

Wellbeing Directorate

**Scheme
for Financing Schools**

2014/2015



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(Note: these regulations apply to schools, providing they are not inconsistent with anything included within this Financial Scheme).

SECTION 1: INTRODUCTION

1.1 The Funding Framework: Main Features

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

References to “the regulations” are to the School and Early Years Finance (England) Regulations 2012 made under the Act.

- 1.1.2 Under this legislation, local education authorities determine for themselves the size of their Schools Budget and non-schools Budget – although the Secretary of State has power to require a local authority to increase its Schools Budget to a prescribed level. The categories of expenditure which fall within the two budgets are prescribed under regulations made by the Secretary of State, but included within the two, taken together, is all expenditure, direct and indirect, on an authority's maintained schools. Local authorities may centrally retain funding in the Schools Budget for purposes defined in regulations made by the Secretary of State under s.45A of the Act. The amounts to be retained centrally are decided by the authority concerned, subject to any limits or conditions prescribed by the Secretary of State. The balance of the Schools Budget left after deduction of centrally retained funds is termed the Individual Schools Budget (ISB). Expenditure items in the non-schools education budget must be retained centrally (although earmarked allocations may be made to schools).
- 1.1.3. Local education authorities may retain an unallocated reserve within the ISB but must otherwise distribute the ISB amongst their maintained schools using a formula which accords with regulations made by the Secretary of State, and enables the calculation of a budget share for each maintained school. This budget share is then delegated to the governing body of the school concerned, unless the school is a new school which has not yet received a delegated budget, or the right to a delegated budget has been suspended in accordance with s.51 of the Act. The financial controls within which delegation works are set out in a scheme made by the local authority in accordance with s.48 of the Act and approved by the Secretary of State.
- 1.1.4 Subject to provisions of the scheme, governing bodies of schools may spend budget shares for the purposes of their school. They may also spend budget shares on any additional purposes prescribed by the Secretary of State in regulations made under s50 of the Act. Amounts spent by a governing body on providing community facilities or services

2002 are treated as if they were amounts spent for the purposes of the school (Section 27 of the Education Act).

- 1.1.5 A local authority may suspend a school's right to a delegated budget if the provisions of the school financing schemes (or rules applied to the scheme) have been substantially or persistently breached or if the budget share has not been managed satisfactorily. There is a right of appeal to the Secretary of State. A school's right to a delegated budget share may also be suspended for other reasons (s17 SSAF 1998) but in that case there is no right of appeal.
- 1.1.6 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, the budget share for each school, the formula used to calculate those budget shares, and the detailed calculation for each school. After each financial year the authority must publish a statement showing out-turn expenditure at both central level and for each school, and the balances held in respect of each school.

1.2 **The role of the scheme**

- 1.2.1 The scheme sets out the financial relationship between the authority and the maintained schools it funds. It includes requirements relating to financial management and associated issues binding on both the authority and schools.

Role and Responsibilities of Governing Bodies

- 1.2.2 Within the statutory national and local framework the governing body controls the running of a school with a delegated budget. This includes the following responsibilities:
 - To approve the first formal budget plan of each financial year.
 - To deploy resources freely within the school's budget, subject to the conditions of the scheme.
 - To determine the number of teaching and non-teaching staff at the school, and select for appointment and be able to require dismissal, taking account of the professional advice of the Chief Education Officer and the headteacher.
 - In the light of new legislation, to agree with the local authority targets for the school and the local authority, as part of the movement for continuous school and local authority improvement.

- To develop and implement the School Development Plan, in consultation with the headteacher and within the general conditions and requirements of the local authority's scheme. In developing such a Plan, the governors need to take account of all their responsibilities, including the implementation of the National Curriculum, and ensuring that appropriate provision is available for all pupils with special educational needs, with or without a statement.
- To ensure that the requirements specified in a child's statement of special educational needs are met by the school. This may include the provision of appropriate outreach and integration facilities, in accordance with each child's statement of special educational needs.

1.2.3 Where there are regularly other staff on site in a school eg health authority personnel, whilst the day to day management of these staff is within the headteacher's remit, the governing body has no entitlement to suspend such staff.

1.2.4 In the case of special schools, where a member of the school's staff accompanies its pupils to a mainstream school for outreach/integration purposes, the member of staff remains within the overall management of the special school.

1.2.5 The governors may, as far as is permitted in this scheme, delegate to the headteacher their powers in relation to any part of the delegated budget.

Role and Responsibilities of the Headteacher

1.2.6 Fair Funding gives headteachers power to match their responsibilities. These powers include the following.

- To manage the school in accordance with the policies of the governing body and the local authority .
- To offer advice and support to the governing body.
- To provide the governing body with a draft budget plan for formal approval and to be responsible to the governing body for the management of the school's budget share in accordance with the extent of delegation agreed by the governing body.
- To have a key role in helping the governing body formulate the School Development Plan and in securing its implementation with

the collective support of the school's staff.

- To be responsible for the day to day management of all aspects of the school's work, including provision for children with special educational needs, and to keep the governing body fully informed.

1.2.9 Application of the Scheme to the authority and maintained schools

As a description of its institutional coverage, the scheme should state that it applies in respect of all community, nursery, voluntary, foundation, community special or foundation special schools and pupil referral units (PRUs) maintained by the authority.

1.3 Publication of the scheme

The Scheme for Financing Schools will be published on the Slough Borough Council website by the date any revisions come into force, together with a statement that the revised scheme comes into force on that date.

1.4 Revision of the scheme

Proposed revisions to the Scheme will be the subject of consultation with the headteacher and governing body of every school maintained by the authority before they are submitted to Schools Forum for approval.

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

1.5 Delegation of powers to the headteacher

The governing body shall consider the extent to which it wishes to delegate its financial powers to the headteacher, and to record its decision (and any revisions) in the minutes of the governing body. The authority may suggest a desirable level of delegation to headteachers, but the adoption of such recommendations is not mandatory on schools.

1.6 **Maintenance of schools**

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

SECTION 2: FINANCIAL REQUIREMENTS AND AUDIT

2.1 General procedures

2.1.1 Application of financial controls to schools

Schools must abide in the management of their delegated budgets by the authority's requirements on financial controls and monitoring. These are set out below in summary and in more detail in the schools' financial regulations.

2.1.2 Provision of financial information and reports

Schools shall provide the authority with timely details of anticipated actual expenditure and income, assets and liabilities, in a form and at times determined by the authority. Income and expenditure reports shall be submitted quarterly except for VAT and other taxation returns shall be provided more frequently. If the council does require income and expenditure report more frequently, the school will be notified in writing that in the authority's view the school's financial position warrants closer monitoring or the school is in its first year of operation.

The authority may determine whether this information is on a cash or accruals basis. This information will be used for the purpose of consolidation into the authority's management and statutory accounts, and to enable prompt accounting for taxes due to the authority. Returns should therefore be fully verifiable and reconciled. Where the authority has good reason to doubt the validity of information it will be entitled to obtain independent verification, take corrective action and charge the school's budget share accordingly.

