUDIT

2.1.1 Application of financial controls to schools

In managing their delegated budgets, schools are required to abide by the Authority's requirements on financial controls and monitoring.

Certain of these are directly referred to in this scheme while others are included in the Financial Regulations for Schools and Colleges (2010).

2.1.2 Provision of financial information and reports

Schools are required to provide the authority with details of anticipated and actual expenditure and income in a format, and at times determined by the Authority. The Local Authority may not require such details more than once every three months except for those connected with tax or banking reconciliation, unless the Local Authority has notified the school in writing that in its view the school's financial position requires more frequent submission, or the school is in its first year of operation. For the purposes of this scheme, all operating schools are required to submit financial monitoring returns to the authority. Returns will be submitted in the format specified at and in accordance with the timetable set by the LA. Schools are also required to submit a covering written note with their Returns to explain any significant variations on position to date and the year end forecast.

The Local Authority may require financial returns more frequently than the timetable set out in the above document if the school is in deficit. Notification of this requirement will be made to the relevant school in writing.

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 authority's payroll system.

The procedures, which apply to schools, are documented as follows:

For schools with stand alone bank accounts:

- The Agreement between the School and the Authority.
- Financial Regulations for Schools and Colleges (2010)

2.1.4 Control of assets

Schools are required to maintain an inventory of their moveable non-capital assets. The format of the required inventory and the basis authorisation procedures for disposal of assets are set out in the Authority's Financial Regulations for Schools and Colleges (2010). However, schools are free to determine their own arrangements for keeping a register of assets worth less than £1,000. Schools must keep a register in some form.

2.1.5 Accounting Policies (including year-end procedures)

Schools are required to abide by the procedures issued by the Authority in respect of accounting policies and the year end procedures.

The procedures are set out in the Financial Regulations for Schools and Colleges (2010) and any guidance that is issued on an annual basis.

2.1.6 Writing off of debts

Governing Bodies are authorised under the terms of this scheme to write off debts for amounts not exceeding £1000. Thereafter, permission must be sought by the Director of Resources and proof must be provided that reasonable steps have been taken to collect the debt.

2.2 Basis of accounting

Reports and accounts furnished to the authority must be on an accruals basis. The provision of financial information will be in the format prescribed by the Director of Resources.

2.3 Submission of budget plans

The Local Authority is required to provide Schools with details of their budgets by no later than 31 March. Schools are required to submit formal budget plans to the Authority by no later than 30 June.

The budget plan must show the school's intentions for expenditure in the current financial year and the assumptions underpinning the budget plan. The format of the budget plan is determined by the Authority and should be consistent with the format of financial returns to the LA. All schools should take account of estimated deficits/surpluses at the previous 31 March in their budget plan.

2.3.1 Submission of Financial Forecasts

The Local Authority will require schools to submit a financial forecast covering each year of a multi-year period for which schools have been notified of budget shares beyond the current year. These may be used to support the balance control mechanism, as detailed in Para 4.2.

2.4 Best Value

Given the very high proportion of Local Authority spending which flows through delegated budgets, the government considers it desirable that schools should demonstrate that they are following best value principles in their expenditure.

2.5 Virement

Schools may vire freely between budget heads in the expenditure of their budget shares but 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 will be subject to internal audit on a regular basis by the Authority or his appointed representatives. Accounts will need to be available for inspection by external auditors as and when required. The external auditors may also wish to undertake such reviews of financial and other operations of schools as they deem necessary for the discharge of their statutory functions. Schools requirements under the terms of this scheme are also detailed in the Financial Regulations for Schools and Colleges 2010

In relation to external audit all schools come within the Local Authority external audit regime as determined by the Audit Commission.

2.7 Separate external audits

Governing Bodies may, if they so wish, spend funds from the budget share to obtain external audit certification of its accounts, separate from any Local Authority internal or external process.

2.8 Audit of voluntary and private funds

Schools are required to provide audit certificates in respect of voluntary and private funds held by schools and of the accounts of any trading organisations controlled by the school in accordance with the Financial Regulations for Schools and Colleges (2010) and Guidance notes for Local Authority School Voluntary Funds.

2.9 Register of business interests

Governing bodies are required to establish, (if it does not already have one) a register which lists for each member of the Governing Body and the Head Teacher, any business interests they or any member of their immediate family have; to keep the register up to date with notification of changes and through annual review of entries, and to make the register available for inspection by Governors, staff, parents and the authority's auditors.

More detailed guidance in the maintenance of such a register is detailed at Annex D.

2.10 Purchasing, tendering and contracting requirements

Schools are required to abide by the Authority's Financial Regulations for Schools and Colleges (2010) in purchasing, tendering and contracting matters, and are strongly advised to apply the provisions of the Council's contract code or in the case of the purchase of goods the Corporate Order policy. 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.

However, schools are disapplied from following any regulations which would require schools:

- (a) to do anything incompatible with any of the provisions of the scheme, or any statutory provision, or any EU Procurement Directive;
- (b) to seek Local Authority officer countersignature for any contract for goods or services for a value below £60,000 in any one year;
- (c) to select suppliers only from an approved list.

Or, would permit schools to seek fewer than three tenders or quotations in respect of any contract with a value exceeding £10,000 in any one year.

The authority's approved List of Contractors is available to schools and Governing Bodies who may wish to use this option when selecting suppliers in order to safeguard the interests of the school.

Schools are also invited to nominate suppliers for inclusion on the Approved List of Contractors.

2.11 Application of contracts to schools

Schools have the right to opt out of Local Authority arranged contracts except where the scheme provides otherwise.

