

# SCHOOLS FINANCING SCHEME

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## **SECTION 1: INTRODUCTION**

### **1.1 The funding framework**

The funding framework for the financing of maintained schools is based on the legislative provisions in sections 45-53 of the School Standards and Framework Act 1998.

Under this legislation, local authorities (LA) determine for themselves the size of their schools budget and their non-schools education budget – although at a minimum an authority must appropriate its entire Dedicated Schools Grant to their schools budget. The categories of expenditure which fall within the two budgets are prescribed under regulations made by the Secretary of State, but included within the two, taken together, is all expenditure, direct and indirect, on Havering's maintained schools except for capital and certain miscellaneous items. Local authorities may deduct funds from their schools budget for purposes specified in regulations made by the Secretary of State under s 45A of the Act (the centrally retained expenditure). The amounts to be deducted for these purposes are decided by the authority concerned, subject to any limits or conditions (including gaining the approval of their Schools Forum or the Secretary of State in certain instances) as prescribed by the Secretary of State. The balance of the Schools Budget left after deduction of centrally retained 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 Authorities must distribute amounts from their ISB amongst their maintained schools using a formula which accords with regulations made by the Secretary of State, and enables the calculation of a budget share for each maintained school. This budget share is then delegated to the Governing Board 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 authority in accordance with s 48 of the Act and regulations made under that section. All proposals to revise the Scheme must be approved by the Schools Forum, though the authority may apply to the Secretary of State for approval in the event of the forum rejecting a proposal or approving it subject to modifications that are not acceptable to the authority.

Subject to any provision made by or under the Scheme, Governing Boards of schools may spend such amounts of their budget shares as they think fit for any purposes of their school\* and for any additional purposes prescribed by the Secretary of State in regulations made under s 50 of the Act (\*Section 50 has been amended to provide that amounts spent by a Governing Board on providing community facilities or services under section 27 of the Education Act 2002 are treated as if they were amounts spent for the purposes of the school (s50(3A) of the Act).

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

Each authority is obliged to publish each year a statement setting out details of its planned Schools Budget and other expenditure on children's services, showing the amounts to be centrally retained and funding delegated to schools. After each financial year the authority must publish a statement showing out-turn expenditure.

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

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

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

This Scheme sets out the financial relationship between the London Borough of Havering and the maintained schools which it funds. It contains requirements for financial management and related issues, which are binding on both Havering LA and on schools.

The LA has a responsibility for the overall control of public funds although the delegation arrangements give Governing Boards powers to manage budgets and allocate resources for the purposes of their school.

The requirements within the Scheme are intended to provide sufficient flexibility for schools to exercise their delegated authority whilst having due regard for proper accountability and control over the expenditure of public funds.

### **1.2.1. Application of the Scheme to the Authority and maintained schools**

The Scheme applies to all community, nursery, special, voluntary aided, voluntary controlled, foundation, foundation special schools and pupil referral units maintained by the London Borough of Havering.

The schools within the scope of the Scheme are listed at [Annex A](#)

## **1.3 Publication of the Scheme**

A copy of the Scheme will be made available on the London Borough of Havering's website. Any approved revisions will be published by the date the revisions come into force, together with a statement that the revised Scheme comes into force on that date Schools will be notified accordingly.

## **1.4 Revision of the Scheme**

Any proposed revisions to the Scheme will be the subject of consultation with all maintained schools before they are submitted to the Schools Funding Forum for approval by members representing maintained schools. Where the Schools Funding Forum does not approve the revisions, or approves them subject to modifications which are not acceptable to the LA, the LA may apply to the Secretary of State for approval.

## **1.5 Delegation of powers to the Head Teacher**

The Governing Board of a school is required to comply with the financial regulations and consider the extent to which it wishes to delegate authority to the head teacher to authorise expenditure

and to vire between budget headings. These limits of delegation (and any revisions to the limits) should be clearly recorded in a school's Finance Policy and agreement recorded in the minutes of the Governing Board. The first formal budget plan of each financial year must be approved by the Governing Board.

## **1.6 Maintenance of schools**

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

## SECTION 2: FINANCIAL CONTROLS

### 2.1 General Procedures

#### 2.1.1 Application of financial controls to schools

Schools are required to abide in the management of their delegated budgets by the Local Authority's requirements on financial controls and monitoring as set out in the Schools' Financial Regulations.

