

## West Berkshire Council Scheme For Financing Schools

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## **1. Purpose**

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

## **2. Applicability**

2.1. The scheme applies to all community, nursery, special, voluntary, foundation schools (including trust), foundation special schools and pupil referral units (PRUs) maintained by the authority, (as listed in Annex A), whether they are situated in the area of the authority or elsewhere. It does not apply to schools situated in the authority's area which are maintained by another authority, nor does it apply to academies.

## **3. Roles and Responsibilities**

3.1. The Director of Resources has overall responsibility for ensuring that this scheme is managed appropriately in accordance with these agreed standards.

3.2. The Schools Forum is responsible for:

- Directing and reviewing this scheme.
- Ensuring that there is effective consultation and communication on scheme related matters in terms of changes and updates issued by the Department for Education (DfE).
- Ensuring compliance with the DfE's directions in relation to the scheme.

Any proposed revisions to the scheme will be the subject of consultation with the governing body and the headteacher of every school maintained by the authority before they are submitted to the schools forum for approval.

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

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

3.3. The West Berkshire Council (WBC) Chief Management Accountant and Audit Team are responsible for the day-to-day management of the scheme including ensuring implementation of this standard.

3.4. All WBC staff who have financial dealings with and the relevant staff and governors of all schools listed in Annex A are responsible for familiarizing themselves with, and ensuring that they comply with this scheme.

## 4. Introduction

### 4.1. The funding framework: main features

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

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 (DSG) to its schools budget.

The categories of expenditure which fall within the 2 budgets are prescribed under regulations made by the Secretary of State, but included within the 2, taken together, is all expenditure, direct and indirect, on 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 section 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 schools' forum or the Secretary of State in certain instances, as prescribed by the Secretary of State.

The balance of the schools budget left after deduction of 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 section 51 of the act.

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

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

Subject to any provision made by or under the scheme, governing bodies of schools may spend such amounts of their budget shares as they think fit for any purposes of their school and for any additional purposes prescribed by the Secretary of State in regulations made under section 50 of the act.

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

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

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

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 outturn expenditure.

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

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

As required by regulations the authority will publish its scheme and any revisions to it on the WBC website, <https://www.westberks.gov.uk/> which is accessible to the general public, by the date the revisions come into force, together with a statement that the revised scheme comes into force on that date.

#### 4.2. Delegation of powers to the headteacher

Each governing body should consider the extent to which it wishes to delegate its financial powers to the headteacher, and record its decision (and any revisions) in the minutes of the governing body.

The first formal budget plan of each financial year must be approved by the governing body, or by a committee of the governing body.

In terms of the headteachers' role in financial management, governors may wish to delegate powers as follows:

- Responsibility for day to day management of resources (practical day to day management of resources may also be delegated to other senior staff and/or the school business manager/finance officer);
- Signing off of all orders/cheques/BACS payments within a monitoring system approved by governors or under a certain sum to be decided by governors;
- Administration of the expenditure budget within the annual amount of any budget heading or authorisation of spending up to (a sum agreed with the governing body) within a budget heading;
- Authority over virement up to a sum agreed with the governing body;

- Monitor day to day management of the budget;
- Provision of regular reports to the governing body on expenditure and income;
- Preparation of the budget estimates of expenditure and income for governing body approval.

It is recognised that the level of delegation will be based on practice, experience, knowledge, size and resources of the school.

#### 4.3. Maintenance of schools

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

### 5. Financial Controls

#### 5.1. General Procedures

##### 5.1.1 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 authority's Constitution Parts 10 Financial Rules of Procedure and 11 Contract Rules of Procedure. Copies of these can be found on the following web page:

<http://info.westberks.gov.uk/index.aspx?articleid=27929>

The authority's requirements can differ for schools with their own bank accounts.

##### 5.1.2 Provision of financial information and reports

Schools are required to provide the authority with details of anticipated and actual expenditure and income, in a form determined by the authority, compatible with the Consistent Financial Reporting framework. This information must be provided within one month of each quarter end (i.e. by 31 July, 31 October, 31 January and 30 April) unless:

- the 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 or;
- the information is required in connection with tax or banking reconciliation when it can be requested more frequently.

This provision does not apply to schools submitting an imprest and which are part of the financial accounting system operated by the authority (Agresso). However these schools are required to submit their month nine budget monitoring forecasts by the 10<sup>th</sup> working day of January each year unless

- the authority has notified the school in writing that in its view the school's financial position requires more frequent submission or;
- the school has applied for or is operating with a licensed deficit budget or;
- the school ended the previous financial with an unlicensed deficit budget.

This is in addition to the requirement for annual budget plans.

### 5.1.3 Payment of salaries and payment of bills

The procedures for these will vary according to the choices schools make about the holding of bank accounts and any buy back of services from the authority.

#### 5.1.3.1 Payment of salaries

In all cases schools are required to abide by the authority's financial regulations covering payments to staff.

##### *Schools buying back the authority's payroll service*

The authority can provide a payroll service that complies with all the statutory requirements and the conditions of service requirements for teaching and local government staff. The payroll service will also cover the deduction and paying over of contributions to both the Local Government Pension Scheme and the Teachers' Pension Scheme.

Under this service, all payments to staff, HM Revenues and Customs (HMRC), Teachers' Pension Agency etc. will be made from the authority's bank accounts either direct to the school's ledger accounts if on the council's financial system, or by the issue of an invoice to the school.

All Pay as You Earn (PAYE) matters will be dealt with under the authority's PAYE registration number, except where the school's annual salaries exceed £3million in which case the school's own PAYE registration number will be used.

The processing timetables and documents to be used for notification of all payroll variations are issued to schools by the payroll section.

Details of the buyback services and charges will be notified to schools ahead of each financial year.

##### *Schools making alternative payroll arrangements*

The school, as payroll provider, would need to ensure separate registration with the HMRC, Teachers' Pension Agency and Local Government Pension Scheme and would need upon request to satisfy the authority that all payments of deductions and contributions were being made in an

appropriate and timely manner and all statutory reporting requirements can be met for HMRC, Teachers Pensions and Berkshire Pensions.

#### 5.1.3.2. Payment of bills

All schools are required to abide by the authority's financial regulations covering payments to creditors.

#### 5.1.4. Control of assets

Each school must maintain an inventory in accordance with the authority's financial regulations recording its moveable non-capital assets worth more than £1,000 and setting out the basic authorisation procedures for disposal of assets.

