



**2018/19**

**SCHEME FOR  
FINANCING SCHOOLS:**

**Corporate Director of Trafford Children, Families and Wellbeing Service  
Trafford Town Hall  
Talbot Road  
Stretford  
Greater Manchester  
M32 0EL**

**Updated June 2018**

## **Summary Amendments**

### **June 2017**

- Changes to job titles relating to LA Officers throughout the document
- Removal of reference to the Special Purposes Fund
- Changes to the Schools in Financial Difficulties Annex A – to reflect the change in the process agreed at the Funding Forum on 11<sup>th</sup> October 2016
- A change to reflect that a panel of members of the School Forum will prioritise requests for assistance from the de-delegated budget for redundancies rather than the Corporate Director Children Families and Wellbeing.

### **June 2018**

#### ***Directed Revision by Secretary of State***

##### *3.11*

*Loans will only be used to assist schools in spreading the cost over more than one year of large one-off individual items of a capital nature that have a benefit to the school lasting more than one financial or academic year. Loans will not be used as a means of funding a deficit that has arisen because a school's recurrent costs exceed its current income. If loans are made to fund a deficit and a school subsequently converts to academy status, the Secretary of State will consider using the power under paragraph 13(4)(d) of Schedule 1 to the Academies Act 2010 to make a direction to the effect that such a loan does not transfer, either in full or part, to the new Academy school.*

#### **Other DFE Updates**

- Paragraph 4.6 has been updated to reflect changes on balances of closing schools, as detailed under Regulation 25 (9).
- Annex B: Responsibility for redundancy and early retirement costs has been updated to reflect changes under Schedule 2 Part 7, of the Finance Regulations. This details how a local authority can retain a central budget within the schools budget to fund the costs of new early retirements or redundancies by a deduction from maintained school budgets (excluding nursery schools) only, where the relevant maintained school members of the schools forum agree.
- Paragraph 2.3.1 The removal of wording in paragraph 2.3.1, as regulations no longer allow local authorities to issue budget shares for a multi-year period.
- References to the Audit Commission have been removed from paragraph 2.6, as this has been abolished.
- Within paragraph 6.2.15, 'statement of SEN' has been replaced with 'Education Health and Care Plan (EHCP)'.

#### **Trafford updates**

- Annex 3 – Update Schools list

- Annex 6 – Update years on deficit application/ approval form
- Remove Leeds BS from Councils approved list.

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## **SECTION 1: INTRODUCTION**

### **1.1 The Funding Framework**

The Funding Framework which replaced Local Management of Schools is based on the provisions contained in the School Standards and Framework Act 1998. A brief outline is provided in Annex 1.

The financial controls within which delegation operates have to be set out in a Scheme made in accordance with Section 48 of the Act and approved by the Secretary of State.

### **1.2 Role of the Scheme**

The Scheme sets out the financial relationship between Trafford Council (the Local Authority) and the maintained schools which it funds. The Scheme contains requirements relating to financial management and associated issues, binding on both the Local Authority and on schools.

In addition, the Local Authority will issue more detailed guidance on a number of issues to which the Board of Governors will need to have regard in the management of their budgets. These are referred to in the Scheme, as appropriate.

### **1.3 Schools Covered by the Scheme**

The Scheme applies in respect of all community, voluntary aided, voluntary controlled, foundation, community special or foundation special schools and pupil referral units (PRUs) maintained by the Local Authority.

A list of schools is attached for information at Annex 3.

#### **1.4 Publication of the scheme**

A copy of the Trafford Scheme for Financing Schools is publicly available and accessible via the Trafford Council website at <http://www.trafford.gov.uk/residents/schools/schools-finance/Schools-Finance.aspx>

Any revised versions of the Scheme will be made publicly available by the date that they come into force and will state the date that the revised Scheme came into force.

Hard copies of the Trafford Scheme for Financing schools are available on request from the Schools' Finance Team.

#### **1.5 Revision of the scheme**

Any proposed revisions to the scheme will be subject to consultation with the Board of Governors and head teacher of every school maintained by the authority before they are submitted to the Schools' Forum for approval.

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

#### **1.6 Delegation of powers to the head teacher**

The Board of Governors of each school must approve the first formal annual budget plan of each financial year. If it wishes, the Board of Governors may delegate approval of the annual budget to a committee of the Board of

Governors. The Board of Governors should also consider the extent to which it wishes to delegate its financial powers to the head teacher. These powers (and any revisions) are to be stated in the school's financial procedures and are also to be recorded in the minutes of the Board of Governors.

### **1.7 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 Board of Governors). Part of the way the Local 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 CONTROL**

### **2.1.1 Application of financial controls to schools**

Schools must follow the Local Authority's requirements on financial controls and monitoring in the management of their delegated budgets. Some of these requirements are included in this document and others exist in detailed guidance notes issued on specific services. Schools may prepare their own Finance Manuals to be used in place of the Local Authority's Financial Regulations, Standing Orders and procedure notes but approval for their use will be at the sole discretion of the Chief Finance Officer.

### **2.1.2 Provision of financial information and reports**

Schools are required to provide the Local Authority details of anticipated and actual income and expenditure in a form and time determined by the Local Authority. However, submission of such details are not required more often than once every three months except for those connected with tax or banking reconciliation unless the Local Authority has notified the school in writing that in its view the school's financial position requires more frequent submission or

the school is in its first year of operation. The restriction to a minimum three month interval does not apply to schools which are part of an on-line financial accounting system operated by the Local Authority.

### **2.1.3 Payment of salaries and invoices**

Any school which has opted not to use the Local Authority's payroll service must have due regard to the separately published guidelines for the service.

### **2.1.4 Control of assets**

Each school is responsible for the safe custody and control of equipment and other assets and the maintenance of an inventory. Guidance notes on the maintenance of the inventory and the procedures to be adopted when disposing of assets should be followed.

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

The Local Authority has adopted the Chartered Institute of Public Finance and Accountancy (CIPFA) code of recommended practice. An integral part is that accounts are maintained on an accruals basis rather than a cash basis (this means the cost of supplies and services etc. are accounted for in the period during which they were consumed or received. Similarly receipts from fees, charges rents etc. must be accounted for in the period to which they relate). Therefore reports and accounts of schools must be submitted on a similar basis.

Each year the Chief Finance Officer will issue guidance on the procedures and timescales to be followed at the end of the financial year for the closure of accounts.

### **2.1.6 Writing off debts**

Head Teachers are permitted to write off debts, subject to them reporting exercising such delegation to the Schools Board of Governors. Any debts written off will be charged to the School's revenue account.

A record of all debts written off, together with reasons, must be maintained and made available to the Chief Finance Officer upon request. Where debts

become a significant issue for a School, advice should be sought from the Chief Finance Officer about establishing a bad debt provision.

Schools should avoid offering credit, if credit terms are to be considered schools should consult with the Chief Finance Officer.

## **2.2 Basis of Accounting**

Reports and accounts that are submitted to the Local Authority should be prepared on an accruals basis, taking account on creditors and debtors.

## **2.3 Submission of budget plans**

Each year schools must submit their approved budget plan including details of the proposed use of estimated surplus balances to the Local Authority by 30th June showing its intentions for expenditure in the current financial year and the assumptions underpinning the budget plan. The budget plan must be signed by the Chair of the Board of Governors (or Chair of the relevant Committee if a Committee of the Board of Governors has delegated powers to approve the budget) and the amount approved recorded in the minutes of the meeting where the budget was approved.

Where schools do not buy back Financial Support from the Authority any revisions to budget plans should be reported to the Authority on a quarterly basis (i.e. 30th September, 31st December and 31st March). The format of the budget plan is as prescribed in the annual budget planning guidance note sent to schools in March each year.

The Authority will supply all maintained schools with all income and expenditure data which it holds which is necessary for efficient planning by schools. In particular:

- A statement of resources allocated to schools (the budget share)

- Details of outturn expenditure and carry forward position.

Schools should take full account of estimated deficits/surpluses at the previous 31 March in their budget plan.

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

The Authority may require schools to submit a financial forecast covering each year of a multi-year period. The multi year forecasts may be used as evidence to support the authority's assessment of Schools Financial Value Standards and used in support of the authority's balance control mechanism. r

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

Schools must seek to achieve efficiencies and value for money, to optimise the use of their resources and to invest in teaching and learning, taking into account the Authority's purchasing, tendering and contracting requirements outlined in section 2.10.