#### 2.1.2 Provision of financial information and reports

Schools are required to provide to the Authority, on a quarterly basis, financial statements of actual and projected expenditure and income. In addition, a statement of income and expenditure at closure of accounts should be submitted. The timetable for submission of financial statements is as follows:

<b>Income and expenditure (actual)</b>	<b>Projected income &amp; expenditure to year end</b>	
Reporting period:	As at:	Submit by:
1 April – 30 June	30 June	10 working days
1 April - 30 September	30 September	after the end of
1 April - 31 December	31 December	the period
1 April - 31 March	31 March	
1 <sup>st</sup> April - Closure of accounts		As determined by the LA's closure timetable

The LA may notify a school in writing that in its view the school's financial position requires more frequent submission of financial returns.

#### 2.1.3 Payment of salaries; payment of bills

##### Payment of salaries

Schools may decide whether to purchase the Havering Payroll Service or another payroll bureau. Arrangements for the payment of school staff through the Havering Payroll Service are published separately. The monthly payroll bill will be charged to schools by direct debit on the same day that schools receive their monthly release of funding from the LA.

A school wishing to appoint a payroll provider other than Havering's should ensure that the decision is minuted at a meeting of the Governing Board. Any school wishing to operate its own payroll should not do so without the written permission of the Chief Finance Officer.

Schools wishing to opt out of the LA's payroll service, will need to ensure that adequate controls are exercised over payments and that the payroll section is provided with the information required to fulfill the Council's statutory obligations in this area, in a form and at times specified by the Payroll Manager.



## **Payment of bills**

Schools must comply with the Late Payment of Commercial Debts (interest) Act 1998 when paying bills, either through the on-line financial information system or the school bank account. Failure to do so will result in financial penalties being imposed on the Local Authority that will be charged to the school delegated budget (see 6.2.8)

The Governing Board shall be responsible for ensuring that all sums paid are legally and properly payable from delegated resources. Payments should be made within 30 days of completion of contract or receipt of goods or within the settlement terms agreed at purchase and should be certified in accordance with the terms of reference for delegation of responsibility agreed by the Governing Board (see section 1.5). Under statutory requirements, suppliers can charge interest on late payments for goods and services, any schools being charged are liable for the costs and this must be paid out of the schools budget share. The creditor payment system operated by the school for the management and disbursement of resources delegated to the Governing Board must be in accordance with the agreement of the Director of Finance, in order to ensure the integrity of the Borough's financial accounting arrangements.

Schools will be expected to treat invoices from the LA and other Council service providers in the same way as external providers. Any delay in payment may be subject to interest charges in the same manner as described above.

### **2.1.4 Control of assets**

All schools should ensure that an inventory is maintained of furniture, fittings and equipment, plant and machinery and other stock held. All items with a value of at least £250 and any items deemed attractive and/or portable in nature should be included on the inventory. A check of all items entered on the inventory should be carried out once in every year and the outcome of these checks (see Financial Regulations, section 16) reported to the Governing Board.

Governing Boards shall be responsible for the reasonable care and custody of the stocks and stores in the school, including proper regard for the requirements of the Control of Substances Hazardous to Health (COSHH) regulations.

The Governing Board shall authorise all write-offs and disposals of surplus stocks and equipment with at least £1,000 as recorded on the inventory (see above). Schools should have due regard to obtaining the best possible price for surplus stocks and equipment and should maintain a record of all items that have been disposed of with an original value of more than £1,000. Inspection of the record of disposals will form part of the annual audit of schools.

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

The accounting procedures adopted by the Council reflect recommended professional practice. Any departures from recommended practices or any new initiatives must be declared and must be acceptable to the Council and the Council's external auditor. All accounting systems, accounting procedures and financial records of the schools are subject to the approval of the Chief Finance Officer.

The accounts maintained by the Chief Finance Officer are the Council's statutory accounts, and the amount of a school's expenditure and income for a financial year shall be determined solely by reference to the statutory accounts.

Governing Boards should ensure that appropriate separation of duties are in place in the allocation of accounting duties.