Governing bodies are empowered under paragraph 3 of schedule 10 to the School Standards and Framework Act 1998 to enter into contracts. In most cases Governing Bodies enter into contracts on behalf of the Local Authority as maintainer of the school and the owner of the funds in the budget share. However the Governing Body will have clear statutory obligations in some areas for example contracts made by aided or foundation schools for the employment of staff.

2.12 Central funds and earmarking

The Local Authority 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 share. Such allocations will be subject to conditions setting out the purpose or purposes for which the funds may be used. Whilst these conditions need not preclude virement (except where the funding is supported by a specific grant), this should not be carried to the point of assimilating the allocations into the school's budget share.

This scheme requires that such earmarked funding from centrally retained funds is spent only for the purposes for which it was given, or on other budget heads for which earmarked funding is given, and is not vired into the budget share.

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

Schools must be able to demonstrate through their financial monitoring returns that these requirements have been complied with.

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

Governing bodies may spend budget shares for the purposes of the school, subject to any provisions in this scheme. Amounts spent by governing bodies on community facilities or services under section 27 of the Education Act 2002 will be treated as if spent for any purposes of the school.

*Under s.50(3)(b) the Secretary of State may prescribe additional purposes for which expenditure of the budget share may occur. **He has done so in the School Budget Shares (Prescribed Purposes)(England) Regulations 2002 (SI 2002/378), which have been amended by the School Budget Shares (Prescribed Purposes)(England)(Amendment) Regulations 2010(SI 2010/444190).** These allow schools to spend their budgets on pupils who are on the roll of other maintained schools.*

2.14 **Capital spending from budget shares**

Governing bodies may use their budget shares to meet the cost of capital expenditure on the school premises. This includes expenditure by the Governing Body of a voluntary aided school on work which is their responsibility under paragraph 3 of Schedule 3 of the SSAF Act 1998. However, if the expected capital expenditure from the budget share exceeds £15,000 in any one year, the Governing Body must notify the Local Authority and take into account any advice from the Director of Education, Care and Health Services as to the merits of the proposed expenditure. If the premises are owned by the LA, or the school has voluntary controlled status, then the Governing Body should seek the consent of the Local Authority to the proposed works, such consent may only be withheld on health and safety grounds.

2.15 **Notice of Concern**

The Local Authority may issue a notice of concern to the Governing Body of any school it maintains where, in the opinion of the Chief Finance Officer and the Director of Education, Care and Health Services, the school has failed to comply with any provisions of the scheme, or where actions need to be taken to safeguard the financial position of the Local Authority or the school.

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

These may include:

- insisting that relevant staff undertake appropriate training to address any identified weaknesses in the financial management of the school;
- insisting that an appropriately trained/qualified person chairs the finance committee of the Governing Body;
- placing more stringent restrictions or conditions on the day to day financial management of a school than the scheme requires for all schools – such as the

provision of monthly accounts to the LA;

- insisting on regular financial monitoring meetings at the school attended by Local Authority officers;
- requiring a Governing Body to buy into a LA's financial management systems; and
- imposing restrictions or limitations on the manner in which a school manages extended school activity funded from within its delegated budget share – for example by requiring a school to submit income projections and/or financial monitoring reports on such activities.

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

- 2.17 All schools must have a robust system of controls to safeguard themselves against fraudulent or improper use of public money and assets. The governing body and head teacher must inform all staff of school policies and procedures related to fraud and theft, the controls in place to prevent them and the consequences of breaching these controls. This information must also be included in the induction for new school staff and governors.

3. INSTALMENTS OF THE BUDGET SHARE; BANKING ARRANGEMENTS

3.1 Frequency of instalments

- 3.1.1 If schools no longer require the use of the LA's centralised systems and wish to opt to make their own payments from school accounts they may opt to have their budget share paid to them monthly. Any budget share would be subject to deduction of any items which may continue to be met centrally, ie payroll. This cash deduction profile should reflect the current spending profile of the school. Top up payments for pupils with high needs will be made on a monthly basis unless alternative arrangements have been agreed with the provider.

3.2 Proportion of the budget share payable at each instalment

The proportion of the budget share made available to schools shall be one twelfth of the School Budget Share paid monthly in advance.

3.3 Interest clawback

The Local Authority will make no deduction from individual budget share instalments to cover the estimated interest lost by the Local Authority in making available the budget share in advance.

3.3.1 Interest on late budget share payments

The Local Authority will add interest to late payments of budget share instalments, where such late payments are the result of Local Authority error. The interest calculation used is identified below:

1. Estimated Average Bank Balance

Determined by the amount of the advance divided by two.

2. **Rate of Interest**

This is the base rate applying at the time of each advance.

3. **Period of Interest**

This will be for a month calculated on the number of days in the month divided by 365.

Example Calculation

Advance of £50,000 on: 1 April.
Base Rate: 7%.

Calculation			
Advance	Interest Rate	Period	Interest Charge
£50,000/2	7%	30/365	143.84

3.4 Budget share for closing schools

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

In order to minimise the LA's liabilities, the authority may wish to take the appropriate action to prevent schools entering into contractual arrangements or committed expenditure beyond the school closure date. Any monies incurred in this way may become the responsibility of the Governing Body.

3.5 Bank and building society accounts

All schools may have bank accounts into which their budget share instalment is paid. Where schools have such accounts they shall be allowed to retain all interest payable on the account.