For assets worth less than £1,000, schools should keep a register but this may be in a form as determined by the school. Schools are encouraged to register anything that is portable and attractive, such as a camera.

#### 5.1.5. Accounting policies, including year-end procedures

Schools are required to comply with the procedures, requirements and regulations relating to the accounting policies and end of year financial procedures issued and determined by the authority as being applicable to schools.

This will include the setting of a de-minimus level for capital spend which as a guideline will be in the range of £2,000 to £5,000. As a default the authority de-minimus will apply, currently £5,000 or £2,000 for VA schools.

Year-end guidance will be issued annually to schools on the practical arrangements e.g. accruals and other end of year financial procedures.

#### 5.1.6. Writing off debts

No debt shall be discharged other than by payment in full or being written-off.

The writing-off of non-recoverable debts is subject to individual consideration of the debt and appropriate approval. Those debts less than £2,000 may be written-off subject to the authorisation of the authority's Executive Director – Resources (or nominated officer) and the Executive Director - People after the consideration of a report by the headteacher. All other debts may only be written off by the above after consideration of a recommendation from the appropriate governing body.

This provision does not apply to the cancellation of invoices because a debt is deemed to be no longer due. Invoice cancellations can be approved by the headteacher.

### 5.2. Basis of Accounting



The authority prepares its statutory accounts on an accruals basis. Maintained schools are required to ensure that annual spending notified to the authority and Consistent Financial Reporting (CFR) returns are on an accruals basis. However, schools can choose their own basis of accounting for internal accounting and reporting.

Schools can choose which financial software they wish to use, provided they meet any costs of modification to provide the output required by the authority. In particular schools should be able to report separately to the authority on revenue and capital expenditure, and on any funds held by them on behalf of collaborative ventures with other schools where specified by the authority in order to demonstrate that only public funds have been reported to the authority and provide an audit trail back to the accounts for each of the separate funds.

### 5.3. Submission of budget plans

Each school is required to submit a budget plan to the authority **by 1<sup>st</sup> May each year**. The plan must show the school's intentions for expenditure in the current financial year and the assumptions underpinning the budget plan, which include taking full account of any estimated deficits/surpluses at the previous 31<sup>st</sup> March.

The format of the budget submission must be as specified by the authority, consistent with the CFR framework, and must be approved by the governing body or a committee of the governing body.

Where the authority deems it necessary it may also require the submission of revised plans throughout the year. Such revised plans shall not be required at intervals of less than three months.

The authority will supply schools with all school income and expenditure data, which it holds and which is necessary to efficient planning by schools.

#### 5.3.1. Submission of financial forecasts

From the 2021 to 2022 funding year each school is required to submit to the authority a three-year budget forecast (five if in deficit) each year. This is required in the agreed format **by 1<sup>st</sup> May each year**.

This is to provide evidence of

- schools undertaking effective strategic financial planning,
- adhering to best financial management practice,
- to alert the authority of any schools having difficulty in balancing future year budgets and
- may be used as evidence to support the authority's assessment of schools financial value standards or in support of the authority's balance control mechanism.

### 5.4. School resource management

Schools must seek to achieve effective management of resources and value for money, to optimise the use of their resources and to invest in teaching and

learning, taking into account the authority's purchasing, tendering and contracting requirements

It is for headteachers and governors to determine at school level how to optimise the use of resources and maximise value for money.

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

#### 5.5. Budget virement

Schools may vire budgets between ledger codes in the expenditure of their budgets within the criteria determined by the authority. Governors are advised to establish financial limits above which the approval of the governors is required. Schools are also advised to refer to paragraph 4.2 when considering virement between cost centres.

#### 5.6. Audit General

Schools are required to co-operate with the audit regimes determined by the authority as regards internal audit, and the authority's external audit as determined by the Local Audit and Accountability Act 2014.

Schools must provide access to the school's records for both internal and external auditors.

The depth and frequency of internal audit coverage of individual schools will depend on an assessment of each school's strength in financial management and by reference to the School's SFVS annual return. The authority's Internal Audit service will contact each school to arrange the appropriate audit coverage.

Schools operating outside the authority's financial system (non imprest schools) and producing their own accounts are required to commission an external audit if the local authority requests it.

Different audit arrangements may also be applied to schools having their own bank account, compared with non-bank account schools.

#### 5.7. Separate external audits

There is no expectation by the Secretary of State that routine annual external audit at school level should take place but 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 authority internal or external audit process.

#### 5.8. Audit of voluntary and private funds

Schools are required to provide audit certificates in respect of voluntary and private funds held by the school and of the accounts of any trading organisations controlled by the school.

The purpose of such a provision is to allow the authority to satisfy itself that public funds are not being misused.

A school refusing to provide audit certificates to the authority as required by the scheme is in breach of the scheme and the authority can take action on that basis. Access to the accounts of such funds by other agencies is a matter for them. Any other requirement as to audit of such funds is a matter for those making the funds available, and any Charity Commission requirements.

#### 5.9. Register of business interests

The governing body of each school is required to maintain a register which lists for each member of the governing body and the headteacher:

- a) any business interests they or any member of their immediate family have
- b) details of any other educational establishments that they govern
- c) any relationship between school staff and members of the governing body

And to keep the register up to date with notification of changes and through annual review of entries, to make the register available for inspection by governors, staff, parents and the authority and to publish the register, for example on a publicly accessible website.

#### 5.10. Purchasing, tendering and contracting requirements

Schools are required to abide by the authority's financial rules and standing orders in purchasing, tendering and contracting matters. This includes a requirement to assess in advance the professional competence of any contractors in areas such as compliance with health and safety regulations, safeguarding practices etc., taking account of the authority's policies and procedures.

However any section of the authority's financial rules and standing orders must be **disapplied** if it requires schools:

- a) to do anything incompatible with any of the provisions of this scheme, any statutory provision, or anything which did not comply with The Public Contracts Regulations;
- b) to seek local authority officer countersignature for any contracts for goods or services for a value below £60,000 in any one year;
- c) to select suppliers only from an approved list;
- d) 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, subject to specific listed exceptions.

The fact that an authority contract has been let in accordance with Public Contracts Regulations procedures does not in itself make it possible to bind a school into being part of that contract. For the purposes of the procurement directives schools are viewed as discrete contracting authorities.