It is for heads and governors to determine at school level how to secure better value for money.

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

Further guidance on achieving best value can be found in Annex 2.

### **2.5 Virement**

Schools may transfer (vire) funds freely between budget heads during the course of the financial year to reflect changes in spending plans and actual spending. Changes which are approved by a committee of the Board of Governors or Headteacher should be in line with the level of delegation approved by the Board of Governors in its Scheme of Delegation. Any such changes should be reported to the Chief Finance Officer on request and records should be retained of all such changes.

Schools should not vire earmarked funds for other purposes without the prior approval of the Local Authority (see para 2.16).

## **2.6 Audit: General**

All schools are within the Internal and External Audit regime determined by the Chief Finance Officer and the Head of Audit and Assurance. The frequency and scope of internal audits are determined by the Head of Audit and Assurance Services, based on the ongoing review of need.

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

## **2.7 Separate external audits**

Schools' Board of Governors may spend funds from its budget share to obtain external audit certification of its accounts, separate from any Local Authority internal or external audit process if they so wish. However, there is no expectation or legal obligation for schools to do so.

## **2.8 Audit of voluntary and private funds**

Schools must be able to provide year-end audit certificates in respect of voluntary and private funds held by schools and of the accounts of any trading organisations controlled by the school.

All non-public funds must be audited on an annual basis by a person approved by the Board of Governors who is independent of that fund. The governors must receive annually the audited statement of the school fund and any other voluntary funds held within the school and must formally minute the balances.

## **2.9 Register of business interests**

The Board of Governors of each school is required to hold a register which lists for each member of the Board of Governors 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 Board of Governors;

The register must be kept up to date with notification of changes and through annual review of entries. This register must be available for inspection by governors, staff, parents, auditors and the Local Authority. The register must also be published on a publicly accessible website.

## **2.10 Purchasing, tendering and contracting requirements**

Schools must abide by the Local Authority's Financial Regulations and Contract Procedure Rules in purchasing, tendering and contracting matters. In addition, schools must assess in advance, where relevant, the health and safety competence of contractors, taking account of the Authority's policies and procedures.

The Scheme also contains a provision which has the effect of dis-applying from schools any section of those regulations and/or contract procedure rules which would require them:

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

or would permit schools to seek fewer than three tenders in respect of any contract with values exceeding £10,000 in any one year; subject to specific listed exceptions.

### **2.11 Application of contracts to schools**

Schools have a right to opt out of Local Authority-arranged contracts except where they have voluntarily agreed to be bound to the terms and conditions of a particular contract(s).

Although the Board of Governors are empowered to enter into contracts, in most cases they do so on behalf of the Local Authority as a maintainer of the school and the owner of the funds in the budget share. Other contracts may be solely on behalf of the Board of Governors, when the Board of Governors has clear statutory obligations – for example, contracts made by aided or foundation schools for the employment of staff.

### **2.12 Central funds and earmarking**

The Local Authority may from time to time make sums available to schools from central funds, in the form of allocations which are additional to and separate from the schools' budget shares e.g. Sums for SEN or EDP initiatives.

Any such earmarked funding from centrally retained funds is to be spent only on the purposes for which it is given, or on other budget heads for which earmarked funding is given, and is not to be vired into the budget share. Schools should ensure that separate funds are entered onto their own financial management systems and that all expenditure charged to these allocations can be accounted for to demonstrate that the funds are only spent for the purpose for which they were allocated.

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

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

In accordance with section 50(3) of the SSAF Act 1998 the Board of Governors is authorised to spend the budget share for the purposes of the

school subject to the provisions contained in this scheme and any regulations issued by the Secretary of State. By virtue of section 50(3A) (which came into force on 1st April 2011), amounts spent by the Board of Governors on community facilities or services under section 27 of the Education Act 2002 will be treated as if spent for any purposes of the school.

Under Section 50(3)(b) the Secretary of State may prescribe additional purposes for which expenditure of the budget share may occur. This has been done in the School budget Share (prescribed purposes) (England) regulations 2002 (SI 2002/378), which have been amended by 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.

The Board of Governors may not incur expenditure from the school budget for purposes which are properly the responsibility of other agencies.

#### **2.14 Capital spending from budget shares**

The Board of Governors are free to use their budget shares to meet the cost of capital expenditure on the school premises. This includes expenditure by the Board of Governors of a voluntary aided school on work which is their responsibility under paragraph 3 of Schedule 3 of the SSAF Act 1998.

However, if the expected capital expenditure in any one year will exceed £20,000 the Board of Governors must notify the Authority and take into account any advice from the Corporate Director Children Families and Wellbeing or from the Chief Finance Officer, as appropriate, as to the merits and implications (e.g. on VAT recovery) of the proposed expenditure. If the premises are owned by the Authority or the school has voluntary controlled status, then the Board of Governors should seek the consent of the Authority to the proposed works but such consent can be withheld only on health and safety grounds.

## **2.15 Notice of Concern**

The Authority may issue a notice of concern to the Board of Governors of any school it maintains where, in the opinion of the Chief Finance Officer and the Corporate Director Children Families and wellbeing, the school has failed to comply with any provisions of the scheme, or, where actions need to be taken to safeguard the financial position of the Authority or the school.

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

- Insisting that relevant staff undertake appropriate training to address any identified weaknesses in the financial management of the school;
- Insisting that an appropriately trained/qualified person chairs the Finance Committee of the Board of Governors;
- Placing more stringent restrictions or conditions on the day to day financial management of a school that the scheme requires for all schools – such as the provision of monthly accounts to the local authority;
- Insisting on regular financial monitoring meetings at the school attended by Local Authority officers
- Requiring a Board of Governors to buy into the Authority's financial management systems; and
- Imposing restrictions or limitations on the manner in which a school manages extended school activity funded from within its delegated budget share – for example by requiring a school to submit income projections and/or financial monitoring reports on such activities.

Once the Board of Governors has complied with the requirements imposed by the notice of concern, the notice will be formally be withdrawn in writing to the Board of Governors.

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

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

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

All maintained schools with a delegated budget must submit the form to the local authority before 31 March 2013 and annually thereafter.

## **2.17 Fraud**

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

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

**SECTION 3: INSTALMENTS OF THE BUDGET SHARE**  
**BANKING ARRANGEMENTS**  
**TREASURY MANAGEMENT**

The Local Authority has adopted the CIPFA Code of Practice for Treasury Management.

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

**3.1 Bank and building society accounts**

Schools are free to choose any of the following:

- (a) A bank account into which the total budget share is paid  
\*.  
;
- (b) a bank account into which the budget share, net of estimated pay costs and rates, is paid;
- (c) A bank account into which the budget share, net of estimated pay costs is paid.

\*Note that if a school uses the Local Authority's payroll service, the value of the payroll costs may be retained by the Authority

Details of any bank account to be used by schools must be provided to the Chief Finance Officer and certified by the head teacher and Chair of the Board of Governors. The appropriate form for recording this is IBA1 and this is provided at Annex 7.

**3.2 Restrictions on accounts**

Schools may only open a bank account(s) with a bank or building society which is on the Authority's approved list, consistent with the Authority's Treasury Management policy; the current approved list is attached at Annex3.

The Board of Governors is free to use one or more approved institutions for the operation of banking arrangements and are free to choose the number and nature of the accounts held with those institutions (but see section 3.5 below). The account into which the budget share is to be paid should have same day banking facilities.

Schools may open bank accounts for budget share purposes in their own name rather than the name of the Authority. However, schools must ensure that they follow Financial Regulations, Contract Procedure Rules and any other guidance issued in relation to management of bank accounts held either in their own name or in the name of the Authority.

Schools must not at any time have an overdrawn bank balance.

If a school has an account for school budget purposes which is in the name of the school rather than the Authority, the account mandate should provide that the Authority is the owner of the funds in the account; that it is entitled to receive statements; and that it can take control of the account if the school's right to a delegated budget is suspended by the Authority.

### **3.3 Frequency of instalments**

For schools operating their own bank account the budget share will be made available to the Board of Governors in monthly instalments throughout the financial year. Cleared funds will be made available by the 15th of each month or earlier if this is a non-banking day. The Local Authority will reimburse costs arising for late payments, so long as no act or omission by a school caused the delay.

