

# **Salford Scheme of Delegation to Schools**

## **Schools Standards and Framework Act 1998**

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### **Contents**

<b>1. Introduction</b>	<b>Page 5</b>
1.1. The Funding Framework: Main Features	Page 5
1.2. The Role of the Scheme	Page 6
1.2.1. Application of the Scheme	Page 6
1.3. Publication of the Scheme	Page 6
1.4. Revisions to the Scheme	Page 6
1.5. Delegation of Powers to Head teachers	Page 6

1.6. Maintenance of Schools	Page 7
<b>2. Financial Controls</b>	Page 7
2.1.1. Application of Financial Controls to Schools	Page 7
2.1.2. Provision of Financial Information and Reports	Page 7
2.1.3. Payment of Salaries; Payment of Bills	Page 7
2.1.4. Control of Assets	Page 8
2.1.5. Accounting Policies	Page 8
2.1.6. Writing Off Debt	Page 8
2.2. Basis of Accounting	Page 8
2.3. Submission of Budget Plans	Page 8
2.3.1. Submission of Financial Forecasts	Page 8
2.4. Efficiency and Value for Money	Page 8
2.5. Virement	Page 9
2.6. Audit: General	Page 9
2.7. Separate External Audits	Page 9
2.8. Audit of Voluntary and Private Funds	Page 9
2.9. Register of Business Interests	Page 9
2.10. Purchasing, Tendering and Contracting Requirements	Page 9
2.11. Application of Contracts to Schools	Page 10
2.12. Central Funds and Earmarking	Page 10
2.13. Spending for the Purposes of the School	Page 10
2.14. Capital Spending from Budget Share	Page 11
2.15. Schools Financial Value Standard (SFVS)	Page 11
2.16. Notice of Concern	Page 11
<b>3. Instalments of the Budget Share; Banking Arrangements</b>	Page 12
3.1. Frequency of Instalment	Page 12
3.2. Proportion of Budget Share Payable at Each Instalment	Page 12
3.3. Interest Clawback	Page 12
3.4. Budget Shares for Closing Schools	Page 13
3.5. Bank Account and Building Society Accounts	Page 13
3.5.1. Restriction of Accounts	Page 13
3.6. Borrowing by Schools	Page 13
<b>4. The Treatment of Surplus and Deficit Balances in Relation to Budget Shares</b>	Page 13
4.1. The Right to Carry Forward Balances	Page 13
4.2. Reporting on and Control of the use of Surplus Balances	Page 13
4.3. Amounts Assigned for Specific Purposes	Page 14
4.4. Interest on Surplus Balances	Page 16
4.5. Obligation to Carry forward Deficit Balances	Page 16
4.6. Planning for Deficit Budgets	Page 17
4.7. Charging Interest on Deficit Balances	Page 17
4.8. Writing Off Deficits	Page 17
4.9. Balances of Closing and Replacement Schools	Page 17
4.10. Licensed Deficits	Page 17
4.11. Loan Scheme	Page 18
<b>5. Income</b>	Page 19
5.1. Income from Lettings	Page 19
5.2. Income from Fees and Charges	Page 19

5.3	Income from Fundraising	Page 19
5.4	Income from the Sale of Assets	Page 19
5.5	Administrative Procedures for the Collection of Income	Page 19
5.6	Purposes for which Income may be used	Page 19
6.	<b>Charging of School Budget Shares</b>	Page 20
6.1	Procedures	Page 20
6.2	Circumstances in which Charges may be made	Page 20
7.	<b>Taxation</b>	Page 21
7.1	Value Added Tax	Page 21
7.2	CIS (Construction Industry Taxation Scheme)	Page 21
8.	<b>Provision of Services and Facilities by the Authority</b>	Page 21
8.2	Timescales for the Provision of Services bought back from the LA using delegated budgets	Page 22
8.2.1	Packaging	Page 22
8.3	Service Level Agreements	Page 22
8.4	Teachers' Pensions	Page 22
9.	<b>PFI/PPP</b>	Page 23
10.	<b>Insurance Cover</b>	Page 23
11.	<b>Miscellaneous</b>	Page 24
11.1	Right of Access to Information	Page 24
11.2	Liability of Governors	Page 24
11.3	Governors Expenses	Page 24
11.4	Responsibility for Legal Costs	Page 24
11.5	Health and Safety	Page 25
11.6	Right of Attendance for the Chief Finance Officer	Page 25
11.7	Special Educational Needs	Page 25
11.8	'Whistle blowing'	Page 25
11.9	Child Protection	Page 25
11.10	Redundancy/early retirement costs	Page 25
11.11	School Meals	Page 25
12.	<b>Responsibilities for Repairs and Maintenance</b>	Page 25
13.	<b>Community Facilities</b>	Page 26
13.1	Introduction	Page 26
13.2	Consultation with the Local Authority	Page 26
13.3	Funding Agreements	Page 26
13.4	Supply of Financial Information	Page 27
13.5	Audit	Page 27
13.6	Treatment of Income and Surpluses	Page 27
13.7	Health and Safety	Page 28
13.8	Insurance	Page 28
13.9	Taxation	Page 28
13.10	Banking	Page 28
13.11	Loans	Page 29
13.12	Fraud	Page 29

## **Salford scheme of delegation to schools**

### **1. Introduction**

#### **1.1. The Funding Framework: Main Features**

The funding framework which replaces Local Management of Schools is based on the legislative provision 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 retain funding in the Schools Budget for purposes defined in regulations made by the Secretary of State under s.45A of the Act (the centrally maintained 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 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 amounts from their ISB amongst their maintained schools using a formula, which accords with regulations made by the Secretary of State, and enables the calculation of a budget share for each maintained school. This budget share is then delegated to the Governing Body of the school concerned, unless the school is a new school that 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 see fit for any purposes of their school\* and for any additional purposes prescribed by the Secretary of State in regulations made under s.50. (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).

Salford City Council (the Authority) may suspend a school's right to a delegated budget if the provisions of the Salford Scheme of Delegation to Schools (or rules applied by the scheme) have been substantially or persistently breached, or if the budget has not been managed satisfactorily. A school's right to a delegated budget share may also be suspended for other reasons (s.17 of the SSAF Act 1998). 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.

## **1.2. The Role of the Scheme**

The scheme sets out the financial and administrative arrangements between the Authority and the schools that are maintained by it. The changing roles of Governing Bodies, head teachers and Officers of the Authority are recognised within the scheme. The scheme includes the financial procedures to be followed by both the individual schools and the Authority in the management of the schools. It also clarifies the roles of both parties (these procedures are detailed in Sections 2-10). Section 11 contains various non-financial procedures that will apply. Once the scheme has been approved by the School's Forum, it will be binding on both the Authority and the schools until such time as revisions are approved.