The countersignature requirement should be applied sensibly by authorities and schools alike, avoiding attempts to artificially aggregate or disaggregate orders to avoid or impose the requirement.

Schools may seek advice on a range of compliant deals via [Buying for schools](#).

#### 5.11. Application of contracts to schools

Schools are free to opt out of authority arranged contracts.

Although governing bodies are empowered under paragraph 3 of schedule 1 to the Education Act 2002 to enter into contracts, in most cases they do so on behalf of the authority as the maintainer of the school and owner of the funds in the budget share (this is the main reason for allowing authorities to require authority counter-signature of contracts exceeding a certain value).

However, some contracts may be made solely on behalf of the governing body, when the governing body has clear statutory obligations e.g. contracts made by aided or foundation schools for the employment of staff.

#### 5.12. Central funds and earmarking

The 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 shares.

Such allocations should 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 where the funding is supported by a specific grant which the authority 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 allocations might, for example, be sums for SEN or other initiatives funded from the central expenditure of the authority's schools budget or other authority budget.

Such earmarked funding from centrally-retained funds is to be spent only on the purposes for which it is given, or on other cost centres for which earmarked funding is given, and is not to be vired into the school's budget share. Schools should maintain an accounting mechanism in order to demonstrate that this requirement has been met.

Unless previously agreed with the Executive Director - People, schools are required to return to the authority any earmarked funds if not spent within the period over which schools are allowed to use the funding as stipulated by the authority.

The authority is not allowed to make any deduction, in respect of interest costs to the authority, from payments to schools of devolved specific grant.

#### 5.13. Spending for the purposes of the school

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Section 50(3) of the School Standards and Framework Act 1998 allows governing bodies to spend budget shares for the purpose of the school, subject to the regulations made by the Secretary of State and any provisions of the scheme.

From 1 April 2011, under section 50(3a) amounts spent by governing bodies on community facilities or services under section 27 of the Education Act 2002 will be treated as spent for the purposes of the school.

Under section 50(3)(b) the Secretary of State may prescribe additional purposes for which expenditure of the budget share may occur. Such regulations are prescribed in the School Budget Shares (Prescribed Purposes) (England) Regulations 2002 (SI 2002/378) which have been amended by the School Budget Shares (Prescribed Purposes) (England) Amendment Regulations 2010 (SI 2010/190).

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

#### 5.14. 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. This includes expenditure by the governing body of a voluntary aided school on work which is their responsibility under paragraph 3 of schedule 3 of the act.

Schools must notify the authority of all proposed capital spending from their budget share. It is recommended that schools discuss their proposals with the authority (both an education and a finance expert) prior to the final authorisation of such proposals and in particular that they ensure that the proposed works do not already form part of the council's approved capital programme.

In any event if the expected capital expenditure from the budget share in any one year will exceed £20,000, the governing body must;

- notify the authority in a timely fashion and
- take into account any advice from the Executive Director - People as to the merits of the proposed expenditure.

Where the premises are owned by the authority, or the school has voluntary controlled status, then the governing body shall seek the consent of the authority to the proposed works. However, consent will only be withheld on health and safety grounds.

The reason for these requirements is to help ensure compliance with the School Premises (England) Regulations 2012, the Workplace (Health, Safety and Welfare) Regulations 1992, the Regulatory Reform (Fire Safety) Order 2005, the Equality Act 2010, and the Building Regulations 2010.

These provisions would not affect expenditure from any capital allocation made available by the authority outside the delegated budget share.

## 5.15. Notice of concern

The authority may issue a notice of concern to the governing body of any school it maintains where, in the opinion of the Chief Finance Officer and the Executive Director - 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 authority or the school. In this connection you are referred to the Guidelines on the Process for Intervention contained in the Strategy for Schools in Deficit – April 2018.

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

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

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

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

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

It shall not be used in place of withdrawal of financial delegation where that is the appropriate action to take; however, it may provide a way of making a governing body aware of the authority's concerns short of withdrawing delegation and

identifying the actions a governing body should take in order to improve their financial management to avoid withdrawal.

Any notice of concern issued by the authority will be withdrawn once the authority agrees the governing body has complied with the requirements the notice imposed.

#### 5.16.Schools Financial Value Standard (SFVS)

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

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

All maintained schools with a delegated budget must submit the form to the authority before the end of the financial year (31<sup>st</sup> March).

#### 5.17.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 the headteacher must inform all staff of school policies and procedures related to fraud and theft, the control in place to prevent them; and the consequences of breaching these controls. This information must also be included in induction for all new school staff and governors.

## **6. Instalments of Budget Share: Banking Arrangements**

The authority has adopted the “CIPFA Code of Practice for Treasury Management in Local Authorities”.

For the purposes of this section, budget share includes place-led funding for special schools, resource units and PRUs.

### 6.1. Frequency of instalments

Schools with their own bank accounts will receive monthly instalments of their budget share normally on the Monday before the last Thursday of each month.

Schools that use West Berkshire’s Imprest system will have an imprest limit set based on a monthly instalment of their budget share less any central payments e.g. payroll.

Top-up payments for pupils with high needs will be made on a termly basis unless alternative arrangements have been agreed with the relevant provider.

#### 6.2. Proportion of budget share payable at each instalment

Budget share payments to schools with their own external bank account will be made in accordance with the schedule of payment agreed with individual schools and the Head of Finance and Property; normally the monthly payment will be equal to one twelfth of the schools approved budget share, except for month one where an additional one third of the normal monthly payment is paid at the beginning of the month, and month twelve where two thirds of the normal monthly payment is paid.

Schools on the imprest system which use an external payroll provider will make their salary payments through their imprest account and reclaim the expenditure retrospectively. The imprest limit will reflect this payment.

6<sup>th</sup> form funding and other Education Funding Agency (EFA) grants such as pupil premium will be paid according to the schedule and receipt of the grant from the EFA.

#### 6.3. Interest clawback

Where a school requests and the authority agrees to make available the budget share in advance (of what the authority believes to be reasonable cash flow needs taking account of the pattern of expenditure of schools of that size, and any particular representations relating to the individual school's circumstances), the authority may deduct from the budget share an amount equal to the estimated interest lost by the authority.

The calculation basis will be at a rate up to 2 per cent above the bank base rate at the time of the advance.

#### 6.4. Interest on late budget share payments

The authority will add interest to budget share payments which are late as a result of authority error.

