

SOLIHULL METROPOLITAN BOROUGH COUNCIL

The scheme for the financing of Solihull Maintained schools

10 December 2019

To be considered by Solihull School Forum 10 December 2019

Contact

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Changes from 08 October 2015

- New version of DfE 'schemes for financing schools' (5 February 2019) added – checked compliance with Solihull scheme – minor wording, additions and deletions changes throughout.
- Incorporated mandated changes in respect of balances of closing schools and a directed revision to loan schemes.
- Updated Annex A – list of schools included in scheme
- Removed Annex F – Role of School Forum
- Updated (DfE 17 December 2015) to include admissions appeals in the list of services local authorities can charge maintained schools for.

Changes from 9 July 2014:

Directed revisions 2015 - (DfE 9 August 2015)

2.15: Requirement for maintained schools to publish a register of the business interests of their governors, along with any relationships with staff.

Clarification of the gravity of potential conflicts of interest

3.5: Clarification that 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.

TABLE OF CONTENTS

1	THE FUNDING FRAMEWORK: MAIN FEATURES.....	5
1.1	THE FUNDING FRAMEWORK.....	5
1.2	THE ROLE OF THE SCHEME	6
1.3	APPLICATION OF THE SCHEME TO THE AUTHORITY AND MAINTAINED SCHOOLS	6
1.4	PUBLICATION OF THE SCHEME.....	6
1.5	REVISION OF THE SCHEME.....	6
1.6	DELEGATION OF POWERS TO THE HEADTEACHER	6
1.7	MAINTENANCE OF SCHOOLS.....	7
2	FINANCIAL CONTROLS.....	8
2.1	APPLICATION OF FINANCIAL CONTROLS TO SCHOOLS.....	8
2.2	PROVISION OF FINANCIAL INFORMATION AND REPORTS	8
2.3	PAYMENT OF SALARIES AND PAYMENT OF BILLS.....	9
2.4	CONTROL OF ASSETS	9
2.5	ACCOUNTING POLICIES	9
2.6	WRITING-OFF OF DEBTS	9
2.7	BASIS OF ACCOUNTING.....	9
2.8	CAPITAL ACCOUNTING	9
2.9	SUBMISSION OF BUDGET PLANS.....	10
2.10	SUBMISSION OF FINANCIAL FORECASTS.....	11
2.11	SCHOOL RESOURCE MANAGEMENT	11
2.12	VIREMENT	11
2.13	AUDIT RESPONSIBILITIES	11
2.14	AUDIT OF VOLUNTARY AND PRIVATE FUNDS	12
2.15	REGISTER OF BUSINESS INTERESTS	12
2.16	PURCHASING, TENDERING AND CONTRACTING REQUIREMENTS	13
2.17	APPLICATION OF CONTRACTS TO SCHOOLS.....	13
2.18	CENTRAL FUNDS AND EARMARKING.....	14
2.19	SPENDING FOR THE PURPOSES OF THE SCHOOL	14
2.20	CAPITAL SPENDING FROM BUDGET SHARES	15
2.21	LEASING/RENTAL/DEFERRED PURCHASE AGREEMENTS	15
2.22	SCHOOLS FINANCIAL VALUE STANDARD (SFVS).....	15
2.23	NOTICE OF CONCERN	16
2.24	FRAUD.....	16
3	BUDGET SHARE AND BANKING ARRANGMENTS	18
3.1	FREQUENCY OF INSTALMENTS	18
3.2	BUDGET SHARES FOR CLOSING SCHOOLS.....	18
3.3	BANK AND BUILDING SOCIETY ACCOUNTS	18
3.4	RESTRICTIONS ON ACCOUNTS	18
3.5	BORROWING BY SCHOOLS	18
3.6	OTHER PROVISIONS.....	19
4	SURPLUS AND DEFICIT BALANCES	20
4.1	RIGHT TO CARRY FORWARD SURPLUS BALANCES.....	20
4.2	SURPLUS BALANCES CONTROL MECHANISM.....	20
4.3	INTEREST ON SURPLUS BALANCES.....	21
4.4	OBLIGATION TO CARRY FORWARD DEFICIT BALANCES.....	21
4.5	PLANNING FOR DEFICIT BUDGETS.....	21
4.6	CHARGING OF INTEREST ON DEFICIT BALANCES.....	21
4.7	WRITING OFF DEFICITS	22
4.8	BALANCES OF CLOSING AND REPLACEMENT SCHOOLS	22
4.9	LICENSED DEFICITS	22
4.10	ASSET PURCHASE/LOAN SCHEMES	23
5	INCOME	26
5.1	INCOME FROM LETTINGS	26
5.2	INCOME FROM FEES AND CHARGES.....	26
5.3	INCOME FROM FUND-RAISING ACTIVITIES	26
5.4	INCOME FROM THE SALE OF ASSETS	26

5.5	INCOME FROM LEASING & RENTAL AGREEMENTS	26
5.6	ADMINISTRATIVE PROCEDURES FOR THE COLLECTION OF INCOME.....	27
5.7	PURPOSES FOR WHICH INCOME MAY BE USED.....	27
6	CHARGING SCHOOL BUDGET SHARES	28
6.1	GENERAL PROVISIONS.....	28
6.2	CIRCUMSTANCES IN WHICH CHARGES MAY BE MADE.....	28
7	TAXATION	31
7.1	VALUE ADDED TAX.....	31
7.2	CIS (CONSTRUCTION INDUSTRY SCHEME).....	31
8	COUNCIL SERVICES PROVIDED TO SCHOOLS	32
8.1	PROVISION OF SERVICES FROM CENTRALLY RETAINED BUDGETS	32
8.2	SLAS AND TIME-SCALES FOR THE PROVISION OF SERVICES BOUGHT BACK FROM THE COUNCIL	32
8.3	PACKAGING & PRICING.....	32
8.4	TEACHERS' PENSIONS – SUBMISSION OF INFORMATION.....	33
9	PFI/PPP & OTHER PARTNERSHIP CONTRACTS.....	34
9.1	PFI/PPP & OTHER PARTNERSHIP CONTRACTS.....	34
10	INSURANCE	34
10.1	INSURANCE COVER.....	34
11	MISCELLANEOUS	35
11.1	RIGHT OF ACCESS TO INFORMATION	35
11.2	LIABILITY OF GOVERNORS.....	35
11.3	GOVERNORS' EXPENSES.....	35
11.4	RESPONSIBILITY FOR LEGAL COSTS	35
11.5	HEALTH AND SAFETY.....	35
11.6	RIGHT OF ATTENDANCE FOR CHIEF FINANCE OFFICER.....	35
11.7	DELEGATION TO NEW SCHOOLS.....	36
11.8	SPECIAL EDUCATIONAL NEEDS	36
11.9	INTEREST ON LATE PAYMENTS	36
11.10	'WHISTLEBLOWING' – POLICY & PROCEDURE	36
11.11	CHILD PROTECTION & SAFEGUARDING	36
11.12	DISCLOSURE AND BARRING SERVICE CHECKS	36
11.13	REDUNDANCY/EARLY RETIREMENT COSTS	36
11.14	OTHER GENERAL REQUIREMENTS.....	36
12	REPAIRS AND MAINTENANCE	37
12.1	GROUNDS MAINTENANCE	37
12.2	BUILDINGS MAINTENANCE - GENERAL.....	37
12.3	OTHER BUILDING RESPONSIBILITIES.....	38
13	COMMUNITY FACILITIES.....	39
13.1	THE LEGAL FRAMEWORK.....	39
13.2	THE LEGISLATION INCLUDES A RANGE OF CONTROLS:.....	39
13.3	THE ROLE OF THE SCHEME.....	39
13.4	ADVICE FROM THE COUNCIL	39
13.5	THIRD PARTY AGREEMENTS	40
13.6	FUNDING AGREEMENTS WITH THE COUNCIL.....	40
13.7	LIMITED COMPANIES	40
13.8	INDEMNITY INSURANCE.....	40
13.9	SUPPLY OF FINANCIAL INFORMATION	40
13.10	PUPIL WELFARE.....	41
13.11	INITIAL BUDGET PLAN	41
13.12	ACTUAL INCOME AND EXPENDITURE STATEMENTS AND SUBSEQUENT PLANS	41
13.13	UNSATISFACTORY STATEMENTS.....	41
13.14	AUDIT	41
13.15	TREATMENT OF INCOME AND SURPLUSES	41
13.16	TRANSFER OF SURPLUSES TO THE DELEGATED BUDGET.....	41
13.17	TREATMENT OF SURPLUSES FOR CLOSING SCHOOLS	42

13.18	HEALTH AND SAFETY POLICY	42
13.19	DISCLOSURE AND BARRING SERVICE	42
13.20	INSURANCE	42
13.21	TAXATION	42
13.22	CONSTRUCTION INDUSTRY SCHEME (CIS)	42
13.23	EMPLOYMENT	43
13.24	BANKING.....	43
13.25	BORROWING.....	43
	SCHEDULE OF SCHOOLS WITHIN THE SCOPE OF THIS SCHEME.....	44
	GUIDANCE ON INDEPENDENT BANK ACCOUNTS AND FINANCE SYSTEMS	45
	SCHEDULE OF RESPONSIBILITIES FOR REPAIRS & MAINTENANCE.....	46
	DEFINITION OF PROPERLY ASSIGNED RESOURCES FOR SURPLUS BALANCE CONTROL MECHANISM	48
	SCHOOL FUND GUIDANCE.....	51

SECTION 1: INTRODUCTION

1 THE FUNDING FRAMEWORK: MAIN FEATURES

1.1 The Funding Framework

- 1.1.1 The current school funding framework is based on the legislative provisions in sections 45-53 of the School Standards and Framework Act 1998 (SSAF Act 1998) and as amended by the Education Act 2002. The following references throughout this document:
“the act” is the School Standards and Framework Act 1998
“the authority” is the local authority
“the regulations” are the School and Early Years Finance (England) (No. 2) Regulations 2018
- 1.1.2 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.
- 1.1.3 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 its schools budget.
- 1.1.4 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.
- 1.1.5 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).
- 1.1.6 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.
- 1.1.7 The balance of the schools budget left after deduction of the centrally retained expenditure is termed the individual schools budget (ISB). Expenditure items in the non-schools education budget must be retained centrally, although earmarked allocations may be made to schools.
- 1.1.8 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.
- 1.1.9 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.
- 1.1.10 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.
- 1.1.11 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.
- 1.1.12 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.
- 1.1.13 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).

- 1.1.14 An authority may suspend a school's right to a delegated budget if the provisions of the authority's financial scheme, or rules applied by the scheme, have been substantially or persistently breached, or if the budget share has not been managed satisfactorily.
- 1.1.15 A school's right to a delegated budget share may also be suspended for other reasons, under schedule 17 to the act.
- 1.1.16 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.
- 1.1.17 The detailed publication requirements for financial statements are set out in directions issued by the Secretary of State.
- 1.1.18 A copy of each year's budget and outturn statement should be made easily accessible to all schools.
- 1.1.19 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.
- 1.1.20 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.
- 1.1.21 The LA is required 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

- 1.2.1 This scheme sets out the financial relationship between Solihull MBC ("the Council") and the maintained schools that it funds. The scheme contains requirements relating to financial management and associated issues, which are binding on both the Council and schools.

1.3 Application of the scheme to the Authority and maintained schools

- 1.3.1 This scheme applies in respect of all community, nursery, voluntary, foundation, community special, or foundation special schools maintained by Solihull Council, as listed in Annex A.

1.4 Publication of the scheme

- 1.4.1 The scheme will be published on the Council's Internet site which is 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.

1.5 Revision of the scheme

- 1.5.1 Any locally determined revisions to this scheme will be the subject of consultation with maintained schools and will require approval by the Solihull School Forum, or if the schools cannot agree, by the Secretary of State. The Secretary of State may make directed revisions to the scheme, and these will be communicated to schools, but not consulted upon. Such directions become part of the scheme from the date of the direction.

1.6 Delegation of powers to the Headteacher

- 1.6.1 Each governing body must consider the extent to which it wishes to delegate its financial powers to the Head teacher, and to record its decision (and any revisions) in the minutes of the governing body. The levels of delegation within each school should also be recorded in the school's own finance policy.

- 1.6.2 The governing body or a committee of the governing body must formally approve the detailed annual budget plan of each financial year.
- 1.6.3 Governing bodies should set limits on the delegated powers of Head teachers to enter into contractual commitments in any one financial year. Schools must abide by the Council's "Schools Rules for Contracts" document.

1.7 Maintenance of schools

- 1.7.1 The Council 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 or foundation school where some of the expenses are, by statute, payable by the governing body). Part of the way an authority maintains schools is through the funding system put in place under sections 45 to 53 of the School Standards and Framework Act 1998.

SECTION 2: FINANCIAL CONTROLS AT SCHOOLS

2 FINANCIAL CONTROLS

2.1 Application of financial controls to schools

2.1.1 In managing their delegated budgets schools must abide by the Council's requirements on financial controls and monitoring, including those in this scheme and also those requirements contained in more detailed publications issued by the Council¹. Schools must have regard to any advice, policy or practice recommended by the Director of Resources.

2.2 Provision of financial information and reports

2.2.1 Schools are required to provide the Council with details of anticipated and actual expenditure and income. The Council will determine the format and frequency of reports. Requirements may differ where schools operate their own bank account.

2.2.2 Although the format, frequency and type of report may vary from time to time the fundamental principles underlying reporting requirements are:

- a) To enable the Council to fulfil its statutory responsibilities, particularly regarding Section 151² responsibilities, monitoring, statutory returns to government bodies with regard to taxation, pensions and other financial data, and the Council's own statutory financial reporting requirements.
- b) To be consistent with the requirements of the Consistent Financial Reporting Framework, and any subsequent changes in the national framework.
- c) To ensure reconciliation between school and Council systems.
- d) For the Council to be satisfied a school is properly managing its financial affairs in accordance with this scheme.
- e) For normal income and expenditure reports, schools normally need not submit such reports more often than every three months, in accordance with a timetable published annually by the Director of Resources. This provision does not apply to statutory returns to government bodies, taxation, pensions, banking reconciliations and grants information required by the grant issuing authority.