### **1.2.1. Application of the Scheme**

The scheme shall apply to all community, nursery, community special, voluntary, foundation (including trust), foundation special schools and pupil referral units (PRUs) maintained by Salford City Council, whether they are situated in the area of the authority or situated elsewhere. It does not apply to schools situated in the authority's area which are maintained by another authority. Nor does it apply to academies. A current list is attached at Appendix A.

## **1.3. Publication of the Scheme**

The approved scheme shall be available on the Authority's website and a copy shall be emailed to each school whenever a new scheme is approved. The school must ensure that a copy of the scheme is available for inspection. A copy will also be emailed to the Chair of the Governing Body. Revisions to the scheme shall be consulted on via the Schools Forum and schools shall be notified in writing once the School's Forum has approved the revisions.

## **1.4. Revisions to the Scheme**

The nature of school finances is such that from time to time the scheme may need revising. Any revisions shall be subject to consultation with the Governing Body and the head teacher of every school maintained by the Authority before they are submitted to Schools Forum for approval. Only schools forum members representing maintained schools should approve scheme changes.

Where Schools Forum does not approve the revisions or approves them subject to modifications which are not acceptable to the Authority, the Authority may apply to the Secretary of State for approval.

## **1.5. Delegation of Powers to Head teachers**

Governing Bodies of schools must determine the level to which they will delegate their powers to the head teacher. This decision must be taken by the full Governing Body and shall be reviewed on an annual basis. The decision of the Governing Body shall be recorded in the minutes of the Governing Body together with details of any revisions. The school shall provide, on request, details of these delegations to the Authority. The Authority shall provide on request guidance on the level of financial delegation.

The head teacher in consultation with the Governing Body is responsible for the preparation of the annual budget plan. The Governing Body must retain responsibility for approving the first formal budget plan of each financial year and should ratify all in-year revisions to the budget plan.

## **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 s.45 to 53 of the School Standards and Framework Act 1998.

## **2. Financial Controls**

### **2.1 Application of Financial Controls to Schools**

Schools shall manage their delegated budgets in accordance with the Authority's financial regulations and bank account scheme. Where there is a conflict between the provisions of the scheme and the financial regulations the scheme shall take precedence.

#### **2.1.1. Provision of Financial Information and Reports**

The Authority has a duty to ensure that public funds are properly accounted for and for this purpose has adopted a system of regular budget monitoring reports which enable the Authority to monitor the performance of budget holders. In this respect, schools with a delegated budget are no different than the other sections of the Authority. Each school shall submit on a quarterly basis, to the Strategic Director of Children's Services, a return, which indicates the budget and actual expenditure to date for each subjective head within the expenditure budget including a full breakdown of all payroll costs – 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. Each school shall also submit monthly reports in relation to include Value Added Tax/Income Tax and bank reconciliation in a format specified by the Authority.

#### **2.1.2. Payment of Salaries; Payment of Bills**

All schools within the scheme shall have bank accounts into which proportions of their delegated budgets will be paid at regular instalments. Schools will therefore be responsible for authorising invoices for payment and making payment from their bank accounts. Guidance on the payment of invoices is included in the Authority's school bank account scheme. Where a school elects to have its full budget (including staffing) paid into its bank account, salaries and wages shall be paid in accordance with the various agreements and regulations covering this. Details of payments to staff should be submitted to the Authority as part of the return in s.2.1.1.

#### **2.1.3. Control of Assets**

Schools are required to maintain an inventory for moveable non-capital assets over £1,000 in accordance with the guidance issued by the Strategic Director of Children's Services. Electronic inventory record templates with guidelines for completion are available from the Finance Team on request. Inventory records shall be updated on an annual basis, submitted to Governors for their approval/information and shall be available for inspection by the Authority or its auditors on request. Schools are free to determine their own arrangements for keeping a register of assets worth less than £1,000.

In the event of the school disposing of an asset, the Governing Body should minute the disposal process and the fact that the asset has been disposed of. Schools are recommended to follow the Authority's financial regulations for disposal of assets.

Where an asset has been purchased with grant funding, the school shall obtain permission from the Authority prior to disposal. The Authority shall identify any claw back of grant that will be made following the disposal of the asset.

#### **2.1.4. Accounting Policies**

The Authority has a duty to account for the public money that it is spending. Schools, as part of the Authority, are not exempt from this requirement. The Secretary of State expects that the financial arrangements of the scheme will give schools freedom over their individual budgets whilst maintaining proper accounting for public funds. The Authority shall issue guidance on accounting policies and procedures which schools shall be required to follow. This guidance is partially available via the Authority's financial regulations and school bank account scheme but will be further supplemented by financial information to be issued as necessary.

#### **2.1.5. Writing Off Debt**

Where a Governing Body wishes to write off debts, which will be charged to the school's individual budget, it may do so, provided the decision is minuted at a meeting of the Governing Body. There will be no maximum to this write off but a Governing Body should be able to demonstrate that it is maintaining good financial management of the school. Where a Governing Body wishes to write off debts, which does not relate to its individual budget, it shall obtain the permission of the Authority before proceeding.

### **2.2. Basis of Accounting**

The Authority currently keeps its accounts on an accruals basis and would expect the schools to provide returns on an accruals basis. Schools will be free to adopt either an accruals or cash system for their own internal systems but to ease the administrative burden, the Authority would recommend that they adopt the accruals system.

### **2.3. Submission of Budget Plans**

To assist the process of budget monitoring and the payment (by the Authority) of instalments into the school bank account, the schools shall submit to the Authority (in the format specified by the Authority) regular budget plans. Schools may take full account of estimated deficits and surpluses when constructing their initial plan. The first annual plan shall be submitted by **31st May** each year; the second plan shall be submitted by **31st October**. Schools can submit additional revised plans, as they require at other intervals during the year. There is no maximum to the number of additional voluntary plans a school may wish to submit. Where a school does not submit its plan by the required date, the Authority shall make its own assumptions in calculating the subsequent instalments into the school bank account.

The Authority will provide details on inflation and pay awards which have been provided in the local Schools Budget. The Authority shall also provide the schools that purchase the finance SLA with pay reference guides which detail the gross costs of staff at different grades.

The Authority will provide at least on a quarterly basis, a report of income and expenditure data it holds for each individual school.

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

The Authority requires that all schools participate in effective, forward financial planning. As a minimum, schools are required to submit a financial forecast covering each year of the multi-year period for which schools have been notified of their budget share.

The forecasts can be used as evidence to support the authority's balance control mechanism.

### **2.4 Efficiency and Value for Money**

Schools must seek to achieve efficiencies and value for money, to optimise the use of their resources and to invest in teaching and learning, taking into account the

Authority's purchasing, tendering and contracting requirements. It is for head teachers and Governors to determine at a school level, how to secure better value for money. There are significant variations in efficiency between similar schools, so it is important for schools to review their current expenditure, compare it to other schools and think about how to make improvements.