Money paid by the Local Authority and held in such accounts remains Local Authority property until spent (S49(5) of the School Standards and Framework Act 1998).

For schools in a deficit position advances will be calculated on the basis of the agreed budget share plus the deficit quoted in the formal signed deficit agreement.

Where a school is not in a deficit position but has a particular cash flow problem at some time during the year, the profile of payments for advances can be adjusted subject to the approval of the Chief Finance Officer.

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

### **3.4 Proportion of budget share payable at each instalment**

The Local Authority will normally pay the budget share in equal monthly instalments.

For those schools where employee costs are retained by the Local Authority, sometimes referred to as partly advanced cheque-book schools, the calculations will be based on:

School Budget Share (S251)  
Add In Year Adjustments  
Less Rates Charge  
Add Monies in Respect of Previous Year's Advances

Then:

Divide by twelve (for monthly instalments)  
Less Salary Costs (actual from previous month)

For those schools where employee costs are not retained by the Local Authority, sometimes referred to as Fully Advanced cheque book schools, the

advances will be calculated using an estimate of all the funding streams receivable from the Local Authority. If there are changes in the funding streams throughout the year then the advances will be amended accordingly.

**These schools can opt to have their advances net of NNDR expenditure (rates) which can then be administered centrally.**

### **3.5 Interest on balances**

Schools may retain any interest earned from their external bank account. Any unspent budget share in an external bank account cannot be used to make a time deposit greater than 364 days; such deposits should only be made with the institutions on the Local Authority's approved list.

### **3.6 Interest claw back**

Schools who wish to operate bank accounts for the payment of payroll expenditure are receiving cash for payroll deductions in advance of their need. To recognise this interest clawback will be applied which will be calculated using the following methodology:-

‘Schools incur 30% of their budget share on payroll deductions.

Schools can earn one month's interest on payroll deductions.

The interest rate to be applied is current Bank of England base rate”

The calculation is therefore:-

$30\% \times 1/12 \text{ (month)} \times 5.0\% \text{ (interest rate)} = 0.125\%$  of a schools budget share.

The deduction will be spread equally across all 12 months and will not be applied to any devolved grants. The clawback will be deducted monthly from the advance.

### **3.7 Interest on late budget share payments**

The Authority will add interest to late payments of budget share instalments, where such late payment is the result of Authority error. The interest rate used will be that used for claw back calculations.

### **3.8 Budget shares for closing schools**

Where approval for discontinuation of a school has been secured, budget shares will be made available for that school in equal monthly instalments until closure unless the school can prove that money is needed in greater instalments so as not to be detrimental to the operation of the school.

### **3.9 Borrowing by schools**

Schools may borrow only with the written permission of the Secretary of State. However this provision does not apply to *loan schemes* run by the Authority (see para 3.11 below).

This requirement 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 delegated budgets, but the Board of Governors are free to charge for a service which the Trustees or Foundation are able to provide as a consequence of their own borrowing. The Board of Governors do not act as agents for the Authority when repaying loans.

### **3.10 Leasing and Other Credit Arrangements**

Schools may enter into operating leases but are not permitted to enter into any finance lease or other credit arrangements without the permission of the Secretary of State. Advice on the various types of leases and on credit arrangements is available from the Chief Finance Officer.

It is acknowledged that it can be difficult to differentiate between operating and finance leases. However schools need to exercise caution when leasing assets as it is usually an expensive way of borrowing.

Schools must ensure that lease rentals in any one year are less than 2.5% of their annual Budget allocation and should consider more efficient ways of purchasing assets such as the Trafford Loan Scheme. Further information on the Trafford Loan Scheme can be found in section 3.11

### **3.11 Trafford Loan Scheme**

The Authority operates a *loan scheme* to help in the financing of equipment, building works etc. where the life of the asset extends for more than one year. The scheme is financed from the collective balances of schools. Details of the operation of the scheme can be obtained from the Chief Finance Officer.

Loans will only be used to assist schools in spreading the cost over more than one year of large one-off individual items of a capital nature that have a benefit to the school lasting more than one financial or academic year. Loans will not be used as a means of funding a deficit that has arisen because a school's recurrent costs exceed its current income. If loans are made to fund a deficit and a school subsequently converts to academy status, the Secretary of State will consider using the power under paragraph 13(4)(d) of Schedule 1 to the Academies Act 2010 to make a direction to the effect that such a loan does not transfer, either in full or part, to the new Academy school

### **3.12 Other Provisions**

Separate bank accounts should be operated for private and voluntary funds administered by the school.

The day to day operation of school bank accounts must comply with procedures and guidance laid down by the Chief Finance Officer in

accordance with his statutory duties and responsibilities under the Local Government Acts. Where there is substantial or persistent failure to comply with such procedures and guidance the Chief Finance Officer has the authority to suspend the external bank account arrangements until the position is rectified to his satisfaction.

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

### **4.1 The right to carry forward surplus balances**

Any underspends against the total budget share, as determined in the Authority's final accounts and published under Section 251 of the Act, will be carried forward automatically to the following financial year.

A school's surplus balance at 1 April will be equal to that at 31 March, (i.e. that amount shown in the out-turn statement published under s251).

All schools with balances that exceed the recommended maximum (8% Primary and Special Schools, 5% Secondary Schools) be requested to submit information detailing how they have accrued the balances and how they intend to utilise them. The information will be requested during the Autumn Term.

### **4.3 Obligation to carry forward deficit balances**

Schools will carry forward deficit balances from one financial year to the next. A school's deficit balance at 1 April will be equal to that at 31 March, (i.e. that amount shown in the out-turn statement published under s251)

### **4.4 Licensed deficit budgets**

The Board of Governors should not plan a deficit budget, after taking into account carried forward balances. In the event of an unplanned deficit arising during a financial year, schools will be required to make good such a deficit in the following financial year and should allow for that in their budget plans. This is known as a balanced budget.

Exceptionally, where schools demonstrate that a balanced budget within the next financial year can only be achieved to the severe detriment of the functions of the school, the Corporate Director of Children Families and Wellbeing Service and the Chief Finance Officer may approve plans to achieve a balanced budget over a short period of time.

The Procedures to be followed between the LA and Schools should a deficit budget be likely to arise in the future financial year are shown at Annex 5 to this document. These were approved by the School Funding Forum on 11<sup>th</sup> October 16.

Where a deficit budget is likely to arise, the Board of Governors must provide:

- (a) a licensed deficit application form, including a full explanation of the situation
- (b) a detailed recovery action plan with proposed timescales, designed to achieve a balanced budget within an agreed time period. (*This should not exceed 3 years*).
- (c) Regular reports to the Director of Children Families and Wellbeing Service, until a satisfactory financial position has been achieved.
- (d) A signed agreement (See Annex 6) which details the deficit approved and conditions (determined by the Corporate Director of Children Families and Wellbeing Service and Chief Finance Officer) which will be binding on the Board of Governors.

#### **4.5 Writing off deficits**

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

*Where the authority gives assistance towards elimination of a deficit balance this will be done 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).*

#### **4.6 Balances of closing and replacement schools**

Where in the funding period, a school has been established or is subject to a prescribed alteration as a result of the closure of a school, 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.

## **SECTION 5: INCOME**

### **5.1 General**

All Schools must account for all income received by their establishment which is to be credited to their school budget or to the Authority, in accordance with the Authority's "Financial Regulations for Schools" and any supplementary guidance issued.

### **5.2 Income from lettings**

Income generated from lettings of the school premises belongs to the school. 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 Board of Governors 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 Local Authority as to the use of school premises, as permitted under the School Standards and Framework Act 1998 for various categories of Schools.

The income from lettings of school premises should not normally be payable into voluntary or private funds held by the school.

### **5.3 Income from fees and charges**

Income generated from fees and charges belongs to the school, except where a service is provided by the Local Authority from centrally retained funds. However, schools must have regard to any policy statements on charging produced by the Authority.

#### **5.4 Income from fund-raising activities**

Income generated from fund-raising activities belongs to the school.