If a school opens an external bank account the Local Authority must, if the school desires, transfer immediately to the account an amount agreed by both school and Local Authority as the estimated surplus balance held by the Local Authority in respect of the school's budget share, on the basis that there is then a subsequent correction when accounts for the relevant year are closed.

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

3.5.1 Restriction on accounts

The banks and building societies which may be used for the purpose of receiving budget share payments are specified below:

- Royal Bank of Scotland Group (includes Nat West).
- HSBC.
- Barclays.
- Lloyds TSB Group (includes Bank of Scotland).
- Santander (includes Abbey National and Alliance & Leicester).
- Nationwide.

The accounts for budget share purposes will be in the name of the school.

Accounts may be opened in the name of the school rather than the LA. However the mandate should provide that the Local Authority is the owner of the funds in the accounts, 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 by the LA. Advice on bank signatories can be found in section 12 of the Financial Regulations for Schools and Colleges (2010).

3.6 Borrowing by schools

Governing bodies may borrow money only with the written permission of the Secretary of State. Schools are not permitted to use credit cards as a form of borrowing. However, schools are encouraged to use procurement cards, as these can provide a useful means of facilitating electronic purchase.

3.7 Other provisions

The Local Authority has separate detailed rules and guidance in respect of other aspects of banking arrangements. These are set out in the Scheme for School Bank Accounts.

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 year to the next, any shortfall in expenditure relative to the school's budget share for the year plus/minus any balance brought forward from the previous year.

A school's surplus balance at 1 April should be equal to that at 31 March.

4.2 Controls on surplus balances

It will no longer be a requirement for schemes to have a balance control mechanism. However, the Local Authority will continue to monitor school's balances at the end of the financial year and will report to Members on all revenue balances in excess of 5% for Secondary schools and 8% for Primary and Special Schools

4.3 Interest on surplus balances

Balances held by the authority on behalf of schools will not attract interest.

4.4 Obligation to carry forward deficit balances

Deficit balances will be carried forward and deducted from the following year's budget share. A school's deficit balance as at 1 April must be equal to that at 31 March for which special provisions apply.

By prior agreement with the LA, it may be possible to reschedule any repayment of deficit balances over a larger period of time, although this should not exceed 5 years.

4.5 Planning for budget deficits

This scheme precludes the planning for any budget deficits.

4.6 Charging of interest on deficit balances

Deficit balances held by the Authority will attract interest until such a time as the deficit is cleared. As this is a variable factor each school will be advised prior to the commencement of each financial year the amount of charge, if any, and the basis for calculation.

4.7 Writing off deficits

The authority cannot under any circumstances write off the deficit balance of any school.

If an authority wishes to give assistance towards elimination of a deficit balance this should be through the allocation of a cash sum, from the authority's schools budget (from a centrally held budget specified for the purpose of expenditure on special schools and pupil referral units in financial difficulty or, in respect of mainstream maintained schools, from a de-delegated contingency budget where this has been agreed by the Schools Forum.

4.8 **Balances of closing and replacement schools**

If a school closes any balance (whether surplus or deficit) reverts to the LA; it cannot be transferred as a balance to any other school, even when the school is a successor to the closing school, except that a surplus transfers to an Academy where a school converts to Academy Status under section 4 (1) (a) of the Academies Act 2010.

4.9 **Licensed deficits**

This scheme does not permit a school to plan for a deficit budget.

Where in EXCEPTIONAL circumstances deficits cannot be avoided, then such deficits NEED to operate under licence. This requires the school to agree a recovery plan with the LA.

The plan should establish:

- (a) the maximum length over which the school will repay the deficit (ie reach at least a zero balance). The maximum length of the repayment should be no more than five years;
- (b) the purpose for which the deficit arrangement has been agreed;
- (c) the maximum agreed deficit will be no more than 7.5% of the school's budget share for the year in question;
- (d) no more than 15% of collective schools balances will be used to pay back the deficit;
- (e) arrangements for individual schools in terms of the above will be agreed by the Director of Education, Care and Health Services and the Chief Finance Officer.

4.10 **Loan schemes**

The authority will not operate any loan schemes. The Governing Body has the power to borrow such sums as it considers necessary, but only with the permission of the Secretary of State. However, loans may not be secured against core assets of the school. Governing bodies are strongly advised to seek a professional opinion (legal and/or financial) prior to entering into any arrangements.

4.10.1 **Credit union approach**

Schools may wish to group together to utilise externally held balances for a credit union approach to loans. The LA, however, will not act as the administrator for any such arrangements. Where this occurs, therefore, schools are required to produce the appropriate audit certification on an annual basis detailing all financial activity.

5. INCOME

5.1 Income from lettings

The responsibility for lettings of school premises will rest with Governing Bodies, which will administer the lettings and set charges. Income from lettings will be retained in full and credited to schools' delegated budgets, subject to any alternative provisions arising from any joint use or PFI agreements.

Although Governing Bodies will decide their own priorities for lettings, 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.

Schools are, nevertheless required to have regards to directions issued by the Local Authority as to the use of school premises as permitted under the School Standards and Framework Act 1998 for various categories of schools. In particular, the LA's policy on community use. *Income from lettings of school premises should not normally be payable into voluntary or private funds held by the school.*

5.2 Income from fees and charges

Schools may retain income from fees and charges except where a service is provided by the Local Authority from centrally retained funds. However, the provisions of the Financial Regulations for Schools and Colleges (2010) shall apply. Schools should seek at all times to maximise their income and to recover all costs.

5.3 Income from fund-raising activities

Schools may retain income generated from fund-raising activities.