## **2.5 Virement**

Schools shall have freedom to vire between budget heads at any level of their individual budget share. It shall be up to individual Governing Bodies to determine the level of virement that will be delegated to Finance Sub-Committee and/or the head teacher. The Authority will provide advice on virement levels on request. The Authority will request schools to reconsider virements from staffing budgets that may leave insufficient funds to pay staff.

## **2.6 Audit: General**

Schools are custodians of public funds and as such are subject to the same standards of audit as the rest of the Authority. The Chief Finance Officer has a statutory duty to maintain an effective internal audit. The Authority is also subject to external audit, VAT auditors, HMRC auditors and other auditors required as a condition of certain grant funding. Schools, which are subject to audit, whether internal or external, shall co-operate fully with the auditors and shall provide access to all records that are requested. Failure to co-operate with the auditors may lead to removal of delegation.

## **2.7 Separate External Audits**

Schools shall have the freedom to obtain independent external audit verification of their accounts, which will be additional to the Authority's internal and external audit checks. Schools that take this approach will have to fund the cost of the audit from their budget. The Authority does not expect schools to routinely pay for an external audit but the costs of such audits shall be an acceptable charge on the school budget.

## **2.8 Audit of Voluntary and Private Funds**

Schools must obtain annual audit certificates for voluntary and private funds held by the school and for the accounts of any trading organisations controlled by the school (*under the Consistent Financial Reporting framework this includes all funds under the control of the Governing Body*). These certificates shall be retained by the school and be made available to the Authority on request. The schools shall make their own arrangements for the audit of these accounts, which should be undertaken by someone independent of the school; the Authority is not seeking to impose an audit regime on schools.

## **2.9 Register of Business Interests**

Each school shall maintain and publish a register, which details for every Governor and head teacher, any business interests that they or members of their immediate family have. Governors and head teachers shall have a duty to keep the register up to date and the entries on the register shall be subject to an annual review at a meeting of the Governing Body. The register shall be available for inspection during normal school hours by Governors, staff, parents, Internal Audit and the Authority.

Also, the register should include any relationships between Governors and staff.

## **2.10 Purchasing, Tendering and Contracting Requirements**

Each school shall abide by the Authority's financial regulations and contractual standing orders in as far as they are not contracted by the provisions of this clause.

- a) In complying with the Authority's Standing Orders, the school shall not do anything that is incompatible with European Union procurement directives or is contrary to legislation.
- b) Schools shall have freedom to place orders for goods and services without the need for a counter signature by an officer of the Authority unless the Authority has notified the school to the contrary in writing.
- c) The Authority shall make available to schools, details of the suppliers on its approved lists for various goods and services. Schools shall have the freedom to use the approved suppliers or select their own. They should however remember that as custodians of public monies they should ensure value for money with their purchasing decisions.
- d) For contracts in excess of £10,000, the school shall invite a minimum of 3 written quotations in accordance with the Authority's guidance.
- e) The school shall take account of the Authority's policies and procedures in assessing the health and safety competence of contractors as part of the tendering process i.e. in advance of the award of a contract.

## **2.11 Application of Contracts to Schools**

Schools can elect to be part of a contract negotiated by the Authority for which the school makes payment from its delegated budget. Once a school has agreed to the contract price and conditions, it may only opt out under the terms of the contract.

Although Governing Bodies are empowered under paragraph 3 of the schedule 1 to the Education Act 2002 to enter into contracts, in most cases they do so on behalf of the Local Authority as maintainer of the school and the owner of the funds in the budget share. Other contracts may be made solely on behalf of the Governing Body, when the Governing Body has clear statutory obligations – for example, contracts made by aided or foundation schools for the employment of staff.

## **2.12 Central Funds and Earmarking**

The Authority shall have the power to make additional funds available to schools on an earmarked basis. Such allocations might, for example, be sums for pupils with special educational needs or other initiatives funded from the central expenditure of the Schools Budget or other Authority budget.

These funds shall be paid into the school bank account at dates agreed for the devolution of these funds. These funds shall be used by the school in accordance with the purpose for which the funds were allocated. As part of this process, the school shall retain sufficient records to be able to account for the funds and demonstrate that they have been spent for the purposes so allocated. Schools shall have the ability to view earmarked funds within the area for which the funds were delegated, except where funds are supported by specific grant, which does not permit virement. Schools shall not be permitted to vire these funds into the main school budget share.

The terms under which earmarked funds are allocated to schools may include a requirement for schools to repay at year end or within the period allowed any unspent funding. This will not be a universal condition but will vary with the different types of funding allocated and schools shall be notified as part of allocation process on the ability to carry forward any unspent balances. The Authority will make no deduction in respect of interest costs relating to the payment of devolved or specific grants.

## **2.13 Spending for the Purposes of the School**

Although s.50 (3) allows Governing Bodies to spend their budget shares for the purposes of the school, this is subject to regulations made by the Secretary of State and any provisions of the scheme. By virtue of Section 50(3A) (which came into force

on 1<sup>st</sup> April 2011), 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 2010/190). These allow schools to spend their budgets on pupils who are on the roll of other maintained schools.*

#### **2.14 Capital Spending from Budget Share**

Schools shall be permitted to spend an element of their budget and/or retained balances on capital proposals. Where the cost of a school's capital proposals exceeds £15,000, the school shall notify the Authority of the proposals (to enable the Authority to account properly for capital within its published accounts). The school shall seek advice from the Authority where the cost of its proposals exceed £15,000 (inclusive of any irrecoverable VAT) and shall take this advice into account in proceeding with the proposals. If the premises are owned by the Authority, or the school has voluntary controlled status, then the Governing Body should seek the consent of the Authority to the proposed works, but such consent can be withheld only on health and safety grounds.

#### **2.15 Schools Financial Value Standard (SFVS)**

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

Governors must demonstrate compliance through the submission of the SFVS assessment form signed by the Chair of Governors. The form must include a summary of remedial actions with a clear timetable, ensuring that each action has a specified deadline and an agreed owner. *Governors must monitor the progress of these actions to ensure that all actions are cleared within specified deadlines.* Maintained schools with a delegated budget must submit the form to the Local Authority before 31st December and annually thereafter.

#### **2.16 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 Strategic Director of Children's Services, the school has failed to comply with any provisions of the scheme, or where actions need to be taken to safeguard the financial position of the 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 Sub-Committee of the Governing Body;

- placing more stringent restrictions or conditions on the day to day financial management of a school than the scheme requires for all schools;
- insisting on 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 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.

Schools that wish to dispute a Notice that has been issued, may present their case to the Executive Lead Member for Children Services, Learning and Skills who will arbitrate on the issue.