2.2.3 Schools may be required by the Council to submit returns on a more frequent basis. Schools will be notified in writing if more frequent returns are required and how frequent those returns need to be. This would usually, but not exclusively, apply to schools in the following situations:

- a) Schools in financial difficulty
- b) A school in Special measures, a notice to improve, or identified as a school of concern within the Solihull protocol (if considered necessary)
- c) Deemed as high risk of entering into deficit by normal monitoring procedures
- d) Those which persistently fail to complete adequate returns
- e) Reorganised schools
- f) School removed from delegation
- g) Schools failing to make sufficient progress to meet the Financial Management in Schools Standard
- h) Where there are concerns over the quality or adequacy of financial monitoring information being produced

¹ Such as Standing Orders, Rules for Contracts, and Financial Regulations, VAT guidance, and Accounting guidance documents, year-end procedures etc.

² Section 151 of the Local Government Act 1972 requires the Council to appoint an Officer (the Chief Finance Officer – CFO) who has the statutory duty to ensure the proper administration of the council's financial affairs. In Solihull this person is the Director of Resources.

2.3 Payment of salaries and payment of bills

- 2.3.1 The payroll function is fully delegated to schools. Schools must ensure that their arrangements mean that they are able to fulfill all statutory requirements. The vast majority of schools uses the Council's HRE & Payroll systems and will therefore conform to the procedures required & notified by those systems. Schools not using the Council's systems must abide by such conditions as may be prescribed by the Director of Resources (prescribed in respect of meeting the Council's statutory obligations)
- 2.3.2 Schools will abide by the procedures published by the Director of Resources in relation to purchase order processing, invoice processing, and all other payments such as local cheque books, Council payment cards and petty cash.

2.4 Control of assets

- 2.4.1 Schools must maintain an inventory of moveable assets, in such form as determined by the Council. Schools must adopt authorisation procedures for the disposal of assets, having regard to advice issued by the Council³. Schools should have regard to the importance of including in the register anything that is portable and attractive, such as a camera.
- 2.4.2 Asset Acquisitions (including by lease agreements) and disposals with an asset value in excess of £15,000 are to be notified to the Director of Resources⁴ to enable the corporate asset register and Council approved Capital Programme to be updated where appropriate.

2.5 Accounting Policies

- 2.5.1 Schools must abide by the Council's accounting policies and procedures, including year-end procedures; the format and nature of the accounts, including the coding structure and coding guidance & definitions; and financial and accounting systems.

2.6 Writing-off of debts

- 2.6.1 The Governing Body is authorised to write off debts up to a level stipulated by the Director of Resources, but must notify the LA of any debts approved for write off. Write offs will be appropriately minuted by the Governing Body. The Director of Resources will notify schools of changes to the approved limit each year⁵.
- 2.6.2 In the case of debts over the approved limit the school must carry out the procedures as set out in the Councils' Financial Regulations.
- 2.6.3 It is important that whenever possible schools should obtain payment in advance.

2.7 Basis of accounting

- 2.7.1 All reports and accounts provided to the Council must be in the format specified by the Council and accord with financial and accounting policies of the Council. All revenue reports and accounts must be completed on an accruals basis, and at year-end include providing schedules of debtors and creditors, unless otherwise specified by the Council (e.g. accounts for Capital expenditure or cash flow statements).
- 2.7.2 Some specific grant schemes, which devolve funds to schools, may require accounting on a cash basis. Schools must comply with any specific accounting requirements for devolved or specific grant funding, which the Council will provide.

2.8 Capital accounting

³ Schools must be free to determine their own arrangements for keeping a register of assets worth less than £1,000. They must keep a register in some form.

⁴ Emails to be sent to Julie Anderson (janders@solihull.gov.uk) and Kevin Garrison (kgarrison@solihull.gov.uk) in the Corporate Accountancy team.

⁵ The limit as at 1 April 2014 is £100.

- 2.8.1 Schools must abide by the definition of capital spending either as approved by the Council, or as defined by any specific capital grant; schools must also conform to accounting instructions and processes issued by the Council in respect of capital expenditure.
- 2.8.2 The Council is required to record and account for all expenditure as being either revenue or capital in nature. In simple terms, revenue expenditure can be defined as expenditure on goods or services that are consumed within the current financial year. The definition of capital expenditure is set out in the CIPFA Code of Practice on Local Authority Accounting in the United Kingdom – A Statement of Recommended Practice (SORP):
- 2.8.3 Expenditure can be capitalised if it is for the acquisition, creation or enhancement of fixed assets. Expenditure on the acquisition of a tangible asset, or expenditure which adds to, and not merely maintains the value of an existing asset, should be capitalised, provided that the fixed asset yields benefits to the authority and the services it provides for a period of more than one year. More specifically this will typically include expenditure on the:
- a) acquisition, reclamation, enhancement or laying out of land
 - b) acquisition, construction, preparation, enhancement or replacement of roads, buildings and other structures
 - c) acquisition, installation or replacement of movable or immovable plant, machinery, apparatus, vehicles and vessels
 - d) computer software as well as IT hardware⁶
- 2.8.4 The definition refers to the enhancement of existing fixed assets. Enhancement is defined as works designed to:
- a) lengthen substantially the useful life of the asset; or
 - b) increase substantially the open market value of the asset; or
 - c) increase substantially the extent to which the asset can or will be used for the purposes of or in conjunction with the functions of the local authority concerned
- 2.8.5 This definition is important as it means that maintenance expenditure i.e. that which simply maintains the asset's existing value or standard of performance, should be classified as revenue expenditure.
- 2.8.6 The Council has set a de-minimus level of £15,000. This means that any expenditure below this level that otherwise meets the definition of capital expenditure as outlined above can be charged to a revenue budget.

2.9 Submission of budget plans

- 2.9.1 Each school must provide the Council with a budget plan, showing its intentions for expenditure, authorised by the governing body or a committee of the governing body no later than 31st May each financial year⁷. Schools must notify the Council of subsequent changes to the budget plan at least quarterly. The format of the budget plan will be determined by the Council, but will include a requirement for a statement regarding the planned use of reserves held by the school, and will be consistent with the requirements of the Consistent Financial Reporting framework.

⁶ The Local Authorities Capital Finance Regulations 2003

⁷ It would be regarded as normal good practice for a governing body (GB) to have a working plan in place prior to the start of the financial year. It is expected that this would then be revised, in line with the school's final budget share, and approved by the Governing body as the first formal budget of the financial year, in order to provide the school with the necessary authorisation to spend in line with that approved plan. In practice a school would normally be expected to have an approved plan in place by around 1st May so that the budget can be uploaded into the Oracle financial system in order to meet the formal scheme requirement of 31st May. The DFE permit a Committee to set the budget – but the Council view is that best practice would be for the full GB to approve – this gives a greater sense of both buy-in and understanding across the whole GB.

- 2.9.2 In making their budget plans, schools must take full account of their estimated/forecast year-end cumulative surplus/deficit.
- 2.9.3 The Council will provide all schools with school relevant income and expenditure data to enable efficient planning by the school. Such data may include: estimates of inflation, estimates of pupil numbers, other relevant data such as exemplification of general budget growth/reductions approved by the Council, financial effects of any changes to the formula distribution mechanism, changes to the relevant formula factors such as free school meals or m2. The Council will provide every school with confirmation of their out-turn position⁸ (subject to external audit certification) in accordance with the published year-end timetable.
- 2.9.4 In certain circumstances, the Council may require a provisional budget plan prior to the start of the financial year. This may be required for schools falling within the definitions in section 2.2.3.

2.10 Submission of Financial Forecasts

- 2.10.1 The Council may require schools to submit a financial forecast covering each year of a multi-year period for which schools have been notified of budget shares beyond the current year⁹.

2.11 School Resource Management

- 2.11.1 Schools must manage their resources to maximise pupil outcomes, taking into account the purchasing, tendering and contracting requirements.
- 2.11.2 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 heads and governors to determine at school level how to optimise the use of resources and maximise value for money.
- 2.11.3 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.

2.12 Virement

- 2.12.1 Schools may vire freely between budget heads in the expenditure and income of their budget shares. Schools must establish their own criteria for virements and financial limits above which the approval of governors is required. However, devolved funding or ring-fenced grant funding may only be spent in accordance with the conditions of that funding or grant. Any elements of devolved or specific grant funding unspent by the deadline set by the awarding body may need to be returned to the Council.

2.13 Audit Responsibilities

- 2.13.1 All schools within this scheme fall within the audit regime determined by the Council as regards internal audit, together with the Council's external audit regime as determined by the Audit Commission. All schools must comply with these requirements.
- 2.13.2 The Director of Resources is responsible for the probity and regulation of the Council's financial affairs¹⁰. The Director of Resources also has a duty to report to the Council where he

⁸ The Council no longer sends a formal letter; the position is derived by the school with reference to the Oracle Financials system.

⁹ DFE Directed revision October 2006: "In the light of the introduction of multi-year budgets LAs must include within their scheme a power to enable them to request multi-year budget forecasts. LAs should consider the extent to which such forecasts may be used for more than just confirming schools are undertaking effective financial planning or not. For instance: they could be used as evidence to support the LA's responsibility for declaring their schools' adherence to the Financial Management Standard in Schools and/or used in support of the LA's balance control mechanism. However, the requirement to submit a financial forecast should not place undue burdens on schools and should be proportionate to need. In requesting such forecasts LAs should state the purposes for which they intend to use this forecast: such a forecast may be used in conjunction with a LA's balance control mechanism"

¹⁰ Section 151 of the Local Government Act 1972

identifies potential expenditure as unlawful or for which there is no provision within the Council's budget (Section 114 of the Local Government Act 1988). In addition, there is a duty on the Council to provide an adequate and effective internal audit function resulting from the Accounts and Audit Regulations 1996.

2.13.3 Schools are required to provide full access to the school's records for both internal and external audit.

2.14 Audit of voluntary and private funds

2.14.1 Schools should administer voluntary and private funds according to the same standards as public funds. Under no circumstances are schools allowed to mix public funds (provided by the Council or other public bodies) with other funds. All monies due to and from the Council must be separated from other funds.

2.14.2 Schools must make arrangements for the audit of their voluntary and private funds and of the accounts of any trading organisations controlled by the school and certificates must be given to the school as evidence of this audit. These certificates must be retained in school and be available for inspection by the Council. The audit certification must be completed by a person independent of the school and be presented to the governing body of the school within 6 months of the year-end of the financial year of the fund. Any audit costs must be charged to the Fund, not the school.

2.14.3 The Consistent Financial Reporting framework requires that income from private funds under the control of the governing body and available for the purposes of the school, must be included in schools' financial statements¹¹.

2.15 Register of business interests

2.15.1 Every governing body must have a register which lists for each member of the governing body and the head teacher:

- Any business interests they or any member of their immediate family have;
- Details of any other educational establishments that they govern;
- Any relationships between school staff and members of the governing body;

2.15.2 The Governing Body must keep the register up to date with notification of changes and through an annual review of entries, they must also make the register available for inspection by governors, staff and parents, and the authority and to publish the register, for example on a publicly accessible website.

2.15.3 The authority may issue more detailed guidance on the maintenance of such a register.

2.15.4 Simply declaring an interest is not sufficient to prevent a conflict of interest. No governor, Headteacher, or other relevant staff¹² can be present or involved in any discussion or decision where there may be a conflict of interest arising from a pecuniary or other interest as declared in the register. Governors and Senior Staff must take extra care to ensure that they, or others with whom there is a close personal relationship do not personally benefit from decisions taken by the school, and must also be clear that decision making is always in the best interests of the school which over-rides the interest of any particular constituency that the governor may represent.

2.15.5 Whilst it is legal for governing bodies to pay for goods and/or services, including those provided by an individual who is also serving as a governor, the individual must not put themselves in a position where their personal interests conflict with their duty unless they are authorised to do so. If a conflict does exist, the governing body must first assure themselves that this in its best interests and will better help it achieve its purposes. The governing body must manage, and be seen to manage, any conflicts of interest that may arise, and be open and accountable to those with an interest; there would be no advantage of using the services provided by the individual if the need to manage the conflict of interest outweighed the

¹¹ Income & Expenditure within the private funds, and any balances still held within those funds remain outside schools' financial statements

¹² E.g. where decision authority is delegated or where they are present at any decision making discussion.

benefit. If these considerations cannot be sufficiently evidenced, a paid employee may still find themselves subject to disciplinary proceedings, that may amount to gross misconduct, even where other governors confirm an interest was declared.

2.15.6 It is essential that all contracts and arrangements for payments of good and/or services follow proper procurement processes. In addition, where a contract is awarded to a governor or employee, trustee or a party connected to them the service/goods must be provided at cost and no profit is allowed to be made.

2.16 Purchasing, tendering and contracting requirements

2.16.1 Schools are required to abide by the Council's Financial Regulations and Schools Rules for Contracts in purchasing, tendering and contracting matters. Schools are required to assess, in advance, where relevant, the health and safety competence of contractors, taking account of the Council's policies and procedures.

2.16.2 Schools should have particular regard to the Corporate Procurement team and information published on the Council's intranet, in respect of Council wide contracts and procurement frameworks, to take account of the continually evolving nature of contracts and procurement advice. Whilst schools are not obliged to use such contractors or contracts, schools should be aware of the potential advantages, e.g. demonstration of value for money, no further requirement to demonstrate value for money in regard of Council-wide contracts, financial standing, insurance etc. Schools must keep a record of their reasons for assessing & selecting particular contractors, both to demonstrate value for money and safeguard from litigation claims.

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

2.16.4 Any section of the Council's Financial Regulations and Schools Rules for Contracts will not apply if it would require a schools to:

- a) Do anything incompatible with any of the provisions of the scheme, or any statutory provision, or any EU Procurement Directive
- b) Seek Council Officer Counter-signature for any contracts (revenue expenditure) for goods or services for a value below £60,000 in any one-year. Council signature may be required where contracts require "the seal of the Council" and/or where the value is greater than £60,000.
- c) Select suppliers only from an approved list
- d) Seek fewer than three tenders or quotations in respect of any contract with a total value exceeding £10,000, notwithstanding requirements within the Council's Financial Regulations and Schools Rules for Contracts. This requirement is waived where the contract is part of a Council wide contract, or is part of a Council "buy-back arrangement".