5.4 Income from the sale of assets

Schools may retain the proceeds of the sale of assets, except in cases where the asset was purchased with non-delegated funds or the asset concerned is land or buildings forming part of the school premises and is owned by the LA. In these cases, it will be a matter for the Local Authority to determine whether the school should keep the proceeds. Schools should consider the provisions of the Financial Regulations for Schools and Colleges (2010) when dealing with the sale of assets.

5.5 Administrative procedures for the collection of income

The provisions set out in the Financial Regulations for Schools and Colleges (2010) shall apply in the collection, recording and accountability for income.

The treatment of VAT is identified in the Guidance notes on the administration of VAT. However, more specific advice on VAT should be sought on specific issues, particularly with regard to the VAT implications of fund raising activities, the sale of assets and the letting of premises.

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.

6. THE CHARGING OF SCHOOL BUDGET SHARES

6.1 General Provision

6.1.1 The budget share of a school may be charged by the Local Authority without the consent of the Governing Body in the circumstances detailed below at paragraph 6.2 of this scheme. In any such event, the authority will consult schools as to the intention to charge and notify schools accordingly when the charges have been made. Schools will have the right to dispute any such charges and Governing Bodies should place any grievances in writing to the Director of Children and Young People. Any disputes will be carefully reviewed and, where necessary, passed to the City Solicitor for arbitration. The outcome of all reviews will be placed in writing and forwarded to the Governing Body. For the avoidance of doubt, local authorities may de-delegate funding for permitted services without the express permission of the governing body, provided this has been approved by the appropriate phase representatives of the Schools Forum.

6.1.2 This scheme requires the authority to charge the salaries of school-based staff to school budget shares at actual cost.

6.2 Circumstances in which charges may be made

6.2.1 Where premature retirements costs have been incurred without the prior written agreement of the Local Authority 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 Local Authority advice.

6.2.3 Awards by courts and industrial tribunals against the Local Authority 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 Local Authority in carrying out health and safety work or capital expenditure for which the Local Authority is liable where funds have been delegated to the Governing Body for such work but the Governing Body has failed to carry out the required work.

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

6.2.6 Expenditure incurred by the Local Authority 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. See also Section 10.1.

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 Local Authority by the Board of Inland Revenue, the Contributions Agency or HM Customs and Excise, Teachers Pensions, the Environment Agency or regulatory authorities as a result of school negligence.

6.2.9 Correction of Local Authority errors in calculating charges to a budget share (eg pension deductions).

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

6.2.11 Legal costs which are incurred by the Local Authority because the Governing Body did not accept the advice of the Local Authority (see also section 11).

- 6.2.12 Costs of necessary health and safety training for staff employed by the LA, where funding for training had been delegated but the necessary training not carried out.
- 6.2.13 Compensation paid to a lender where a school enters into a contract for borrowing beyond its legal powers, and the contract is of no effect.
- 6.2.14
- 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 authority's compliance with its statutory obligations.
- 6.2.15 Costs incurred by the authority 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 Local Authority in securing provisions specified in a statement of SEN where the Governing Body of a school fails to secure such provision despite the delegation of funds in respect of that statement.
- 6.2.16 Costs incurred by the Local Authority due to submission by the school of incorrect data.
- 6.2.17 Recovery of amounts spent from specific grants on ineligible purposes.
- 6.2.18 Costs incurred by the Local Authority as a result of the Governing Body being in breach of the terms of a contract.
- 6.2.19 Costs incurred by the Authority or another school as a result of a school withdrawing from a cluster arrangement, for example where this has funded staff providing services across the cluster.

7. TAXATION

7.1 Value Added Tax

The Council has established procedures that ensure it is able to reclaim all VAT on expenditure. These are set out in the Financial Regulations for Schools and Colleges (2006) and the Guidance notes for bank account schools on VAT administration.

7.2 CIS (Construction Industry Scheme)

Schools are required to follow the guidance detailed in the Contracts Code (Appendix V) in respect of CIS.

8. THE PROVISION OF SERVICES AND FACILITIES BY THE AUTHORITY

8.1 Provision of services from centrally retained budgets

The Local Authority will determine on what basis services from centrally retained funds will be provided to schools. Governing bodies will have no input to this process.

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

For the purposes of this scheme, existing PRC and redundancy payments are included as services.

8.2 **Timescales for the provision of services brought back from the Local Authority using delegated budgets**

Any arrangement with a school starting on or after 1 April 2002 to buy services or facilities from the Local Authority will be limited to a maximum of three years from the inception of the scheme or the date of the agreement, whichever is the later. Any subsequent agreement relating to the same services will be limited to a period not exceeding five years.

When a service is provided for which expenditure is not retainable centrally by the Local Authority under Regulations made under section 46 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 differently.

The scheme excludes centrally funded premises and liability insurance from these requirements as to service supply, as the limitations envisaged may be impracticable for insurance purposes.

8.2.1 **Packaging**

Any service which the Local Authority is providing on a buyback basis must be offered in a way which does not unreasonably restrict schools' freedom of choice among the services available, and where practicable, this will include provision on a service-by-service basis as well as in packages of services.

8.3 **Service level agreements**

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

8.3.2 If services are offered at all by the Local Authority they will be available to schools on a basis which is not related to an extended agreement as well as on the basis of such agreements. Where any services are provided on an ad-hoc basis they may be charged for at a different rate than if provided on the basis of an extended agreement.

8.3.3 Service level agreements must be in place, as a minimum, one month prior to the commencement of the financial year.