2.1.3 Payment of salaries; payment of bills

The school will be responsible for the correct payment of all salaries, bills and relevant taxes relating to its budget share unless the authority has agreed to perform this on behalf of the school through a separate service level agreement. Any costs including penalties, legal or administrative costs incurred by the authority as a result of a school's non or late payment of bills or salaries will be charged to the school's budget share.

2.1.4 **Control of assets**

Schools shall maintain an inventory of its moveable non-capital assets, including furniture, fittings, equipment, plant and machinery, in a form and to such an extent as may be prescribed by the Strategic Director of Resources. For assets worth less than £1,000 the school must keep a register in some form but is free to determine that form.

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

Schools will comply with the authority's accounting policies when providing financial information to the authority under 2.2 above. These can be found in the schools financial regulations plus supplementary information provided at the year-end.

2.1.6 **Writing off of debts**

Governing bodies may write off debts in accordance with an agreed policy determined by the governing body, up to £500, after all reasonable practicable steps have been taken to recover amounts due. Debts in excess of £500 should be referred to the Strategic Director of Resources who may decide to seek recovery and charge the costs of recovery against any amounts recovered.

2.2 **Basis of accounting**

The reports and accounts furnished to Slough Borough Council can be on either a cash or accruals basis; but the authority cannot impose either system on schools' internal systems.

The intention behind this provision is to ensure that although the authority should be able to have reports furnished on the basis they need, they should not be able to dictate to schools how they organise their accounts. This means in particular that schools should be able to use what financial software they wish, provided they meet any costs of modification to provide output required by the authority.

2.3 **Submission of budget plan**

Governing bodies must prepare and formally adopt a budget plan, which reconciles with their total budget allocation and is realistically achievable given known facts and likely future events. Schools must take full account of estimated deficits / surpluses at the previous March

31 in their budget plan.

The Approved budget plans should be notified to the authority in a standard format determined by the authority together with a copy of the relevant minutes of the governing body approving the plan by May 31 of the financial year to which the budget relates. The budget plan will include a statement of the School Development Plan financial implications underpinning the budget; planned use of historic balances and of the projected end of year balance. The authority may also require the governing body to submit revised budget plans once every three months, from the anniversary of 31 May.

The governing body must also prepare and submit, if requested by the authority, any supporting financial schedules verifying the budget plan. This may include an analysis of salary expenditure.

The authority will supply schools with any income and expenditure data which it holds which is necessary for efficient budget planning by schools. The authority shall provide an annual statement of when this information shall be made available through the year.

2.3.1 Submission of Financial Forecasts

Schools shall provide the authority with a financial forecast covering each year of a multi-year period for which schools have been notified of budget shares beyond the current year.

2.4 **Best Value, Efficiency and Value for Money**

Schools should seek to achieve value for money and efficiencies, taking into account the purchasing, tendering and contracting requirements outlined in Section 2.14.

The process of purchasing with due regard to Best Value and value for money and the procedure for purchasing should be stated in the school's finance procedures manual and reviewed by the governing body annually.

2.5 **Virement**

Schools may vire freely between budget heads within their budget shares. Governing bodies should agree a policy for virement within their own school budget share.

2.6 **Audit: General**

Schools shall be part of the internal and external audit arrangements of the Council as determined by the Strategic Director of Resources and the Audit Commission. Schools shall co-operate with all the requirements of the auditors, both internal and external and should provide full access to the school's records including the pupil register. Where auditors, as a result of inadequate records, incur additional time and costs, or there is unreasonable non co-operation by schools these costs will be charged to the school's budget share.

2.7 **Separate external audits**

A governing body may, although there is no expectation, spend funds from its budget share to obtain external audit advice, separate from any local authority internal or external audit process.

2.8 **Audit of voluntary and private funds**

Schools shall provide audit certificates in respect of voluntary and private funds and of the accounts of any trading organisations controlled by the school. Auditors should be suitably qualified and experienced for the task they have undertaken.

2.9 **Register of business and other interest**

2.9.1 The governing body of each school shall have a register which lists for each member of the governing body and the headteacher, any business interests they or any member of their immediate family have; shall keep the register up to date with notification of changes and through annual review of entries, and shall make the register available for inspection by governors, staff, parents and the Chief Education Officer.

2.9.2 The list should also include a section on other relevant interests of governors, for example Council employee, relationships with other schools, other governor positions held etc.

2.10 **Purchasing, tendering and contracting requirements**

Schools must comply with the provisions in the authority's Financial

Regulations with regard to purchasing, tendering and contracting matters (along with all other requirements) except where they specifically do not apply to schools. This will include a requirement to assess in advance, where relevant, the health and safety competence of contractors, taking into account the authority's policies and procedures.

However, schools must not do anything incompatible with any of the provisions of this scheme, or any statutory provision, or any EU Procurement Directive;

- a be required to seek local authority officer countersignature for any contract for goods or services for a value below £60,000 in any one year;
- b be required to select suppliers only from an approved list;
- c be required to seek at least three tenders in respect of any contract with a value exceeding £10,000 in any one year.

Schools must

- a comply with any statutory provision or any EU Procurement Directive;
- b seek local authority approval ie countersignature, for any contract for goods and services for a value more than £60,000.

The intention is to ensure that schools do not have to be subjected to unreasonable requirements as to authority counter-signature or use of an approved list, but also ensures that they should obtain at least three tenders or quotations for orders above a certain threshold.

2.11 **Application of contracts to schools**

2.11.1 Schools have the right to opt out of Council arranged contracts except where they have lost that right for particular contracts in accordance with a specified procedure, (eg failure to obtain insurance to the minimum level specified the Council or for non compliance with conditions relating to delegation or legislation). In such cases schools would be bound into the contract for its length unless such a contract contains clauses allowing variance of its terms and conditions.

2.11.2 Although governing bodies enter into contracts, in most cases they do

so on behalf of the authority as maintainer of the school and the owner of the funds in the delegated budget share. In certain cases, governing bodies enter into contracts solely e.g. where the governing body has clear statutory obligations e.g. staff contracts in aided or foundation schools.

2.12 Central funds and earmarking

The local authority can make sums available to schools from central funds, in the form of allocations, which are additional to and separate from the school's budget share. Such allocations will be subject to conditions setting out the purpose or purposes for which the funds may be used, and will be known as 'earmarked funds'. Earmarked funds should only be spent for the purposes for which they are given and although in specified cases virement may be permitted this should never be to the point of assimilation into the general school budget share. There should be accounting mechanisms in place for schools to be able to demonstrate that these requirements have been complied with. Earmarked funds may include a condition that any funds not spent in year or within the period over which schools are allowed to use the funding if different, must be returned to the authority. The authority must not make any deduction from payments to schools of devolved or specific grant, in respect of interest costs to the local authority.

2.13 Spending for the purposes of the school

2.13.1 Although s.50(3) allows governing bodies to spend budget shares for the purposes of the school, this is subject to regulations made by the Secretary of State and any provisions of the scheme. As well as the various standard provisions LAs may wish to propose their own restrictions on this freedom, arising from local circumstances. 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.