Where such activities have created a charge against the school budget, this charge must be reimbursed before the balance of income is credited to the unofficial fund

#### **5.5 Income from the sale of assets**

Schools are allowed to retain the proceeds of sale of assets except in cases where the asset was purchased with non-delegated funds (in which case the Local Authority will decide whether the school should retain the proceeds) or the asset concerned is land or building forming part of the school premises and is owned by the Local Authority. Details on disposal of assets are documented within the Financial Regulations.

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

Income retained by the Board of Governors from the sale of assets may only be spent for the purposes of the school.

## **SECTION 6: THE CHARGING OF SCHOOL BUDGET SHARES**

### **6.1 General provision**

The Local Authority may charge the budget share of a school without the consent of the Board of Governors only in circumstances expressly permitted by the Scheme. The Local Authority will consult schools as to the intention to charge and will notify schools when it has been made.

Actual costs will normally be charged to school budgets for all items (including salaries of school based staff) but in some cases, for example where premises are shared with other users, apportionments of actual expenditure between users will be made.

*Local authorities may de-delegate funding for permitted services without the express permission of the Board of Governors, provided this has been approved by the appropriate phase representatives of the Schools Forum.*

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

6.2.1 Where premature retirement costs have been incurred without the prior written agreement of the 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 where the school had not followed Local Authority advice;

6.2.3 Awards by courts and employment tribunals against the Local Authority, or any out of court settlements, arising from action or inaction by the Board of Governors contrary to the Local Authority's advice

6.2.4 Expenditure by the Local Authority in carrying out health and safety work or capital expenditure for which the Local Authority is liable

where funds have been delegated to the Board of Governors for such work, but the Board of Governors has failed to carry out the required work.

- 6.2.5 Expenditure by the Local Authority incurred in making good defects in building work financed from budget shares, where the premises are owned by the Local Authority, or the School has voluntary controlled status.
- 6.2.6 Expenditure incurred by the Local Authority in insuring its own interests in a school where funding has been delegated but the school has failed to demonstrate that it has arranged cover at least as good as that which would be arranged by the Local Authority;
- 6.2.7 Recovery of monies due from a school for services provided to the school, where a dispute over the monies due has 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 Local Authority;
- 6.2.8 Recovery of penalties imposed on the Local Authority by the Board of Inland Revenue, the Contributions Agency, HM Revenue and Customs, Teachers' Pensions, the Environment Agency or other regulatory authorities as a result of a school negligence;
- 6.2.9 Correction of Local Authority errors in calculating charges to a budget share;
- 6.2.10 Additional transport costs incurred by the Local Authority arising from decisions by the Board of Governors on the length of the school day, and failure to notify the Local Authority of non-pupil days resulting in unnecessary transport costs;

- 6.2.11 Legal, audit and other costs that are incurred by the Local Authority because the Board of Governors did not accept the advice of the Local Authority"
- 6.2.12 Costs of necessary health and safety training for staff employed by the Local Authority, where funding for training had been delegated but the necessary training not carried out. The Authority can direct schools to release staff for health and safety training and charge the school for any relevant training provided, that the Authority believes to be appropriate, to enable schools to implement the Council's Health and Safety Policies;
- 6.2.13 Compensation paid to a lender where a school enters into a contract for borrowing beyond its legal powers, and the contract is of no effect;
- 6.2.14 Recovery of amounts spent from specific grants on ineligible purposes
- 6.2.15 Costs incurred by the authority as a result of the Board of Governors being in breach of the terms of a contract
- 6.2.16 Where delegation has been suspended at a school, the Local Authority may charge such costs as it considered appropriate to the school budget share in discharging its responsibilities for running the school;
- 6.2.17 Where consequential costs arise from capital expenditure undertaken at the school by the Board of Governors, the Local Authority may charge these costs to the budget share where such consequential costs have not been agreed in advance by the Local Authority;
- 6.2.18 Essential capital expenditure incurred by the Local Authority arising from deficiencies in the repair and maintenance programme undertaken by the Board of Governors;
- 6.2.19 Where schools have failed to demonstrate that amounts spent from specific grants are for eligible purposes. This will apply in particular to

any specific grant allocation where failure of a Board of Governors to produce adequate records leads to a grant claim being disallowed by the Local Authority's external auditor.

6.2.20 Expenditure incurred by the Local Authority in the event of any failure on the part of the Board of Governors in meeting statutory or contractual obligations where those obligations have been entered into voluntarily or where the scheme binds the school to them.

6.2.21 Amounts agreed under a PFI / PPP agreement entered into by the Board of Governors of a school (see section 9).

6.2.22 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 Local Authority's compliance with its statutory obligations;

6.2.23 Costs incurred by the Local Authority in securing provision specified in an EHC Plan, where the Board of Governors 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.

6.2.24 Costs incurred by the Local Authority due to submission by the school of incorrect data.

6.2.25 Costs incurred by the Local Authority in obtaining financial information from schools which are in deficit and have failed to make adequate arrangements for the timely provision of such information to the Local Authority in accordance with the Scheme for Financing Schools (see also Section 4.5).

6.2.26 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**

The Local Authority is usually able to recover VAT on expenditure incurred by schools. 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 nor capital works at Foundation Schools funded directly by DfE.

The Chief Finance Officer will issue guidance and procedural notes from time to time which must be observed by schools, together with any other instructions issued by HM Customs & Excise.

All VAT recovered from HM Customs & Excise in respect of school expenditure will be passed onto each school.

### **7.2 ADMINISTRATION OF VALUE ADDED TAX (VAT).**

Schools are able to recover VAT under the umbrella of the Council's VAT registration. It is important that schools follow advice issued from time to time by the Council as any non-compliance with VAT rules and regulations could have an impact for all schools and council services. Therefore schools must contact the Council's VAT officer for advice in the event of any query.

Schools are responsible for the correct declaration of input and output VAT. If schools fail to comply with VAT regulations and advice from the Council then the schools budget share will be charged with any resultant costs including any irrecoverable VAT (for any school or council service affected by the school's action), penalties and associated interest charges.

Schools must submit regular monthly VAT returns to the Council which include details of that month's transactions from the School's ledger (FMS). The return should be submitted electronically and must also include evidence

of bank reconciliation for that particular month. Failure of a school to submit all the details required will mean the VAT claim will not be processed meaning a cash flow loss to the school concerned.

If a school is more than 2 months late (excluding July and August) with their VAT claim then the advances for non payroll costs will be suspended. This could mean that schools may have to submit invoices to the Council for payment and in that instance they will be charged 1/12<sup>th</sup> of the Creditors SLA for each month's invoices that have to be processed. If a school is experiencing difficulty with VAT returns (e.g. bursar on sick leave, IT problems etc.) then they must contact Schools Financial Services immediately. The Schools Finance Team will liaise with schools in this position in order that a satisfactory conclusion can be reached.

### **7.3 CITS (Construction Industry Taxation Scheme)**

Schools must adopt the procedures issued by the Local Authority in connection with CITS.

## **SECTION 8: THE PROVISION OF SERVICES AND FACILITIES BY THE LOCAL AUTHORITY**

### **8.1 Provision of services from centrally retained budgets**

The Local Authority will determine the basis on which services from centrally retained funds will be provided to schools. It will not discriminate in its provision of such services on the basis of categories of schools except where such discrimination is justified by differences in statutory duties. The term 'services' includes existing PRC and redundancy payments made by the Local Authority.

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

All contracts with schools starting on or after 1 April 1999 to buy services or facilities from the Local Authority will be limited to a maximum of three years from the inception of the scheme or the date of the agreement, whichever is the later. Any subsequent agreements for the same services will be limited to a maximum contract period of five years. For the supply of catering services, an extension to five and seven years respectively may be made.

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

### **8.3 Packaging**

The Local Authority will provide all services for which funding has been delegated, and for which the Local Authority is offering the service on a buyback basis, in a way which does not unreasonably restrict schools' freedom of choice among the services available. There is no obligation for schools to buy a range of services even where discounts may be offered for doing so. All services will be offered on an individual basis.

### **8.4 Service level agreements**

Where services or facilities are provided under a service level agreement - whether free or on a buyback basis - the terms of any such 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.

The Service level agreement must be in place by 31st August to be effective for the following academic year. Schools will have at least one month prior to this to consider the Terms of Agreement.