8.4 **Teachers Pensions**

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

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

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

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

9. PFI/PPP

- 9.1 The Local Authority shall have the power to issue regulations from time to time relating to PFI/PPP projects. Amongst other issues these may deal with the reaching of agreements with the Governing Bodies of schools as to the basis of charges relating to such schemes; and the treatment of monies withheld from contractors due to poor performance.
- 9.2 The Local Authority is empowered to charge to the school's budget share, amounts agreed under a PFI/PPP agreement entered into by the Governing Body of a school. See Section 6.2.15.
- 9.3 In the absence of an agreement on charging the school for PFI service provision, the Local Authority may, at its discretion, charge the school's delegated budget to reflect changes to service provision under a PFI arrangement.

10. INSURANCE

10.1 Insurance cover

If funds for insurance are delegated to a school, the Local Authority will require that school to demonstrate that cover relevant to the 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, either paid for from central funds or from contributions from schools' delegated budgets.

The Local Authority will have regard to the actual risks which might reasonably be expected to arise at individual schools when brokering insurance cover.

Details of the Authority's insurance are available in the document Insurance for Schools.

11. MISCELLANEOUS

11.1 Right of access to information

Governing Bodies are required to supply all financial and other information which might reasonably be required to enable the Authority to satisfy itself as to a school's management of its delegated budget share, or the use made of any central expenditure by the Authority (eg earmarked funds) on the school. The type and frequency of information will be at the discretion of the Director of Children and Young People and the Authority's auditors.

11.2 Liability of Governors

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

11.3 Governors' expenses

The Local Authority can delegate funds to meet Governors' expenses to a Governing Body of a school yet to receive a delegated budget. Under schedule 11 of the School Standards and Framework (SSAF) Act 1998, only allowances in respect of purposes specified in regulations may be paid to Governors from a school's delegated budget share. The payment of any other allowances is forbidden. This includes the 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 Governing Bodies, although the responsibility of the Local Authority as part of the costs of maintaining the school (unless they relate to the statutory responsibility of aided school Governors for buildings) may be charged to the school's delegated budget share unless the Governing Body acts in accordance with the advice of the Authority.

Where a conflict of interest arises between the Local Authority and the Governing Body, the prior agreement of the Local Authority must be sought before seeking any legal advice. Where the Local Authority agrees to meet the costs of legal advice sought, the Governing Body must seek to minimise costs by obtaining estimates in advance based on fixed daily rates and fixed total days.

11.5 Health and Safety

In expending the school's budget share, Governing Bodies should have due regard to duties placed on the Local Authority in relation to health and safety, and the Authority's policy on health and safety matters in the management of the budget share.

11.6 Right of attendance for Chief Finance Officer

Governing Bodies should permit the attendance of the Chief Finance Officer of the authority, or any officer of the authority nominated by the Chief Finance Officer to attend meetings of the Governing Body at which any agenda items are relevant to the exercise of his responsibilities.

Attendance shall normally be limited to items which relate to issues of probity or overall financial management and shall not be regarded as routine.

117 **Special Educational Needs (SEN)**

The Local Authority has a statutory responsibility for supporting the needs of pupils as outlined in their SEN statements. This scheme requires that schools will use their best endeavours in spending their budget share to meet the SEN of their pupils. Failure to meet the SEN of their pupils may result in the Local Authority recharging a school delegated budget with additional costs incurred in discharging its statutory responsibility.

11.10 **“Whistleblowing”**

The Local Authority has produced a policy contained in the Financial Regulations for Schools and Colleges (2006) in relation to complaints about financial management or financial propriety, and how such complaints will be dealt with. Governing bodies should have due regard to this document and ensure school staff are fully aware of its existence.

11.11 **Child Protection**

The Local Authority recognises the paramount importance for the need to release school staff to attend child protection case conferences and other related events. Costs in this regard are met from school delegated budgets.

11.12 **Redundancy/Early Retirement Costs**

The 2002 Education Act sets out how premature retirement and redundancy costs should normally be funded. If the Authority proposes to depart from this, then the scheme should contain a provision setting out the circumstances in which exceptions will be made.

12. **RESPONSIBILITY FOR REPAIRS AND MAINTENANCE**

12.1 The Local Authority will must delegate all funding for repairs and maintenance to schools. Only capital expenditure will be retained by the LA. For these purposes expenditure may be treated as capital only if it fits the definition of capital used by the Authority for financial accounting purposes in line with the CIPFA Code of Practice on Local Authority accounting.

12.2 Details of capital and revenue in line with the CIPFA Code of Practice are shown at Annex D. Voluntary Aided Governor responsibilities are also illustrated. VA Governors will continue to be eligible for grant from the DfES in respect of their statutory responsibilities and in addition they will have responsibility for other repair and maintenance items on the same basis as Community schools.

12.3 VA Governors will continue to be eligible for grant from the DfES in respect of their statutory responsibilities and in addition they will have responsibility for other repair and maintenance items on the same basis as Community and Foundation schools.

- 12.5 The de minimis level of £2,000 shall be applied by the Local Authority for the definition of capital and revenue in the final accounts.

13. COMMUNITY FACILITIES

13.1 The Application of the Scheme for Financing Schools to the Community Facilities powers

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 Local Authority and have regard to advice from the authority. Thirdly, the Secretary of State issues guidance to Governing Bodies about a range of issues connected with exercise of the power, and a school must have regard to that.