Governors have the responsibility to ensure that their total expenditure budgets, as approved on behalf of the Council, are not exceeded. The Head Teacher shall give approval for all expenditure within the total budget of the school and for transfer between individual budget heads, subject to any financial limits and restrictions set by Governors (see Section 1 5). Should it appear that expenditure will exceed the overall budget, the Head Teacher shall immediately notify the Governors and the Assistant Director, Learning & Achievement, who shall take appropriate action.

Head Teachers shall deal with carry-forwards occurring in the accounts in a manner agreed by the Governors, the Director of Children's Services and the Chief Finance Officer. See also Section 4 - The Treatment of Surplus and Deficit Balances Arising in Relation to Budget Shares.

## **Year-end procedures**

The Council prepares a statement of accounts for each year ending 31st March in accordance with the Chartered Institute of Public Finance and Accountancy (CIPFA) Code of Practice on Local Authority Accounting in the United Kingdom.

The accounts are prepared adopting the accruals concept of accounting, where revenue accounts include income and expenditure for goods and services received as at 31<sup>st</sup> March, but have not necessarily been paid for at that date.

All Schools are required to provide the LA with a year end statement as at 31<sup>st</sup> March of cash at the bank reconciled with their own local financial system. Schools will be provided with a set of proforma and guidance to enable them to complete this.

All schools must review their accounts at the year end, and where they have received goods and services prior to 31<sup>st</sup> March but have yet to pay the invoice, and where the amount is greater than £50,000, must process a sundry creditor entry in order that these transactions may be reflected in the accounts. Schools may process sundry creditor entries for smaller sums. The Council's corporate financial information system is the statutory system for preparing the final accounts for the Council as a whole. The LA is required to ensure that school expenditure and income made on school local systems are also recorded in the statutory accounts. This includes the correct reporting of capital expenditure.

### **2.1.6 Writing off of debts**

Governing Boards are authorised to write off debts in respect of the school budget up to £1,000 as specified in the financial regulations. Debts owed to the school exceeding this amount may be written off only on the approval of the Chief Finance Officer.

Each employee responsible for the collection or recovery of sums due to the Council or school shall take such steps as are deemed necessary to ensure that payment is received without undue delay.

## **2.2 Basis of accounting**

End of year reports and accounts furnished to the LA should be prepared on the basis of accruals accounting. In summary, accruals accounting requires that;

- Income is recognised at the point when it is due to (i e receivable by) the school, regardless of whether or not any cash associated with the transaction has actually been received and
- Expenditure is recognised at the point when the relevant goods and services are supplied,

regardless of whether or not an invoice has been received or payment has actually been made

### **2.3 Submission of budget plans**

Each school shall receive final notification of its budget share for the following financial year by the last day of February at the latest. By mid-February the LA will provide a budget statement showing the calculation of each school's budget through the funding formula. The annual Budget Planning Pack for subscribing schools will include expenditure information to assist schools in efficient budget planning. A funding statement will be provided each month detailing the profiled release of cash under every category of funding e.g. main budget, grants etc.

In order that the Chief Finance Officer and Director of Children's Services can ensure that resources are planned in a way which will meet basic commitments through that year, a school's budget share must be allocated in the format and to budget heads determined by the Local Authority.

Each school shall submit a financial forecast covering each year of a multi-year period for which budget shares have been notified beyond the current year. As well as demonstrating effective financial planning, forecasts will be used as evidence to support the LA's responsibility for declaring their schools' adherence to the requirements of the Schools Financial Value Standard and in support of the LA's balance control mechanism.

A copy of each school's budget over a multi-year budget period and such other supporting information as may be specified shall be supplied to the Director of Children's Services by the 1<sup>st</sup> May each year.

A copy of the budget as approved by the Governors shall be signed by the Chair of the meeting at which the budget is first approved.

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

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

It is for the Headteacher and the Governing Board to determine at school level how to secure better value for money. This should include a review of current expenditure, compare it to other schools, and consider how to make any improvements.

### **2.5 Virement**

A Governing Board will have full powers of virement between budget heads in the expenditure of their budget shares with the exception of any earmarked funding. Authority to vire between budget heads may be delegated to the head teacher and/or a Finance/Resources committee in accordance with schools' own Schemes of delegation and their local finance policies. Any virements carried out by the head teacher revising the budget originally approved should be reported to the Finance/Resources Committee.

## **2.6 Audit: General**

All schools are placed within the audit regime determined by the LA as regards internal audit and the LA external regime as determined by the National Audit Office.