2.13.2 Under s.50(3)(b) the Secretary of State may prescribe additional purposes for which expenditure of the budget share may occur. He has done so in the School Budget Shares (Prescribed Purposes)(England) Regulations 2002 (SI 2002/378), which have been amended by the School Budget Shares (Prescribed Purposes)(England)(Amendment) Regulations 2010 (SI 2010/190). These allow schools to spend their

budgets on pupils who are on the roll of other maintained schools or academies.

2.13.3 This scheme does not permit schools to spend their school budget share on:

- a activity, publicity or propaganda against Slough Borough Council
- b any form of activity which is designed to attract pupils to the school which uses misleading information or is otherwise factually incorrect, and necessitates corrective action by the local authority.

Schools not adhering to this will be penalised by an amount equivalent to the costs incurred on the activity and any costs incurred by the local authority in seeking to remedy the effects of such activities.

2.14 **Capital spending from budget shares**

Where capital expenditure is undertaken from the school budget share the authority may require that it be notified of the proposed expenditure and take into account any advice from the Strategic Director of Well Being Services as to the merits of the proposed expenditure. This will only apply if the expected capital expenditure exceeds £20,000. Where premises are owned by the local authority, or the school has voluntary controlled status, the governing body is required to seek the consent of any proposed capital works; such consent can only be withheld on health and safety grounds.

2.15 **Notice of Concern**

The authority does have the right to issue a notice of concern to any of its maintained schools.

The authority may issue a notice of concern to the governing body of any school it maintains where, in the opinion of the Chief Finance Officer and the Director of Well Being Services, the school has failed to comply with any provisions of the scheme, or where actions need to be taken to safeguard the financial position of the authority or the school. The notice may place on the governing body restrictions, limitations or prohibitions in relation to the management of funds delegated to it.

The Head Teacher of the school will be notified in advance of the proposed Notice and issues that the local authority has. The notice will set out the reasons and evidence for it being made.

The notice will clearly state what these requirements are, how it can be rectified and the date it must be rectified by, in order for the notice to be withdrawn. It will also state the actions that the authority may take where the Head Teacher does not comply with the notice, which will include issuing this notice to the governing body stating the action that will be taken if they do not comply.

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 requires 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 authority or school.

This provision is not intended to be used in place of withdrawal of financial delegation where that is the appropriate action to take; it is included to 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.

2.16 **Schools Financial Value Standard (SFVS)**

Schools are required to complete and demonstrate compliance with Schools Financial Value Standard (SFVS) in line with government timetables. This will apply to SFVS or any other replacement scheme.

2.17 **Fraud**

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

The governing body and head teacher must inform all staff of school policies and procedures related to fraud and theft, the controls in place to prevent them and the consequences of breaching those controls. This information must also be included in the induction for new school staff and governors.

SECTION 3: INSTALMENTS OF THE BUDGET SHARE; BANKING ARRANGEMENTS

3.1 Frequency of instalments

See table below

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

Banking Arrangements

The choice of banking arrangement by schools will affect their choice of accounting arrangements.

The current configurations open to schools are set out in the table below. These may be revised from time to time.

	Bank Account	Funds paid over	Accounting	Instalment
Option 1	Own	Non-Staffing	SBC	1 of month, or nearest working day prior
Option 2	SBC	Non-Staffing	SBC	On receipt of imprest claim
Option 3	Own	All	Own	The Monday before the last Thursday of the month
Option 4	SBC	All	Own	The Monday before the last Thursday of the month

Notes:

- a If a school wishes the Council to keep its accounts through a service level agreement it must choose either option 1 or 2. If a school wishes to maintain its own accounts then it must choose either option 3 or 4.
- b If a school wishes to make its own arrangements for payroll then it must also keep its own accounts, and choose either option 3 or 4.

- c The payment date of the Monday before the last Thursday of the month may be varied by negotiation between schools and the authority.

3.2 Proportion of budget share payable at each instalment

3.2.1 The budget share payable will be calculated as follows :

- a Option 1: Equal twelfth, of the non-staffing budget calculated from the school budget plan, plus an estimate of VAT (currently 13%), less payments to the Council for rates and certain services provided by the Council where this is agreed as part of the service level agreement or other contract with the school, less any relevant previous year-end balance. The initial estimate of non-staffing expenditure prior to the receipt of the budget plan will be normally be 15% of the budget. Payments will not normally be made for budgeted non-staffing expenditure in excess of 30% of the budget share within the first nine months of the financial year. Where the Council also provides payroll, the April instalment will be reduced to reflect that payment is made one month in arrears.
- b Option 2: Claim made on the imprest return
- c Options 3 & 4: Equal twelfths of the budget share less payments to the Council for rates and certain services provided by the Council where this is agreed as part of the service level agreement or other contract with the school, less any relevant previous year-end balance.

3.2.2 There will be additions or deductions to the standard monthly payment for in-year budget changes, such as new statements and excluded pupils, and re-imbursements of such items as VAT (from a monthly return provided by the school).

3.2.3 Where the authority is entitled to charge the school's budget share in relation to costs incurred on its behalf these will be deducted from the following month's instalment. Where there has been non payment of invoices to the authority under a service level agreement the amount outstanding will be deducted from the instalment following the lapse of 90 days from the original invoice date or due date which is later.

3.2.4 The authority will give written notice of this. Where a school changes bank account, the carry forward will be transferred at the point at which the new account opens or on the next monthly payment date.

3.3 Interest and payroll

For option 3 and 4 schools using the Council payroll service the gross cost of the payroll will be charged to the next monthly payment.

No interest will be credited to schools for the interest earned by the Borough on the tax, National Insurance and superannuation contributions not due to be paid over until after the pay date

Interest on late budget share

- 3.3.1 The Council will add interest to late payments of budget share instalment, where such payments are late because of Council error. The interest rate will be at least the Bank of England base rate or that used for clawback calculations. For the purposes of this clause, 'late' means after the last Thursday of the month.

3.4 Budget shares for closing schools

The local authority has a Cabinet approved policy for implementing school closures. The full document is available on the Slough schools intranet.

Where approval has been granted for the discontinuation of a school, or part of, instalments of the budget share may be made on a monthly basis net of estimated pay costs, even where a different basis had previously been agreed.

3.5 Bank and Building society accounts

- 3.5.1 All schools will have a bank or building society account, which will be in the name of the school. When choosing a bank or building society schools are required to be consistent with the local authority's Treasury Management policy. Schools may change their bank or building society on giving two months notice in writing to the Strategic Director, Education & Children's Services and the Strategic Director of Resources. Schools without banking arrangements outside the authority's group at the commencement of this scheme may be refused one until any deficit balance is cleared: and any school requesting a bank account at a later date may also be refused one until any deficit balance is cleared.

3.5.2 Schools must have at least one bank of account which is a normal current account and which will be used for paying cash instalments or imprest reimbursements into. Any other school bank accounts must be selected in line with the local authority's Treasury Management policy and not involve any type of account where the capital value of the investment is at risk. A school budget is predominantly to meet expenditure due to be incurred in the current financial year and therefore schools should not seek to tie themselves into arrangements of longer than one year or with a notice period longer than three months. A balance must be struck between return and liquidity.