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

- (a) those contained in schools' own instruments of government if any; and
- (b) 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 Authority and schools to secure the provision of adult education and community learning

For the avoidance of doubt, this chapter covers the provision of childcare and other "community focused" activities, in children's centres, where run directly by the school's Governing Body acting in that capacity. It also covers similar activities run by the school through a network or confederation, where the risks of those activities ultimately lie with the school or with the Local Authority (ie the school enters into contracts or employs staff).

- 13.2 In exercising their community facilities power, schools may not use their budget share to fund community facilities - either start-up costs or ongoing expenditure - or to meet deficits arising from such activities.
- 13.3 Schools should be aware that mismanagement of community facilities funds can be grounds for suspension of the right to a delegated budget.
- 13.4 Consultation with the Local Authority: financial aspects**
- 13.4.1 Section 28(4) of the Education Act 2002 requires that before exercising the community facilities power, Governing Bodies must consult the Local Authority, and have regard to advice given to them by their authority.

13.5 The Local Authority is required to provide advice to schools within six weeks of being consulted, but will aim to respond sooner depending on the complexity of the arrangements consulted upon.

13.5.1 Any legal costs arising from community facilities projects are not covered by existing buyback arrangements.

13.6 **Funding agreements: Local authority powers**

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

13.7 Any such proposed agreement should be submitted to the authority for its comments and should allow the authority six weeks notice.

The authority has no power of veto over such agreements, either directly or through requiring a right to countersign the agreement.

If the third party requires the authority's consent to the agreement for it to proceed, such a requirement and the method by which the authority's consent is to be signified is a matter for that third party, not for the scheme.

13.8 Schools are reminded that if an agreement has been or is to be concluded against the wishes of the authority, or has been concluded without informing the authority, which in the view of the authority is seriously prejudicial to the interests of the school or the Authority, that may constitute grounds for suspension of the right to a delegated budget.

Other Prohibitions, Restrictions and Limitations

13.9 In considering proposals put forward by schools, the authority will form a view of the risks associated with the project in question. Where the risks are considered to be significant, the Governing Body will be required to make arrangements to protect the financial interests of the Authority. This will be achieved by either carrying-out the activity concerned through the vehicle of a limited company formed for that purpose, or by obtaining indemnity insurance for risks associated with the project in question, as specified by the authority.

Supply of Financial Information

13.10 Schools which exercise the community facilities power should provide the Authority every six months with a summary statement, in a form determined by the Authority, showing the income and expenditure for the school arising from the facilities in question for the previous six months and on an estimated basis, for the next six months.

13.11 If the Authority believes there to be cause for concern as to the school's management of the financial consequences of the exercise of the community facilities power, it will require on giving notice to the school such financial statements to be supplied every three months and, if necessary require the submission of a recovery plan for the activity in question. Where a school is running a Children's Centre, financial monitoring statements for that centre will routinely be required at intervals more frequent than every six months, as determined by the authority from time to time.

Audit

- 13.12 Schools are required to co-operate with any internal and external audit inspection and provide access to the school's records connected with the exercise of the community facilities power.
- 13.13 Schools are required, in concluding funding agreements with other persons pursuant to the exercise of the community facilities power, to ensure that such agreements contain adequate provision for access by the Authority to the records and other property of those persons held on the school premises, or held elsewhere insofar as they relate to the activity in question, in order for the Authority to satisfy itself as to the propriety of expenditure on the facilities in question.

Treatment of income and surpluses

- 13.14 Schools shall retain all net income derived from community facilities except where otherwise agreed with a funding provider, whether that be the Local Authority or any other person.
- 13.15 Any retained net income may be carried forward from one financial year to the next as a separate community facilities surplus, or, subject to the agreement of the Authority at the end of each financial year, the school may transfer all or part of it to the budget share balance.
- 13.16 If the Local Authority ceases to maintain any community or community special school, any accumulated retained income obtained from exercise of the community facilities power reverts to the Authority unless otherwise agreed by the funding provider.

Health and Safety Matters

- 13.17 Health & Safety responsibilities detailed in section 11.5 of the main scheme text applies equally to activities carried out under the community facilities power.
- 13.18 The Governing Body is responsible for the cost of securing Criminal Records Bureau clearance for all adults involved in community activities taking place during the school day. Governing bodies are free to pass on such costs to a funding partner as part of an agreement with that partner.

Insurance

- 13.19 It is the responsibility of the Governing Body to make adequate arrangements for insurance against risks arising from the exercise of the community facilities power, taking professional advice as necessary. Such insurance should not be funded from the school budget share. Schools should seek the Authority's advice before finalising any insurance arrangements for community facilities. (In principle, the insurance issues arising from the use of community facilities power are the same as those which already arise from non-school use of school premises.)
- 13.20 The Authority may undertake its own assessment of the insurance arrangements made by a school in respect of community facilities. If it judges those arrangements to be inadequate, the Authority may make arrangements itself and charge the resultant cost to the school. Such costs could not be charged to the school's budget share.

Taxation

- 13.21 Schools should seek the advice of the Local Authority and the local VAT office on any issue relating to the possible imposition of VAT on expenditure in connection with community facilities, including the use of the Local Authority VAT reclaim facility.
- 13.22 If any member of staff employed by the school or Local Authority in connection with community facilities at the school is paid from funds held in the school's own bank account (whether a separate account is used for community facilities or not — see section 11), the school is likely to be held liable for payment of income tax and National Insurance, in line with Inland Revenue rules.
- 13.23 Schools are required to follow the Local Authority advice in relation to the Construction Industry Scheme (CIS) where this is relevant to the exercise of the community facilities power.