A review of internal financial controls of all maintained schools will be carried out once every three years although schools may opt to purchase additional audits to provide more regular assurance. Schools considered to pose a greater risk will be subject to more regular audits focusing on the risks identified.

Schools are required, for the purposes of the audit inspection, to give access to internal and external auditors to premises, documents, assets and records considered necessary by the auditors.

The external auditors will generally rely on the LA's own internal audit of schools and central monitoring arrangements rather than engage significantly in the inspection of individual schools' accounts. There may, however, be a requirement for specific detail from schools as part of the external audit.

## **2.7 Separate external audits**

Although all schools will be subject to the LA internal audit regime as covered above, a school may also wish to obtain external audit certification of its accounts or any aspect of its financial management. The costs of such an audit would need to be met from the school's delegated budget. All external audits commissioned by a school should take into account the status of the school as a spender of LA funds. There is no requirement for separate external audits and where a school chooses to seek an additional audit it does not remove the requirement that the school must also co-operate with the LA's internal and external auditors.

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

Although resources held within school private and voluntary accounts do not form part of the Council's statutory accounts, the LA has a duty to ensure that public funds are not being misused. Audit certificates on all school private and voluntary funds and any trading organisations controlled by the school must be submitted to the LA on an annual basis. Audit certificates confirming that an audit has been carried out and that in the auditor's view the funds are properly maintained and accounted for should be submitted not more than 6 months after the end of a financial year.

A school refusing to provide audit certificates to the LA as required by the Scheme is in breach of the Scheme and the LA may take action on that basis.

School private and voluntary funds should be used only for those activities not funded through the school's budget share. Any charges or income received for activities or items funded from the school budget should be paid into an appropriate income heading within the school budget.

## **2.9 Register of business interests**

Governing Boards must have in place a register which lists for each member of the Governing Board, the head teacher and school staff who have involvement in financial decisions or processes, any business interests they, or any member of their immediate family may have. The

register must be reviewed annually and updated with any changes. It should be made available for inspection by governors, staff, parents and the LA and referenced on the school website.

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

All schools must abide by the Council's standing orders and financial regulations in purchasing, tendering and contracting matters. This should include a requirement to assess in advance, where relevant, the health and safety competence of contractors, taking account of the LA's policies and procedures. However, standing orders and financial regulations shall not apply if they require schools:

- (i) to do anything incompatible with any of the provisions of this Scheme, or any statutory provision, or any EU Procurement Directive;
- (ii) to seek LA officer countersignature for any contracts for goods or services for a value below £60,000 in any one year;
- (iii) to select suppliers from an approved list;
- (iv) to seek fewer than three tenders in respect of any contract with a value exceeding £100,000 in any one year.

Schools are invited to nominate suppliers for inclusion on the list of approved suppliers held by the LA. Schools are not compelled to either directly or indirectly to use them.

The fact that an authority contract has been let in accordance with EU procurement procedures does not in itself make it possible to bind a school into being part of that contract. For the purposes of the Procurement Directives schools are viewed as discrete units.

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

Schools will have the right to opt out of LA arranged contracts on expiry of the contract.

Governing Boards are empowered under paragraph 3 of schedule 1 to the Education Act 2002 to enter into contracts and do so, in most cases, on behalf of the LA as maintainer of the school and the owner of funds in the budget share. Other contracts may be made solely on behalf of the Governing Board, when the Governing Board has clear statutory obligations e.g. contracts made by aided or foundation schools for the employment of staff and for capital works.

## **2.12 Central funds and earmarking**

In addition and separate from school budget allocations, the LA may make other funds available to schools from central funds. Where such additional allocations are made to schools they will be subject to conditions setting out the purpose or purposes for which the funds may be used. Earmarked funds should only be spent on the purposes for which they are given and should be returned to the LA if not spent in-year or within the period over which schools are allowed to use the funding if different. In some cases the conditions will not preclude virement (except for funding supported by specific grant) but this should not be carried to the point of assimilating allocations into the school's budget share.