### **3. Instalments of the Budget Share; Banking Arrangements**

#### **3.1. Frequency of Instalment**

Schools using the Authority's payroll receive instalments of the budget share for nonstaffing expenditure on a quarterly basis on 5th April, 1st July, 1st October and 1st January each financial year. Where a school has elected to take responsibility for the payroll function and wishes to have its full budget paid in instalments, then the school can elect to receive a monthly instalment on 14th of each month. Schools can request budget share instalments on a monthly basis, but the request should be made prior to the start of the relevant financial year.

Schools which are receiving their instalment on a quarterly basis and are experiencing cash flow problems can request an interim instalment of up to 50% of their next instalment.

Top-up payments for pupils with high needs should be paid monthly unless alternative arrangements have been agreed with the provider.

#### **3.2. Proportion of Budget Share Payable at Each Instalment**

All schools shall receive their instalments paid direct into their bank accounts. For example, schools that have elected for the Authority to administer their payroll, the instalments shall be paid net of budgeted salary costs. The proportion of each instalment shall be calculated as follows:

*5th April – 25% of the previous year's non-staffing budget for the school.*

*1st July – Approved non-staffing budget for the year less amount paid to date divided by 3.*

*1st October – Approved non-staffing budget, less amount paid to date divided by 2.*

*1st January – Non-staffing budget for the year less instalments to date.*

Schools that have elected to administer their own payroll shall receive monthly instalments equal to one twelfth of their budget share.

### **3.3. Interest Clawback**

The Authority may seek to recover any loss of interest/interest charges it incurs on its general fund by the payment of instalments to schools. The Authority shall determine each year during its budget cycle whether to charge interest or not, and shall notify schools prior to the start of the financial year if an interest charge is to be made. If an interest charge is to be made, it shall be in accordance with the following calculation: An annual charge based on the average overdraft rate, levied by the Authority's Bankers, for the previous calendar year x 6.5 weeks / 52 weeks x the non-salary budget.

The Authority will add interest to late payments of budget share instalments, where such late payment is the result of Local Authority error. The interest rate used will be as above.

*Example*

*Where the average rate equals 12% and school delegated non-staff budget is £145,200. (12% x 6.5 weeks) / 52 weeks = 1.5%  
Annual charge will be 1.5% x £145,200 = £2,178*

### **3.4. Budget Shares for Closing Schools**

Where approval to discontinue a school has been given and financial delegation has not been withdrawn from the school, the Authority shall have the power to provide the school with instalments on a monthly basis.

### **3.5. Bank Account and Building Society Accounts**

All schools within the Salford scheme shall operate a bank or building society account in the name of the school into which instalments of budget share will be made. This bank account shall operate in accordance with the Salford bank account scheme.

#### **3.5.1. Restriction of Accounts**

Schools shall have their accounts with one of the banks/building societies approved by the Chief Finance Officer (this list may be updated from time to time and schools shall be notified of any changes). The list of approved banks/building societies shall not fall below a minimum of 10. Currently all the high street banks/building societies are on the approved list. If a school intends to open a new account, it shall first obtain confirmation from the Corporate Finance Team that the proposed bank is on the approved list.

Budget share funds paid by the authority and held in school accounts remain authority property until spent section 49(5) Schools Standards and Framework Act 1998.

### **3.6. Borrowing by Schools**

Except for the approved loan scheme under s.4.11 and participation in the Authority's purchasing card scheme, schools are not permitted to borrow money without the written permission of the Secretary of State. Schools are not allowed to enter into credit arrangements (including leases) without approval or obtain credit cards or store cards which are regarded as borrowing. However, schools can use purchase cards authorised and organised by the Local Authority as these cards can be a useful means of facilitating electronic purchase. Schools wishing to make use of a purchase card should contact the Finance Team.

Note: Borrowing includes the use of finance leases and is not allowable, with the exception of certain schemes approved by the Secretary of State. Currently only Salix Loans have such approval. This is a scheme to support energy savings.

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

### **4.1. The Right to Carry Forward Balances**

Schools shall carry forward from one year to the next, all accumulated balances arising from the budget share. Thus, the accumulated balance as at 31st March will become the school's brought forward balance at 1st April. This process will continue for each successive year. The school bank account scheme means that except for any balances held by the Authority in its capacity as payroll administrator, all other balances will fall within the school bank account. Any staffing balances will be paid to schools in the 1st July payment instalment.

### **4.2. Reporting on and Control of the use of Surplus Balances**

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

**4.2.1** The Authority is entitled to request information on the proposed use of surplus balances from any school where surplus balances exceed 8% of the current year's budget share for primary and special schools, and by 5% for secondary schools for two consecutive years, or in other circumstances where, in the view of the Authority, the level of surplus balances may be cause for concern. In certain circumstances, the Authority may consider the maintenance of a high level of uncommitted surplus balances, unsupported by specific proposals for their use, as evidence of weak management, justifying further action (e.g. a requirement to submit multiyear financial forecasts or to provide more frequent financial monitoring returns).

**4.2.2** The Authority reserves the right to recover excessive surplus balances from individual schools that are unsupported by specific proposals for their use. Any such amounts will be redistributed across the appropriate local area. Such decisions will be made as part of an arbitration process including a panel comprising a Governor and head teacher nominated by the Schools Forum together with the Strategic Director for Children's Services and Chief Finance Officer or his/her nominated representatives.

**4.2.3** Every head teacher should submit a written report during the Summer Term to his/her Governing Body, or delegated committee of the Governing Body, setting out the school's intended balance (surplus or deficit) at the previous 31<sup>st</sup> March. This information should be taken from the school's financial management system and be presented in accordance with balances shown in the school's Consistent Financial Reporting submission.

**4.2.4** The Section 251 (of the Apprenticeships, Skills, Children and Learning Act 2009) Outturn Statement provided to schools in the Autumn Term, should be received by the Governing Body and minuted accordingly, noting the school's budget position at the end of the previous financial year.

**4.2.5** The Authority has the power to require a Governing Body to report to parents on the use the school intends to make of surplus balances where this exceeds the relevant % as per section 4.2.1.

### **4.3. Amounts Assigned for Specific Purposes**

The following notes have been produced to assist schools in deciding whether balances are committed or uncommitted, and provides examples of the type of evidence schools will be required to retain and produce as necessary.

1. Monies should only be classed as committed if:
  - The school can provide evidence to show that they:-
    - are for a specific purpose
    - will be spent within a defined timescale as detailed in this Scheme for Financing Schools
    - are included in the School Development Plan and/or have been properly approved by Governors
2. Examples of specific purposes include:
  - Capital
    - Schools are not expected to use revenue balances for capital projects but are able to do so. Revenue funding should not however be used for capital projects until all capital resources have been exhausted.
    - Planning for uncertainty over future rolls, staffing or funding
      - Where forward planning on the school's part suggests there are uncertainties around pupil numbers and funding etc. The school could identify resources to support it through the transitions that would need to be made. This would again need supporting calculations around assumptions of pupil numbers funding the costs being supported in order for them to be classed as committed.
      - When schools send in their budget plan for the new financial year, they may plan to use some of their forecast year end balance in supporting the following year's budget. This could be regarded as a committed use of balances provided that there is supporting calculations/evidence identifying one or a range of discreet projects or areas of work.
      - Even if the balances are being used for one-off purposes, these should still be included in the school's budget plan.