Services, if offered at all by the Local Authority, will be available on a basis which is not related to an extended agreement, as well as on the basis of such agreements. (i.e. separate charges may apply to services provided on an ad-hoc basis than when they are included within an extended agreement).

## **SECTION 9: PRIVATE FINANCE INITIATIVE (PFI)**

### **9.1 General**

The Local Authority and the Board of Governors of a school may wish to explore the possibility of PFI/PPP (Public Private Partnership) for major capital investments.

In such cases, prior agreement will need to be reached on any cost sharing arrangements for feasibility studies, appraisals and ultimate contractual commitments. (See also Section 6.2.22).

## **SECTION 10: INSURANCE**

### **10.1 Insurance Cover**

10.1.1 The Board of Governors shall notify the Chief Finance Officer promptly of all new risks, liabilities, properties or vehicles which require to be insured under the scheme and of any alterations affecting risks or insurance indicating the amount of cover required.

10.1.2 The Board of Governors shall immediately notify the Chief Finance Officer of any fire, loss, accident or other event which may give rise to a claim under the Local Authority's insurance arrangements.

10.1.3 All schools who buy back insurance through the Council receive the same level of cover as referred to in service level agreement, including voluntary aided schools. Thus there is no requirement for voluntary aided schools to purchase additional premises related insurances.

10.1.4 If the Board of Governors opts to arrange its own insurance, the Board of Governors must demonstrate that cover sufficient for the Local Authority's insurable interests, under a policy arranged by the Board of Governors, is at least as good as the relevant minimum cover arranged by the Local Authority. The Board of Governors may only exercise this option at the start of a financial year and is required to give the Local Authority at least four months prior notice in writing.

10.1.5 Where the Board of Governors opts to arrange its own insurance, the Board of Governors must have regard to the resources available to the school when deciding on any amount of risk it wishes to carry without external cover.

10.1.6 Where the Board of Governors opts to arrange its own insurance, the Board of Governors must provide documentation to the Chief Finance Officer on an annual basis to demonstrate that cover sufficient for the

Local Authority's insurable interests, under a policy arranged by the Board of Governors, is at least as good as the relevant minimum cover arranged by the Local Authority.

10.1.7 The Local Authority must have regard to the actual risks which might reasonably be expected to arise at the school in question, rather than applying an arbitrary minimum level of cover for all schools.

## **SECTION 11: MISCELLANEOUS**

### **11.1 Right of access to information**

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

The keeping of accounts, financial records and prime documents should be in a suitably secure place and condition and for such periods of time as specified.

Schools must not mix official funds (monies due to and from the Local Authority) with unofficial school funds or any other voluntary funds (e.g. School Fund, PTA) which should be kept and accounted for separately at all times.

### **11.2 Liability of governors**

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

### **11.3 Governors' expenses**

The Local Authority may delegate to the Board of Governors of a school yet to receive a delegated budget, funds to meet governors' expenses. The Board of Governors would not normally have discretion in the amounts of such allowances which would be set by the Local Authority.

Under schedule 11 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.

Payment of any other allowances is not permitted. 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 costs**

Legal costs incurred by the Board of Governors,( although the responsibility of the Local Authority 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 Board of Governors acts in accordance with the advice of the Local Authority.

The costs referred to are those of legal actions, including costs awarded against the Local Authority; not the cost of legal advice provided. Normally, general legal advice will be provided by the Local Authority's Legal Services division, in the unlikely event that the Local Authority's Legal Services division considers there to be a conflict of interest between the Local Authority and the Board of Governors, it may be necessary for the schools to seek legal advice from an alternative source.

#### **11.5 Health and Safety**

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

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

The Board of Governors must permit the Chief Finance Officer or any officer of the Local Authority nominated by him to attend meetings of the Board of Governors at which any agenda items are relevant to the exercise of his responsibilities. The Local Authority will give prior notice of such attendance unless it is impracticable to do so.

## **11.7 Delegation to new schools**

The Local Authority may delegate selectively and optionally to the Board of Governors of schools which have yet to receive delegated budgets. The Local Authority may delegate some spending powers to the temporary Board of Governors of a new school before it has a delegated budget.

By virtue of S 49(1)-(3) a new school will receive a delegated budget no later than the date on which it opens, unless the Authority has obtained approval from the Secretary of State for a postponement beyond that date.

## **11.8 Special Educational Needs**

Schools should endeavour in spending the school budget share, to secure the special educational needs of their pupils.

## **11.9 Child Protection**

The Board of Governors must have regard to the Trafford Safeguarding Children Board policies and procedures in respect of child protection in discharging their statutory duties for child protection. In particular, school staff should be authorised to attend case conferences and other relevant meetings when called and schools will be responsible for the cost of associated supply cover. The policies are electronic and can be accessed on <http://www.tscb.co.uk/Home.aspx>

or by an internet search entitled Trafford Safeguarding Children Board.

### **11.10 'Whistle blowing'**

School governors and school staff who wish to complain about financial management or financial propriety at the school should refer to the Local Authority's policy on 'Whistleblowing'. Copies are available from the Local Authority's Shared Services department and/or on the Trafford intranet.

### **11.11 Duty to provide information to Teachers Pensions**

In order to ensure the performance of the duty on the Local Authority to supply Teachers Pensions with information under the Teachers' Pensions Regulations 1997, the following conditions are imposed on the Local Authority and the Board of Governors of all maintained schools covered by this Scheme in relation to their budget shares and come into effect on 1 November 2002:

The conditions only apply to the Board of Governors of maintained schools who have not entered into an arrangement with the Local Authority to provide payroll services.

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

The Local Authority will advise schools each year of the timing, format and specification of the information required. The Board of Governors shall also ensure that any such arrangement or agreement is varied to require that

Additional Voluntary Contributions (AVC's) are passed to the Local Authority within the time limit specified in the AVC scheme.

The Board of Governors shall meet any consequential costs from the school's budget share.

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

The Board of Governors shall meet any consequential costs from the school's budget share.

### **11.12 Redundancy /Early Retirement costs**

The 2002 Education Act sets out how premature retirement and redundancy costs should normally be funded. Further guidance is provided at Annex 8

## **SECTION 12: RESPONSIBILITY FOR REPAIRS AND MAINTENANCE**

### **12.1 Delegation**

The Local Authority is required to delegate all revenue funding for repairs and maintenance to 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 used by the Local Authority for financial accounting purposes in line with the Chartered Institute of Public Finance and Accountancy (CIPFA) code of practice on Local Authority Accounting.

### **12.2 Respective Responsibilities**

The division of responsibilities between schools and the Local Authority differs for certain types of school. In county and voluntary controlled schools and maintained special schools, the Local Authority owns the property, and has the status of landlord, with the school occupying the premises being the tenant. This previously formed the basis for the divisions of repair and maintenance responsibilities. Under devolved funding the Board of Governors is required to finance all revenue repair and maintenance work from the school's budget share.

In the exercise of delegated repairs and maintenance responsibilities, the Board of Governors is required to have regard to guidance issued by the Local Authority on the respective responsibilities of the Local Authority and its schools, and to ensuring that the fabric of the school is suitable for the purposes of the school.

The Board of Governors will be expected to finance from the school's budget share repairs and maintenance work up to the appropriate capital threshold as determined by the Local Authority.

### **12.3 Voluntary Aided Schools**

Voluntary Aided School Board of Governors are eligible for grant from the DfES in respect of their statutory responsibilities and, in addition, will have responsibility for other repair and maintenance items on the same basis as other schools covered by the scheme. Full details of voluntary aided governors' responsibilities are set out in the DfES document "Voluntary Aided and Special Agreement Schools - Determination of Financial Liability".

## **SECTION 13: POWER TO PROVIDE COMMUNITY SERVICES**

### **13.1 Introduction**

Under s27(1) of the Education Act 2002, schools that provide community facilities or services will be subject to a range of controls.

In exercising this power, the Board of Governors may incur expenditure, enter into arrangements or agreements with any person, co-operate with (or facilitate or co-ordinate the activities of) any person and provide staff, goods, services and accommodation to any person.