The interest rate used will be that used for clawback calculations in 6.3 above or if no such clawback mechanism is in place, at least the current Bank of England base rate.

#### 6.5. Budget share for closing schools

Budget shares of 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.

#### 6.6. Bank and building society accounts

Bank accounts as referred to here, do not include imprest bank accounts.



All maintained schools may have an external bank account into which their budget share instalments (as determined by other provisions) are paid and any interest payable on the account can be retained by the school.

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

Any school in deficit requesting an external bank account shall not be able to have one until any deficit is cleared.

New bank account arrangements may only be requested with effect from the beginning of each financial year provided two months' notice has been given.

#### 6.7. Restriction of accounts

The banks or building societies with which schools may hold an account for the purpose of receiving budget share payments must be as per the approved list consistent with the authority's Treasury Management Policy.

Any school closing an account used to receive its budget share and opening another must select the new bank or building society which meets the criteria set out in this paragraph even if the closed account was with an institution which did not.

Schools are allowed to have bank accounts for budget share purposes which are in the name of the school rather than the authority. The account mandate should provide that the authority is;

- the owner of the funds in the account,
- entitled to receive statements on request, and
- can take control of the account if the school's right to a delegated budget is suspended by the authority.

Budget share funds paid by the authority and held in school accounts remain authority property until spent (section 49 (5) of the act).

Signatories for external bank accounts are restricted to authority and school employees only. No account should be restricted to authority employees only, because this is not practicable for foundation or aided schools. Governors who are not members of staff are barred from being signatories.

#### 6.8. Borrowing by schools

With the exception of loan schemes run by the authority and the financial instruments outlined in the scheme (section 5.10), governing bodies may borrow money (which includes the use of finance leases) only with the written permission of the Secretary of State.

Details of all such requests and subsequent approvals or otherwise should be supplied in writing to the authority's Head of Finance and Property.

The Secretary of State's general position is that schools will only be granted permission for borrowing in exceptional circumstances. From time to time, however, the Secretary of State may introduce limited schemes in order to meet broader policy objectives.

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

Schools are barred from using interest bearing credit cards and overdrafts (external bank accounts) which are regarded as borrowing. However schools may use a Government Procurement Card in order to facilitate electronic purchases. Schools are required to adhere to the authority protocol on the use of procurement cards.

The restrictions do not apply to Trustees or Foundations, whose borrowing as private bodies makes no impact on government accounts. These debts may not be serviced directly from delegated budgets, but schools are free to agree a charge for a service which the Trustees or Foundation are able to provide as a consequence of their own borrowing.

Governing bodies do not act as agents of the authority when repaying loans.

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

The introduction of IFRS 16 has been postponed in relation to 2022 to 2023.

## 6.9. Other Provisions

### Leasing arrangements

Schools must seek advice from Accountancy before entering into any lease agreements.

## **7. The Treatment of Surplus and Deficit Balances in Relation to Budget Shares**

### 7.1. Right to carry forward surplus balances

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

If a school requests to set up its own external bank account, an amount will be paid into the school's new account on the 1 April representing any invested balances held by the council on behalf of the school, plus an estimate of any underspend in the financial year immediately prior to the opening of the account. If the school is expected to overspend in the preceding financial year, the amount of the estimated overspend will be deducted from the invested balances transferred to the new account. The estimate of any under or over spend will be agreed between the authority and the school. When the school's final outturn position for the previous financial year is known and agreed between the authority and the school, an

adjustment will, if necessary, be made to the opening balance paid into the account by adding to, or deducting an amount from the next instalment of the school's budget share to be paid into its bank account.

The amount of a surplus balance would be shown in the relevant outturn statement published in accordance with directions given by the Secretary of State under section 251 of the Apprenticeships, Skills, Children and Learning Act 2009; although there may be commitments against any figure shown in such a statement.

## 7.2. Controls on surplus budgets

Although schools have the autonomy to plan for and use their funding in the way that best meets the purposes of their school, they should not be carrying forward significant excessive surplus balances which are uncommitted and without a plan for their use. An excessive balance for this purpose is deemed to be 10% of the school's actual income received in the financial year or £20,000, whichever sum is the greatest. This applies to all revenue funds of the school, but excluding community facilities and other external services.

In order to control surplus balances, the authority will report the balances held by each school at the end of the financial year to the schools' forum (during the Summer term), alongside the actual and planned balance for the previous three years and any other data deemed to be of relevance. The schools forum may request individual schools to provide further information and/or attend a meeting of the heads funding group if the data reported raises any concerns regarding their financial management in respect of their balances.

## 7.3. Interest on surplus balances

Balances held by the authority on behalf of schools will attract no interest unless it is invested in the authority's reserve account where this accrues directly to the school. The rate of interest paid will be based on the average rate earned by the council on its investments.

## 7.4. 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.

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

Schools closing the financial year with an unplanned deficit, though setting a balanced budget for the current year, may be asked to submit the same additional information (for one year only) as those schools with a licensed deficit (see paragraph 7.9) and will be notified accordingly.

## 7.5. Planning for deficit budgets

Schools must submit a recovery plan to the authority when they have a revenue deficit at 31 March of any year.

Schools may only plan for a deficit budget in accordance with the terms of paragraph 7.9 below.

#### 7.6. Charging interest on deficit balances

The authority may charge interest on any deficit balance at the bank base rate depending on the reason why the deficit has occurred. The Executive Director - Resources, in consultation with the Head of Education Services will determine whether or not interest will be payable and will advise the school accordingly when the deficit is approved.

#### 7.7. Writing off deficits

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

In respect of mainstream maintained primary schools only, assistance may be given towards the elimination of a deficit balance from the de-delegated contingency budget, Primary Schools In Financial Difficulty (PSIFD) where this has been agreed by the schools forum.

#### 7.8. Balances of closing and replacement schools

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

#### 7.9. Licensed deficits

The authority will permit schools 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 authority on behalf of schools, although it is open to the authority, in circumstances where there is no such surplus, to make alternative arrangements if it can do so within the relevant local authority finance legislation.

The detailed arrangements applying to this scheme are set out below:

- The recommended length over which schools may repay the deficit, i.e. reach at least a zero balance, with appropriate mechanism to ensure that the deficit is not simply extended indefinitely, is three years. The maximum length of repayment is five years.
- The deficit will only be agreed to allow a school in the short term to maintain a level of spend which in the opinion of the Head of Education Services is the minimum required to deliver the National Curriculum.