2.16.5 Neither the Council nor Schools may artificially aggregate or disaggregate orders to seek to avoid or impose these thresholds. Schools are otherwise obliged to follow the processes for various limits described in the Schools Rules for Contracts.

2.17 Application of contracts to schools

2.17.1 Although governing bodies are empowered¹³ to enter into contracts, in most cases they do so on behalf of the Council as maintainer of the school and the owner of the funds in the budget share. This is the main reason for allowing Councils to require Council counter-signature of contracts exceeding a certain value. However 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.

2.17.2 Where schools opt out of existing contracts, they must abide by the contract exit clause(s).

¹³ Paragraph 3 of schedule 10 to the School Standards and Framework Act 1998

2.18 Central funds and earmarking

- 2.18.1 The Council may make sums available to schools from central funds, in the form of allocations that are additional to and separate from the schools' budget shares such allocations are made available to schools subject to conditions setting out the purposes for which the funds may be used. While these conditions need not preclude virement (except where the funding is supported by a specific grant which the Council itself is not permitted to vire), this cannot be carried to the point of assimilating the allocations into the school's budget share.
- 2.18.2 Such earmarked funding from centrally retained funds may only be spent on the purposes for which it is given, or on other budget heads for which earmarked funding is given, and is not vired into the budget share. Schools must keep appropriate accounts and records to demonstrate that this requirement has been complied with.
- 2.18.3 If the Council specifies, any unspent funds must be returned to the Council if not fully spent within the period over which schools are allowed to use the funding (e.g. by the end of the financial or the end of the academic year).

2.19 Spending for the Purposes of the School

- 2.19.1 Governing bodies are able to spend budget shares 'for the purposes of the school', subject to regulations made by the Secretary of State¹⁴ and any provisions of this scheme. These regulations now allow schools to use their delegated budgets for the provision of teaching, learning materials, educational resources, transport, meals, accommodation for pupils registered at other maintained schools and community facilities or services¹⁵
- 2.19.2 By virtue of section 50(3A) (which came into force on 1st 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.
- 2.19.3 Under section 50(3)(b) the Secretary of State may prescribe additional purposes for which expenditure of the budget share may occur. They have 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 or academies.
- 2.19.4 Schools may spend budget shares for the purposes of the school as described above subject to the following specific provisions:
- a) Schools may not spend budget shares to support or establish or subsidise any trading or entrepreneurial activity without the specific prior approval of the Council. (See also section on Community Facilities provision).
 - b) There may be no net subsidy in any financial year for the letting or other use of school premises outside normal school hours.
 - c) No governing body may enter a leasing or similar financial agreement to purchase supplies or services without approval from the Director of Resources.
 - d) No governing body may enter a leasing or similar financial agreement in respect of the schools' land, buildings or other property or assets to a 3rd party without the specific approval of the Council.
 - e) Where the expenditure will result in the school exceeding its available resources, without the specific prior approval of the Council (no school may commit to spend resources for which it does not have sufficient funds)

¹⁴ s.50(3) of the SSAF Act 1998; The School Budget Share (Prescribed Purposes) Regulations 2002 (as amended by 2004 regulations)

¹⁵ S. 27 Education Act 2002 states amounts spent by governing bodies on community facilities or services will be treated as if spent for any purposes of the school.

- f) Schools must not spend their budget share (or voluntary funds) on gifts for staff or governors. Basic hospitality for governors may be considered provided that this is proportionate and could not be criticised if subject to external scrutiny.

2.20 Capital spending from budget shares

- 2.20.1 Governing bodies may use their budget shares to meet the cost of capital expenditure on the school premises. This includes expenditure by the governing body of a voluntary aided school on work that is their responsibility¹⁶.
- 2.20.2 Where the expected capital expenditure from the revenue budget share in any one-year will exceed £15,000 for premises related expenditure, the governing body must notify the Council and must take into account any advice from the Director of Children's Services as to the merits of the proposed expenditure.
- 2.20.3 Any other capital related expenditure in excess of £15,000 (e.g. major equipment) must be notified to the Council so that the Director of Resources may enable proper accounts to be maintained of the Council's capital expenditure.
- 2.20.4 Where the Council owns the premises or the school has voluntary controlled status, then the governing body must seek the consent of the Council to the proposed works prior to entering any contractual obligation, but such consent can only be withheld on Health & Safety grounds.

2.21 Leasing/Rental/Deferred Purchase Agreements¹⁷

- 2.21.1 No school may enter a leasing agreement of any value without the prior specific agreement of the Director of Resources. This applies both to arrangements relating to the school procuring goods and services and also where a school seeks to enter into a legal agreement for the use of the school buildings, land, or any other assets (see also section 5.5). Agreement will not be withheld provided the school can demonstrate that the criteria out-lined below are met:
- a) Agreements do not conflict with the Council's obligations regarding Government capital controls.
 - b) Any agreements entered into must demonstrate efficiency and Value for Money.
 - c) Any agreement must comply with the specific leasing conditions as advised by the Director of Resources.
 - d) The Council's legal advisors approve the terms
 - e) Agreements ensure Lessees and other prospective occupiers of School Land/Buildings are not allowed to take possession of or enter the land until a lease or agreement, in a form approved by the Director of Education in consultation with the Director of Resources, has been signed by the relevant parties.
- 2.21.2 Schools may not enter into a finance lease under any circumstance as this would be considered a form of borrowing which is precluded by legislation without specific Secretary of State approval.

2.22 Schools Financial Value Standard (SFVS)

- 2.22.1 All local authority maintained schools (including nursery schools and pupil referral units (PRUs) that have a delegated budget) must demonstrate compliance with the Schools Financial Value Standard (SFVS) and complete the assessment form on an annual basis. It is for the school to determine at which time of the year they wish to complete the form.

¹⁶ Paragraph 3 of Schedule 3 of the SSAF Act 1998

¹⁷ Read in conjunction with section 5.5

2.22.2 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.

2.22.3 All maintained schools with a delegated budget must submit the form to the local authority before 31 March annually.

2.23 Notice of Concern¹⁸

2.23.1 The Council may issue a notice of concern to the governing body of any school it maintains where, in the opinion of the Director of Resources and the Corporate Director of Education & 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 Council or the school.

2.23.2 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:

- a) insisting that relevant staff undertake appropriate training to address any identified weaknesses in the financial management of the school
- b) insisting that an appropriately trained/qualified person chairs the finance committee of the governing body
- c) 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 Council
- d) insisting on regular financial monitoring meetings at the school attended by Council Officers
- e) requiring a governing body to buy into a Council's financial management systems; and
- f) 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

2.23.3 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 Council may take where the governing body does not comply with the notice.

2.24 Fraud

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

2.24.2 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

¹⁸ "The purpose of this provision is to enable a local authority to set out formally any concerns it has regarding the financial management of a school it maintains and require a governing body to comply with any requirements it 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 local authority or school. It should 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" (DFE Issue 4).

school staff and governors. Internal audit offer guidance on how to implement controls to prevent fraud.

- 2.24.3 Solihull Council's approach to fraud is contained in its Counter Fraud and Corruption Strategy. Governing bodies are responsible for ensuring that governors and key staff understand the strategy and the supporting corporate policies (such as Financial Regulations, Code of Conduct, Whistleblowing policy and the Prevention of Bribery policy).
- 2.24.4 In the event that a fraud is suspected, governing bodies or staff must inform the Head of Internal Audit immediately. Further details on what to do if you suspect fraud or corruption can also be found in the Counter Fraud and Corruption Strategy.

SECTION 3: INSTALMENTS OF THE BUDGET SHARE AND BANKING ARRANGEMENTS

3 BUDGET SHARE AND BANKING ARRANGMENTS

3.1 Frequency of instalments

3.1.1 For schools using the Council's bank account, the whole initial budget share will be made available to schools on 1 April each year. In-year re-determinations take effect immediately as notified. As there are no cash flow implications, any adjustments will be formally implemented on a termly basis. Top up payments for SEND pupils will be made periodically by means of publication of a pupil specific schedule for each school.

3.2 Budget shares for closing schools

3.2.1 Where a decision has been made to close a school, it is the Council's practice to withdraw delegation for the period to closure. In practice, this means that the Council would usually expect to agree an operational budget with the school, and any additional expenditure could only be committed with the explicit prior approval of the Director of Resources.

3.3 Bank and building society accounts

3.3.1 All maintained schools will use Oracle Financials as their school based finance system. Consequently schools may not operate an independent bank account.

3.3.2 Schools are allowed independent bank accounts in law, but if they chose to implement this, they would also have to use an independent finance system. Using Oracle Financials provides a school with local control of payments, electronic payment facilities, and payment cards, whilst obviating the need for additional administration associated with independent bank accounts such as cash flow management, reconciliations, tax returns, audited accounts and provision of data to the Council. The use of this fully integrated system is wholly compatible with the Council's e-Government and Information Management Strategies.

3.3.3 No school will be allowed to opt-out of the corporate system without the specific approval of the Director of Resources, who would need to be persuaded of how this would demonstrate value for money across the whole Council.

3.4 Restrictions on accounts

3.4.1 Subject to 3.3.1, in the event that the Director of Resources approves that a school may operate an independent bank account, schools must adhere to the guidance in Annex B.

3.5 Borrowing by schools

3.5.1 Governing bodies may borrow money only with the written permission of the Secretary of State¹⁹ (the granting of permission is via the Council). Without such specific consent schools must not offer security to any financial institution, must not have a bank account deficit or overdraft at any time, and must not borrow in any form of external loan. Where a school has a loan under the Asset Purchase Scheme (paragraph 4.10), this does not constitute borrowing as these loans are financed from the accumulated reserves of other schools.

3.5.2 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, currently including the Salix scheme, which is designed to support energy saving.

3.5.3 Schools may only use purchasing cards, including any other type of "company credit card" within the scope of the Solihull Council operated purchasing card scheme, and must agree to

¹⁹ This does not apply to Trustees and Foundations, whose borrowing, as private bodies, makes no impact on Government accounts. These debts may not be serviced directly from the 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 Council when repaying loans.

follow any procedures and guidance issued by the Director of Resources. Where a school does not operate purchasing cards in accordance with the scheme as prescribed by the Director of Resources, the facility may be withdrawn. In addition no interest charges should be incurred by the school, with balances fully cleared on a monthly basis.

3.5.4 The types of financing arrangements, which would normally be classed as borrowing, and therefore from which schools are prohibited from entering into are:

- a) Loans in the broadest sense, whereby lenders make available to the school a sum of money, which the school uses for specific aims. The school repays the sum of money usually at a price, over the term of the loan.
- b) Finance leases, whereby the school requires the use of an asset from the supplier or lender over a specific period. At the end of the period, the school has paid the lender for the underlying cost and the asset plus interest charges.
- c) Credit cards which are not part of Solihull Council's purchase card scheme.
- d) Certain types of Public Private Partnerships where the asset is deemed to be 'on the balance sheet'.

3.6 Other Provisions

3.6.1 Any further guidance of procedures issued by the Director of Resources in respect of banking arrangements shall be binding on all schools provided it does not conflict with the guidance contained in this scheme.

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

4 SURPLUS AND DEFICIT BALANCES

4.1 Right to carry forward surplus balances

4.1.1 Schools carry forward any under or overspend against budget share for the current year plus/minus any balance brought forward from previous years into the next financial year. This is subject to the Balance Control Mechanism below, which allows the Council to remove excessive balances from individual schools.

4.2 Surplus Balances Control Mechanism

4.2.1 Excessive balances may be removed from schools according to the following methodology²⁰.

- a) The Council shall calculate by 31 May each year the surplus balance, if any, held by each school as at the preceding 31 March. For this purpose the balance will be the recurrent balance as defined in the Consistent Financial Reporting Framework.
- b) The Council shall deduct from the calculated balance any amounts for which the school has a prior year commitment to pay from the surplus balance²¹ and any unspent grants for the previous financial year. Grants will only be deducted where they are explicitly ring-fenced or allocated part way through the year²².
- c) The Council shall then deduct from the resulting sum any amounts which the governing body of the school has declared to be assigned for specific purposes permitted by the Council, and which the Council is satisfied are properly assigned. Monies will be classed as committed if the school can show they have been set aside for a specific purpose, and will be spent within a defined timescale. To count as properly assigned, amounts must not be retained beyond the period stipulated for the purpose in question, without the consent of the Council. In considering whether any sums are properly assigned the Council may also take into account any previously declared assignment of such sums but may not take any change in planned assignments to be the sole reason for considering that a sum is not properly assigned²³. The definitions of properly assigned, and the reasons acceptable to the Council within this Scheme are described in Annex D.
- d) If the result of steps a-c is a sum greater than 5% of the budget share (the budget share of the year into which the balance is carried forward) for secondary schools, 8% for primary and special schools, or £10,000 (where that is greater than either percentage threshold), then the Council will consider whether to deduct from the budget share an amount equal to the excess²⁴.

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

4.2.3 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 Council.

²⁰ With effect from 1 April 2007

²¹ School accounts are produced on an accruals basis, and as we cannot accrue for internal debtors & creditors, there are expected to be relatively few items here – possibly significant sums in dispute with the Council.

²² DFE Guidance note to LAs December 2010.

²³ The condition outlined here is intended to ensure schools can build up reserves towards particular projects but cannot defer implementation indefinitely. In deciding whether a sum is properly assigned, a scheme may make explicit the right of an Authority to take account of a school's previous plans for any surplus balances in the event that such plans have changed. However, an Authority may not take a change in the plans of a school as the only criterion by which it can consider a sum to be properly assigned or not.

²⁴ It is important to note that the 8% and 5% thresholds are not targets, but the maximum percentage which should reasonably be retained to deal with unforeseen circumstances. In practice, most primary schools should be able to manage with balances of, say, 4-5% and secondary schools with 2-3%. - DFE Guidance note to LAs December 2010.