3.6 **Borrowing by schools**

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

Schools may not use credit cards as this is regarded as borrowing. However, the use of procurement cards by schools is permissible and can be a useful means of facilitating electronic purchases

Other Provisions

3.7 **Budget advances**

Option 1 and 3 schools may request a budget advance for cash flow purposes. Any such advance will be subject to a deduction of interest for the estimated number of days multiplied by the interest rate

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

4.1 The right to carry forward surplus balances

- 4.1.1 Schools will carry forward from one financial year to the next any shortfall in expenditure relative to the school's budget share for the year plus/minus any balance brought forward from the previous year.
- 4.1.2 Where the school banks with the borough's bankers, the school will receive interest on the budgeted carry forward for the year at the average base rate for the year.

4.2 Planned Use of Balances and Revenue Balance Control Mechanism

Planned Use of Balances

Schools are required to complete a return on their planned use of balances and this must accompany the approved budget plan submitted to the local authority by 31st May. A proforma return will be available to all schools and the information to be supplied includes:

- Detail of projects or works to be completed; resources to be purchased or contracted
- Amount earmarked for each item
- Expected date of expenditure
- Supplier or provider to be commissioned
- Budget heading expenditure will be recorded against

Evidence of planned use must accompany the return. Acceptable evidence includes:

- List of outstanding orders at 31st March and copies of orders, delivery notes or invoices; Finance will be mindful of the amount of school administration required and if the number of outstanding orders is high may restrict the request for evidence to a sample of orders
- Tenders and quotes
- Governing Body minutes showing discussions on planned use of balances
- Relevant costed items in School Development Plan
- Correspondence and emails from local authority officers

Revenue Balance Control Mechanism (BCM)

The local authority shall calculate by 30 April each year the surplus balance, if any, held by each school as at the preceding 31 March.

For the purpose of the Balance Control Mechanism (BCM) the balance will be the total revenue balance as reported on the final Consistent Financial Report.

The revenue balance will be calculated as a percentage of the new financial year's budget share. This is purely to clarify the year that will be used for comparison. Budget share will consist of school block funding, high needs block funding and early years block funding (if appropriate) as well as Pupil Premium and EFA Sixth Form Funding (if appropriate). The BCM threshold is set at 5% for secondary schools and 8% for primary and special schools. For any school exceeding the threshold, local authority officers will review the school's return on Planned Use of Balances. Amounts not fully supported by evidence will be considered as potentially subject to clawback. For example, if a primary school has a balance of 10% then it will be asked to supply evidence to cover all of that balance. If evidence is supplied for 8% then 2% would be recoverable, being the figure above 8%. Similarly, for a primary school with a balance of 10%, if evidence for 7% were supplied, 2% would be recovered, again being the amount above 8%. However there would be no recovery if evidence were supplied for 10%.

The following funds will be viewed as exempt from potential clawback if sufficiently supported by relevant evidence:

Category	Evidence
Committed expenditure i.e. prior year committed orders (<i>this should equal the amount reported as CFR balance B01</i>).	Orders, delivery notes or invoices
Funds held on behalf of other schools e.g. cluster funding, federation grants	Correspondence, allocations
Planned reserves for future years' budgets i.e. funds required to support a budget as the school moves through change	Calculations, plans, projections, multi-year budget tool
Allocations of local authority funding made after 1 st January	Correspondence with LA officers
Planned reserves for provision of additional places	Correspondence, allocations

Local authority finance officers will identify schools exceeding the threshold and not providing full supporting documentation for the planned use of their revenue balance and these will be referred to the Schools Forum. The Schools Forum will then decide the suitable group to review each school with the presumption that the school(s) concerned will be fully involved in the process. Any amounts that are clawed back will then be referred to the Schools Forum for a decision on their use. That decision will take into account the prevailing needs of Slough's schools as a group and extant DfE guidance. For example, clarification will be sought regarding the status of academies if funds are redistributed through the funding formula.

Schools requiring support or advice on collecting appropriate evidence should contact the Schools Finance team before the 31st May deadline for the return.

4.3 Interest on surplus balances

Option 2 & 4 schools will receive interest on relevant reserves remaining with the Council identified in their budget plan. Option 1 & 3 schools may deposit with the Council, and receive interest on their reserves. These reserves must be maintained throughout the financial year.

4.4 Obligation to carry forward deficit balances

Schools will carry forward from one year to the next any deficit balances. Deficits at the end of one financial year (i.e. at 31 March) will be equal to those at the commencement of the new financial year (i.e. at 1 April). Deficits will be deducted, as the first charge, from the following year's budget share at the commencement of the new financial year. That is with the exception of those agreed deficits known as 'loans' where the schedule of payments which existed at 31 March 1999 will continue. Amounts due for repayment may be charged by the authority against schools' budget shares.

4.5 Planning for deficit budgets

The governing body cannot plan for a deficit.

Where a school does end the year with a deficit due to unforeseen circumstances, a plan must be drawn up by the governing body and submitted for approval by the Strategic Director of Education and Children's Services. The plan will include: reasons for the deficit

having arisen, details of measures that will be taken to bring the school back in to a balanced budget situation, including management arrangements, a forecast of future pupil numbers, school expenditure and school budget shares; forecast deficits at the end of each financial year and a timescale for bringing the budget in to balance. A joint budget monitoring review programme will then be agreed for the period of the plan. This will include monthly monitoring reports being sent to the Strategic Director of Education and Children's Services. The authority will agree any appropriate management support that will be provided for the school.

4.6 Interest on deficit balances

Interest may be charged on deficit balances at the estimated average, base rate. A reduced rate may be charged on agreed deficits.

4.7 Writing off deficits

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

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

4.8 Balances of closing and replacement schools

- 4.8.1 When a school closes, any balance (whether surplus or deficit) reverts to the local authority; it cannot be transferred as a balance to any other school, even where the school is a successor to the closing school. The exception is that a surplus transfers to an academy where a school converts to academy status under section 4(1) of the Academies Act 2010.

4.9 -4.10 Licensed deficits / Loans

The authority previously made no provision for licensed deficits or 'loans' other than those previously agreed by the former Berkshire County Council and outstanding at 1 April 2001.

Loans may be granted by the Council to schools under specific circumstances and where there is a guaranteed income stream, external to the school's budget share, Standards Fund or other similar government funding, to pay off the loan. Granting of such loans will be exceptional. The school will be expected to assign formally the relevant part of that income stream to the Council in consideration of the loan, for the duration of the loan. Loans will not be expected to exceed 10 years and the school receiving the loan will be expected to demonstrate a sound financial position over the three preceding years, with the ability to generate reserves. Loans will be funded from school reserves held by the authority. There will be a specific loan agreement for each school and terms and conditions will be negotiated individually, including interest. Where such arrangements are in place, the schools' spending of its Schools Standard Grant must be agreed with the authority. The authority must agree the spending unless in its view the proposed expenditure is unreasonable in the school's financial circumstances.