- The maximum size of the deficit in normal circumstances will not exceed 5% of the school's budget share.
- The maximum proportion of the collective balances held by the authority, which would be used to back the arrangement, shall not exceed 20%.
- Before a deficit budget is approved, the school must produce a detailed deficit recovery plan in the prescribed format for the duration of the planned period of the deficit, which will be reviewed at least annually.
- The school must meet with the authority at least every 6 months to review progress of the deficit recovery plan and attend schools forum if requested.
- The school must submit monthly budget monitoring reports to Schools Accountancy.
- The school must submit a copy of any governor meeting minutes (both draft and signed) where the budget is discussed (a member of the authority may also attend such meetings).
- The school must take part in
  - any review the Local Authority commissions on the school's budget deficit position and recovery plan, including a Schools Resource Management Advisor deployment paid for by the DfE and
  - the introduction and use of any additional analysis and data tools deemed appropriate including Integrated curriculum and financial planning (ICFP).
- The Head of Education Services, jointly with the Executive Director - Resources will be responsible for approving any deficit.

In circumstances where a school requires a budget share advance in order not to be to be overdrawn at their bank, this shall be treated as a cash advance and not a loan. This will have no effect on the school's budget and outturn statements.

#### 7.10.Loan Schemes

There is no loan scheme available.

#### Credit union approach

Schools may wish to group together to utilise externally held balances for a credit union approach to loans. Where schools choose to borrow money through such a scheme the authority will require audit certification of the running of the scheme.

## 8. Income

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

### 8.1. Income from lettings

Schools may retain income from lettings of the school premises which would otherwise accrue to the authority, subject to alternative provisions arising from any joint use or private finance initiative (PFI) or purchasing power parity (PPP) agreements.

Schools are allowed to cross-subsidise lettings for community and voluntary use with income from other lettings, provided the governing body is satisfied that this will not interfere to a significant extent with the performance of any duties imposed on them by the education acts, including the requirement to conduct the school with a view to promoting high standards of educational achievement.

Schools are required to have regard to directions issued by the authority as to the use of school premises as permitted under the act for various categories of schools.

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

### 8.2. Income from fees and charges

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

### 8.3. Income from fund-raising activities

Schools may retain income from fund-raising activities.

### 8.4. Income from 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 authority 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 authority.

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

### 8.5. Administrative procedures for the collection of income

Schools shall, where possible, process income that accrues to the Authority (e.g. where a school has contracted with the Council meal service) in accordance with

the authorities financial regulations see  
<http://info.westberks.gov.uk/index.aspx?articleid=27929> Section 10.16

## 8.6. 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.

## 9. The Charging of School Budgets

### 9.1. General provision

The budget share of a school may be charged by the authority without the consent of the governing body only in circumstances set out in 9.3 below. The authority shall consult a school as to the intention to so charge, and shall notify a school when it has been done.

The authority cannot act unreasonably in the exercise of any power given by this scheme, or it may be the subject of a direction under section 496 of the Education Act 1996. The authority shall make arrangements for a disputes procedure for such charges that will include both council member and headteacher representation.

For each of the circumstances in 9.3 below the authority would have to be able to demonstrate that the authority had necessarily incurred the expenditure now charged to the budget share. This means that where the authority cannot incur a liability because the statutory responsibility rests elsewhere, no charging is possible. Therefore the position on charging will vary between categories of school.

In some cases the ability to charge budget shares depends on the authority having given prior advice to the governing body.

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 at the schools forum.

### 9.2. Charging of salaries at cost

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

### 9.3. Circumstances in which charges may be made

- Where premature retirement costs have been incurred without the prior written agreement of the authority to bear such costs (the amount chargeable being only the excess over any amount agreed by the authority).
- Other expenditure incurred to secure resignations where there is good reason to charge this to the school.

- Awards by courts and industrial tribunals against the authority or out of court settlements, arising from action or inaction by the governing body contrary to the authority's advice. Awards may sometimes be against the governing body directly and would fall to be met from the budget share. Where the authority is joined with the governing body in the action and has expenditure as a result of the governing body not taking authority advice, the charging of the budget share with the authority expenditure protects the authority's position. Authorities should ensure in framing any such advice that they have taken proper account of the role of aided school governing bodies.
- Expenditure by the authority in carrying out health and safety work or capital expenditure for which the authority is liable where funds have been delegated to the governing body for such work, but the governing body has failed to carry out the required work.
- Expenditure by the authority incurred in making good defects in building work funded by capital spending from budget shares, where the premises are owned by the authority, or the school has voluntary controlled status.
- Expenditure by the authority incurred 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 authority. The authority itself needs to consider whether it has an insurable interest in any particular case.
- Recovery of monies due from a school for services provided to the school, where a dispute over the monies due has been referred to a disputes procedure set out in a service level agreement and the result is that monies are owed by the school to the authority.
- Recovery of penalties imposed on the authority by the Board of Inland Revenue, the Contributions Agency, HM Revenue and Customs (HMRC), Teachers' Pensions, the Environment Agency or other regulatory authorities as a result of school negligence.
- Correction of authority errors in calculating charges to a budget share (e.g. pension deductions). Before applying any such provision the authority should consider whether it is reasonable to do so. If the error dates back several years it may be questionable whether such charging is reasonable.
- Additional transport costs incurred by the authority arising from decisions by the governing body on the length of the school day, and/or failure to notify the authority of non-pupil days resulting in unnecessary transport costs.
- Legal costs which are incurred by the authority because the governing body did not accept the advice of the authority.
- Costs of necessary health and safety training for staff employed by the authority, where funding for training had been delegated but the necessary training not carried out.



- 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.
- Cost of work done in respect of teacher pension remittance and records for schools using non-authority payroll contractors, the charge to be the minimum needed to meet the cost of the authority's compliance with its statutory obligations.
- Costs incurred by the authority in securing provision specified in an Education and Health Care Plan (EHCP) 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.
- Costs incurred by the authority due to submission by the school of incorrect data.
- Recovery of amounts spent from specific grants on ineligible purposes.
- Costs incurred by the authority as a result of the governing body being in breach of the terms of a contract.
- 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.
- Costs incurred by the authority in administering admission appeals, where the authority is the admissions authority and the funding for admission appeals has been delegated to all schools as part of their formula allocation.