Legislation provides that the provision of facilities and services under s27(1) is excluded from the definition of “the purposes of the school” (s50 of 1998 Act as amended by paragraph 3 of Schedule 3 of the 2002 act). In exercising this power, no expenditure incurred by the Board of Governors (either start-up costs or ongoing expenditure) shall be met from the school’s budget share for any financial year. Nor should deficits arising from such activities be met from the school’s budget share. For the purposes of s27(1) expenditure, the “school’s budget share” includes any surplus balances from previous years.

The Board of Governors must ensure that the exercise of this power does not significantly interfere with its duty to promote high standards of educational achievement at the school or other duties under the Education Acts. Nor should the Board of Governors undertake any scheme that in the opinion of the Local Authority would prejudice the financial position of the school or the Local Authority, or the welfare or education of pupils at the school. Therefore, before exercising this power, the Board of Governors must consult the Local Authority, and in exercising this power the Board of Governors must have regard to guidance from the Secretary of State and advice from the Local Authority.

The Local Authority reserves the right to charge a Board of Governors for any services requested in developing proposals prior to consultation but will not charge for advice during consultation.

Subject to statutory requirements in respect of charges in connection with education, the Board of Governors may charge for any community services or facilities so provided.

### **13.2 Prohibitions, restrictions and limitations**

A Board of Governors choosing to exercise this power to provide community facilities will be subject to the range of controls set out in the legislation, including the requirement to fully consult the Local Authority on proposals and have regard to advice from the Local Authority.

In addition, the Secretary of State issues guidance to The Board of Governors about a range of issues connected with exercise of power, to which they must have regard. Further, regulations made under s28(2), if made, can specify activities which may not be undertaken at all under the main enabling power.

Other than those controls set out in legislation, the main limitations and restrictions on the exercise of this power will be those contained in a school's own instrument of government and in Trafford's Scheme for Financing Schools.

Schools are therefore subject to prohibitions, restrictions and limitations in Trafford's Scheme for Financing Schools. In addition, the Local Authority may charge a school's community budget for costs which the Local Authority may incur in the circumstances set out in s6 of the approved Scheme.

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

### **13.3 Consultation with the LEA – financial aspects**

Section 28(4) of the Education Act 2002 requires that before exercising its community facilities power, the Board of Governors must consult the Local Authority on its proposals, and have regard to any advice subsequently given. In addition, the Board of Governors is required to inform the Local Authority of what action has been taken following receipt of this advice.

The Board of Governors must formally consult with the Local Authority at least two months (eight weeks) before exercising its community facilities power. This is in line with the minimum period for consultations as set out in the Government Code of Practice for Consultations. The Local Authority must provide advice to the Board of Governors within this timescale. No charge will be made to schools for this advice.

This consultation will take the form of the Board of Governors providing detailed information relating to the financial viability of the proposal, including details of its internal financial regulations for the operation of its community provision. Information should also be provided of local consultations undertaken with appropriate stakeholders regarding the proposal, in the context of any existing local or strategic plans affected.

To safeguard the financial position of the school and the Local Authority, and to protect pupil welfare or education, as part of the consultation process the Board of Governors may be required to submit a detailed financial plan relating to any proposal submitted, for agreement from the Local Authority. In the event of a financial plan not being agreed, (some form of) indemnification of the Local Authority may be required of the Board of Governors prior to commencement of the proposal.

Guidance on information required in formal consultation with the Local Authority is included in Appendix 5.

#### **13.4 Funding agreements –**

In some instances, the provision of community facilities in schools may be dependent on the conclusion of a funding agreement between a Board of Governors and a third party (other than the Local Authority). Before concluding any such agreements, the Board of Governors is required to submit detailed proposals for consideration by the Local Authority at least eight weeks prior to signing any agreement.

The Local Authority has no right of veto in such agreements. However, in circumstances where an agreement has been or is to be concluded against the wishes of the Local Authority, or has been concluded without informing the Local Authority, which in the view of the Local Authority are seriously prejudicial to the interests of the school or the Local Authority, that may constitute grounds for suspension of delegated powers.

#### **13.5 Supply of financial information**

A Board of Governors is required to maintain separate accounts for activities undertaken as community facilities. In addition, every 6 months a Board of Governors is required to provide the Local Authority with a financial summary of the community facilities activity in a form determined by the Local Authority. This summary statement will request information relating to 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.

Where the Local Authority has concern as to the school's management of the financial consequences of the exercise of the community facilities power, on giving due notice the Local Authority may require such financial statements to be supplied every three months.

In circumstances where financial statements received from a Board of Governors suggests that the provision of a community facility is moving towards a deficit situation, the Board of Governors may be requested to submit a viable recovery plan, for agreement with the Local Authority. In the event of a viable recovery plan not being agreed, (some form of) indemnification of the Local Authority may be required of the Board of Governors in order for the provision to continue.

The Board of Governors are reminded that mismanagement of funds for community facilities forms a basis for suspension of delegated powers.

### **13.6 Audit**

The Board of Governors are 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. The Board of Governors must ensure that such agreements contain adequate provision for access by the Local Authority to the records and other property of those persons held on the school premises. This will enable the Local Authority to satisfy itself as to the propriety of expenditure on the facilities in question.

### **13.7 Treatment of income and surpluses**

A Board of Governors is allowed to 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. A Board of Governors may carry such retained income over from one financial year to the next, and hold it as a separate community facilities surplus.

Cross-subsidisation of community services provision is allowed at the discretion of the Board of Governors. Such cross-subsidy cannot be from the school budget share unless provided for in regulations made by the Secretary of State.

The agreement of the Local Authority is required before surpluses derived from community facilities may be added to the school's budget share at the end of each financial year.

Where a school is a community or community special school, and the Local Authority ceases to maintain the school, any accumulated retained income obtained from exercise of the community facilities power reverts to the Local Authority unless otherwise agreed in any formal partnership arrangement.

### **13.8 Health and safety matters**

In the management of community facilities and services, a Board of Governors is to have due regard to duties placed on the Local Authority in relation to health and safety and to the Local Authority's policy on health and safety.

The Board of Governors is responsible for securing Criminal Records Bureau clearance in respect of all staff involved in any community activities taking place during the school day.

### **13.9 Insurance**

It is the responsibility of a Board of Governors to make adequate arrangements for insurance against risks arising from the exercise of the community facilities power. Such insurance should not be funded from the school budget share.

When proposing to provide community facilities, as an integral part of its plans a Board of Governors should undertake an assessment of the insurance implications and costs, seeking professional advice if necessary. In considering any arrangements for insurance, a Board of Governors is required to consult with the Local Authority, to ensure that its insurance arrangements

meet the Local Authority's minimum requirements regarding possible third party claims, i.e. public liability, employer liability, etc.

In exceptional circumstances, the Local Authority may undertake its own assessment of the insurance arrangements made by a school in respect of community facilities. In the event of these arrangements proving inadequate, the Local Authority may make arrangements itself and charge the resultant cost to the school (in accordance with Section 6 of this Scheme). Such costs cannot be charged to the school's budget share.

### **13.10 Taxation**

The facility for local authorities to reclaim VAT can be used by schools in spending their budget shares, which by virtue of s49(5) of the Act are the property of the maintaining Local Authority. This facility also applies to funding given by the Local Authority to schools outside the budget share. However, it cannot apply to expenditure from funds obtained direct by schools from private (or indeed, central government) sources.

A Board of Governors may only make use of the Local Authority's VAT reclaim facility for expenditure on community facilities when this is from funds from the maintaining Local Authority and not expenditure from other funds.

Where any member of staff employed by the school or Local Authority in connection with community facilities at the school is paid from funds held in the school's own bank account, the school is likely to be liable for payment of income tax and National Insurance, in line with Inland Revenue rules.

Schools should follow the Local Authority's advice in relation to the Construction Industry Scheme (CITS) where this is relevant to the exercise of the community facilities power.

### **13.11 Banking**

Whether a school utilises the Local Authority's banking arrangements or operates its own external local bank account, a Board of Governors is required to make adequate arrangements for separation of funds to ensure that school budget and other Local Authority funds are accounted for separately from community facilities funds.

The Local Authority's general conditions relating to the operation of external bank accounts (e.g. signing of cheques, the titles of bank accounts, the contents of bank account mandates and similar matters) will apply, as set out elsewhere in this Scheme and in the Local Authority's guidance.