Banking

- 13.24 Schools are required to ensure that there are adequate internal accounting controls (including separate sources of funds) to maintain separation of funds between school funds and community purposes funds. They may find a separate bank account useful for this purpose, but they are not required to maintain separate bank accounts for community purposes.

If schools choose to use a separate bank account, or accounts, for community purposes, including confederations and children's centres, they should note that expenditure and income from those accounts should still be reported to the authority as expenditure and income. The only exception is expenditure and income relating to private funds, which does not relate to activities involving Local Authority owned assets or to staff employed by the Governing Body in that capacity. In particular the transfer of funds to or from a separate bank account should not be reported to the authority as expenditure/income.

- 13.25 All schools may have an external bank account. Schools have a choice between a free-standing external bank or an umbrella account with the County's banker the HSBC. Under the free-standing option schools are able to receive their budget share into the bank account and retain any interest earned. Similarly, the school's umbrella account with the HSBC will be credited with the school budget share and receive interest calculated on a daily basis and credited quarterly at base rate less 0.5% (see section 3.5 above). Further details of the local bank account scheme are contained in section G of the LMS Finance Manual and summarised in Annex E. For the avoidance of doubt, schools may maintain separate umbrella accounts for children's centres and other community purposes, so long as they are largely funded from public sources or from income for services which DCSF expects extended schools to provide.

Accounts may only be held at the banks or building societies: listed in section 3.5.

Bank accounts for community purposes are subject to all the other conditions in s3.5.1 of the Scheme. In particular, the authority is the owner of the funds and has the right to receive statements, unless the funds in the account are demonstrably not public funds. Signatories for bank accounts are restricted to Local Authority employees and school employees. Governors who are not members of staff cannot be signatories.

- 13.26 Governing Bodies can only borrow money externally with the written permission of the Secretary of State. This restriction includes borrowing by the Governors, in their capacity as a Governing Body, for community purposes. This does not apply to Trustees and Foundations, whose borrowing, as private bodies, makes no impact on Government accounts.

THE FUNDING FRAMEWORK: MAIN FEATURES

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

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

Authorities must distribute the ISB amongst their maintained schools using a formula which accords with regulations made by the Secretary of State, and enables the calculation of a budget share for each maintained school. This budget share is then delegated to the Governing Body of the school concerned, unless the school is a new school which has not yet received a delegated budget, or the right to a delegated budget has been suspended in accordance with s.51 of the Act. The financial controls within which delegation works are set out in a scheme made by the authority in accordance with s.48 of the Act and regulations made under that section. All proposals to revise the scheme must be approved by the schools forum, though the authority may apply to the Secretary of State for approval in the event of the forum rejecting a proposal or approving it subject to modifications that are not acceptable to the authority.

Subject to any provision made by or under the scheme, Governing Bodies of schools may spend such amounts of their budget shares as they think fit for any purposes of their school* and for any additional purposes prescribed by the Secretary of State in regulations made under s.50 of the Act. (*Section 50 has been amended to provide that amounts spent by a Governing Body on providing community facilities or services under section 27 of the Education Act 2002 are treated as if they were amounts spent for the purposes of the school (s50(3A) of the Act.)

An authority may suspend a school's right to a delegated budget if the provisions of the authority's financial scheme (or rules applied by the scheme) have been substantially or persistently breached, or if the budget share has not been managed satisfactorily. A school's right to a delegated budget share may also be suspended for other reasons (schedule to the Act).

Each authority is obliged to publish each year a statement setting out details of its planned Schools Budget and **other expenditure on children's services**, showing the amounts to be centrally retained, and funding delegated to schools. After each financial year the authority must publish a statement showing out-turn 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 are set out in directions issued by the Secretary of State, but each school must receive a copy of each year's budget and out-turn statements so far as they relate to that school or central expenditure.

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.

RESPONSIBILITY FOR REDUNDANCY AND EARLY RETIREMENT COSTS

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

Section 37 of the 2002 Education Act says:

- (4) *costs incurred by the local education authority in respect of any premature retirement of a member of the staff of a maintained school shall be met from the school's budget share for one or more financial years except in so far as the authority agree with the Governing Body in writing (whether before or after the retirement occurs) that they shall not be so met;*
- (5) *costs incurred by the local education authority in respect of the dismissal, or for the purpose of securing the resignation, of any member of the staff of a maintained school shall not be met from the school's budget share for any financial year except in so far as the authority have good reason for deducting those costs, or any part of those costs, from that share;*
- (6) *the fact that the authority have a policy precluding dismissal of their employees by reason of redundancy is not to be regarded as a good reason for the purposes of subsection (5); and in this subsection the reference to dismissal by reason of redundancy shall be read in accordance with section 139 of the Employment Rights Act 1996 (c. 18).*

The default position, therefore, is that premature retirement costs must be charged to the school's delegated budget, while redundancy costs must be charged to the Local Authority's budget. In the former case, the Local Authority has to agree otherwise for costs to be centrally funded, while in the latter case, there has to be a good reason for it not to be centrally funded, and that cannot include having a no redundancy policy. Ultimately, it would be for the courts to decide what was a good reason, but the examples set out below indicate the situations in which exceptions to the default position might be taken.

Charge of dismissal/resignation costs to delegated school budget

- If a school has decided to offer more generous terms than the authority's policy, then it would be reasonable to charge the excess to the school.
- If a school is otherwise acting outside the Local Authority's policy.
- Where the school is making staffing reductions which the Local Authority does not believe are necessary to either set a balanced budget or meet the conditions of a licensed deficit.
- Where staffing reductions arise from a deficit caused by factors within the school's control.
- Where the school has excess surplus balances and no agreed plan to use these.
- Where a school has refused to engage with the Local Authority's redeployment policy.