4.10.1 Credit union approach

Schools may wish to group together to utilise externally held balances for a credit union approach to loans. For any proposed credit union approach the Strategic Director of Resources, or his/her representative should be contacted at the earliest opportunity. Any credit union will be required to be agreed to by the Council before proceeding. Any legal or other specialist costs incurred by the authority as a result will be charged equally to the parties of the credit union. The authority will require credit union activities to be subject to an initial audit, and at least one annual audit thereafter, by an appropriate registered auditor, if not audited within the authority's own audit arrangements. The costs of the audit will be charged under the terms of credit union agreement.

SECTION 5: INCOME

5.1 General

Schools will generally be able to retain income from lettings, fees and charges, the sale of assets and fund raising activities except in the circumstance listed below or where there would be a breach of legislation. Income from letting of school premises should normally be payable into the school budget share and should not be paid into private or voluntary funds held by the school.

5.2 Income from lettings

- 5.2.1 Schools may retain income from lettings in relation to their agreed school premises, subject to alternative provisions arising from any joint use, PFI/PPP or similar arrangements. The school cannot enter into an agreement, where the authority is the owner of the premises, which gives a third party a substantial and/or long term interest in the premises (including land) without the prior written consent of the authority. Where the authority is not the owner of the buildings the school is required to consult with the authority before entering into such an agreement. If such an agreement could be reasonably foreseen to be detrimental to the supply of school places within the local authority and/or the advice of the authority is not heeded, and additional costs are incurred by the authority as a result of the need to make additional places available, then these costs may be charged to the school's budget share.
- 5.2.2 Schools can cross subsidise lettings for community and voluntary use with income from other lettings, provided there is no net cost to the budget share, and the purpose of the cross subsidy must be of direct or indirect benefit to the school.
- 5.2.3 Schools should have regard to directions issued by the Council as to lettings and the use of school premises.

5.3 Income from fees and charges

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

5.4 Income from fund-raising activities

The Scheme provides for schools to retain income from fund-raising activities.

5.5 Income from the sale of assets

Income from sale of assets purchased with delegated funds will be retained by the school and may only be spent for the purposes of the school. Where the asset was purchased with non-delegated funds the authority will decide whether the school should retain the proceeds. Proceeds from the sale of land or buildings forming part of the school premises and which the Council owns will be retained by the authority.

5.6 Administrative procedures for the collection of income

Schools should seek to bank any cash received on the same day as it is received or as soon as possible thereafter. All cash should be banked 'in tact'. Schools will have due regard to insurance limits for cash to be retained on the premises if same day banking is not always possible.

SECTION 6: THE CHARGING OF SCHOOL BUDGET SHARES

6.1 General provision

6.1.1 The budget share of a school may be charged by the authority without the consent of the governing body only in the circumstances set out below and under other specific sections contained elsewhere within this scheme. The local authority will consult schools as to the intention to charge, and notify schools when it has been done. Where the authority provides payroll services to schools then it will be required to charge the actual cost of school based staff salaries to school budget shares. For the avoidance of doubt, local authorities may de-delegate funding for permitted services without the express permission of the governing body, provided this has been approved by the appropriate phase representatives of the Schools Forum.

6.1.2 The authority will consider establishing procedures for arbitration where disputes arise.

6.2 Circumstances in which charges may be made

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

6.2.2 Other expenditure incurred to secure resignations or redundancies where the school had not followed local authority advice or had not sought it.

6.2.3 Awards by courts and industrial tribunals, or out of court settlements, against the authority arising from action or inaction by the governing body contrary to the local authority's advice or where such advice has not been obtained. Any publicity, legal or associated costs which the authority incurs as a result and in seeking to protect its good name.

6.2.4 Expenditure by the local authority in carrying out health and safety work, including inspections and risk assessments, or capital expenditure for which the local authority is liable where funds have been delegated to the governing body for such work, but the governing body has failed to undertake the required work.

6.2.5 Expenditure by the local authority incurred in making good defects in

building work funded by capital spending from budget shares, where the premises are owned by the local authority or the school is voluntary controlled or where the safety of pupils is at risk such that if the authority did not take action it would be in breach of its duty of care to these.

- 6.2.6 Expenditure incurred by the authority in insuring its own interests, including those as an employer and as guardian of pupils, at 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 local authority.
- 6.2.7 Recovery of monies due from a school for services provided to the school by the local authority, where a dispute over the monies due has been referred to a disputes procedure set out in an SLA and this has concluded in the local authority's favour.
- 6.2.8 Recovery of penalties imposed on the local authority by HM Revenue & Customs, Teachers' Pensions, Environment Agency or other regulatory authorities as a result of school negligence, errors or inaction.
- 6.2.9 Correction of local authority errors in calculating charges to a budget share (eg pension deductions).
- 6.2.10 Cost of work done in respect of teacher pension remittance and records for schools using non-local authority payroll contractors, the charge to be the minimum needed to meet the cost of the authority's compliance with its statutory obligations.
- 6.2.11 Additional transport costs incurred by the local authority arising from decisions by the governing body on the length of the school day, and failure to notify the local authority of non-pupil days resulting in unnecessary transport costs.
- 6.2.12 Legal costs or publicity costs that are incurred by the local authority because the governing body did not accept the advice of the local authority (see also section 11).
- 6.2.13 Costs of necessary health and safety and child protection training for staff employed by the local authority, where funding for training has been delegated but the necessary training not carried out.
- 6.2.14 Costs incurred by the authority in securing provision specified in a statement of SEN where the governing body of a school fails to secure such provision despite the delegation of funds in respect of low cost

high incidence SEN and/or specific funding for a pupil with High Needs;

- 6.2.15 Recovery of amounts spent from specific grants on ineligible purposes.
- 6.2.16 Compensation paid to a lender where a school enters into a contract or borrowing beyond its legal powers, and the contract is of no effect.
- 6.2.17 Costs incurred by the local authority as a result of the governing body being in breach of the terms of a contract.
- 6.2.18 Any other compensation payments and associated administrative costs arising from the authority's position as an employer or other statutory duties placed upon it for which the funding has been delegated to schools but where they have not fulfilled the corresponding responsibility (e.g. contracts of employment, pay dates, time off for union activities etc).
- 6.2.19 Where the authority has good reason to doubt the validity of financial information and reports it will be entitled to obtain independent verification, take corrective action and charge the school's budget share accordingly (see also section 2.2).
- 6.2.20 Costs incurred by the local authority due to submission by the school of incorrect data.
- 6.2.21 Any costs including, penalties, legal or administrative costs incurred by the authority as a result of a school's non or late payment of bill, salaries or VAT returns will be charged to the school's budget share (see also section 2.3).
- 6.2.22 Where additional time and costs are incurred by the authority's auditors as a result of inadequate records or there is unreasonable non co-operation by schools these will be charged to the school's budget share (see also section 2.10).
- 6.2.23 Where the school engages in vexatious activities as outlined in paragraph 2.17.3 the authority will be entitled to charge the school's budget share an amount equivalent to the costs incurred on the activity and any costs incurred by the local authority in seeking to remedy the effects of such activities.
- 6.2.24 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.