Note: Balances should not be used to defer difficult decisions, but it is legitimate for them to cushion a temporary dip in pupil numbers or fund part year costs of not implementing staffing reductions until the Autumn Term.

- Contingencies
  - It is prudent to keep some money aside for contingencies but this amount should be reasonable as it may be scrutinised by the Authority.
- Prior year payments, accruals and committed orders (year end procedures)
  - Where schools are awaiting charges (invoices etc.) for goods and services received, they must comply with Financial Procedure Rules for Maintained Schools with Delegated Budgets and the Authority's annual instructions on the closure of accounts.

3. Specific purposes do not include:

- Monies held for other schools
  - Funding held on behalf of other schools should be accounted for separately within the host school accounts and be excluded from the calculation of the school's balance. There needs to be clear lines of accountability to ensure these funds are monitored.
- Private school funds
  - Privately raised funds should not be included in the calculation of a school's revenue balance as these are separate from public funds. If private school funds are used to fund items through the school's main budget, the funds should only be paid to the level of the expenditure which is to be incurred.
- Budget 'Cushioning'
  - Retaining significant funding to cushion the budget against future falls in pupil numbers, where balances would remain above the threshold at the end of the following financial year.
- Unclearly defined capital projects
  - Capital projects which have not been clearly defined and/or do not comply with asset management priorities.
- Unplanned additions to revenue budgets
  - Unplanned additions to revenue budgets where these arise from a higher than expected carry forward and do not comply with any of the categories detailed above.

4. Examples of evidence to be retained at school level:

- School's Asset Management Plan
- School Development Plan
- Minutes of Governors' meetings
- Calculations, plans or projections to show expected changes in pupil numbers or staffing requirements
- Invoices, orders, delivery notes, quotations, contracts and contract registers
- Reported accruals or commitments
- Calculations to support balances being held for uncertainties or contingencies

## **CFR**

Balances that are to be classified as committed are to be recorded as BO1 and uncommitted revenue balances are to be considered as BO2. Any revenue balances a school is holding at the year end for community focused schools' activities should be recorded under BO6.

Where a CFR return is not analysed appropriately, all balances will be treated as uncommitted on the school's return to the DfE.

- Schools with an excess surplus balance must be able to justify their plans for the whole balance and not just the amount they are over the threshold.

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

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

The total of any amounts deducted from schools' budget shares by the Authority under this provision will be added to the Schools Budget of the Authority.

#### **4.4 Interest on Surplus Balances**

The Authority shall not pay interest on any surplus balances that it holds on behalf of schools.

#### **4.5 Obligation to Carry forward Deficit Balances**

Schools shall carry forward from one year to the next their accumulated deficit balances as at year end. The deficit balance at 31st March shall be brought forward as the opening balance at 1st April. Schools with an authorised deficit prior to 31st March shall continue to reduce the deficit in accordance with their agreement.

#### **4.6 Planning for Deficit Budgets**

Schools shall be allowed to plan for a deficit budget in accordance with paragraph 4.10 Licensed Deficits. Schools should however not operate in a deficit prior to obtaining the approval of the Authority.

#### **4.7 Charging Interest on Deficit Balances**

The Authority shall not charge interest on deficit balances that it holds on behalf of schools. The Authority reserves the right to charge interest on school deficit balances. The Authority shall first give schools a minimum of 6 months notice. Any such interest shall be based on the Authority's current consolidated rate of interest.

#### **4.8 Writing Off Deficits**

The Authority cannot write off the deficit balance at any school. Governors are reminded that any deficit must be made good in future years.

Funding to support schools in financial difficulty can only come from a centrally held budget specified for the purpose of expenditure on special schools and pupil referral units, or, in respect of mainstream maintained schools, from a de-delegated contingency budget where this has been agreed by Schools Forum.

#### **4.9 Balances of Closing and Replacement Schools**

When a school closes, any balance (whether surplus or deficit) will revert to the Authority, it cannot be transferred as a balance to any other school, even where 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. If approval for conversion is given to a school in deficit under the Academies Act 2010, the DfE will pay the Authority an equivalent amount and recoup this through a reduction in the recurrent funding paid to the academy. However, where conversion is directed by the Secretary of State, the deficits of closing schools can be

charged to the Schools Budget. This includes any deficits relating to sponsored academies.

#### **4.10 Licensed Deficits**

Due to unforeseen expenditure or pupil volatility, schools may find themselves in a deficit budget position from which it would be extremely difficult to bring the budget back in balance the following year. In these circumstances schools may apply under the scheme for a licensed deficit. The licensed deficit shall operate within the following parameters:

- a) Deficit budgets will be approved in exceptional circumstances where a school has been subject to a temporary reduction in pupil numbers (e.g. as a result of a housing redeployment) or has had to meet a significant unforeseen revenue expenditure (e.g. repairs and maintenance or match funding for a capital resource bid). Where this happens and a school cannot bring the budget back out of deficit within the following year without staffing reductions that will damage its ability to deliver the national curriculum, then a deficit budget may be granted. Deficit budgets will not be approved except as a mechanism for managing staff reductions for schools that are suffering a long-term reduction in pupil numbers.
- b) Deficit budgets shall be approved for a maximum of 5 years (this is not expected to be the norm). At the end of the agreed deficit period the school's accumulated balances shall be zero or greater. An approved deficit budget shall be accompanied by a projection of budget and expenditure, which details the net deficit at the end of each year; this shall be approved by the head teacher and the Chair of Governors. It is a requirement of having a licensed deficit that the Governing Body of the school shall review their progress each term against the projection and report therefore to the Authority. Where the monitoring indicates that the school will not be out of deficit by the end of the agreed period, the Governors shall agree with the Authority an action plan to place the budget back on target.
- c) The maximum size of any deficit shall be 25% of the school's annual budget share. There is no minimum level of deficit.
- d) As schools in the scheme will be operating their own bank accounts, it is proposed that the collective gross balance held by schools, whether in their own accounts or held by the Authority in its role as Payroll Administrator, shall be utilised in calculating the upper level of deficit budgets that may be approved. The total of all licensed deficits shall not exceed more than 55% of the gross surpluses held by schools. The gross surpluses shall be calculated by reference to the latest available Section 251 outturn report egg. the total deficits for 2014/2015 shall not exceed more than 55% of the 2014/2015 surpluses.
- e) The Strategic Director of Children's Services and the Chief Finance Officer shall approve the deficit budget and the financial projection. They shall instruct the Governing Body of an applicant school to make changes to the projection that they consider are necessary to ensure its realism. The Strategic Director of Children's Services shall be responsible for monitoring the school's progress against the projection. Where significant variations from the projection arise and corrective action cannot be agreed with the school, the Authority shall have the power to withdraw delegation from the school until the budget is in balance.