However, in the case of a bank account which is used by the school in connection with the community facilities (whether or not the account also contains funds from the school's budget share), the account mandate should not show the LEA as the owner of the community facilities funds in the account except insofar as these funds have been provided by the LEA itself.

The Board of Governors are reminded that they may not borrow money without the written consent of the Secretary of State. (This requirement does not extend to monies loaned by a school's maintaining Local Authority.)

## **ANNEX 1**

### **FUNDING FRAMEWORK - THE MAIN FEATURES**

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

Under this legislation, local education authorities determine for themselves the size of their schools budget and non-schools education Budget – although the Secretary of State has power to set a minimum Schools Budget for an LA. 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 a Local Authority's maintained schools except for capital and certain miscellaneous items. Local authorities may centrally retain funding in the Schools Budget for purposes defined in regulations made by the Secretary of State under s.45a of the Act. The amounts to be retained centrally are decided by the Local 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).

Local Education Authorities distribute amounts from their ISB amongst their maintained schools using a formula which accords with regulations made by the Secretary of State, and enables the calculation of a budget share for each maintained school. This budget share is then delegated to the Board of Governors 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 LA in accordance with s.48 of the Act and approved by the Schools Forum, though the Authority may apply to the Secretary of State for approval in the event of the forum rejecting a proposal or approving it subject to modifications that are not acceptable to the Authority.—Subject to provisions of the scheme, the

Board of Governors of schools may spend budget shares for the purposes of their school. They may also spend budget shares on any additional purposes prescribed by the Secretary of State in regulations made under s.50.

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

Each Local 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 Local Authority must publish a statement showing out-turn expenditure at both central level and for each school, and the balances held in respect of each school.

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

Regulations also require a local authority to publish their scheme and any revisions to it on a website accessible to the general public, by the date that any revisions come into force, together with a statement that the revised scheme comes into force on that date.

## **ANNEX 2: BEST VALUE**

### **BEST VALUE AND SCHOOLS**

1. The requirement for schools to submit a statement of Best value with their budget plan has been removed. The government believes that it is important for schools to achieve value for money, but that this can be demonstrated in other ways than a written statement
  
2. Best value is a statutory duty to deliver services to clear standards, covering both cost and quality, the most effective, economic and efficient means available. Legislation is to place a duty on local authorities to secure best value in respect of the way in which they exercise their functions. The new duty is not intended to apply to those functions that are exercised by the Board of Governors of LA maintained schools. However, schools will be encouraged to adopt the best value performance management framework.
  
3. In relation to schools and expenditure from delegated budgets, the main features of best value can be summarised as a need for the Board of Governors of a school to ensure:
  - a) The existence of a programme of performance review which will aim for continual improvement. Existing mechanisms such as school development plans and post-OFSTED inspection plans can be developed to satisfy the requirements for review. The reviews should include:
    - challenging how and why a service is provided (including consideration of alternative providers);
  
    - comparison of performance against other schools taking into account the views of parents and pupils;

- mechanisms to consult stakeholders, especially parents and pupils;
  - embracing competition as a means of securing efficient and effective services;
- b. the development of a framework or performance indicators and targets which will provide a clear practical expression of a school's performance, taking national requirements into account;
- c. that the following are included in schools development plans:
- a summary of objectives and strategy for the future;
  - forward targets on an annual and longer term basis;
  - description of the means by which performance targets will be achieved;
  - A report on current performance.
- d. that internal and external audit takes place ensuring that performance information is scrutinised. LEA oversight of school finances provides external review.
4. The independent inspection and intervention elements of the best value framework will be the responsibility of other bodies and therefore not relevant to demonstration by a Board of Governors of adherence to best value principles.



St Joseph's RC Primary	Voluntary Aided
St Margaret Ward Catholic Primary	Voluntary Aided
St Mary's CE Primary, Davyhulme	Voluntary Aided
St Mary's CE Primary, Sale	Voluntary Aided
St Michael's CE Primary	Voluntary Aided
St Monica's RC Primary	Voluntary Aided
St Teresa's RC Primary	Voluntary Aided
St Vincent's Catholic Primary	Voluntary Aided

**SECONDARY**

Lostock College	Community
Stretford Grammar	Foundation
Stretford High	Foundation
St Antony's RC High	Voluntary Aided
Blessed Thomas Holford Catholic High	Voluntary Aided
Sale High School	Foundation

**STATUS**

**SPECIAL SCHOOLS**

Brentwood	Community
Delamere	Community
Longford Park	Community
Egerton	Community

**PUPIL REFERRAL UNITS**

Trafford High School
Medical Education Service

## **Annexe 4**

### **School Lender List**

#### **Use of Banks & Building Societies**

Whilst it is not envisaged that any major international bank or UK building society will collapse, this situation cannot be completely ignored and all reasonable steps should be taken in order to reduce the impact should it occur. In order to reduce this risk of default it is recommended that the four priorities listed below are followed.

**Priority 1 - Security of funds** – only place funds with high creditworthy institutions which are on the Council's approved list as shown below;

<b>BANKS</b>	<b>BUILDING SOCIETIES</b>
Barclays	Nationwide
H.S.B.C.	Coventry
Santander UK	
Lloyds	
Royal Bank of Scotland	

**Priority 2 - Spread of funds** – if sizeable amounts of funds are to be maintained i.e. greater than £50,000, where practical, these funds should be placed with more than one counterparty, in order to minimise risk in the event of a default.

**Priority 3 - Cash flow liquidity** – in order to be able to pay for any sudden items of expenditure, a proportion of funds should be held in an account which offers instant access.

**Priority 4 - Rate of return** – whilst this will need to remain a factor it should not be the main reason for placing / holding funds with a particular institution.

#### **Type of Accounts**

Whilst there are various forms of accounts which can be used, it is suggested that only the following two are used;

Instant access / call account – this type of account enables funds to be accessed immediately without penalty.

Fixed term accounts – these range from 7day notice to longer term and require advance notice to be given in order that funds can be obtained without incurring any financial penalty – it is recommended that funds should not be placed into accounts requiring notice of repayment greater than 90 days.

#### **Dormant Accounts**

Some banks will consider that accounts are dormant after a period of time, as they have been inactive and may be closed. This will normally mean that you will not be able to make transactions on the account until your account has been reactivated. It is recommended that schools check with the banks that they use regarding the period of time that passes before an account is classed as inactive.

#### **Disclaimer**

This information has been issued in good faith however the Council cannot be held responsible for any loss or errors arising from it.

## **ANNEX 5**

### **POWER TO PROVIDE COMMUNITY SERVICES – CONSULTATION WITH LEA**

#### **General**

Many Trafford schools are already involved in providing community services, which often means sharing their premises and facilities for all kinds of activities. In some cases, where these activities are perceived to be “for the conduct of the school”, they are led and managed by the school itself. Up to now, however where the activities involved are not seen as directly for the conduct of the school and as such, not a Board of Governors responsibility, they have been run by a “management committee” or “a community association” set up for this purpose. Alternatively, such activities have been managed by voluntary organisations or the private sector working in partnership with the school, often with Transfer of Control Agreements to secure the use of school facilities and premises. The Local Authority has been active in supporting schools in the development of community services/facilities provision, to meet their particular circumstances.

Section 27(1) of the Education Act 2002 provides the Board of Governors with a new power to provide any facilities or services which will benefit pupils, their families or people working/living in the locality of the school.

In many schools, the school’s development plan states what role the school hopes to play in the local community.

#### **Development of community provision – LEA Support**

For many years the Local Authority has been actively supporting and enabling school/community links, particularly in the development of school sites as a focus for community learning and other activities. For schools considering the development of community facilities proposals, led and managed by the school under their new section 27 (1) powers, practical advice and support can be sought from the Local Authority’s Legal Services Division.

#### **Statutory Consultation with LEA**

Before exercising the community services power, a Board of Governors must consult the Local Authority and have regard to any advice given. The Board of Governors must also inform the Local Authority of what action has been taken following receipt of any advice.