- 4.2.4 The total of any amounts deducted from schools' budget shares by the Council under this provision will be applied to the Schools Budget.
- 4.2.5 Where a school has a loan under the Asset Purchase (loan) Scheme, and their year-end revenue balances exceed 8% primary and special or 5% secondary, balances in excess of this must be applied towards redeeming the loan. This provision applies to the cash value of balances before any allowance for commitments. This adjustment, if necessary, will be made before the calculation in 4.2.1 above²⁵.
- 4.2.6 In order to allow the Council to monitor progress on the use of excessive balances throughout the year, Governing Bodies may from time to time be required to report to the LA on the use which the school intends to make of surplus balances.

4.3 Interest on surplus balances

- 4.3.1 Schools without independent bank accounts will receive interest on the balance as at 1 April at the interest rate set by the Director of Resources each year and as notified with school budget allocations²⁶.
- 4.3.2 The calculation shall be the balance of revenue funds held by the school at 1 April, less any unspent revenue grants, times the interest rate.

4.4 Obligation to carry forward deficit balances

- 4.4.1 Deficit balances will remain with the school and be carried forward each year. The Council shall calculate by 31st May the deficit balance, if any, and this will automatically be carried forward and will be subject to the provisions in sections 4.5.4 and 4.9 of the Scheme.
- 4.4.2 Where a school has a deficit balance, it may not carry forward any unspent revenue grants, as these will be deemed the first call on any spending ("grants will be assumed to be spent first"), unless the grant is specifically ring-fenced, and the school can prove it has maintained separate accounting arrangements for that grant.

4.5 Planning for deficit budgets

- 4.5.1 In general, schools cannot plan for a deficit budget at the start of the year i.e. expenditure exceeding funding and income for the year plus the accumulated surplus brought forward. Schools that submit deficit plans will be asked to resubmit their budget with plans to bring the budget back into balance within the year. The Council will intervene where schools refuse to set a balanced budget by identifying the action a school could take and will agree a recovery plan with the school, and has a number of mechanisms it could use e.g. a notice of concern or other actions possible within the Statutory Guidance of Schools Causing Concern, or other local protocols.
- 4.5.2 A school with an independent bank account may not budget for a deficit, nor may it have a deficit or overdraft due to unplanned events.
- 4.5.3 Schools without independent bank accounts may plan for a deficit only in certain approved circumstances as described in 4.9 below.
- 4.5.4 Unless a Licensed Deficit (section 4.9) has been formally agreed, any unplanned deficit incurred during the year will be a first call on the following year's budget and the school will need to include repayment of the deficit in its balanced budget plan for the following year. Schools that incur unplanned deficits in successive years would be treated the same as schools submitting deficit plans and the authority would need to intervene.

4.6 Charging of interest on deficit balances

²⁵ This provision is to prevent individual schools with higher reserves and loans potentially impacting on the ability of other schools to access the loan scheme.

²⁶ Note that from 1 April 2006, School Forum agreed that an interest rate of 0% be paid, although the Director of Resources shall continue to calculate at the normal rate as described above, and credit the total balance to the Schools Budget each year.

4.6.1 Interest will be payable to the Council on the same basis as interest paid on surplus balances at an interest rate determined annually by the Director of Resources²⁷ plus 1%.

4.7 Writing off deficits

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

4.8 Balances of closing and replacement schools

4.8.1 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, a local 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.

4.9 Licensed deficits

4.9.1 Schools are generally prohibited from entering into a deficit or planning for a budget deficit. A school may apply to the Council for permission to operate a licensed deficit, these are intended to be considered only in the following circumstances:

- a) Where a capital project has been brought forward and the school is required to make its revenue contribution sooner than it had planned.
- b) Where the school can clearly demonstrate that planned expenditure reductions (particularly staffing changes) will repay the deficit and match annual budget with annual expenditure over the next two years²⁸
- c) Where the school can clearly demonstrate that budget income will increase to match increased expenditure, e.g. where a growing school has to increase the number of classes in advance of the funding formula providing additional resources
- d) Where a school has to make substantial additional expenditure in respect of fulfilling an OFSTED action plan in respect of being identified as failing or in need of special measures, and such expenditure falls out-side the balanced budget plan of the school
- e) Where a budget or grant error (either by the school or the Council) has resulted in excess expenditure being committed that cannot be recovered within the financial year by the time the error is identified

4.9.2 The financial plan agreed with the Council will be for the school to completely repay the deficit within a maximum of three financial years, with two years being the normal expectation.

4.9.3 The limits of the licensed deficit scheme are:

- a) The minimum deficit requiring a formal plan shall be £5,000. A deficit of £5,000 or less will normally be dealt with by increased monitoring requirements.
- b) Licensed deficits shall be counted against the total of school balances allowable to be committed under the Council's Asset Purchase (Loan) Scheme. The total of school loans plus licensed deficits so committed may not be greater than 40% of total surplus school balances (excluding grants) held by the Council²⁹.

²⁷ The interest rate is the rate paid on surplus balances plus 1%.

²⁸ For example where a school faces a dramatic and unforeseen drop in pupil numbers and that the necessary staffing changes will take more than one year to stabilise the budget.

²⁹ Note that under a licensed deficit scheme the only effect on budget and out-turn statements is that in the out-turn statement, the balance goes into deficit because expenditure is at a higher level than the budget share, but this deficit reduces to zero by the end of the repayment period because the school has to constrain its expenditure to effect the repayment. No 'payment' to the school is recorded or actually made; it is simply an agreement permitting the cumulative reserves to go into deficit.

- c) The Director of Resources shall be responsible for approving licensed deficit arrangements and all such agreements shall be reported to the Cabinet Member for Resources.
- d) Interest shall be charged as described in 4.6 above.
- e) When an application for a licensed deficit is refused, the school must not go into deficit.
- f) When approving a licensed deficit, the Council may impose terms and conditions, e.g. around the provision of monitoring reports or other actions. Any requirements imposed will be commensurate with the level of the deficit and the degree of risk that the Council assigns to the recovery plan. The school will be obliged to meet these terms as a condition of the agreement, and failure to do so may lead to escalation of intervention by the Council as described elsewhere in this Scheme and the Statutory Guidance on Schools Causing Concern, and may result in a Notice of Concern as a prelude to possible removal of delegation.

4.10 Asset Purchase/Loan schemes

- 4.10.1 The Council will operate an Asset Purchase (Loan) Scheme whereby a school can apply for a loan for expenditure of a capital nature, and make repayments over a number of years.
- 4.10.2 The scheme is suited for ICT purchases, and smaller scale projects e.g. office or classroom improvements or extensions, fencing etc. The scheme may also be valuable to have additional work on projects funded from Devolved Formula Capital (DFC) or enhance a Council landlord programme. Schools may wish to use this scheme for partnership funding with the Council on the smaller scale “minor works” type schemes. It is not intended to significantly fund major capital projects that a school could not otherwise afford from DFC.
- 4.10.3 Schemes related to energy efficiency improvements are interest free.
- 4.10.4 Only schools that use the Council’s bank account may access the loan scheme³⁰.
- 4.10.5 The Council will have a right to deduct repayments at source from the school’s budget. If this results in the school entering into a deficit then the normal Licensed Deficit scheme provisions apply.
- 4.10.6 Schools may apply in advance of deciding whether to proceed; schools can get a decision in principle and reserve the loan for up to the end of the following financial year. The precise amount could be agreed when actual estimates have been received. The Council will seek to respond to all requests within one month at the latest.
- 4.10.7 Although the scheme is available for capital projects that are within the legal powers of governors, the Council cannot be seen to be endorsing any improper behaviour. If it transpires that any of the detailed provisions have been breached, for example money has been spent on something else, or if a school has not followed its purchasing policies or normal financial regulations, the asset purchase agreement will be terminated and the school will be charged in full any money owed to the Council.

4.10.8 Schools that convert to Academy status: “The Department would expect that the liability to repay a loan made by the LA to a maintained school (which is technically an advance of funding from the LA) would normally transfer to the academy, which would continue repayments from its revenue budget on the previously agreed schedule, unless the LA and school agree to liquidate the loan and pay it off at the point of transfer. The transfer of responsibility for the loan should be reflected in a legal agreement between the LA and the AT, either by amending the Commercial Transfer Agreement (CTA) or in a separate agreement. Any current loan repayments a maintained school has to make will need to be checked for their affordability alongside the repayment of any deficit at the point of conversion. The Department will not recognise as a loan any arrangement that is agreed between the LA and a maintained school after the governing body or IEB has made an application to become a sponsored academy or after the school becomes eligible for

³⁰ This is because the Council will not physically hold the cash that provides the necessary financing.

intervention by the SoS, unless the AT sponsoring the academy has agreed to take on the liability.”

4.10.9 The main conditions are:

- a) The maximum length of the loan will be five years from the first payment date; the minimum period is two years.
- b) Eligible expenditure³¹ under this Solihull Scheme may only be for capital items³², i.e. for the enhancement, replacement or provision of an asset that will have a useful life at least as long as the duration of the loan agreement and which is clearly “for the purposes of the school”³³ in the interest of the school and leading to school improvement .

4.10.10 The main conditions are:

- a) Loans must 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.
- b) Loans must not be used as a means of funding a deficit that has arisen because a school's recurrent costs exceed its current income³⁴.
- c) The maximum length of the loan will be five years from the first payment date; the minimum period is two years.
- d) Eligible expenditure³⁵ under this Solihull Scheme may only be for capital items³⁶, i.e. for the enhancement, replacement or provision of an asset that will have a useful life at least as long as the duration of the loan agreement and which is clearly “for the purposes of the school”³⁷ in the interest of the school and leading to school improvement .
- e) Loans will **not** be granted for:
 - consumable materials or salaries
 - for trading or income generation schemes (because they carry a much larger element of risk), including community facility schemes that fundamentally rely on income generation;
 - where schemes impact on the Council's statutory responsibilities regarding the planning and supply of school places, e.g. schemes to significantly expand a school or change the character of its admissions (because there are likely to be significant implications for the Council and other schools)
 - schemes where the expected life of the asset is less than the life of the agreement with the Council (because the school may find itself with a redundant asset³⁸);
 - if the Council has significant reservations about a school's ability to be able to afford the repayments
 - for any purpose that would contravene a “competing facility” clause with any Council Contract.

³¹ The scheme can only operate in respect of expenditure deductible from the Schools Budget under the s.46 Regulations.

³² A capital asset is any equipment, new building work, or substantial improvement to existing buildings that will provide benefit for longer than one financial year. Capital expenditure is normally defined by the Council as greater than £15,000. However, the loan scheme is available for expenditure greater than £5,000

³³ Does not conflict with the general legal position of on what schools may spend their delegated budgets.

³⁴ If loans are made to fund a deficit the Secretary of State will consider using powers under the Academies Act 2010 to direct that the loan does not transfer to the new academy school.

³⁵ The scheme can only operate in respect of expenditure deductible from the Schools Budget under the s.46 Regulations.

³⁶ A capital asset is any equipment, new building work, or substantial improvement to existing buildings that will provide benefit for longer than one financial year. Capital expenditure is normally defined by the Council as greater than £15,000. However, the loan scheme is available for expenditure greater than £5,000

³⁷ Does not conflict with the general legal position of on what schools may spend their delegated budgets.

³⁸ For ICT equipment, loans will not normally be granted for more than 4 years.

- f) The minimum value is £5,000, and the maximum value is defined as “such that over the life of the loan, each annual payment (for both loans and, if applicable Licensed Deficit recovery plan³⁹) shall not exceed 1½% of the school’s annual budget share
- g) The maximum value of funds available for the loan scheme and licensed deficits shall be determined annually by the Director of Resources but cannot exceed 40% of school surplus balances that are held by the Council.
- h) Where the demand for loans exceeds the funding available, loans will be awarded on a first come first served basis.
- i) All loan applications must be approved by a resolution of the governing body. The Director of Resources and the Corporate Director of Education & Children’s Services may jointly approve loan applications provided they are satisfied the application meets the detailed requirements of the scheme. Applications outside the scope of this scheme may not be approved under any circumstances.
- j) Interest will be charged in a manner determined annually by the Director of Resources⁴⁰. Schemes related to energy efficiency improvements are interest free. The interest rate initially agreed with the school will be fixed throughout the loan.
- k) Loans may be repaid earlier than originally agreed, at any time, and with no interest “penalty”. **Where schools have larger balances (>8% primary & special, >5% secondary), the excess balance will be automatically used to pay off the loan earlier, regardless of the stated intention to use the accumulated balances.**

³⁹ Schools with Licensed Deficits are not prohibited from accessing the loan scheme, but the 1.5% of annual budget repayments limit still applies and will be calculated as such to include the Licensed Deficit plan, even though, strictly speaking there is no “repayment” of a deficit.

⁴⁰ Currently this is the interest rate paid on school surplus balances plus one percent, interest is chargeable on the balance outstanding at 1st April.

SECTION 5: INCOME

5 INCOME

5.1 Income from lettings

5.1.1 Schools may retain income from lettings of the school premises that would otherwise accrue to the Council, subject to alternative provisions arising from any joint use, PFI/PPP or other partnership agreements, or for VA Schools (see below). Schools may cross-subsidise lettings for community and voluntary use with income from other lettings, provided the governing body is satisfied that this will not interfere to a significant extent with the performance of any duties imposed on them by the Education Acts, including the requirement to conduct the school with a view to promoting high standards of educational achievement. . Schools are required to have regard to directions issued by the Council as to the use of school premises as permitted under the SSAF Act 1998.

5.1.2 Income from lettings received by Voluntary Aided schools may be paid into a Governors account if they are the legal entity responsible for the property. Schools should agree appropriate remuneration with Governors for any associated costs (e.g. heating, lighting and caretaking) so that there is no net cost to the budget.

5.2 Income from fees and charges

5.2.1 Schools retain income from fees and charges except where a service is provided by the Council from centrally retained funds. Schools are required to have regard to any policy statements on charging produced by the Council. Every governing body is required to have a published policy on Charges and Remissions, and should review the level of charges and remissions annually.