Details of the scheme and the relevant application forms can be found in Appendix B, C, D and E.

#### **4.11 Loan Scheme**

The Authority shall operate a loan scheme which will be available to schools who wish to invest in the physical structure of the buildings, IT equipment or other curriculum equipment. The loan scheme shall operate within the following parameters.

- a) Applications for loans shall be for a minimum of 2 years and a maximum of 5 years. Schools that take out a loan shall repay the principal and interest from their school budget shares. The interest charge shall be fixed for the duration of the loan and shall be calculated by the Chief Finance Officer. Interest rates will change annually in April and equal the Public Works Loan Board rate.
- b) The school will need to satisfy the Loans Panel that the loan is needed either for essential health and safety works or it will have a beneficial effect on its ability to meet the national curriculum/raise standards for the loan to be approved. It is not intended to restrict the loan schemes to particular categories of work in order to allow maximum flexibility to schools.
- c) The minimum size of loan shall normally be £5,000 and the maximum size of loan will be 25% of the school budget share. In exceptional circumstances the Loans Panel will consider applications for loans below the minimum figure.
- d) Schools shall retain balances in their own bank account and the Authority therefore will make loans from within its own general fund balances. The maximum value of the total loans shall not exceed 60% of the gross surplus balances as recorded when the loan was approved.
- e) Loans shall be granted in accordance with the criteria, which will be issued by the Loans Panel from time to time. The Loans Panel shall comprise of the Strategic Director of Children's Services, the Chief Finance Officer and Executive Lead Member for Children's Services, Learning and Skills.

### **5. Income**

#### **5.1 Income from Lettings**

All income from lettings shall accrue to the school except where it is separately agreed between the school and the Authority that there will be some income sharing activity or where PFI or joint use agreements provide otherwise. Schools shall have the freedom to determine the charges for income from lettings and to cross subsidise various groups within the restriction that lettings should not result in a net cost to the school budget. This income should be accounted for in the schools' main bank accounts. Schools shall also have regard to any directions which the Authority may issue on the use of school premises, as permitted under the School Standards and Framework Act 1998 for various categories of school.

#### **5.2 Income from Fees and Charges**

Schools shall retain income from fees and charges except where these relate to services that the Authority has provided from centrally retained funds. Schools should take account of guidance that the Authority may issue from time to time on charging policies when determining their own charging policy. Schools should review their charging policy on an annual basis to ensure that the full costs are recovered.

#### **5.3 Income from Fundraising**

The school shall retain any income, which is raised by fund raising activities.

#### **5.4 Income from the Sale of Assets**

Schools shall have the right to dispose of assets and retain the income from the sale except where: -

- a) The asset was not purchased from the schools' delegated budget e.g. assets acquired through grants. In these circumstances the Authority shall have the power to determine whether the school will retain the proceeds or not.
- b) The asset concerned forms part of the land/buildings of the school and is owned by the Authority, in which case the Authority shall determine who receives the proceeds.

Schools are reminded that when they are disposing of assets they should take recognition of the guidance in the Authority's financial regulations.

#### **5.5 Administrative Procedures for the Collection of Income**

Schools shall, where possible, process income in accordance with the Authority's financial regulations and shall follow the advice on accounting for VAT which will be issued by the Authority from time to time.

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

It is not proposed to restrict the freedom of schools in determining the use of the proceeds from the sale of assets at this stage but income from sale of assets purchased with delegated funds may only be spent for the purposes of the school. It may be necessary to insert a clause at a future date if it is considered that schools are not using this income in a suitable manner.

### **6. Charging of School Budget Shares**

#### **6.1 Procedures**

The Authority shall have the right to charge the school share of one or more schools without their consent where any circumstances under Section 6.2 prevail. The Authority shall only charge the school budget after consultation with the school (NB this consultation does not have to result in the school agreeing to the charge). Once the Authority has levied a charge on the school budget, it shall notify the school in writing within 7 days of this event. Schools that wish to dispute the charge may present their case to the Executive Lead Member for Children's Services, Learning and Skills who will arbitrate on the issue.

Where the Authority is charging the school with salaries of school based staff, it shall only charge to the school budget share the actual cost of the staff.

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.

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

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

**6.2.2** Other expenditure incurred to secure resignations where the school had not followed the Authority's advice.

- 6.2.3** 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.
- 6.2.4** Expenditure by the Authority in carrying out health and safety work or capital expenditure for which the Authority is liable where funds have been delegated to the Governing Body for such work, but the Governing Body has failed to carry out the required work.
- 6.2.5** Expenditure by the Authority incurred in making good defects in building work funded by capital spending from budget shares, where the premises are owned by the Authority.
- 6.2.6** Expenditure incurred by the Authority in insuring its own interests in a school where funding has been delegated but the school has failed to demonstrate that it has arranged cover at least as good as that which would be arranged by the Authority.
- 6.2.7** Recovery of monies due from a school for services provided to the school, where a dispute over the monies due has referred to a dispute procedure set out in a service level agreement and the result is that monies are owned by the school to the Authority.
- 6.2.8** Recovery of penalties imposed on the Authority by the HM Revenue and Customs, Teachers' Pensions, the Environment Agency or other regulatory authorities as a result of school negligence.
- 6.2.9** Correction of the Authority errors in calculating charges to a budget share.
- 6.2.10** Additional transport costs incurred by the Authority arising from decisions by the Governing Body on the length of the school day, and failure to notify the LA of nonpupil days resulting in unnecessary transport costs.
- 6.2.11** Legal costs which are incurred by the Authority because the Governing Body did not accept the advice of the Authority.
- 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** Cost of work done in respect of teacher 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 Authority due to submission by the school of incorrect data.
- 6.2.17** Recovery of amount spent from specific grants on ineligible purposes.
- 6.2.18** Costs incurred by the 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**

Schools with bank accounts shall be able to reclaim VAT through the Authority. The Authority's bank account scheme details the procedures to be followed by schools in the submission of VAT returns. The Authority shall notify schools in writing of any changes to these procedures. All VAT reclaimed by the Authority on behalf of schools shall be reimbursed to schools in accordance with the timetable specified in the bank account scheme.

This provision excludes expenditure by Governors of voluntary aided schools when incurring capital expenditure as part of their statutory duties.

### 7.2 **CIS (Construction Industry Taxation Scheme)**

Schools shall follow the detailed procedures for complying with CIS as laid down by the Authority in its bank account scheme. This guidance will be changed when required by the Authority and schools will be notified in writing of these changes.