## 10. Taxation

### 10.1. Value Added Tax (VAT)

VAT amounts reclaimed through the appropriate procedure below will be passed back to the school.

a) Schools with an Imprest bank account should reclaim the net of VAT paid and VAT charged by submitting (at least monthly except for August) an Imprest Claim to the authority, once checked the reimbursement is paid by the authority to school's Imprest bank account. More detailed guidance on how to claim and timescales is available electronically at SLA Online.

or

b) Non imprest schools should claim the net of VAT paid and VAT charged by submitting (at least monthly except for August) an appropriately authorised VAT Submittal form generated by the school's accounting system. Correctly completed VAT submittals received by 12 noon on a Tuesday will normally be included on that week's weekly payment sheet, so the school's bank account will be reimbursed the following Tuesday.

HMRC has agreed that VAT incurred by schools when spending any funding made available by the authority is treated as being incurred by the authority and qualifies for reclaim by the authority.

This does not include expenditure by the governors of a voluntary aided school when carrying out their statutory responsibilities to maintain the external fabric of their buildings. See section 15 below.

Maintained schools should seek advice of the WBC Schools Accountancy team in relation to VAT if there is any doubt as to how a particular transaction should be treated.

## 10.2. Construction Industry Taxation Scheme (CIS)

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

## 11. The Provision of Services and Facilities by the Authority

### 11.1. Provision of services from centrally-retained budgets

The authority shall determine on what basis services from centrally-retained funds (including existing commitments for premature retirement costs and redundancy payments) will be provided to schools.

The authority is barred from discriminating in its provision of services on the basis of categories of schools, except in cases where this would be allowable under the School and Early Years Finance Regulations or the dedicated schools grant (DSG) conditions of grant.

### 11.2. Provision of services bought back from authority using delegated budgets

The term of any arrangement with a school to buy services or facilities from the authority 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.

There is an exception in the case of contracts for the supply of catering services which shall be limited to a maximum of 5 years, which may be extended for a maximum of 7 years.

Services provided to schools, for which funding is not retained centrally by the authority (under the regulations made under section 45A of the act) will be offered at prices which are intended to generate sufficient income to cover the cost of providing those services. The total cost of those services will be met by the total income, even if schools are charged differentially.

### 11.3. Packaging

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

services available. Where practicable, this will include provision on a service-by-service basis as well as in packages of services.

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

#### 11.4. Service level agreements

Service level agreements for services to be provided by the authority to schools must be in place (i.e. signed and returned by headteachers/chairs of governor) by 31 March to be effective for the following financial year and schools will have at least a month to consider the terms of agreements prior to finalising them. In practice the authority will aim to make available any new service level agreements for the coming financial year by at least 1 January each year.

Where services or facilities are provided under a service level agreement, whether free or a buyback basis, the terms of any such agreement starting on or after the inception of the scheme will be reviewed at least every 3 years if the agreement lasts longer than that.

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

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

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

#### 11.5. Teachers' pensions

In order to ensure that the performance of the duty on the authority to supply Teachers' Pensions with information under the Teachers' Pension Scheme Regulations 2014, 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.

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

A governing body of any maintained school, whether or not the employer of the teachers at such a school, which has entered into any arrangement or agreement with a person other than the authority to provide payroll services, shall ensure that any such arrangement or agreement is varied to require that person to supply salary, service and pensions data to the authority which the authority requires to submit its monthly return of salary and service to Teachers' Pensions and to produce its audited contributions certificate.

A governing body of any maintained school which directly administers its payroll shall supply salary, service and pensions data to the authority which the authority

requires to submit its monthly return of salary and service to Teachers' Pensions and to produce its audited contributions certificate.

The authority will advise schools each year of the timing, format and specification of the information required from each school. A governing body shall also ensure that AVCs are passed to the authority within the time limit specified in the AVC scheme. The governing body shall meet any consequential costs from the school's budget share.

## **12. Private finance initiative (PFI) / Public private partnerships (PPP)**

### 12.1.PFI/PPP

It may be necessary to vary the terms of this scheme in the event of contracts being let under the framework for PFI/PPP, in such cases the authority will undertake appropriate prior consultation.

## **13. Insurance**

### 13.1. Insurance cover

If funds for insurance are delegated to any school, the authority may require the school to demonstrate that cover relevant to the authority's insurable interests, under a policy arranged by the governing body, is at least as good as the relevant minimum cover arranged by the authority if the authority makes such arrangements, either paid for from central funds or from contributions from schools' delegated budgets.

The evidence required to demonstrate the parity of cover will be reasonable, not place an undue burden upon the school, nor act as a barrier to the school exercising their choice of supplier.

The authority will have regard to the actual risks which might reasonably be expected to arise at the school in question in operating such a requirement, rather than applying an arbitrary minimum level of cover for all schools.

Instead of taking out insurance, a school may after 1<sup>st</sup> April 2020 join the Secretary of State's Risk Protection Arrangement (RPA) for risks that are covered by the RPA. Schools may do this individually when any insurance contract of which they are part expires. Alternatively all primary and/or secondary maintained schools may join the RPA collectively by agreeing through the schools forum to de-delegate funding.

## **14. Miscellaneous**

### 14.1. Right of access to information

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

### 14.2. Liability of governors

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

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

#### 14.3. Governors' allowances

##### Schools without delegated budgets

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

Governing bodies would not normally have discretion in the amounts of such allowances, which would be set by the authority.

##### Schools with delegated budgets

Under section 50(5) of the act, only allowances in respect of purposes specified in in regulations made under section 19 of the Education Act 2002 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.

#### 14.4. Responsibility for legal costs

Legal costs incurred by the governing body may be charged to the school's budget share, unless the governing body acts in accordance with the advice of the authority; although this is the responsibility of the authority, as part of the cost of maintaining the school unless they relate to the statutory responsibility of voluntary aided school governors for buildings.

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

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

In instances where there appears to be a conflict of interest between the authority and the governing body, schools are advised to obtain a list of suitably qualified firms of solicitors practicing in the area available from the Law Society, 113 Chancery Lane, London WC2, telephone number 0870 606 2500 or [www.lawsociety.org.uk](http://www.lawsociety.org.uk)

#### 14.5. Health and Safety

In expending the school's budget share, governing bodies should have due regard to duties placed on the authority in relation to health and safety, and the authority's policy on health and safety matters in the management of the budget share.