5.2.2 All income from charges shall accrue to the school budget share, and should not be paid into voluntary or private funds held by the school.

5.3 Income from fund-raising activities

5.3.1 Schools are allowed to retain income from fund-raising activities.

5.4 Income from the sale of assets

5.4.1 Sales of assets must adhere to the procedures prescribed by the Council. Schools retain the proceeds of sale of assets except where the asset was purchased with non-delegated funds e.g. specific grants or the asset concerned is land or buildings forming part of the school premises and is owned by the Council. In such cases all income will accrue to the Council or the funds provider.

5.5 Income from Leasing & Rental Agreements⁴¹

5.5.1 Schools will normally be allowed to retain income from lease or rental agreements, but this is subject to the formal agreement of the Council.

5.5.2 Schools may not enter a leasing or rental of their buildings agreement of any value without the prior specific agreement of the Council. Agreement will not be withheld provided the school can demonstrate that the criteria out-lined below are met:

- a) Agreements do not conflict with the Council's obligations regarding school place planning, school organisation and approved admission arrangements, and the Council's Asset Management Plan.
- b) Any agreements entered into must demonstrate Value for money, and comply with the Schools Rules for Contracts and Financial Regulations.

⁴¹ Read in conjunction with section 2.21

- c) Any agreement must comply with the specific leasing conditions as advised by the Council.
- d) The Solicitor to the Council approves that the terms and conditions are reasonable, and that the Council's interests are properly protected, and that appropriate exit and financial review clauses are in place.
- e) Agreements ensure Lessees and other prospective occupiers of School Land/Buildings are not allowed to take possession of or enter the land until a lease or agreement, in a form approved by the Director of Education in consultation with the Director of Resources, has been signed by the relevant parties.

5.6 Administrative procedures for the collection of income

- 5.6.1 Schools must adhere to procedures notified by the Director of Resources; particularly around VAT procedures (refer to section 7).
- 5.6.2 The Council may provide separate guidance on the collection of income accruing to the Council e.g. where a school has contracted with the Council's catering service and the Council's guidance in respect of cashless systems.

5.7 Purposes for which income may be used

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

SECTION 6: THE CHARGING OF SCHOOL BUDGET SHARES

6 CHARGING SCHOOL BUDGET SHARES

6.1 General provisions

- 6.1.1 The Council may charge the budget share of a school without the consent of the governing body only in circumstances expressly out-lined below in 6.2 below⁴². The Council will consult schools as to the intention to so charge, and notify schools when it has been done. Any unresolved dispute will be referred to the Chief Executive.
- 6.1.2 In general terms the Council may recover fines, penalties, contract or invoice costs, or charge the school remedial costs incurred by the Council, where the school:
- acts contrary to the advice of the Council or in breach of its policies,
 - has not informed the Council and obtained the Council's permission to proceed in respect of decisions or actions that cause the Council expense;
 - behaved in an unreasonable manner e.g. broken agreements or contracts or failed to implement lawful instruction or direction;
 - breached statutory or regulatory responsibilities
 - failed to make provision where required to do so under financial or other statutory provision e.g., provision of education, meeting need of statemented pupils, health & safety, capital maintenance; statutory or local data/information returns.
- 6.1.3 The Council must charge the salaries of school based staff to the budget share of a school at actual cost.
- 6.1.4 The Council may de-delegate funding for permitted services without the express permission of the governing body, providing this has been approved by School Forum.

6.2 Circumstances in which charges may be made

- 6.2.1 Premature retirement costs incurred without the prior written agreement of the Council to bear such costs. The amount chargeable to the school will be the excess over any amount the Council would normally fund within its normal policies.
- 6.2.2 Costs incurred by the Council in respect of the dismissal, or for the purpose of securing the resignation, of any member of the staff of a maintained school shall be met from the school's budget share for any financial year in so far as the Council has good reason⁴³ for deducting those costs, or any part of those costs⁴⁴, or where the school has not followed the Council's advice.
- 6.2.3 Awards⁴⁵ against the Council⁴⁶ arising from action or inaction by the governing body contrary to the Council's advice, or where the governing body has failed to notify the Council prior to the event will be chargeable to the school. This includes expenditure incurred by the Council

⁴² For each of these circumstances (except 6.2.11) the LA 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. (Statutory Guidance Issue 4 2006)

⁴³ (Education Act 2002) "The fact that the Council has a policy precluding dismissal of their employees by reason of redundancy is not to be regarded as a good reason for the purposes of subsection (5); and in this subsection the reference to dismissal by reason of redundancy shall be read in accordance with section 139 of the Employment Rights Act 1996 (c. 18)". The Council normally interprets that a school pays staff restructuring costs, including redundancy when the school is restructuring for its own purposes rather than, for example where falling rolls trigger the need for staff reductions.

⁴⁴ Education Act 2002, part 3 para. 37

⁴⁵ Awards by any courts, tribunals or out of court settlements, may sometimes be against the governing body directly and would be chargeable to the school from the budget share. Where the Council 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 Council's expenditure protects the Council's position.

⁴⁶ Including Tribunals or out of court settlements. Tribunals include industrial Tribunals, SEN Tribunals or other directing decision-making bodies such as Appeals Panels, Planning Committees, Ombudsman, etc.

where the school fails to implement any direction or remedy, and the Council has to take corrective or remedial action.

- 6.2.4 Expenditure by the Council in carrying out health and safety work or capital expenditure for which the Council 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 Council, of a capital or revenue nature to remedy a situation where a school has failed to maintain its buildings to an adequate standard, and where the responsibility to do so lies with the school as described in Section 13. The Council may also charge expenditure incurred by the Council in making good defects in building work funded by capital or revenue spending from budget shares, where the Council owns the premises or where the school has voluntary controlled status. This also applies where a school has not purchased "Package 1 – Mandatory & Legislative" of the Property Services packages, and inspection reveals the school is breaching statutory requirements. The necessary testing, inspections, and if necessary remedial works shall be commissioned by Property Services, with all costs being charged to the school budget.
- 6.2.6 Expenditure incurred by the Council that has to insure 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 Council.
- 6.2.7 Recovery of monies due from a school for services provided to the school, where a dispute over the monies due has been referred to a disputes procedure set out in a service level agreement and the result is that monies are owed by the school to the Council.
- 6.2.8 There are statutory provisions regarding the payment of interest on late payments to suppliers. Any such interest charged by suppliers will be chargeable against the school budget, unless there was a widespread system failure by the Council that meant the Council as a whole was faced with the prospect of making interest payments.
- 6.2.9 Recovery of any fine, penalty, compensation or any other cost imposed on the Council by HM Revenue & Customs, the Contributions Agency, Teachers Pensions Agency, Health & Safety Executive, Ombudsman, Tribunal, Information Commissioner, or any other regulatory body as a result of school action or inaction being unreasonable, negligent, or through the negligence of a contractor employed by the school⁴⁷, or as a result of late or inaccurate submission of data, or through the failure of the school to implement any required action directed by such bodies. The Council may also charge to the school any expenditure it incurs in remedying the body's findings.
- 6.2.10 Correction of Council errors in calculating charges to a budget share (e.g. pension deductions). Note that such charges will be reasonable, and where, for example, the charges go back many years, the Council may decide not to charge the whole amount, depending on the circumstances of each case.
- 6.2.11 Additional transport costs incurred by the Council arising from decisions by the governing body on the length of the school day, and failure to notify the Council of non-pupil days resulting in unnecessary transport costs.
- 6.2.12 Legal costs incurred by the Council because the governing body did not accept the advice of the Council (see also section 11).
- 6.2.13 Costs of necessary health and safety training for staff employed by the Council, where funding for training has been delegated but the necessary training has not been carried out.
- 6.2.14 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.
- 6.2.15 Cost of work done in respect of teacher pension remittance and records for schools using non-Council payroll contractors, the charge to be the minimum needed to meet the cost of the

⁴⁷ E.g. a non-Council payroll contractor makes wrong pension or NI or tax payments, or a school doesn't purchase Property Services Package 1 and there is a financial penalty from a health & safety incident where the external contractor was at fault.

Council's compliance with its statutory obligations. The Council may also recover the cost of work done in respect of other initiatives adopted by the Council e.g. childcare voucher or cycle to work schemes, where the administration is undertaken by the Council rather than the non-Council payroll contractor.

- 6.2.16 Costs incurred by the authority in securing provision specified in an Education, Health and 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 or specific funding for a pupil with high needs.
- 6.2.17 Costs, loss of income or any other penalty leading to financial loss, incurred by the Council due to submission by the school of incorrect or late data.
- 6.2.18 Recovery of amounts spent from specific grants or devolved funding on ineligible purposes.
- 6.2.19 Costs incurred by the Council as a result of the governing body being in breach of the terms of a contract, or any other legal duty.
- 6.2.20 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. Furthermore costs resulting from the actions of cluster arrangements (e.g. severance) can be charged to school budget shares.
- 6.2.21 Costs incurred by the authority or another school as a result of a school withdrawing from a school company. Furthermore costs resulting from the actions of school company arrangements (e.g. severance) can be charged to school budget shares.
- 6.2.22 Recovery of any amount including interest, in relation to any licensed deficit or Asset Purchase agreement, where the school breaches the conditions of that agreement.
- 6.2.23 Deduction of excess school balances as described in section 4.2.
- 6.2.24 Any expenditure incurred by the Council in respect of PFI/PPP or other partnership projects entered into by the Governing Body.
- 6.2.25 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.
- 6.2.26 Costs incurred by the authority in administering admissions appeals, where the local authority is the admissions authority and the funding for admission appeals has been delegated to all schools as part of their formula allocation.

SECTION 7: TAXATION

7 TAXATION

7.1 VALUE ADDED TAX

- 7.1.1 Schools must comply with all VAT requirements as outlined by the Director of Resources. Detailed procedures are issued by the Director of Resources, and any revisions may override provisions in this Scheme.
- 7.1.2 VAT reclaimed correctly based on corporate procedures will be passed back to schools.
- 7.1.3 HM Revenue & Customs have agreed that VAT incurred by schools when spending any funding made available by the Council is treated as being incurred by the Council and qualifies for reclaim by the Council. This does not include expenditure by the governors of a VA school when carrying out their statutory responsibilities to maintain the external fabric of their buildings.
- 7.1.4 Schools with their own bank accounts are required to provide the Council with such information and at such times as is necessary for the Council to make the required returns to HM Revenue & Customs. The Council will re-pay all validly reclaimed monies to schools bank accounts on a monthly basis.
- 7.1.5 Schools without bank accounts are also required to comply with the Councils procedures but will not be required to make monthly returns to the Council. School budgets will be charged net of VAT; therefore no actual transfer of funds is required.
- 7.1.6 Schools must have particular regard to the application of VAT rules to school fund/school transaction and also to the VAT position of Extended School activities and the provisions of Section 14 on Community Facilities.

7.2 CIS (Construction Industry Scheme)

- 7.2.1 Schools are required to comply with all CIS requirements as outlined in detailed procedures issued by the Director of Resources⁴⁸.

⁴⁸Schools became exempt from CIS from April 2007. However the Council continues to require that schools continue to ask for CIS details from suppliers. This is because any suppliers set up on Oracle could potentially be used by other parts of the Council which still fall within the CIS regime. The risk is that if one of these suppliers then also did work for the wider Council and the Council didn't have their CIS details, the Council could pay them in error and be liable for prosecution. In terms of bureaucracy, the collection of CIS details is no longer the lengthy process that it used to be. Schools can take CIS details over the phone from the supplier, and the system should not represent a major burden. Finally, there is no guarantee from HM Revenue & Customs perspective that schools will remain exempt so the Council currently feels its best practise to continue with the CIS recording as it exists.

SECTION 8: THE PROVISION OF SERVICES AND FACILITIES BY THE COUNCIL

8 COUNCIL SERVICES PROVIDED TO SCHOOLS

8.1 Provision of services from centrally retained budgets

8.1.1 The Council will determine on what basis services from centrally retained funds will be provided to schools.

8.1.2 The Council is committed to closely working with schools to agree as far as possible the relative deployment of non-delegated resources and services, service quality improvements and the criteria for providing non-delegated services to schools.

8.1.3 The Council will not discriminate in its provision of services on the basis of categories of schools except where such discrimination is except where this would be permitted under the School and Early Years Finance Regulations or the dedicated schools grant conditions of grant.

8.1.4 The definition of services encompasses all expenditure within the Schools Budget.

8.2 SLAs and Time-scales for the provision of services bought back from the Council

8.2.1 Where a school purchases a package from the Council, the maximum period shall be three years from the date of the agreement, and five years for any subsequent extension. The exception to this is Catering, where the maximum period may be five years, and seven years for any subsequent extension.

8.2.2 The terms of any agreement with schools will be reviewed at least every 3 years in those cases where arrangements exceed 3 years.

8.2.3 Services offered by the Council will be available on a basis that is not related to an extended agreement, as well as such agreements.

8.2.4 Where either party proposes a substantial change to the level of service, either party may invoke a six-month notice period. However there is a commitment from the Council that where schools wish to vary the level of service, this notice period will only be used in exceptional circumstances, e.g. where the effect jeopardises the service provision for all schools or where redundancies are likely, or where the service contains elements of external contractual commitments. Changes will normally take effect from 1 April.

8.2.5 Where the Council provides a service on a buyback basis this must be offered in a way which does not unreasonably restrict schools' freedom of choice among the services available and where practical will include provision on a service-by-service basis as well as in packages of services.

8.2.6 The Council does not package different services together. Pricing policy is a matter for the Council, but in general, charges are higher for "bespoke" packages or pay on use basis than for the standard service package.

8.2.7 Agreements will be in place by 1 April to be effective for the following financial year, and schools should have at least one month to consider the terms of the agreements.

8.2.8 Note that centrally arranged premises and liability insurance are excluded from the above requirements as the limitations may be impracticable for insurance purposes.