SECTION 7: TAXATION

7.1 Value Added Tax

- 7.1.1 All VAT incurred by schools when spending any funding made available by the Council is treated as being incurred by the local authority and qualifies for reclaim from HM Revenue & Customs by the authority. This does not include expenditure by the governors of a voluntary aided school when carrying out their statutory responsibilities to maintain the external fabric of their buildings.
- 7.1.2 VAT reclaimed by schools will be passed back to schools. The procedure for reclaiming VAT will depend on the banking option chosen by the school.
- 7.1.3 Option 1 & 2 schools - VAT is identified on the monthly imprest claim and included in the re-imburement.
- 7.1.4 Option 3 & 4 schools - There will be a separate monthly VAT reclaim form and re-imburement will be on the next monthly payment of budget share by the authority.
- 7.1.5 The authority will periodically issue detailed guidance on VAT.

7.2 CIS (Construction Industry Taxation Scheme)

- 7.2.1 Schools will comply with the procedures issued by the authority in connection with CIS.

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

8.1 Provision of services from centrally retained budgets

- 8.1.1 The authority will determine on what basis services from centrally retained funds will be provided to schools. This includes existing premature retirement compensation (PRC) and redundancy payments.
- 8.1.2 The authority will not discriminate in its provision of services on the basis of categories of schools except where (a) funding has been delegated to some schools only or (b) such discrimination is justified by differences in statutory duties.
- 8.1.3 Provision of services from centrally retained budgets may be different between schools based on a school's individual assessment of need.

8.2 Timescales for the provision of services brought back from the local authority using delegated budgets

Services bought back from the authority on or after 1 April 1999 will initially be for a maximum of three years from the inception of the scheme, or the date of the agreement, whichever is the later, and then for a maximum of five years for any subsequent agreement relating to the same services.

8.2.1 Packaging

Services offered by the authority for which funding has been delegated will not be packaged in a way which unreasonably restricts schools' freedom of choice among services available, and where practicable, this will include provision on a service by service basis as well as in packages of services.

The authority may provide services as part of an extended agreement as well as on an ad hoc basis.

8.3 Service level agreements

- 8.3.1 Any services or facilities provided by the authority under a service level agreement starting on or after the inception of the scheme will be reviewed at least every three years if the agreement lasts longer than that.

- 8.3.2 Services provided by the authority will be priced in order to ensure that, across all schools buying the service, the income generated at least matches the cost of providing the service.
- 8.3.3. Service Level Agreements, where in operation, will be provided in advance of their operation, giving schools at least a month to consider the terms of the agreements.

8.4 **Teachers' Pensions**

Governing bodies of schools that provide payroll services should submit an annual return of salary and service to the authority. Governing bodies must also ensure that details of Additional Voluntary Contributions (AVCs) are passed to the authority within the time limit showed in the AVC scheme.

The DfE requires that the following be included in this Scheme with regard to Teachers' Pensions:

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

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

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

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

SECTION 9: PFI/PPP

- 9.1 Where the authority proposes to enter into PFI/PPP schemes in relation to the provision of buildings or services the terms of this scheme may need to be varied, in year, accordingly. The authority has the power to charge the school's budget share amounts agreed under a PFI/PPP agreement entered into by the school / authority.

SECTION 10: INSURANCE

10.1 Insurance cover

10.1.1 If funds for insurance are delegated to any school, the authority will require the school to demonstrate that cover relevant to the authority's insurable and other interests, under a policy arranged by the governing body, is appropriate in terms of the actual risks which might reasonably be expected to arise at the school in question. The authority will set out reasonable minimum levels.

10.1.2 Schools are required to submit copies, on demand, of relevant documentation to the authority proving the adequacy of cover. Where there is delay in providing such evidence then the authority will arrange temporary cover until it is satisfied as to the adequacy of the school's cover and will charge the school's budget share for any additional costs incurred, including the cost of any temporary cover.

SECTION 11: MISCELLANEOUS

11.1 Right of access to information

Governing bodies have a duty to supply all financial and other information which might reasonably be required to enable the authority to satisfy itself as to the school's management of its delegated budget share, or the use made of any central funding allocated by the authority (eg earmarked funds) to the school.

11.2 Liability of governors

The governing body is a corporate body, and under the provisions of s50(7) of the SSAF Act, governors of maintained schools will not incur personal liability in the exercise of their power to spend the delegated budget share provided they act in good faith. Governing bodies will be required to have insurance against acts that are not in good faith.

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

11.3 Governors' expenses

11.3.1 Only allowances in respect of purposes specified in regulations under Section 19 of the Education Act 2002 may be paid to governors from a school's delegated budget share. The payment of any other allowances is forbidden. The authority may publish a guide as to what it considers to be reasonable expenses and it would expect schools to adhere to this.

11.3.2 Schools should not pay the expenses duplicating those paid by the Secretary of State to additional governors appointed by him to schools under special measures.

11.4 Responsibility for legal costs

11.4.1 Legal costs, including the cost of legal actions awarded against the local authority, incurred by the governing body, although the responsibility of the local authority as part of the costs of maintaining the school unless they relate to the statutory responsibilities of aided or foundation school governors for buildings or employees, may be

charged to the schools' budget share unless the governing body acts in accordance with the advice of the authority.

11.4.2 Where a school is justified in seeking additional legal advice where there is a conflict of interest between the authority and the school, then the costs (action and advice) will fall to be met in its entirety by the governing body. Seeking legal advice contrary to that given by the authority against the authority for vexation reasons is not expenditure for the purposes of the school.

11.5 **Health and Safety**

11.5.1 The primary responsibility for health and safety rests with the employer - the local authority for community, community special and voluntary controlled schools and the governing body for foundation and voluntary aided schools. The costs of complying with health and safety legislation are a delegated responsibility of the school's governing body with the exception of those costs specifically excluded by the authority in relation to the capital costs of the building where it is the owner of the building.

11.5.2 Schools' responsibilities for health and safety include (amongst others) the following. This list is not exhaustive and should not be taken to be so.

- The purchase and maintenance of equipment, in accordance with the Provision and Use of Work Equipment Regulations 1998
- Repairs and maintenance (eg to doors and windows)
- Workplace safety management in accordance with the Workplace Health, Safety and Welfare Regulations 1992.
- Cleaning of swimming pools
- Food Safety and Hygiene (schools with own catering)

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

11.5.4 School must, on a regular basis and on request, provide evidence to the authority that they are complying with relevant health and safety legislation and approved codes of practice. Where schools are unable

to do this in a satisfactory way and on a timely basis or the authority has good reason to believe that the school is not complying with relevant health and safety legislation, then in it will be entitled to require the school to undergo a health and safety audit, the costs of which will be charged to the school's budget share. Any costs of corrective action arising from the audit which are not carried out within the required time scale, the authority will be entitled to arrange for the work to be carried out and charged to the school's budget share. The authority will require unfettered access to the school premises to undertake the audit and corrective action if required.