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

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

Although section 50(3) allows Governing Boards to spend budget shares for the purposes of the school, this is subject to regulations made by the Secretary of State and any provisions of the Scheme. As well as the various standard provisions LAs may wish to propose their own restrictions on this freedom, arising from local circumstances. By virtue of section 50(3A) (which came into force on 1st April 2011), amounts spent by Governing Boards 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. (S)he has done so in the School Budget Shares (Prescribed Purposes)(England) Regulations 2002 (SI 2002/378), which have been amended by the School Budget Shares (Prescribed Purposes)(England)(Amendment) Regulations 2010 (SI 2010/190). These allow schools to spend their budgets on pupils who are on the roll of other maintained schools or academies.

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

Governing Boards of all schools may use their devolved formula capital to meet the cost of capital expenditure on their school premises. This includes expenditure by the Governing Board of a voluntary aided school on work which is their responsibility under paragraph 3 of Schedule 3 of the Act.

Capital expenditure is expenditure on acquiring or enhancing assets (usually, land or buildings, but also equipment in certain cases). Repairs and maintenance expenditure can now only be capitalised if the expenditure can be deemed substantially to enhance the useful life or the value of the asset. All spending on such items over £5,000 must be treated as capital. The Council has certain guidelines for determining what is capital expenditure:

- the acquisition, reclamation, enhancement or laying out of land, buildings or other structures;
- the acquisition, construction, preparation, enhancement or replacement of roads, buildings and other structures;
- the acquisition, installation or replacement of plant, machinery, apparatus, vehicles and vessels;
- the acquisition or replacement of furniture and equipment;

Any Schemes which are of a capital nature and are to be funded by the schools must be recorded in the Council's statutory accounts as capital expenditure, and not as revenue expenditure if payments are made against the delegated budget.

Where a Governing Board of a school agrees to fund such capital works from the delegated budget or other funding available to the school, details of the Scheme must be supplied to the LA's Asset Management Team Manager.

## **2.15 Leasing arrangements**

Schools may wish to spread the cost of purchasing large items e.g. computer systems over a number of years. Finance leases are not permitted by financial regulations (see 2.17) but schools

may enter into operating leases (see 2.16). Prior to making a contractual commitment to a lease, a copy of the terms of the contract should be submitted to the LA for consideration in consultation with the Chief Finance Officer. A school may be asked to demonstrate its ability to meet the repayments over the full period of the lease.

## **2.16 Classification of Leases**

Schools cannot enter into contracts with leasing companies where the lease is classified as a finance lease. This is because the capital value of equipment covered by the lease would, under existing capital expenditure regulations, be classified as capital expenditure. Havering's capital resource position is at present, and for the foreseeable future, extremely restricted. Therefore care should be taken to ensure that any lease entered into is an operating rather than a finance lease.

Leases are classified as finance leases where the terms of the lease transfer substantially all the risks and rewards incidental to ownership of the property, plant or equipment from the lessor to the lessee. All other leases are classified as operating leases. Where a lease covers both land and buildings, the land and buildings elements are considered separately for classification.

Arrangements that do not have the legal status of a lease but convey a right to use an asset in return for payment are accounted for under this policy where fulfilment of the arrangement is dependent on the use of specific assets.

Leases for the acquisition of vehicles valued at less than £10,000 (£5,000 for plant and equipment) are treated as operating leases on the basis that the impact of incorrectly classifying the lease would not materially impact upon the accounting disclosures.

## **2.17 Guidance**

Before entering into a new leasing arrangement guidance should be sought from the Schools Finance Team to ensure that the arrangement can be treated as an operating lease.

## **2.18 Notice of concern**

The Authority may issue a notice of concern to the Governing Board of any school it maintains where, in the opinion of the Chief Finance Officer and the Director of Children's Services, the school has failed to comply with any provisions of the Scheme, or where actions need to be taken to safeguard the financial position of the local authority or the school.

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

These may include:

- insisting that relevant staff undertake appropriate training to address any identified weaknesses in the financial management of the school;
- insisting that an appropriately trained/qualified person chairs the finance committee of the Governing Board;
- placing more stringent restrictions or conditions on the day to day financial management of a school than the Scheme requires for all schools – such as the provision of monthly

accounts to the local authority;

- insisting on regular financial monitoring meetings at the school attended by local authority officers;
- requiring a Governing Board to buy into a local authority's financial management systems;
- imposing restrictions or limitations on the manner in which a school manages extended school activity funded from within its delegated budget share – for example by requiring a school to submit income projections and/or financial monitoring reports on such activities.