8.3 Packaging & Pricing

8.3.1 Where a service is provided, for which expenditure is not retainable centrally by the Council under the Regulations made under section 45a of the SSAF Act 1998, it must be offered at prices which are intended to generate income which is no less than the cost of providing

those services. The total cost of the service must be met by the total income, even if schools are charged differentially⁴⁹.

8.4 Teachers' Pensions – Submission of Information

- 8.4.1 In order to ensure that the performance of the duty on the Council to supply Teachers Pensions with information under the Teachers' Pensions Regulations 1997, the following conditions are imposed on the Council 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 Council to provide payroll services.
- 8.4.2 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 Council 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 Council which the Council requires to submit its annual return of salary and service to Teachers' Pensions and to produce its audited contributions certificate. The Council 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 Council within the time limit specified in the AVC scheme. The governing body shall meet any consequential costs from the school's budget share.
- 8.4.3 A governing body of any maintained school which directly administers its payroll shall supply salary, service and pensions data to the Council which the Council requires to submit its annual return of salary and service to Teachers' Pensions and to produce its audited contributions certificate. The Council 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 Council within the time limit specified in the AVC scheme. The governing body shall meet any consequential costs from the school's budget share.

⁴⁹ This provision complements the implied requirements of the regulations on central retention of funds. It is recognised that absolute break-even or profit is not always achievable over fixed financial years: it is for the Council to show during audit tests that the charging policy can reasonably be expected to avoid central subsidy of services. Therefore the Council shall periodically review the costing of each service, and if necessary adjust the prices charged, or the amount delegated, to ensure the Self Management Services are not being either cross-subsidised, or making "excessive profits" from income received from schools. (DFE Statutory Guidance Issue 4).

SECTION 9: PFI/PPP & OTHER PARTNERSHIP CONTRACTS

9 PFI/PPP & OTHER PARTNERSHIP CONTRACTS

9.1 PFI/PPP & Other Partnership Contracts

- 9.1.1 No school may commit to a PFI (Private Finance Initiative) or PPP (Public Private Partnership) or other partnership project without the approval of the Council. Any school that wishes to consider this type of project should submit a draft project outline to the Council as soon as practical which identifies the benefits of and funding for the project.
- 9.1.2 The Council has a power to charge against schools budget shares any expenditure incurred in respect of PFI or PPP or other partnership projects entered into by the Governing Body.

SECTION 10: INSURANCE

10 INSURANCE

10.1 Insurance cover

- 10.1.1 Insurance is delegated to schools under a local authority wide contract. Where a school wishes to consider using alternative insurance arrangements, the Council will require the school to demonstrate that cover relevant to the Council's insurable interests, under a policy arranged by the governing body, is at least as good as the relevant minimum cover arranged by the Council.
- 10.1.2 The evidence required to demonstrate the parity of cover should be reasonable, not place an undue burden upon the school, nor act as a barrier to the school exercising their choice of supplier.
- 10.1.3 In making such a judgment, the Council will have regard to the actual risks which might arise at the school in question, rather than applying a minimum level of cover for all schools⁵⁰.
- 10.1.4 Where a governing body proposes cover that is not considered to be the minimum relevant Council arranged cover, then the Council shall be entitled to continue to arrange full cover for this insurable interest and make direct charges to the school to recover the full cost of doing so (see section 6).

⁵⁰ The Council will also refer to national guidance as appropriate, for example, in the LEA Financial Guidance for schools issued by the DFE in July 1999, the following guideline cover levels were suggested for non-property insurance: Business interruption: £100,000 to £250,000, Contract works: £500,000, Money: £25,000 but cheques £250,000, Fidelity guarantee: £250,000, Employers and public liability: at least £10m any one incident, Governors' liability: £500,000, Libel and slander £100,000 any one incident, Legal expenses: £100,000. Note that these categories are not exhaustive, and are illustrative only

SECTION 11: MISCELLANEOUS

11 MISCELLANEOUS

11.1 Right of access to information

11.1.1 As well as specific requirements listed in this Scheme, governing bodies must also supply to the Council all the information that it might reasonably require. This is to enable the Council to satisfy itself as to the school's management of its delegated budget share and to the use made by the school of any central expenditure of the Council (e.g. earmarked funds).

11.2 Liability of governors

11.2.1 The governing body is a corporate body, and because of the terms of s.50 (7) of the SSAF Act 1998, governors of maintained schools will not incur personal liability in the exercise of their power to spend the delegated budget share provided they act in good faith.

11.2.2 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.

11.3 Governors' expenses

11.3.1 The Council may delegate to the governing body of a school yet to receive a delegated budget, funds to meet governors' expenses. The Council will set the amounts of such expenses.

11.3.2 Under Section 50 of the School Standards and Framework Act 1998, only allowances in respect of purposes specified in regulations may be paid to governors from a school's delegated budget share. No other allowances or payments can be paid. Schools are also barred from payment of expenses duplicating those paid by the Secretary of State to additional governors appointed by him to schools under special measures.

11.4 Responsibility for legal costs⁵¹

11.4.1 Legal costs, including costs awarded against the Council (and out of court settlements), incurred by the governing body that are normally the responsibility of the Council as part of the cost of maintaining the school unless they relate to the statutory responsibility of aided school governors for buildings), may be charged to the school's budget share unless the school acts in accordance with the advice of the Council.

11.4.2 Schools will not be reimbursed with the cost of legal action against the authority itself.

11.4.3 Where the Solicitor of the Council determines there is a conflict of interest between the Council and the governing body, he will provide details explaining the procedure that schools should follow in obtaining legal advice.

11.5 Health and Safety⁵²

11.5.1 In managing the school's budget share, governing bodies should have due regard to duties placed on the Council in relation to health and safety (H&S), and the Council's policy on health and safety matters.

11.6 Right of attendance for Chief Finance Officer

11.6.1 Governing bodies are required to permit the Director of Resources, or any Officer of the Council nominated by him, to attend meetings of the governing body at which any agenda items are relevant to the exercise of her or his responsibilities⁵³.

⁵¹ The costs referred to are those of legal actions, including costs awarded against an LA; not the cost of legal advice provided (DFE Issue 4)

⁵² For further guidance see Health & Safety: Responsibilities & Powers (DfES Organisation & Management DfES/0803/2001)

⁵³ The Chief Finance Officer's attendance should normally be limited to items which relate to issues of probity or

11.7 Delegation to new schools

11.7.1 The Council may delegate selectively and optionally to the governing bodies of schools that have yet to receive delegated budgets.

11.7.2 By virtue of section 49 of the SSAF Act 1998 a new school must receive a delegated budget in the funding period prior to the funding period within which it opens (that is to say, the funding period during which it first admits pupils), unless the Council has obtained the Secretary of State's approval to make arrangements in place of those in the regulations⁵⁴.

11.8 Special Educational Needs

11.8.1 Schools must use their best endeavours in spending the budget share, to secure the special educational needs of their pupils. This is a statutory requirement for schools and the Council may issue a notice of concern or suspend delegation where a situation is serious enough to warrant it.

11.9 Interest on late payments

11.9.1 There are now statutory provisions regarding the payment of interest on late payments to suppliers. Any such interest charged by suppliers will be chargeable against the school budget, unless there was a widespread system failure by the Council that meant the Council as a whole was faced with the prospect of making interest payments.

11.10 'Whistleblowing' – Policy & Procedure

11.10.1 The Council has set out a policy that describes the process to be followed by persons working at a school or school governors who wish to raise serious concerns about any aspects of a school's operations, including financial management. Internal Audit must be contacted whenever there are concerns about financial or contractual matters as noted in the Authority's Financial Regulations document.

11.11 Child Protection & Safeguarding

11.11.1 Schools must release appropriate staff to attend child protection case conferences and other related events.

11.12 Disclosure and Barring Service Checks

11.12.1 All Governing Bodies must ensure an enhanced DBS disclosure is undertaken for all schools posts, and must comply with any national or local guidance issued by the government or the Council.

11.13 Redundancy/early retirement costs

11.13.1 The 2002 Education Act (see section 6.2.2 and footnote 43) sets out how premature retirement and redundancy costs should normally be funded.

11.14 Other general requirements

11.14.1 Schools are required to fulfill statutory responsibilities in the spending of their budget shares. Where a school seriously or repeatedly breaches this scheme requirement the Council is able to suspend delegation.

overall financial management; such attendance should not be regarded as routine. The LA should give prior notice of such attendance unless this is impracticable (DFE Issue 4)

⁵⁴ Authorities may wish to delegate some spending powers to the temporary governing body of a new school before it has a delegated budget. To comply with section 49(4), the authority's scheme should contain a provision which empowers the authority to delegate spending powers to new schools without delegated budgets on this selective basis, while leaving it to the authority to decide whether and to what extent to exercise the power in each individual case. (No such provision is required in relation to schools whose delegated budgets have been suspended, since their position in this respect is expressly covered by section 49(4) (b) and paragraph 4 of Schedule 15 to the Act.) (DFE Issue 4)

SECTION 12: RESPONSIBILITY FOR REPAIRS AND MAINTENANCE

12 REPAIRS AND MAINTENANCE

12.1 Grounds Maintenance

12.1.1 Responsibilities are as for Buildings Maintenance – all responsibilities fall to the School, including revenue maintenance for spend <£15,000, Capital where works are >£15,000.

12.2 Buildings Maintenance - General

12.2.1 The definition of revenue and capital expenditure is defined as >£15,000 is capital and <£15,000 is revenue. Schools are responsible for funding all revenue and Capital works.

12.2.2 Schools of all categories are fully responsible for all revenue and capital maintenance for their school buildings and grounds and associated facilities. The requirement is for schools to maintain to an adequate standard. A list of responsibilities for specific major items is shown in Annex E. For definitions to capital/revenue maintenance works, guidance will be sought by reference to the DFE interpretation of the CIPFA Code of practice provided at Annex C of the Statutory Guidance for Local authorities issue 4 October 2006 (or later if re-issued).

12.2.3 Where a school does not maintain its buildings, grounds or associated facilities to an appropriate standard, the Council may intervene to remedy the situation and charge the school revenue budget all reasonable costs arising.

12.2.4 The Council will make available to all schools a revenue service package⁵⁵ (“Package 1”) covering the essential minimum statutory elements in respect of revenue funded maintenance. All schools must either buy into this package or provide evidence of having secured an alternative that the Council approves as satisfactory. A range of other service packages to assist schools in meeting their revenue and capital maintenance and refurbishment responsibilities will also be offered through Property Services. Special arrangements may apply at PFI/PPP or other newly built schools.

12.2.5 For primary and special schools maintained by the Council, the Council will operate a “pool” system in respect of significant (e.g. major capital related maintenance) responsibilities.

12.2.6 The details may be revised from time to time in consultation with the School Forum, but the key features are:

- a) Compulsory participation for all maintained infant, junior, primary and special schools. However schools with a PFI contract that covers all maintenance are excluded, as are schools falling under other specific arrangements, e.g. the north School Regeneration programme, as are voluntary aided schools where governors are responsible for capital maintenance.
- b) The pool will be funded by a prescribed proportion of a participating school’s Devolved Formula Capital.
- c) The pool cannot be spent on any other purpose than that described in the SLA referred to above.
- d) The details of the proportion of DFC to be retained for the pool and the capital works included, and other specific details will be described in a separate document “Service Level Agreement for the Management of the Building Maintenance Pool for Primary and Special Schools in Solihull”.

⁵⁵ Schools will have this package automatically unless they can demonstrate an alternative arrangement, designed to meet all the requirements of the Health & Safety at Work Act and associated Legislation where required. Non compliance with this package will result in the Council effecting remedial action and direct charging the school accordingly.

12.3 Other Building Responsibilities

- 12.3.1 Any new buildings must be approved through the Council's procedures and formally handed over to the Council and thus form part of these maintenance responsibilities of schools. Schools must formally identify proposals for maintenance of any new buildings that are constructed or placed on the schools site, including those to be maintained/operated by a third party.
- 12.3.2 This includes installation of new dual use or community facilities such as Nurseries, Community Facilities and Artificial Sports Surfaces.
- 12.3.3 Asbestos – For major works, refurbishment or minor revenue repairs, asbestos related work forms part of the project considerations and as such will be funded from the project's budget.
- 12.3.4 Schools must provide notification of any intention to improve and/or affect the fabric of their buildings to the local authority. This is required so that the Council holds appropriate records of any changes made to building layouts and structures. This is irrespective of how any works are to be funded. The school must ensure the Council agrees to any works prior to them being undertaken.

SECTION 13: COMMUNITY FACILITIES

13 COMMUNITY FACILITIES

13.1 The legal framework

13.1.1 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.

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

13.1.3 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 School Standards and Framework Act 1998 as amended by paragraph 2 of Schedule 3 to the Education Act 2002.

13.1.4 This amendment extended the coverage of schemes to include the exercise of the powers of governing bodies to provide community facilities.

13.1.5 Schools are therefore subject to prohibitions, restrictions and limitations in the scheme for financing schools. This part of the scheme does not extend to joint-use agreements, transfer of control agreements, or agreements between the authority and schools to secure the provision of adult and community learning.

13.2 The legislation includes a range of controls:

- a) The Secretary of State can specify activities which cannot be undertaken under this power⁵⁶
- b) Schools must have regard to advice issued by the Secretary of State
- c) Schools cannot do anything that is contrary to their own instruments of government
- d) Schools must comply with the requirements of this Scheme⁵⁷

13.3 The role of the scheme

13.3.1 This section sets out the requirements of this Financial Scheme covering the provision of community facilities. Schools should be aware that mismanagement of community facility funds could be grounds for suspension of the right to a delegated budget⁵⁸.

13.3.2 This section does not apply to joint-use agreements, transfer of control agreements, or agreements between the Council and schools to secure the provision of adult and community learning.

13.3.3 Unless specifically referred to in this section, all relevant sections of this Scheme apply to community facilities.