11.6 Right of attendance for Strategic Director of Resources

The Strategic Director of Resources or his/her representative shall have a right to attend meetings of the governing body at which there are any agenda items relevant to the exercise of her or his responsibilities. The authority will give prior notice of such attendance unless it is impracticable to do so.

11.7 Provision for pupils with special educational needs

In addition to their statutory requirements, schools are required to use their best endeavours in spending their budget share to ensure adequate and appropriate provision for pupils with special educational needs. Where this is not the case delegation may be suspended.

11.8 'Whistle-blowing'

Staff or governors at a school who wish to complain about financial management or financial propriety at the school should contact the Strategic Director, Education and Children's Services. Procedures previously adopted for non-school based staff will be followed with the aim of protecting the individual and confidence in public service. A copy of the authority's whistle blowing policy guidelines for schools is available on the Slough Borough Council website.

<http://www.slough.gov.uk/services/17856.aspx>

11.9 Child Protection

School staff are expected to attend child protection case conferences where appropriate. Supply cover for staff release including attendance at case conferences is fully delegated.

11.10 **Redundancy/early retirement costs**

The 2002 Education Act sets out how premature retirement and redundancy costs should normally be funded. Slough Borough Council follows this guidance. A summary of responsibilities is set out at Annex F.

SECTION 12: RESPONSIBILITY FOR REPAIRS AND MAINTENANCE

- 12.1 Funding for all repairs and maintenance is the delegated responsibility of schools. Only capital expenditure is retained by the local authority. For these purposes, expenditure may be treated as capital only if it fits the definition of capital used by the local authority for financial accounting purposes in line with the CIPFA Code of Practice on local authority accounting. In particular, where, in line with the Code of Practice, local authorities use de minimis limits for defining what expenditure is treated as capital and what is revenue in their financial accounts, the same de minimis limits must be used in defining what is delegated.
- 12.2 VA governors will continue to be eligible for grant from the DfE in respect of their statutory responsibilities and in addition they will have responsibility for other repair and maintenance items on the same basis as Community and Foundation schools.

SECTION 13: COMMUNITY FACILITIES

13.1 Governing Bodies' Powers to Provide Community Facilities

With effect from 2nd September 2002, school governing bodies have powers to provide community services and facilities to the local community on the school premises (Section 27(1) Education Act 2002).

Schools are subject to a number of regulations in respect of these new powers.

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

The main limitations and restrictions on the power are:

- a. those contained in schools' own instruments of government, if any; and
- b. in the maintaining local authority's scheme for financing schools

13.2 Implications for Delegated Budget

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

Consultation with the authority – Financial Aspects

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

13.4 The requirement to seek authority advice should be met by submitting detailed written proposals to the Director Wellbeing, Education & Children's Services. This should be done at least a term before any formal consultation process, planning applications and so on relating to the provision of any new facilities by the school.

13.5 The authority will undertake to provide advice, at no charge, within one month of having received written proposals from the school. There is also

a requirement for schools to inform the authority what action has been taken following authority advice.

Funding Arrangements: authority powers

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

13.7 Any such proposed agreement should be submitted to the authority for its comments; and there is a term lead time requirement for doing so to give the authority adequate notice and time for comment from Legal and other officers. The authority does not have a right of veto on such agreements, either directly or through requiring a right to countersign the agreement. If the third party requires authority consent to the agreement for it to proceed, such a requirement and the method by which authority consent is to be signified is a matter for that third party, not for the scheme.

Although the authority does not have a general power of veto for these agreements, if an agreement has been or is to be concluded against the wishes of the authority, or has been concluded without informing the authority, which in the view of the authority is seriously prejudicial to the interests of the school or the authority, that may constitute grounds for suspension of the right to a delegated budget.

Other Prohibitions, Restrictions and Limitations

13.8 Although the authority has no right of veto either to funding agreements with third parties, or for other proposed uses of the community facilities power, the authority may require that in a specific instance of use of the community facilities power by a governing body, the governing body concerned shall make arrangements to protect the financial interests of the authority by either carrying out the activity concerned through the vehicle of a limited company formed for the purpose, or by obtaining indemnity insurance for risks associated with the project in question, as specified by the authority.

The authority would impose such a requirement only where it has good reason to believe that the proposed project carries significant financial risks.

13.9 Section 28 provides that the exercise of the community facilities power is

subject to prohibitions, restrictions and limitations in the scheme for financing schools. The authority expects that any proposal should be set in the context of the Authority's Community Plan, Education Development Plan and other Strategic Plans and Quality Frameworks.

Supply of Financial Information

- 13.10 Schools which exercise the community facilities power must provide the authority every six months with a summary statement, in a form determined by the authority, showing the income and expenditure for the school arising from the facilities in question for the previous six months and on an estimated basis, for the next six months.
- 13.11 The authority may give 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, and may require such financial statements to be supplied every three months and, if the authority sees fit, to require the submission of a recovery plan for the activity in question.

Financial information relating to community facilities will be included in returns made by schools under the Consistent Financial Reporting (CFR) Framework.

Audit

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

Treatment of Income and Surpluses

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

- 13.15 Schools may carry such retained net income over from one financial year to the next as a separate community facilities surplus, or, subject to the agreement of the authority at the end of each financial year, transfer all or part of it to the budget share balance.

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

Health and Safety Matters / Criminal Records Bureau

- 13.16 Health and safety provisions of the main scheme apply to the community facilities power.
- 13.17 The governing body is responsible for the costs of securing Criminal Records Bureau clearance for all adults involved in community activities taking place. Governing bodies would be free to pass on such costs to a funding partner as part of an agreement with that partner.

Insurance

- 13.18 It is the responsibility of the governing body to ensure adequate arrangements are made for insurance against risks arising from the exercise of the community facilities power, taking professional advice as necessary. Such insurance should not be funded from the school budget share. The school should seek the authority's advice before finalising any insurance arrangement for community facilities.
- 13.19 The authority may undertake its own assessment of the insurance arrangements made by a school in respect of community facilities, and if it judges those arrangements to be inadequate, make arrangements itself and charge the resultant cost to the school. Such costs could not be charged to the school's budget share.

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

Taxation

- 13.20 Schools should seek the advice of the local authority and the local VAT office on any issues relating to the possible imposition of Value Added

Tax on expenditure in connection with community facilities, including the use of the local authority VAT reclaim facility.

- 13.21 If any member of staff employed by the school or local authority in connection with community facilities at the school is paid from funds held in a school's own bank account (whether a separate account is used for community facilities or not – see section 11), the school is likely to be held liable for payment of income tax and National Insurance, in line with HM Revenue and Customs rules.
- 13.22 Schools are required to follow local authority advice in relation to the Construction Industry Scheme where this is relevant to the exercise of the community facilities power.