Charge of premature retirement costs to Local Authority non-schools budget

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

Costs of new early retirements or redundancies may only be charged to the central part of the Schools where the expenditure is to be incurred as a result of decisions made before 1st April 2013. Costs may not exceed the amount budgeted in the previous financial year.

It is important that the Local Authority discusses its policy with its Schools Forum. Although each case should be considered on its merits, this should be within an agreed framework. It may be reasonable to share costs in some cases, and some authorities operate a panel to adjudicate on applications.

A de-delegated contingency could be provided, if the SchoolsForum agree, to support individual schools where a "governing body has incurred expenditure which it would be unreasonable to expect them to meet from the school's budget share".

For staff employed under the community facilities power, the default position is that any costs must be met by the governing body, and can be funded from the school's delegated budget if the governing body is satisfied that this will not interfere to a significant extent with the performance of any duties imposed on them by the Education Acts, including the requirement to conduct the school with a view to promoting high standards of educational achievement. Section 37 now states:

(7)Where a local education authority incur costs—

(a) in respect of any premature retirement of any member of the staff of a maintained school who is employed for community purposes, or
(b) in respect of the dismissal, or for the purpose of securing the resignation, of any member of the staff of a maintained school who is employed for those purposes, they shall recover those costs from the governing body except in so far as the authority agree with the governing body in writing (whether before or after the retirement, dismissal or resignation occurs) that they shall not be so recoverable.

(7A) Any amount payable by virtue of subsection (7) by the governing body of a maintained school in England to the local authority may be met by the governing body out of the school's budget share for any funding period if and to the extent that the 45

condition in subsection 7(B) is met.

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

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

For staff employed under the community facilities power, the default position is that any costs must be met by the Governing Body, but not from the delegated budget. Section 37 states:

- (7) *Where a local education authority incur costs:*
- (a) *in respect of any premature retirement of any member of the staff of a maintained school who is employed for community purposes, or*
 - (b) *in respect of the dismissal, or for the purpose of securing the resignation, of any member of the staff of a maintained school who is employed for those purposes;*
- they shall recover those costs from the Governing Body except in so far as the Authority agrees with the Governing Body in writing (whether before or after the retirement, dismissal or resignation occurs) that they shall not be so recoverable.*
- (8) *Any amount payable by virtue of subsection (7) by the Governing Body of a maintained school to the local education authority shall not be met by the Governing Body out of the school's budget share for any financial year.*
- (9) *Where a person is employed partly for community purposes and partly for other purposes, any payment or costs in respect of that person is to be apportioned between the two purposes; and the preceding provisions of this section shall apply separately to each part of the payment or costs.*

(We will review this provision in the context of the forthcoming changes which will allow other community facilities costs to be charged to delegated budgets from 1 April 2011, but this remains the legal position for the time being).

**APPLICATION OF SCHEMES FOR FINANCING SCHOOLS
TO THE COMMUNITY FACILITIES POWER**

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 authority and have regard to advice from the authority. Thirdly, the Secretary of State issues guidance to Governing Bodies about a range of issues connected with 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 authority's scheme for financing schools made under section 48 of the School Standards and Framework Act 1998 as amended by paragraph 2 of Schedule 3 to the Education Act 2002. This amendment extended the coverage of schemes to include the exercise of 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 part of the scheme does not extend to joint-use agreements; transfer of control agreements, or agreements between the authority and schools to secure the provision of adult and community learning.

REGISTERS OF BUSINESS INTERESTS

Declaration of Interests

The following points are offered as guidance to Governors in the Declaration of Interests:

In general terms, if a Governor has a pecuniary (ie financial interest) in any matter being considered by the Governing Body the he or she should declare the interest as soon as possible. This applies whether:

- you stand to lose or gain by the decision;
- your interest is direct or indirect.

The same procedure applies to clear and substantial non-pecuniary interests, i.e. personal or private interests even where you may not be directly affected, but a friend, member of your family, or a club or society or other organisation of which you are a member or a client may be affected.

The interests of a spouse or partner should also be treated as your own.

Register of Interests

The following categories of interest should be disclosed and registered accordingly. £Nil entries may be made where appropriate:

- **Employment, office, trade, profession or vocation**
 - Governors should show every employment, trade, profession or vocation and give a short description of the activity concerned, ie accountant.
 - If an employee the name of the employer should be given. If employed by a company, the name of the company paying your salary or wage should be given, not that of the ultimate holding company.
 - If you are a partner, state the name of the firm.
 - Where you hold office give the name of the person or body which appointed you. In the case of public office, this will be the authority which pays you. In the case of a teacher in a maintained school, the local education authority; in the case of a maintained school, the Governing Body.
- **Sponsorship**
 - You should declare the names of any person or body who has made any payments to you in sponsorship in the last twelve months. The amounts do not have to be disclosed.

- **Contracts with the Council**

- You should describe all contracts which are not fully discharged and which are:
 - contracts for the supply of goods, services or works to the Council or on the Councils behalf;
 - between the Council and either yourself or a company in which you have a beneficial interest (ie a relative/partner/friend is involved with the company) or of which you are a director, or a firm in which you are a partner.
- You need not say what the financial arrangements are but should specify the length of the contract.
- **Interests in companies and securities**

You should list the names of any companies or other bodies corporate that are actively involved with the school or the Council and in which you have an interest. This includes money lent or deposited with an industrial or provident society (including co-operative society). You need not show the extent of your interest.