13.4 Advice from the Council

13.4.1 Prior to committing to the establishment of the Facility, schools should seek advice from the Council, particularly where the facility may involve extensive building modifications, significant

⁵⁶ Section 28(2) of the Education Act 2002

⁵⁷ As made under Section 48 of the School Standards and Framework Act 1998

⁵⁸ Schedule 3 of the Education Act 2002 inserts a new provision into Schedule 15 of the Act to make mismanagement of funds received for community facilities a basis for suspension of the right to delegation of the budget share.

financial risks, or involve the establishment of legal agreements. The Council will respond to the consultation and give advice on the proposals within six weeks of receipt. Advice given in response to consultation would be free of charge.

- 13.4.2 Initial Council advice will be free, but is limited to an initial recommendation. Where major advice or support is required, schools will need to purchase support from the relevant professional services (finance, legal, HRE, ICT, etc.). Fees for these services would have to be met from the community facilities account and not the school's delegated budget. Services would not have to be purchased from the Council but schools should satisfy themselves that external providers are in a position to offer sound professional advice without a conflict of interest.

13.5 Third party agreements

- 13.5.1 Proposed agreements with third parties (i.e. other than with the Council) must be submitted to the Council for comment before being signed. Comments would be provided within 20 working days. The Council cannot veto or require that it countersign third party agreements.
- 13.5.2 However, schools are reminded that an agreement concluded without either seeking or acting upon the Council's advice, which in the view of the Council, is seriously prejudicial to the interests of the school or the Council, may constitute grounds for suspension of the school's delegated budget.
- 13.5.3 Where the third party requires Council consent for an agreement to proceed, this would be a matter for the third party and not this scheme. The Council requires any such proposed agreement to be submitted to the Council for comments at least 1 month before the start of any such agreement.

13.6 Funding Agreements with the Council

- 13.6.1 The Council may enter into funding agreements with schools for the provision of community facilities.

13.7 Limited companies

- 13.7.1 Section 11(1) of the Education Act 2002 enables governing bodies to form, or participate in forming, limited companies. The liabilities of companies can be limited by share or guarantee.
- 13.7.2 The governing bodies must follow the appropriate regulations and guidance⁵⁹ in setting up a limited company and must obtain approval from the Director of Resources in advance of incorporation.
- 13.7.3 The Council can require a school to form a limited company to provide community facilities where it has serious concerns about the financial viability of a proposal or about its potential financial implications to the Council. The concerns must have been expressed in its response to consultation and not adequately addressed by the school.

13.8 Indemnity insurance

- 13.8.1 The Council can require a school to take out indemnity insurance where it has serious concerns about funding agreements with third parties. These concerns must have been expressed in its comments on the proposed agreement and not adequately addressed by the school or the third party.

13.9 Supply of Financial Information

- 13.9.1 The Council may require schools which exercise the community facilities power to provide the Council every six months with a summary statement, in a form determined by the Council, 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.

⁵⁹ The School Companies Regulations 2002, DfE Guidance on how to form a school company

13.9.2 The Council, on giving notice to the school that it 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, may require such financial statements to be supplied every three months⁶⁰ and if the Council sees fit, to require the submission of a recovery plan for the activity in question.

13.10 Pupil welfare

13.10.1 The Council can prohibit a community facility where there are serious concerns about pupil welfare. The concerns must have been expressed in its response to consultation and not adequately addressed by the school.

13.11 Initial budget plan

13.11.1 Schools should supply a budget plan showing estimated expenditure and income for the community facility for three years as part of consultation with the Council. The plan would identify expenditure according to the standard headings used for delegated budgets e.g. staff, premises, etc. and all sources of income.

13.12 Actual income and expenditure statements and subsequent plans

13.12.1 Schools are required to submit a statement of actual expenditure and income after six months and a revised plan for the following six months. If this is satisfactory future returns will be part of the normal arrangements under the Consistent Financial Reporting (CFR) framework.

13.13 Unsatisfactory statements

13.13.1 If the Council is not satisfied with financial submissions and has concerns about the financial management of a community facility it can give the school notice that it requires a statement every three months. Three-monthly statements would continue until the Council is satisfied with the financial management of the facility. Schools showing a deficit on the community facility will be required to submit and agree a recovery plan.

13.14 Audit

13.14.1 All provisions relating to audit in this Scheme apply to community facilities. Schools must grant access to their records for any community facility in order to facilitate internal and external audit of relevant income and expenditure.

13.14.2 Funding agreements with third parties must include a clause allowing the Council's auditors to have access to the records and property of third parties relating to the community facility either held on school sites or elsewhere in order to satisfy itself as to the propriety of expenditure and income on the facilities.

13.14.3 Schools will not be charged by the Council for the audit of community facilities.

13.15 Treatment of income and surpluses

13.15.1 Schools will retain all surplus income over expenditure from the community facility unless funding agreements provide for a sharing arrangement. Surplus income earned on community facilities may be kept separate from the school's delegated budget and can be carried forward within a community facilities account.

13.16 Transfer of surpluses to the delegated budget

13.16.1 Surplus income can be paid into the school's delegated budget following agreement with the Council. In these circumstances the Council will require that a reasonable surplus be retained within the community facilities account to offset potential future deficits and liabilities.

⁶⁰ As per 2.2.3, schools may be required by the Council to submit returns on a more frequent basis. Schools will be notified in writing if more frequent returns are required and how frequent those returns need to be

13.17 Treatment of surpluses for closing schools

- 13.17.1 Surplus income on facilities run by community schools will revert to the Council if it ceases to maintain the school unless otherwise provided for in funding agreements. Surplus income for other categories of school will remain the property of the governing body if the Council ceases to maintain the school.
- 13.17.2 Where the Council is unable to agree a recovery plan with the Governing Body, the Council may order the closure of the facility.

13.18 Health and safety policy

- 13.18.1 Governing bodies must have due regard to health and safety including compliance with the Council's policy on health and safety matters when managing community facilities. Health & Safety provisions as described elsewhere in this Scheme apply equally to governors' responsibilities in operating community facilities. The Council may issue directions to the governing body of community, community special or voluntary controlled schools on health and safety matters for the community facility⁶¹.

13.19 Disclosure and Barring Service

- 13.19.1 Governing bodies must secure Disclosure and Barring Service clearance for any adults involved in community activities during the school day, or at any other time if required by national or local guidance. The costs of checks must be charged to the community facilities account and not the school's delegated budget, and will not be borne by the Council. Governing bodies must ensure adequate arrangements are in place where the facility is provided by a third party.

13.20 Insurance

- 13.20.1 Governing bodies are responsible for ensuring adequate insurance cover for community facilities. Schools should seek professional advice where necessary⁶².
- 13.20.2 Schools must notify the Council of insurance arrangements they have made for community facilities. The Council can make its own assessment and if cover is inadequate make appropriate arrangements. The cost of such arrangements will be charged to the school.

13.21 Taxation

- 13.21.1 Schools may not be able to reclaim VAT on expenditure on community facilities financed from third part funding agreements. VAT advice must be sought from the Council and schools must abide by any VAT advice so provided and comply with any VAT accounting instructions.
- 13.21.2 Any penalties imposed by HM Revenue & Customs can be charged to the school. If there are insufficient surplus funds in the community facilities account, penalties could be charged to the school's delegated budget in accordance with section 6.2 of this scheme.
- 13.21.3 If any member of staff is employed by the school or the Council, 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.

13.22 Construction Industry Scheme (CIS)

- 13.22.1 Schools must follow Council advice in relation to the Construction Industry Scheme where relevant to community facilities.

⁶¹ These directions are enforceable on governing bodies under Section 497 of the Education Act 1996

⁶² DFE note: 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.

13.23 Employment

- 13.23.1 Staff employed in community, community special, and voluntary controlled schools for community facilities would be Council employees⁶³. Staff employed in foundation and voluntary aided schools would be employees of the governing body. In either case school would be responsible for ensuring deductions are made for income tax, National Insurance, pensions and other statutory deductions and returns. If the activity is undertaken within a separate legal entity then different arrangements may apply.
- 13.23.2 Where the staff are Council employees terms and conditions must be consistent with the Council's normal terms & conditions and pay policies to avoid equal pay difficulties.
- 13.23.3 Penalties imposed by any court or tribunal or other body, (e.g. HM Revenue & Customs, the Contributions Agency, the Teacher Pensions Agency) can be charged to the school budget, which schools may then charge to the community facility account.
- 13.23.4 For staff employed under the community facilities power, the default position is that any costs must be met by the governing body, and can be funded from the school's delegated budget if the governing body is satisfied that this will not interfere to a significant extent with the performance of any duties imposed on them by the Education Acts, including the requirement to conduct the school with a view to promoting high standards of educational achievement.
- 13.23.5 The Council will therefore not meet the cost of redundancies, premature retirement, or securing the resignation of staff. Section 37 of the Education Act 2002 states that where a local education authority incurs costs in respect of premature retirement, dismissal, or for the purpose of securing the resignation the local authority shall recover those costs from the governing body except in so far as the authority agree with the governing body in writing (whether before or after the retirement, dismissal or resignation occurs) that they shall not be so recoverable.

13.24 Banking

- 13.24.1 Schools must not maintain a separate bank account for income and expenditure on community facilities separate from the delegated budget unless the activity has a separate legal status (e.g. under the auspices of a registered charity, trust or limited company). However it is vital that the school must ensure that suitable accounting controls are in place to properly code and account income and expenditure to separate accounts (cost centres) to the main school budget.
- 13.24.2 The Council can require revised accounting controls if an audit reveals an unsatisfactory segregation of income and expenditure between the schools delegated budget and community facilities. The same arrangements regarding the choice of bank, name of accounts and signatories as detailed in section 3 of this Scheme apply. Funding partners cannot be signatories to an account for community facilities.

13.25 Borrowing

- 13.25.1 Schools cannot borrow money for community facilities. The Council's loan scheme, described in section **Error! Reference source not found.** of this Scheme, is not available for community facility activities⁶⁴.

⁶³ Unless the facilities are provided by a limited company or other separate legal entity e.g. registered charity or a Trust.

⁶⁴ As school loans are from Schools Budget resources, to provide loans for community facilities would be ultra-vires.

SCHEDULE OF SCHOOLS WITHIN THE SCOPE OF THIS SCHEME

DfE No	School Name	DfE No	School Name
Primary Schools			
3310	Berkswell C of E VA Primary	2017	Sharmans Cross Junior School
3512	Bishop Wilson C of E Primary	2019	Shirley Heath Junior School
2000	Blossomfield Infant & Nursery	3302	St Alphege C of E Infant & Nursery School
2001	Burman Infant	3305	St Alphege C of E Junior School
2060	Castle Bromwich Infant	3501	St Andrew's RC Primary School
2059	Castle Bromwich Junior	3511	St Anne's RC Primary School
2087	Olton Primary School	3510	St Anthony's RC Primary School
2082	Cheswick Green Primary	3502	St Augustine's RC Primary School
2065	Coleshill Heath Primary	3503	St George And St Teresa RC Primary School
2004	Coppice Junior	3516	St John The Baptist RC Primary School
2005	Cranmore Infant	3314	St Mary And St Margaret's C of E Primary School
2098	Dickens Heath Community	2058	Tidbury Green Primary School
2008	Dorridge Primary	2089	Ulverley Primary School
5200	Fordbridge Primary	2024	Valley Primary School
3311	George Fentham Endowed School	2028	Widney Junior School
2090	Greswold Primary School	2066	Windy Arbor Primary
2011	Haslucks Green Junior	2026	Woodlands Infant School
2013	Kinton Green Primary	2033	Yew Tree Nursery J & I School
3517	Kingshurst Primary	2088	Yorkswold Primary School
3312	Lady Katherine Leveson C of E Primary		Secondary School
2091	Langley Primary School	4650	St Peter's RC School
2051	Marston Green Junior School		Special Schools
3010	Meriden C of E Primary School	7005	Forest Oak School
2031	Mill Lodge Primary School	7001	Hazel Oak School
2096	Monkspath J & I School	7007	Merstone School
2030	Oak Cottage Primary School	7002	Reynalds Cross School
3504	Our Lady Of Compassion RC Primary School		PRUs
3500	Our Lady Of The Wayside RC Primary School	1104	Summerfield
2085	Peterbrook Primary School	1102	Triple Crown

Scheduled to convert to academy status during 2019-20

GUIDANCE ON INDEPENDENT BANK ACCOUNTS AND FINANCE SYSTEMS

Subject to section 3.3.1, the School Funding Regulations permit schools to seek approval from the Director of Resources to operate an independent bank account. Where a school chooses to implement this option, they would also have to use an independent finance system. *Please note that because of the expense and difficulty involved in a school and the Council implementing an independent bank account, the Council does not anticipate this being an approach we would take in Solihull, so this section exists in the Scheme solely because of the Regulations.*

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

Proportion of budget share payable at each instalment

For schools with independent bank accounts or schools with bank accounts that choose to pay their own payroll expenditure, initial budget shares will be made available on a monthly basis in 1/12th instalments at the end of each month, for the period April to March.

All in- year changes to the initial schools' budget share for schools with independent bank accounts, together with in-year charges and refunds, will be paid (or deducted) as soon as possible, but no later than the month following notification.

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

Interest clawback & Interest on late budget shares

The fundamental principle is that there will be no financial loss or gain because of operating a separate bank account by either the Council or schools.

Where a school receives the whole budget share into a bank account other than the Council's bank account, no interest deduction will be made⁶⁵. Where schools have such accounts, they shall be allowed to retain all interest payable on the account.

Where schools operate bank accounts independent of the Council, the Council will pay interest on late payments of budget share where late payment is a result of Council error. The interest rate will be the lower of the Bank of England base rate or the interest rate the Council pays on school balances.

New bank account arrangements may only be made with effect from the beginning of each financial year. Schools without independent bank accounts cannot have one until any deficit balance is cleared.

The Council will transfer to the new bank account an amount agreed by the Council and the school as the estimated surplus balance held by the Council in respect of the school's budget share, on the basis that there is then a subsequent correction when the accounts for the relevant year are closed.

Restrictions on accounts

Subject to section 3.3.1, Schools may operate an independent bank account with any authorised institution included in the Council's Treasury Management Strategy, which is reviewed and approved annually.