The statutory consultation with the Local Authority on Section 27(1) should include the submission by the Board of Governors of the following information at least 8 weeks prior to the exercise of the community facilities power:

(a) the aims, objectives and targets of the proposed provision, set in the context of any “local” or “countrywide” strategic plan relating to the activity concerned and following consultations with local stakeholders,

(b) A simple business plan, to include income and expenditure relating to both “start up” and “running costs”. The business plan should also show:

- evidence of market research
- session times proposed
- charges to be levied
- space and location issues, including any proposed arrangements for leasing and Transfer of Control Agreements
- likely staffing implications
- proposed management arrangements
- proposed financial arrangements including accounting arrangements and any arrangements for cross-subsidy
- termination arrangements

(c) Other issues including:

- health and safety
- security, insurances
- CRB searches
- Disability Discrimination Act
- Monitoring arrangements including any registration requirements and inspection regimes applicable to services/facilities proposed etc.

(d) Where the proposed community provision involves a formal partnership between the school Board of Governors and a party other than the Local Authority, details of the draft partnership agreements should be forwarded for consideration by the LEA

## **ANNEX 6**

### **SCHOOLS IN FINANCIAL DIFFICULTIES**

1. The Board of Governors are responsible for managing their delegated budget in line with correct financial procedures to ensure the best possible education for their pupils.
2. In the exceptional circumstance that a Board of Governors becomes aware that they will be unable to set a balanced budget for the next financial year, the Chair of Governors/Headteacher must contact the Director of Standards Quality and Performance as a matter of urgency and normally no later than October 31<sup>st</sup>.
3. The Director will convene a meeting with the Chair of Governors, Headteacher, HR Business Partner (Schools), Senior Accountant - Schools Finance and School Improvement Adviser.
4. At the meeting, colleagues will consider what actions are required to enable the Board of Governors to resolve its financial difficulties. This will include discussions about the use of a licensed deficit.
5. If it becomes clear that a reduction in the number of staff employed at the school may be necessary and that employees may be dismissed the Headteacher will be asked to undertake a staffing review to identify which areas need to be reduced and to set up a meeting with employee representatives. The Organisational Change Policy recommended by the Authority as adopted by the school will come into effect.
6. When the Board of Governors have identified the staff to be put forward for redundancy they will draft a fully costed proposal which will be shared with the Director of Standards Quality and Performance, HR Business Partner (Schools) and Finance Manager - Financial Planning. The recovery plan must show that the budget is able to be brought back into surplus within a period of three years. The Director of Standards Quality and Performance will keep the Corporate Director Children, Families and Wellbeing informed of progress throughout the process and the final proposal will be sent to the Corporate Director by January 31<sup>st</sup> where possible and certainly no later than 31<sup>st</sup> March.

Where the request for redundancies/retirements exceeds the budget set aside for this purpose, requests will be prioritised with agreement from the Funding Forum.

7. Staff will be informed of the outcome of the retirement/redundancy proposals and where possible by February 28<sup>th</sup> in any given year and no later than 30<sup>th</sup> April.

**ANNEX 6A**

**Trafford Council Children, Families and Wellbeing Directorate**

**Licensed Deficit Application and Recovery Plan**

**School Name** \_\_\_\_\_

**What level of deficit are you applying for:-**

	2018/19	2019/20	2020/21	2021/22	2022/23
Maximum deficit balance at year-end	£0,000	£0,000	£0,000	£0,000	£0,000
Pupil number assumptions as at October census	October 16	October 17	October 18	October 19	October 20

***There is an expectation that schools will recover deficit budgets within 3 years, and in extreme circumstances this may be extended to 5 years.***

***Reason for the deficit***

***Please include in this section the reasons for the deficit budget and the circumstances leading up to the current position***

***Recovery Plan***

***Please include in this section a detailed narration of the recovery plan including the action to be taken and timescales which link in with projections agreed and approved by your Board of Governors. (Please***

**attach a copy of the minutes from your Finance Committee as evidence of approval)**

<b><u>Action</u></b>	<b><u>Target Date</u></b>	<b><u>Value of saving</u></b> <b>£</b>

***Additional information to support your request for an agreed deficit.***

***Please attach an updated 3 year budget planning document with current staffing projections, which includes the financial savings as detailed in your schools recovery plan.***

***Signed***  
***Headteacher***

***Date***

***Chair of Board of Governors***

***Date***

## Trafford Council Licensed Deficit Approval

School Name \_\_\_\_\_

**Approval is given to a budget recovery programme phased over three years. In accordance with this approval, the maximum deficit balance allowed in 2017/18 and subsequent years are as follows:**

	2018/19	2019/20	2020/21	2021/22	2022/23
Maximum deficit balance at year-end	£0,000	£0,000	£0,000		
Pupil number assumptions as at October census	October 2016	October 2017	October 2018	October 2019	October 2020

***This Approval is subject to the following conditions:***

- 1. That termly financial monitoring reports are submitted to the Board of Governors and that a copy of that report, together with any relevant resolutions, is sent to the Local Authority within fifteen days of the Board of Governors meeting.***
- 2. That the school reviews the budget plan termly, and, that the Local Authority be informed immediately if pupil number assumptions included in the approval plan are not achieved or improved upon and must also include details of the steps taken by the governing body necessary to maintain the overall deficit within the maximum allowed***
- 3. That any proposed staffing changes and the financial impact of such changes are reported to the Local Authority prior to implementation***
- 4. That, unless otherwise agreed by the Local Authority, any additional resources that become available from “real term” changes in the school budget share (excluding pupil number adjustments) be used to reduce the budget deficit.***
- 5. That the school makes adequate arrangements to ensure the timely provision and preparation of financial information to the Local Authority. This is to be specified by the Local Authority and within the time scales detailed above. Where such arrangements***

**are not in place then the Local Authority may provide this service and charge the school accordingly.**

- 6. Where in exceptional circumstances the monitoring indicates that the school will not be out of deficit by the end of the agreed period the Board of Governors shall agree with the Authority an action plan to place the budget back on target. Where this is not possible the Local Authority has the powers to intercede with the financial management of the school up to and including the removal of financial delegation.**

**SCHOOL NAME** \_\_\_\_\_

**Agreement by the Headteacher and Chair of Governors**

**We agree to the licenced deficit approval arrangement set out on the conditions specified.**

**Signed:  
Headteacher**

**Date**

**Chair of Governors**

**Date**

**Approval by Children Families and Wellbeing Service**

**Signed:  
Corporate Director of Trafford Children Families and Wellbeing Service**

**Date**

**Approval by Chief Finance Officer**

**Signed:**

**Date**

**Annex 7- FORM IBA1**

**SCHOOL BANK ACCOUNT SCHEME**

**DETAILS OF BANK ACCOUNTS AND AUTHORISED SIGNATORIES**

Please give details of the bank account(s) to be used for the School Bank Account Scheme:

Bank/Building Society name -

Bank Address -

Bank Sort Code - \_\_ / \_\_ / \_\_

Name of School Account Trafford MBC  
School

School Account Number(s)

Current Account

Deposit Account

Other Accounts

**All advances will be made to the current account unless otherwise requested**

Please give details of at least 3 people authorised to sign cheques

<u>Number</u>	<u>Name</u>	<u>Status</u>	<u>Specimen</u>
<u>Signature</u>			

1.

2.

3.

4.

Please return this form to Financial Planning, Trafford Town Hall, Talbot Rd, Stretford, Manchester, M32 0EL

## Annex 8

### **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 Board of Governors 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 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 1<sup>st</sup> April 2013. Costs may not exceed the amount budgeted in the previous financial year.

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

A de-delegated contingency could be provided, if Schools Forum agree, to support individual schools where "a Board of Governors 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 Board of Governors, and can be funded from the school's delegated budget if the Board of Governors is satisfied that this will not interfere to a significant extent with the performance of any duties imposed on them by the Education Acts, including the requirement to conduct the school with a view to promoting high standards of educational achievement. Section 37 now states:

- (7)Where a local education authority incur costs—
- (a)in respect of any premature retirement of any member of the staff of a maintained school who is employed for community purposes, or

(b)in respect of the dismissal, or for the purpose of securing the resignation, of any member of the staff of a maintained school who is employed for those purposes,

they shall recover those costs from the Board of Governors except in so far as the authority agrees with the Board of Governors in writing (whether before or after the retirement, dismissal or resignation occurs) that they shall not be so recoverable.

(7A)Any amount payable by virtue of subsection (7) by the Board of Governors of a maintained school to the local education authority may be met by the Board of Governors out of the school's budget share for any funding period if and to the extent that the condition in subsection (7B) is met.

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

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