## 8. **Provision of Services from Centrally Retained Budgets**

**8.1** The Authority shall continue to provide some services to schools that have been centrally retained. The Authority shall have the freedom to determine the basis of the allocation of services to schools but shall do so in a manner, which is transparent and does not differentiate between categories of schools. The Authority may also differentiate between categories of school where there are differences in statutory duties. This provision encompasses existing commitments for premature retirement costs and redundancy payments that are made by the Authority.

In the event of there being insufficient take up for a particular service on offer, the Authority reserves the right to discontinue the provision of the service.

### 8.2 **Time Scales for the Provision of Services bought back from the LA using delegated budgets**

Services that a school has agreed to purchase from its delegated budget shall be subject to time limitations on the agreement. Agreements between schools and the Authority for the purchase of such services may be for a maximum of 3 years and periods not exceeding five years for any subsequent agreement relating to the same services. The exception to this rule relates to the extension to five and seven years respectively for contracts for supply of catering services.

The time limitations shall not apply in the case of premises and liability insurance that are negotiated centrally by the Authority, which will be subject to the length of policy that is negotiated. Time limits for Insurance contacts would be tied to the length of the LTA which at present is Jan 31<sup>st</sup> 2017.

When a service is provided for which expenditure is not retainable centrally by the Authority under the Regulations made under Section 46 of the Act, it must be offered at prices that are intended to generate income, which is no less than the cost of providing those services. The total cost of the service should be met by the total income, even if schools are charged differentially.

### **8.2.1 Packaging**

The Authority shall not offer services to schools in such a way as to unreasonably restrict their freedom of choice.

### **8.3 Service Level Agreements**

Service Level Agreements must be in place by 28th February to be effective for the following financial year, and schools must have at least a month to consider the terms of agreements.

Service Level Agreements between schools and the Authority for the provision of services will be for one or more years depending on the nature of the service on offer. All SLA's shall be subject to a regular review and where a SLA is for more than 3 years, they shall be reviewed in the third year. Where a SLA is for more than one year, the terms of the SLA shall include the basis of the price review on an annual basis.

SLA's shall normally come into effect on 1st April. The Authority may permit a school to enter at a later date (where this happens there will be no extension to the original close date).

Some services, such as insurance, offered by the Authority will be available on an extended agreement.

### **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.

Accordingly 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 with a person other than the Authority to provide payroll services, shall ensure that any such arrangement requires 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**

The Governing Body of schools that are included within a PFI scheme will sign an agreement at the time of the contract signing. This Governing Body agreement stipulates the level of the school's contribution towards the unitary charge from their delegated budget. It also defines the share to be credited to the schools of any

deductions in the unitary charge for performance and availability failures. The Governing Body agreement also sets out any potential liabilities of the school / Governing Body resulting from their actions over the life of the contract.

## **10. Insurance Cover**

The Authority shall require schools that choose to negotiate their own insurance to demonstrate that any such insurance covers the Authority's insurable interest, at a level which covers a reasonable assessment of the risks at the individual school. In such circumstances, great care must be taken to ensure that schools are fully aware of the insurance protection which is being provided and the risks which are not insured. When comparing premium quotations with a local authority scheme, it is essential to make certain that the comparison is on a like for like basis. Where a school cannot demonstrate this, the Authority may refuse the school's request for alternative insurance provision.

The appropriate level of insurance shall be considered in terms of that obtained by the Authority for schools:

### ***Authority's cover 2012-2017***

Property cover levels will be full reinstatement value and an appropriate valuation must be carried out by the new insurer to protect the Authority's interests. (*Including material damage, works in progress, business interruption and all risks*).

Money	£50,000 any one incident
Fidelity guarantee	£5m
Employer's liability	£50m any one incident
liability	£50m any one incident
Governor's liability	£1m any one incident
Libel and slander	£1m any one incident

## **11. Miscellaneous**

### **11.1 Right of Access to Information**

Schools shall submit to the Authority such financial and other information which the Authority requires to satisfy itself that the school is properly managing its delegated budget, and which the Authority requires for the efficient running of its functions and responsibilities e.g. where a school has elected not to purchase the Authority's financial advice, it will continue to have to provide the Authority with budget monitoring reports. In the event that a school wishes to appeal against the Authority's request for information, any dispute shall be resolved in consultation with the Schools Forum. Where earmarked funding has been devolved to a school, it shall comply with the Authority's request for information as part of the arrangements for devolution.

### **11.2 Liability of Governors**

The Governing Body of a maintained school is a corporate body and therefore because of this and s.50(7) of the Standards and Framework Act 1998, Governors will not incur any personal or individual liability in the exercise of their power to spend the school budget share provided that they have acted in good faith. Breaches of this scheme are not in themselves regarded as failures to act in good faith although they could lead to removal of delegation.

### **11.3 Governors' Expenses**

The Authority may delegate to the Governing Body of a school yet to receive a delegated budget, funds to meet Governors' expenses.

Schools may elect to pay from their delegated budgets expenses for Governors, which are considered reasonable. Costs that would be deemed reasonable are out of pocket expenses. Under section 50(5) of the Act, only allowances in respect of purposes specified in regulations made under section 19 of the Education Act 2002 may be paid to Governors from a school's delegated budget share. The schools are not allowed to pay any Governors expenses that are not provided for above and the Authority may regard Governing Bodies that breach this provision as not operating in good faith.

Where a school is placed in special measures and the Secretary of State has exercised his power to appoint additional Governors, the Governing Body is not permitted to pay expenses to such Governors, which duplicate any expenses being met by the Secretary of State.

### **11.4 Responsibility for Legal Costs**

Where a school takes legal action against the Authority, the costs of this action (unless awarded against the Authority by the courts) shall be charged to the school budget. In addition, in the event of the school ignoring the advice of the Authority resulting in legal costs falling on the Authority, these will be recharged to the school under Section 6 of this scheme. Where a school feels that there is a conflict of interest between itself and the Authority, it shall explain in writing to the Strategic Director for Children's Services what it considers to be the conflict of interest. If this conflict cannot be resolved by the Authority's legal representatives to the satisfaction of the school, it shall notify the Strategic Director for Children's Services in writing of its intention to obtain independent advice.

### **11.5 Health and Safety**

The Governing Body of a school, in spending the school's budget share, shall have regard to the duties placed on the Authority in relation to Health and Safety and the Authority's health and safety policy. Schools shall comply with any guidance on health and safety. Schools shall comply with any guidance on health and safety made available to Governing Bodies by the Authority, and reminded that these directions are enforceable under Section 497 of the Education Act 1996.

### **11.6 Right of Attendance for the Chief Finance Officer**

The Chief Finance Officer, or any officer nominated by him, shall have the right to attend any meeting of a Governing Body (or its committees) at which the agenda includes items which are relevant to the exercise of the Chief Finance Officer duties. In exercising this right, the Chief Finance Officer shall notify the school in writing and will provide the school with as much notice as is practical in the circumstances. It is not intended that the Chief Finance Officer will attend Governing Body meetings as a matter of course but only in exceptional circumstances that affect the school budget.