Schools with bank accounts for budget share purposes may be in the form "schoolname", provided the school holds no other bank accounts with the same name e.g. for voluntary funds. Alternatively, the bank account must be in the form "SMBC-schoolname".

For any independent bank account, the account mandate shall provide that the Council is the owner of the funds in the account and that it is entitled to receive statements and that it can take away control of the account if the school's right to a delegated budget is suspended by the Council

Signatories for bank accounts may include Council employees or school employees (in the case of Trust or Foundation schools) but may not include governors, unless they are also employees.

⁶⁵ Because of the way the budget share is paid as described in section 3

SCHEDULE OF RESPONSIBILITIES FOR REPAIRS & MAINTENANCE

CAPITAL MAINTENANCE & REFURBISHMENT – COMMUNITY SCHOOLS ONLY

School Maintenance Responsibilities

The following list of responsibilities relates to major replacement/refurbishment or new works that may need to be undertaken by schools. It refers to works to be undertaken in excess of the £15,000 ceiling limit and includes any consequential repairs.

- a) **Foundation and all Structural Elements** – Major repair, underpinning or propping of foundations and structural elements due to failure or subsidence and resultant repointing and remedial works.
- b) **Roof Construction** – replacement of all or a substantial part of existing roof structure including sky lights flashings joists, rafters and the like. The replacement finish on the complete or a substantial part of an existing roof. Including all screed and insulation. Replacement/repair of roof members.
- c) **Structural Elements** – Major repair/replacement due to major defects or refurbishment of ground and upper floors, floor joists and boarding or concrete finishes including any internal inspection covers and resultant finishes as part of remedial works. Includes sprung and woodblock floors and thermoplastic floor finishes but not carpets or carpet tiles etc.
- d) **External Walls** – Repair/replacement as a result of major refurbishment and any resultant pointing of the whole or a substantial part of a building.
- e) **Window Frames, External Doors and Frames and all External Woodwork** - Planned replacement and upgrading as part of major window/door replacement programme to include glazing and fittings.
- f) **Electrical Installation** – Major refurbishment of the whole or substantial part of the installations including hardwiring and all socket, switches and light fittings. All mains switchgear and new control gear. Replacement of fire and alarm systems, bell systems, stage lighting, TV aerial systems, and lightning conductors. All associated builders work, making good and suspended ceilings to conceal installation. Replacement of security alarm systems when carried out as part of the electrical refurbishment of the school. Major upgrades to ICT infrastructure when carried out as part of the electrical refurbishment of the school. (Interim arrangements for ICT and security alarms are also the responsibility of the school).
- g) **Mechanical Installations**
 - (i) Major refurbishment or replacement of the whole or substantial part of the heating and boiler house plant including replacement of header and cold water tanks, hot water cylinders and associated pipework and electronic controls and wiring.
 - (ii) Major refurbishment or replacement of any air conditioning or air handling plant including wiring and controls and associated works and finishes.
 - (iii) Major refurbishment or replacement of swimming pool heating or filtration plant.
 - (iv) Refurbishment of the whole or a substantial part of heating pipework and radiators and air conditioning/air handling ducts and grills and any associated works including duct covers and insulation of new pipework.
 - (v) Replacement of entire sprinkler systems where these were installed as part of a newly constructed building.
- h) **Water, Gas and Electrical Services** - Renewal of all of the water, gas and electrical mains within the curtilage of the school site. Renewal of the whole of the water, gas, heating distribution pipework and electrical systems within school buildings.
- i) **Drainage** – the provision of new drainage associated with major refurbishment. The renewal of complete land drainage systems.
- j) **Lifts** – Lift replacement and major repair/refurbishments

- k) **External Works** – Replacement of whole artificial playing surfaces. Replacement of complete site boundary fencing. Repair or replacement of whole or substantial part of tarmac areas.

REVENUE REPAIRS COMMUNITY SCHOOLS ONLY

School Maintenance Responsibilities

All items listed above costing less than £15,000 together with all other building maintenance, equipment servicing repair and refurbishment works without regard to their global cost are the responsibility of the school.

In the event of query, guidance will be sought by reference to the DFE interpretation of the CIPFA Code of practice.

CAPITAL AND REVENUE MAINTENANCE AT V.A. SCHOOLS

At Voluntary Aided Schools, Governors have the entire responsibility for both all revenue repairs (funded through the Fair Funding Formula) and all Capital Refurbishment.

The DFE applies a different ceiling limit on capital for VA schools and holds those resources centrally under Devolved Formula Capital and LCVAP schemes.

CARETAKERS HOUSES FOR ALL SCHOOLS

These are the sole responsibility of the Governors (excluding those leased from Solihull Community Housing).

CATERING EQUIPMENT FOR ALL SCHOOLS

The Capital replacement of heavy-duty kitchen equipment at all schools including V.A will be the responsibility of the school in line with the full delegation of all catering resources. However, if schools choose to the buy-back option with Solihull Catering Service (SCS), with a minimum 3 year SLA, SCS will replace heavy equipment as required once equipment has been condemned or is declared not repairable by PST.

MANDATORY AND OTHER SERVICE PACKAGES FOR ALL SCHOOLS

All Schools have a duty under Health and Safety Legislation to ensure management systems are in place to secure the Health, Safety and Welfare of the occupants and visitors to school land and buildings.

The Council will make available to all schools a revenue service package **covering the essential minimum statutory elements** all schools must either buy into or provide evidence of having secured a satisfactory alternative. A range of further optional services to assist schools in meeting their revenue maintenance and refurbishment responsibilities will also be offered through Property Services. Special arrangements may apply at PFI/PPP schools.

OTHER BUILDINGS RESPONSIBILITIES

Any new buildings must be approved through the Council's procedures. Schools must formally identify proposals for maintenance of any new buildings that are constructed or placed on the schools site, which have not been accepted by the Council or which are to be maintained/operated by a third party. This includes installation of new dual use or community facilities such as Nurseries, Community Facilities and Artificial Sports Surfaces.

Asbestos – For major works, refurbishment or minor revenue repairs, asbestos related work forms part of the project considerations and as such will be funded from the project's budget. This is the case irrespective of who is funding the project

DEFINITION OF PROPERLY ASSIGNED RESOURCES FOR SURPLUS BALANCE CONTROL MECHANISM

Overview

As described in this Scheme, it is a fundamental component of delegated financial management that schools are allowed to carry forward accumulated balances (and deficits) from one year to the next.

However it is not acceptable for schools, either individually or collectively, to accumulate significant levels of reserves without clear reasons for doing so and without clear plans for the deployment of such reserves.

Schools may consciously plan to contribute to reserves for specific reasons, but all too often large balances arise as a result of too pessimistic budget planning, perpetual underestimating of income, or in-year under-spending.

Whatever the reason for a school having a particular level of reserves, it is vital that schools develop appropriate plans to deploy accumulated reserves.

The funding provided to schools in respect of revenue budgets and revenue grants is money intended to be spent over that year – “today’s money for today’s pupils”. There are now well established mechanisms for capital spending – Devolved Formula Capital and the change to building maintenance responsibilities; so schools should be questioning the appropriateness of saving large amounts of revenue funds for capital purposes. Schools should also review on an annual basis the appropriateness of the levels of reserves for specific purposes and contingency funds.

There are perfectly good reasons for schools to hold reserves, and there is no intention that this mechanism provides for a blanket top-slice of school reserves. However this is a further tool, along with the SFVS and other developments, to ensure all schools have proper consideration for the deployment of resources.

To count as properly assigned, and therefore be exempt from and excluded from the calculation – reserves must be being held for one of the following reasons:

Building Projects or Major ICT (or other equipment) purchases

Where a school is actively planning to make a revenue contribution to fund capital expenditure. The Council will initially accept these plans at face value; but where such spend is unspent after a year, then the Council would require further evidence of the credibility of the declared project. When declaring such projects schools must also provide an expected “completion by” date. We would not normally expect schools to use their revenue balances for capital projects, but they are able to do so. Schools should be able to provide evidence (such as invoices, orders, quotes, contracts, Governing body minutes) for works that have already been approved and are due to start in the next financial year or are already underway.

Reserves held on behalf of other schools

Sometimes referred to as “Fund Holding” Schools (reserves may apply to both grants and other funding) where one school is holding a “pool” of unspent funding on behalf of a number of schools. Where these reserves become excessive, the Council also has the power to query and if necessary include such funds within this control mechanism where there are no clear plans for deployment.

Balances for Extended School & Community Facilities

Where these are through the Council’s bank account and accounting structure (as prescribed elsewhere in the Scheme) such balances will be exempt, except where the School elects to bring them within scope.

Schools involved in reorganisations

Where a school receives specific reorganisation funding, or where it saves up its own resources with plans to spend in future years. This will normally only be accepted where there is a published plan or proposal for reorganisation.

Pupil roll fluctuations – falling rolls/rapidly rising rolls

It is reasonable to use reserves to smooth out the impact of rapidly changing pupil rolls, particularly with the move to a single count point for school funding. Staff changes may typically occur for a part-year (e.g. from start of new academic year) with the need to “ride-out” the full year impact – i.e. the time-lag to receive the additional income for rising rolls, or to phase in the staff reductions for falling rolls. In such cases the Council would expect the School Place Planning Team and your School Finance Officer to support the proposition and it would be most unusual for such plans to extend over a number of years.

Three & Five Year Financial Plans and School Development Plans

It is reasonable for a school to integrate its longer-term financial plan with its School Development Plan (SDP) and for developments to be properly costed within the SDP. For significant developments the Council would expect to see evidence of the read-through from the SDP to the Council’s Forward Forecaster. The SDP could also be used to describe the investment strategies for buildings & ICT (e.g. where a school puts aside regular contributions to build up a fund for significant spend over a number of years) as well as a school’s strategy to make early efficiencies to support medium term budgeting, in a tighter financial climate which would also be reflected in the Forward Forecaster.

Late Funding Allocations

If a late allocation (formula share or grant) is notified to a school from January then it would be unreasonable to expect the school to spend in a cost-effective manner, so all such notifications will be exempted.

Staff Absence Self-Insurance

Schools that elect not to buy into the Councils Staff Absence Insurance Scheme (“Central Supply Scheme”) or who conduct community activities which are not eligible for this scheme may well operate a fund to self-insure. A reasonable level of fund will be exempt. Reasonable will be reviewed in the light of experience, but the school should at least be able to evidence it’s rational for a particular level of fund based on experience. Note that a school should budget for the normal level of absence in its revenue budget – it is only the unforeseen element where a school would earmark its reserves – “it is wise to insure against the event or loss you cannot afford”.

Contribution to Landlord Capital Scheme

Where a school has agreed to contribute towards a LA funded capital scheme.

Other circumstances

There may be other valid reasons, but these will only be exempt where the Council has accepted them in advance – prior to 31st May.

Operation of the Balance Control Mechanism

This Annex is guidance for schools and it is not part of the formal Scheme conditions. The Council may deduct excessive school balances under the control mechanism, even where a school has allocated large balances to these headings, where the Council decides the reasons and plans provided by the school are not credible.

The Council does not wish to create a significant workload around the policing of this mechanism, and a school should not find itself in the position of having its reserves top-sliced provided it has thoughtful and credible plans for the use of accumulated balances, and implements them.

Where schools have very high levels of reserves over a number of years, or where it is obvious that large sums have been claimed as committed on projects that do not proceed, then these are the schools that the Council will focus the control mechanism upon. The adequacy of longer-term financial planning is also assessed as part of the FMSiS.

This mechanism does mean that schools likely to have reserves > than the initial threshold (8% primary & special, 5% secondary) will need to provide a detailed “reserves plan” to the Council as part of the year-end process as well as the new year budget plan submission process. Schools with reserves below

these levels will still need to supply details of committed reserves as part of the accounting requirements for CFR.

It is important to note that the 8% and 5% thresholds are not targets, but the maximum percentage which should reasonably be retained to deal with unforeseen circumstances. In practice, most primary schools should be able to manage with balances of, say, 4-5% and secondary schools with 2-3%.

SCHOOL FUND GUIDANCE

Notwithstanding the restrictions in Section 3⁶⁶, schools using the Council's bank account are also permitted to hold a voluntary fund account, usually known as a school fund account.

A school fund account is primarily intended as a vehicle for primary and special schools to access cash for the purposes of petty cash reimbursement and for the collection of high-volume low-value transactions where it is not considered practical or cost effective for these donations to be collected through the school budget.

School Fund should also be used where a school buys items for resale at above cost. This is because when a profit is made these transactions cannot be put through the school budget because dealing with the VAT implications would be complicated. So any such transactions must be put through the school fund. This includes those instances where the school acts as an agent for a third party in collecting income for sale items such as photographs or cards, and receives a commission element.

A school fund account cannot be used for funds which properly belong to the school budget, e.g. payments to individuals.

For VAT purposes school funds are not part of council business but are a separate accounting activity. Consequently school funds are not covered by the Council's VAT registration and schools should be aware of the implications of VAT regulations on their funds. The School Fund is liable to register for VAT if it makes or intends to make taxable supplies (sales, goods taken for personal use and self-supplies) in excess of the current HMRC threshold⁶⁷ in any 12 month period. Taxable supplies include zero-rated and standard rated supplies but exclude exempt supplies. It should be noted that where a school fund has to register for VAT, it does not have the same dispensations under VAT law as the Council, and so is treated as a private body. Schools should refer to the Schools VAT manual for further guidance on VAT matters.

Where a school fund is registered for gift aid, HMRC apply strict criteria to voluntary contributions, for example school trips are unlikely to qualify for gift aid because of the restrictions of the 'gift aid benefit rules'. Schools that have their school fund registered for gift aid should refer to the HMRC guidance 'Gift aid and giving'.

The School Fund account should be administered to the same standards as the school's delegated budget. Recommended practice can be found in the audit document 'School Voluntary Funds Guidance'.

⁶⁶ Section 3.3.1 states Schools utilising Oracle Financials as their school based finance system may not operate an independent bank account.

⁶⁷ The threshold for VAT registration is £79,000 as at December 2013. This limit is changed each year so please check the HMRC website <https://www.gov.uk/vat-registration-thresholds> for the latest guidance