#### 14.6.Right of attendance for Chief Finance Officer

Governing bodies are required to permit the Chief Finance Officer (Section 151 Officer) of the authority, or any officer of the authority nominated by the Chief Finance Officer, to attend meetings of the governing body at which any agenda items are relevant to the exercise of their responsibilities.

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

#### 14.7.Special Education Needs

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

If the authority is advised that this is not being achieved it may suspend delegation where a situation is serious enough to warrant it; this would not normally relate to an individual pupil.

#### 14.8.Interest on late payments

The terms of the scheme cannot affect statutory requirements now introduced on this matter.

#### 14.9.Whistle blowing

If any person working at a school, or a school governor, wishes to make a complaint about financial management or financial propriety at the school they should contact the Head of Finance and Property at the authority.

All complaints will be treated confidentially.

#### 14.10. Child protection

Schools should be prepared to release staff to attend child protection case conferences and other related events. Costs in this regard should be met from school delegated budgets.

#### 14.11. Redundancy / Early retirement costs

The 2002 Education Act sets out how premature retirement and redundancy costs should normally be funded.

The responsibility and procedure for the payment of redundancy/early retirement costs is set out in the West Berkshire Council School Severance Funding Policy, which can be accessed by schools on WBC SLA Online.

## 15. Responsibility for repairs and maintenance

### 15.1. Responsibility for repairs and maintenance

The authority delegates funding for repairs and maintenance to schools. Only capital expenditure is retained by the authority.

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

The authority uses a de-minimis limit of £5,000 for defining capital in its own financial accounts, this sum applies to the total cost of the scheme and not individual items.

The same de minimus limit is used in defining what is delegated.

For voluntary aided schools, the liability of the authority for repairs and maintenance (albeit met by delegation of funds through the budget share) is the same as for other maintained schools, so no separate list of responsibilities is necessary for such schools.

However, eligibility for capital grant from the Secretary of State for capital works at voluntary aided schools depends on the *de-minimis* limit applied by DfE to categorise such work, not the *de-minimis* limit used by the authority.

## 16. Community facilities

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

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

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

Under section 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 Schools Standards and Framework Act 1998 as amended by Paragraph 2 of Schedule 3 to the Education Act 2002 which extends 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.

The mismanagement of community facilities funds can be grounds for suspension of the right to a delegated budget.

#### 16.1.Consultation with the authority: financial aspects

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

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

#### 16.2.Funding agreements: 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 supplying funding and taking part in the provision. A very wide range of bodies and organisations are potentially involved.

Before concluding any such third party funding agreements, the Governing Body is required to submit detailed proposals to the Section 151 Officer for consideration by the authority at least eight weeks prior to signing any agreement.

The Secretary of State does not consider that it is appropriate for authorities to have a general power of veto for these agreements.

However, if a third party funding 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.

#### 16.3.Other prohibitions, restrictions and limitations

Where the authority considers that such an agreement constitutes a significant financial risk, then the governing body may be required to make arrangements to protect the authority's financial interest. This may be by carrying out the activity concerned through the vehicle of a private limited company formed for the purpose or by obtaining indemnity insurance for risks associated with the project in question, as specified by the authority.

#### 16.4.Supply of financial information

Schools which exercise the community facilities power should provide the authority with a statement at the end of P9, in a form determined by the authority, showing the income and expenditure for the school arising from the facilities in question for the year to date and on a forecast basis, for the remainder of the financial year.

If the authority has concerns about the financial arrangements for the provision of community use, then on giving notice to the school it may require such financial statements to be supplied every 3 months and, if the authority sees fit, to require the submission of a recovery plan for the activity in question.



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

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

#### 16.5.Audit

The school is required to grant access to the school's records connected with the exercise of the community facilities power, in order to facilitate internal and external audit of relevant income and expenditure.

Where funding agreements are entered into with third parties for the provision of community facilities, the school is required to ensure that provision is made for access by the authority to records and other property held on 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.

#### 16.6.Treatment of income and surpluses

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

Schools may carry such retained net income over from one financial year to the next as a separate community facilities surplus.

#### 16.7.Health and safety matters

It will be the responsibility of the school's governing body to ensure that any health and safety provisions of the main scheme also apply to the community facilities power.

It will be the governing body's responsibility to meet the costs of securing Disclosure and Barring Service clearance, where appropriate 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.

#### 16.8.Insurance

It is the responsibility of the governing body to ensure adequate arrangements are made for insurance against risks arising from the exercise of the community facilities power, taking professional advice as necessary.

Such insurance should not be funded from the school budget share. Schools should seek the authority's advice before finalising any insurance arrangement for community facilities.

In principle, the insurance issues arising from use of the community facilities power are the same as those which already arise from non-school use of school premises. However, a school proposing to provide community facilities should, as an integral part of its plans, undertake an assessment of the insurance implications and costs, seeking professional advice if necessary.

The authority is empowered to 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 a provision is necessary in order for the authority to protect itself against possible third party claims.

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

#### 16.9. Taxation

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

If any member of staff employed by the school or authority in connection with community facilities at the school is paid from funds held in a school's own bank account (whether a separate account is used for community facilities or not – see section 11), the school is likely to be held liable for payment of income tax and National Insurance, in line with HMRC rules.

School should follow authority advice in relation to the CIS where this is relevant to the exercise of the community facilities power.

#### 16.10. Banking

Schools should either maintain separate bank accounts for budget share and community facilities, or have one account but with adequate internal accounting controls to maintain separation of funds.

Schools should also have regard to the provisions at 6.6 and 6.7 above relating to the banks which may be used, signing of cheques, the titles of bank accounts, the contents of bank account mandates, and similar matters. The general approach to these matters should mirror the main part of the scheme.