### **11.7 Special Educational Needs**

Schools shall, in spending their school budget, use their best endeavours to meet the requirements of their pupils who have special educational needs within the available resources. Where this has not occurred, the Authority will have the power to suspend delegation (the situation would have to be of a serious nature before the Authority could

invoke these powers). Any school that disputed the removal of its delegated budget would have the right of appeal to the Executive Lead Member for Children's Services, Learning and Skills.

#### **11.8 'Whistle blowing'**

The Public Interest Disclosure Act 1998 requires authorities to provide a whistle blowing facility. The procedures and safeguards available in regard to whistle blowing by school staff and Governors are detailed in the 'Whistle blowing policy for the detection of fraud and corruption for school-based staff'.

This policy document applies to all staff of Community and Controlled Schools and is recommended for adopted by voluntary schools where the Governing Body employs staff. Please see <http://intranet.salford.gov.uk/ethics/honestyaction> for further information.

#### **11.9 Child Protection**

The Authority requires that schools co-operate with the Child Protection Unit and release staff to attend child protection case conferences and other related events.

#### **11.10 Redundancy/Early Retirement Costs**

The 2002 Education Act sets out how premature retirement and redundancy costs should normally be funded. Further guidance is provided at Appendix F.

#### **11.11 School Meals**

The Authority requires that schools comply with all documented standards issued to them in respect of school meals.

### **12. Responsibilities for Repairs and Maintenance**

Governors in maintained schools will be responsible for all repair and maintenance costs from their delegated budgets.

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, and 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 the DfE to categorise such work, not the *de minimis* limit used by the Authority.

### **13. Community Facilities**

#### **13.1 Introduction**

Schools that 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 including:

- i. Regulations made under s.28 (2), if made, can specify activities, which may not be undertaken at all under the main enabling power.
- ii. The school is obliged to consult the Authority and have regard to advice from the Authority.
- iii. 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.

The provisions detailed below do 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.

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

### **13.2 Consultation with the Local Authority**

Section 28(4) of the Education Act 2002 requires that before exercising the community facilities power, Governing Bodies must consult the Authority, and have regard to advice given to them by the Authority.

Accordingly, schools shall be required to submit all appropriate information at a time and in a manner requested by the Authority prior to exercising their community facilities power.

The Authority will then advise schools of their position and reasoning within a reasonable time of this submission. The Authority will not levy a charge for this advice. Schools are required to inform authorities of any subsequent action providing details in particular of any departure from Authority advice and the reasons why.

### **13.3 Funding Agreements**

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

The Authority requires that schools give adequate notice of any proposed agreement involving third party funding and that the full details be submitted to the Authority for its comments. The Authority shall advise the school but shall not then have the right of veto if the school chooses to act contrary to this advice.

However, if an agreement is entered into against the wishes of the LA, 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. The same consequences would apply if an agreement were concluded without informing the LA. Schools that wish to dispute any such action may present their case to the Executive Lead Member for Children's Services, Learning and Skills who will arbitrate on the issue.

The Authority shall require the Governing Body of a school entering into such agreements to make adequate arrangements to protect the financial interests of the Authority. The Authority will make advice as to any necessary arrangements, which may involve either carrying out the activity concerned through the vehicle of a limited company formed for the purpose, or by obtaining indemnity insurance for risks associated with the project in question, available to such schools.

### **13.4 Supply of Financial Information**

The Authority requires that schools, which exercise the community facilities power, 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.

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 shall give notice to the school that it requires such financial statements to be supplied every

three months and, if the Authority sees fit, to require the submission of a recovery plan for the activity in question.

### **13.5 Audit**

The Authority requires that schools grant access to the school's records connected with exercise of the community facilities power to appropriate representatives of the Chief Finance Officer in order to facilitate internal and external audit of relevant income and expenditure.

This provision applies equally to the records and other property of third parties, as detailed above, 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.

### **13.6 Treatment of Income and Surpluses**

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

**13.6.2** Schools shall be allowed to carry any such retained net income over from one financial year to the next as a separate community facilities surplus, or, subject to the agreement of the Authority at the end of each financial year, transfer all or part of it to the budget share balance.

**13.6.3** In the case of community or community special schools, should the Authority cease to maintain the school, any accumulated retained income obtained from exercise of the community facilities power, shall revert to the Authority unless otherwise agreed with a funding provider.

**13.6.4** In the event that the LA needs to meet third party liabilities in relation to community facilities, funds may only be taken from any accumulated community facilities surplus. If this is insufficient, the LA will have to meet the liabilities from its own resources.

### **13.7 Health and Safety**

The Authority requires the same level of regard to be paid to health and safety in relation to community facilities as detailed in section 11.5.

**13.7.1** The school shall be held responsible for obtaining Disclosure and Barring (DBS) clearances for staff and Governors and for ensuring that the clearances are current. The school shall maintain a record of all DBS documentation which must include copies of the DBS approval, the DBS reference number and expiry date.

**13.7.2** The Governing Body shall be held responsible for securing DBS clearance for all adults involved in community activities taking place during the school day. Costs of such clearance can be passed on to a funding partner as part of an agreement with that partner.

**13.7.3** The school shall be held responsible for verifying DBS clearances for all visitors entering the main premises of the school i.e. contractors.

### **13.8 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. The school should seek the Authority's advice before finalising any insurance arrangement for community facilities. The Authority retains the right 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, to make arrangements itself and charge the resultant cost to the school. Such costs could not be charged to the school's budget share.

## **13.9 Taxation**

### **13.9.1 VAT**

Schools should seek the advice of the Authority and the local HM Revenue & Customs office on any issues relating to the possible imposition of Value Added Tax on expenditure in connection with community facilities, including the use of the Local Authority VAT reclaim facility.

### **13.9.2 Income Tax and National Insurance**

Schools should be aware that 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), the school is likely to be held liable for payment of Income Tax and National Insurance, in line with HM Revenue and Customs rules.

### **13.9.3 CIS**

The Authority requires that schools follow Authority advice in relation to the Construction Industry Scheme where this is relevant to the exercise of the community facilities power.

## **13.10 Banking**

The Authority requires that the school can either maintain separate bank accounts for budget share and community facilities or include the expenditure within their budget share but account for the income and expenditure on an identifiable basis (e.g. a separate cost centre) to enable regular reporting on community facilities.

Any new accounts that a school may set up for community facilities shall be with one of the banks/building society approved by the Chief Finance Officer. These bank accounts shall operate in accordance with the Salford bank account scheme.

## **13.11 Loans**

Schools are not permitted to borrow money for community facilities without the written permission of the Secretary of State. This requirement does not extend to monies lent to schools by the Authority.

## **13.12 Fraud**

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