Banking

- 13.23 The scheme requires that the school maintain separate bank accounts for budget share and community facilities.
- 13.24 Schools are free to use a bank from the list appended to Appendix D of this Scheme and are advised that the bank account should be named as “(SCHOOL NAME) COMMUNITY FACILITIES”. The general approach to these matters will mirror those in the authority's Standing Orders and Financial Regulations and this Scheme.
- 13.25 Schools are reminded that they may not borrow money without the written consent of the Secretary of State. This requirement does not extend to monies lent to schools by the local authority.

ANNEX A SCHOOLS COVERED BY THE SCHEME

School	Category
Primary	
Chalvey Early Years Centre	Community
Cippenham Nursery	Community
Claycots	Community
Foxborough	Community
Holy Family RC	Voluntary Aided
Iqra Slough Islamic Primary	Voluntary Aided
Khalsa Primary	Voluntary Aided
Lea Nursery	Community
Montem Primary	Community
Our Lady of Peace Infants	Voluntary Aided
Our Lady of Peace Junior	Voluntary Aided
Parlaunt Park	Community
Penn Wood Primary & Nursery	Community
Pippins	Foundation
Priory	Foundation
Ryvers	Foundation
St Anthony's RC	Voluntary Aided
St Ethelbert's RC	Voluntary Aided
St Mary's CE	Voluntary Controlled
Western House Primary	Community
Wexham Court	Community
Secondary	
Beechwood	Community
St Bernard's RC Grammar	Voluntary Aided
St Joseph's RC	Voluntary Aided
Wexham	Community

School	Category
Special	
Arbour Vale	Community Special
Haybrook College	Community Special
Littledown	Community Special

ANNEX B

RESPONSIBILITY FOR REDUNDANCY AND EARLY RETIREMENT COSTS

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

Section 37 of the 2002 Education Act says:

(4) costs incurred by the local education authority in respect of any premature retirement of a member of the staff of a maintained school shall be met from the school's budget share for one or more financial years except in so far as the authority agree with the governing body in writing (whether before or after the retirement occurs) that they shall not be so met

(5) costs incurred by the local education authority in respect of the dismissal, or for the purpose of securing the resignation, of any member of the staff of a maintained school shall not be met from the school's budget share for any financial year except in so far as the authority have good reason for deducting those costs, or any part of those costs, from that share.

(6) The fact that the authority have a policy precluding dismissal of their employees by reason of redundancy is not to be regarded as a good reason for the purposes of subsection (5); and in this subsection the reference to dismissal by reason of redundancy shall be read in accordance with section 139 of the Employment Rights Act 1996 (c. 18).

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

Charge of dismissal/resignation costs to delegated school budget:

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

Charge of premature retirement costs to local authority non-schools budget:

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

Costs of new early retirements or redundancies can also be charged to the central part of the Schools Budget if the Schools Forum agree and the local authority can demonstrate that the "revenue savings achieved by any termination of employment are equal to or greater than the costs incurred". The Schools Forum must agree to any increase in this budget over the previous financial year. If the Schools Forum does not agree with the local authority's proposal, then the authority can appeal to the Secretary of State. The Schools Forum would also be involved if the additional expenditure resulted in a breach of the central expenditure limit, whereby central expenditure increases faster than the Schools Budget as a whole.

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

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

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

(7) Where a local authority incur costs-

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

(7A) Any amount payable by virtue of subsection (7) by the governing body of a

maintained school in England to the local authority may be met by the governing body out of the school's budget share for any funding period if and to the extent that the condition in subsection 7(B) is met.

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

An example of where a charge to the central Schools Budget might be appropriate would be a school reorganisation. A reorganisation involving the closure of a number of schools would be likely to result in savings because there would be a reduced amount being allocated through the formula for factors such as flat rate amounts to all schools or floor area. If the savings in the formula exceeded the ongoing costs of the VER/redundancy then this would qualify.

It would be possible to consider savings at an individual school level as well, but this needs to be carefully managed so that there are clear ground rules in place for applications, recommendations and approval. It may be sensible to agree criteria for eligibility which are consistent with the general approach as to when costs should be centrally funded.

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

There are clearly difficulties in setting a budget, whether inside or outside the Schools Budget, at a point prior to the beginning of the financial year before schools have set their budgets and made staffing decisions. Local authorities can only make a best estimate of what may be needed, based on past experience, local knowledge of the financial position of individual schools and the context of that year's funding settlement. There are dangers in raising expectations that costs will be met centrally if the budget is set too high, and so an alternative would be to keep the budget tight and use contingency or 'schools in financial difficulties' budgets if there is an unexpected need for staffing reductions and it is not appropriate for delegated budgets to fund VER/redundancy costs. To achieve best use of resources, local authorities should also have an active redeployment policy, to match staff at risk to vacancies.

One of the permitted uses of the contingency is where "a governing body has incurred expenditure which it would be unreasonable to expect them to meet from the school's budget share" while local authorities are also allowed to retain funding for schools in financial difficulties "provided that the authority consult the schools forum on their arrangements for the implementation of such support."

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

(7)Where a local education authority incur costs:

(a) in respect of any premature retirement of any member of the staff of a maintained school who is employed for community purposes, or

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

(8) Any amount payable by virtue of subsection (7) by the governing body of a maintained school to the local education authority shall not be met by the governing body out of the school's budget share for any financial year.

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

ANNEX C

APPLICATION OF SCHEMES FOR FINANCING SCHOOLS TO THE COMMUNITY FACILITIES POWER

Schools which choose to exercise the power conferred by s.27 (1) of the Education Act 2002 to provide community facilities will be subject to a range of controls. First, regulations made under s.28 (2), if made, can specify activities which may not be undertaken at all under the main enabling power. Secondly, the school is obliged to consult its local authority and have regard to advice from the authority. Thirdly, the Secretary of State issues guidance to governing bodies about a range of issues connected with exercise of the power, and a school must have regard to that.

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

- a. those contained in schools' own instruments of government, if any; and
- b. in the maintaining local authority's scheme for financing schools made under section 48 of the School Standards and Framework Act 1998. Paragraph 2 of Schedule 3 to the Education Act 2002 extends the coverage of schemes to the powers of governing bodies to provide community facilities.

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

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

ANNEX D LIST OF BANKS AND BUILDING SOCIETIES

Barclays
HSBC
Lloyds TSB
National Westminster
Nationwide Building Society
Royal Bank of Scotland
Santander UK

Section 27 of the Education Act 2002

27 Power of governing body to provide community facilities etc.

- (1) The governing body of a maintained school shall have power to provide any facilities or services whose provision furthers any charitable purpose for the benefit of—
 - (a) pupils at the school or their families, or
 - (b) people who live or work in the locality in which the school is situated.
- (2) The power under subsection (1) includes, in particular, power for a governing body to—
 - (a) incur expenditure,
 - (b) enter into arrangements or agreements with any person,
 - (c) co-operate with, or facilitate or co-ordinate the activities of, any person, and
 - (d) provide staff, goods, services and accommodation to any person.
- (3) Subject to the provisions of Chapter 3 of Part 6 of the Education Act 1996 (c. 56) (charges in connection with education), a governing body may charge for any services or facilities provided under this section.
- (4) This section has effect subject to section 28.