## **Annex A: LIST OF SCHOOLS TO WHICH THIS SCHEME APPLIES**

### **PRIMARY SCHOOLS**

Aldermaston Church of England Primary School  
Basildon Church of England Primary School  
Beedon Church of England Controlled Primary School  
Beenham Primary School  
Birch Copse Primary School  
Bradfield Church of England Primary School  
Brightwalton Church of England Aided Primary School  
Brimpton Church of England Primary School  
Bucklebury Church of England Primary School  
Burghfield St. Mary's Church of England Primary  
Calcot Infant School and Nursery  
Calcot Junior School  
Chaddleworth St. Andrew's Church of England Primary School  
Chieveley Primary School  
Cold Ash St Mark's Church of England Primary School  
Compton Church of England Primary School  
Curridge Primary School  
Downsway Primary School  
Enborne Church of England Primary School  
Englefield Church of England Primary School  
Falkland Primary School  
Garland Junior School  
Hampstead Norreys Church of England Primary School  
Hermitage Primary School  
Hungerford Primary School  
The Ilsleys Primary School  
Inkpen Primary School  
John Rankin Infant and Nursery School  
John Rankin Junior School  
Kennet Valley Primary School  
Kintbury St. Mary's Church of England Primary School  
Long Lane Primary School  
Mrs Bland's Infant School  
Mortimer St John's Church of England Infant School  
Mortimer St Mary's Church of England Junior School  
Pangbourne Primary School  
Parsons Down Infant and Nursery School  
Parsons Down Junior School  
Purley Church of England Infant School  
Robert Sandilands Primary School and Nursery  
Shaw-cum-Donnington Church of England Primary School  
Shefford Church of England Primary School  
Springfield Primary School  
Spurcroft Primary School  
St. Finian's Catholic Primary School  
St. John the Evangelist Infant and Nursery School  
St. Joseph's RC Primary

St. Nicolas Church of England Junior School  
St. Paul's Catholic Primary School  
Stockcross Church of England Primary School  
Streatley Church of England Voluntary Controlled School  
Sulhamstead & Ufton Nervet Church of England Voluntary Aided Primary School  
Thatcham Park Primary School  
Theale Church of England Primary School  
Welford & Wickham Church of England Primary School  
Westwood Farm Infant School  
Westwood Farm Junior School  
The Willows  
Winchcombe School  
Woolhampton Church of England Primary School  
Yattendon Church of England Primary School

### **SPECIAL SCHOOLS**

Brookfields Special School  
The Castle School

### **SECONDARY SCHOOLS**

The Downs School  
Little Heath School  
The Willink School

### **NURSERY SCHOOLS**

Hungerford Nursery School Centre for Children & Families  
Victoria Park Nursery School

### **PRUS**

iCollege –

- Inspiration (Key Stages 1 & 2)
- Integration (Key Stages 3 & 4)
- Intervention (Years 9 & 10)
- Independence (Year 11 and Key Stage 5)

## Annex B: GLOSSARY

“Chief Finance Officer”	Section 151 Officer (An officer appointed under section 151 of the Local Government Act 1972 which requires every local authority to appoint a suitably qualified officer responsible for the proper administration of its affairs.)
“the act”	School Standards and Framework Act 1998
“the authority”	West Berkshire Council
“the regulations”	School and Early Years Finance (England) (No. 2) Regulations 2018
AVC	Additional Voluntary Contributions
CFR	Consistent Financial Reporting
CIPFA	Chartered Institute of Public Finance Association
CIS	Construction Industry Taxation Scheme
DfE	Department for Education
DSG	Dedicated Schools Grant
HMRC	HM Revenues and Customs
ISB	Individual Schools Budget
PAYE	Pay As You Earn
PFI	Private Finance Initiative
PPP	Public Private Partnerships
SFVS	Schools Financial Value Standard
VAT	Value Added Tax

## **Annex C: EARLIER DIRECTED REVISIONS**

Following consultation that closed on 19 March 2012, the Secretary of State directs that from 1 April 2012 the text below should be incorporated into the schemes of all local authorities in England. The revised text was included in the 26 March 2013 version of the guidance.

### **Efficiency and value for money**

The scheme must include the following provision, which imposes a requirement on schools to achieve efficiencies and value for money, to optimise their resources and invest in teaching and learning, taking into account the purchasing, tendering and contracting requirements.

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

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

### **Schools financial value standard (SFVS)**

All local authority maintained schools, including nursery schools and PRUs that have a delegated budget) must demonstrate compliance with the 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.

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

### **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.

Following consultation, the Secretary of State directs that from 19 August 2015 the text below shall be incorporated into the schemes of all local authorities in England.

### **Register of business interests**

The scheme must contain a provision which requires the governing body of each maintained school to have a register which lists for each member of the governing body and the head teacher:

- any business interests that they or any member of their immediate family have

- details of any other educational establishments that they govern
- any relationships between school staff and members of the governing body

And to keep the register up to date with notification of changes and through annual review of entries, to make the register available for inspection by governors, staff and parents, and the local authority, and to publish the register, for example on a publicly accessible website.

### **Borrowing by schools**

The scheme should contain a provision reminding schools that governing bodies may borrow money (which includes the use of finance leases) only with the written permission of the Secretary of State. The Secretary of State's general position is that schools will only be granted permission for borrowing in exceptional circumstances.

From time to time, however, the Secretary of State may introduce limited schemes in order to meet broader policy objectives. The scheme must contain a provision that allows schools to use any scheme that the Secretary of State has said is available to schools without specific approval, currently including the including the Salix scheme, which is designed to support energy saving.

Following consultation, the Secretary of State directs that from 22 March 2018 the text below shall be incorporated into the schemes of all local authorities in England.

### **Loan schemes**

Loans will only be used to assist schools in spreading the cost over more than one year of large one-off individual items of a capital nature that have a benefit to the school lasting more than one financial or academic year.

Loans will not be used as a means of funding a deficit that has arisen because a school's recurrent costs exceed its current income.

If loans are made to fund a deficit and a school subsequently converts to academy status, the Secretary of State will consider using the power under paragraph 13(4)(d) of Schedule 1 to the Academies Act 2010 to make a direction to the effect that such a loan does not transfer, either in full or part, to the new academy school.

### **Submission of financial forecasts**

Following consultation that closed on 30 September 2019, from the 2021 to 2022 funding year each school must submit a 3-year budget forecast each year, at a date determined by the local authority between 1 May and 30 June.

Following consultation that closed on 30 September 2019, the Secretary of State directs that the text below shall be incorporated into the schemes of all local authorities in England, however due to coronavirus (COVID-19) the directed revision to follow will only be expected to be enforced from the 2021 to 2022 funding year.

### **Planning for deficit budgets**

Schools must submit a recovery plan to the local authority when their revenue deficit rises above 5% at 31 March of any year. Local authorities may set a lower threshold than 5% for the submission of a recovery plan if they wish. The 5% deficit threshold will apply when deficits are measured as at 31 March 2021.