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

## **2.19 Schools Financial Value Standard**

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

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 each year.

## **2.20 Fraud**

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

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



## **SECTION 3: INSTALMENTS OF BUDGET SHARE; BANKING ARRANGEMENTS**

### **3.1 Bank and building society accounts**

All schools will operate their own locally managed cheque book account to make payments for payroll and non-payroll related expenditure and to bank income earned from such activities as the letting of school premises. All accounts should be in the name of [school name] LBH.

Schools may open accounts with banks or building societies with the written approval of the Chief Finance Officer. All interest paid on these accounts will be retained by the school.

The LA should be informed of all bank details as follows: the name and address of the bank, banking sort code, name of the account(s), account number(s) and signatories to the account.

Schools may open more than one account with existing bank to ensure that potential income through interest payments is maximised. If an account is opened with another bank, approval will be required as in Section 10.2 of the Financial Regulations for Schools. Schools are not permitted to open any account where the principal sum invested is at risk.

#### **3.1.1 Restrictions on accounts**

Schools will operate their own locally managed cheque book account to make payments for expenditure incurred and to bank income earned from such activities as the letting of school premises.

Schools shall appoint any bank or building society with written approval of the Schools' Finance Team on behalf of the Chief Finance Officer. The Governing Board shall promptly notify the Chief Finance Officer of the bank used and the account details, and provide a copy of the bank mandate. The bank account must be in the name of the school, with "LBH" appended to the end.

Schools may open more than one account with existing bank to ensure that potential income through interest payments is maximised. If an account is opened with another bank, approval will be required. Schools are not permitted to open any account where the principal sum invested is at risk.

All funds surplus to immediate requirements should be invested to optimum effect. However, investment of surplus funds outside the normal bank deposit accounts such as bonds may be made only with the written approval of the Chief Finance Officer. All investments shall be in the name of the "London Borough of Havering (school name)".

Direct debits and standing orders shall be allowed on accounts only with the prior approval of the Chief Finance Officer, subject to the necessary VAT invoices being received. Cash dispenser and cheque guarantee cards shall not be obtained.

Business Charge Cards are permitted but only from the bank where the delegated budget is held. Payment of the balance must be in full by direct debit monthly. Schools must abide by conditions and procedures laid out in the Council's Charge Cards and Credit Cards in Schools Guide.

The bank account must be set up so that no overdraft facility exists. The bank will be instructed that any cheques raised which would cause the account to become overdrawn must not be cleared. If a school finds it is in an overdraft position, it should notify the Chief Finance Officer

immediately. This transfer will be subject to an administration charge as determined by the Chief Finance Officer. If the overdraft is arising due to an overspend of the school budget, the LA will discuss an appropriate course of action with the school.

The account shall not be used to encash personal cheques.

Schools must keep their banking arrangements under review to ensure they are achieving the best value from the account.

### 3.2 Frequency of instalments

The Council will make regular monthly payments into schools' local cheque book accounts. The payments will be scheduled to be on the same day(s) that the school payroll deductions will be made from the school account. Schools will be notified of the scheduled dates and amounts due for cash release prior to the start of the financial year. Schools will also receive updated notifications during the course of the year to include any additional budget allocations e.g. high needs funding and revised dates. It is the responsibility of the school to ensure that it has sufficient funds in its account to cover payments due. If the school wishes to amend profile of cash releases it must submit the request in writing to the Director of Children's Services.

### 3.3 Proportion of budget share payable at each instalment

Payments will be made in the following proportions:

Month	Period	%
April	1 a	6 4%
April	1	7 8%
May	2	7 8%
June	3	7 8%
July	4	7 8%
August	5	7 8%
September	6	7 8%
October	7	7 8%
November	8	7 8%
December	9	7 8%
January	10	7 8%
February	11	7 8%
March	12	7 8%
		<hr/> 100
		<hr/> 0%

Excludes NNDR payments which will be released in September

The frequency of payments may only be varied with the written agreement of the Chief Finance Officer and may incur an interest charge.

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

Interest will be paid where budget share payments are late as a result of LA error. The interest rate will be the current Bank of England base rate.

### **3.5 LA intervention**

If a school has an account other than in the name of the LA, the account mandate should provide that the LA is the owner of the funds in that 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 LA.

### **3.6 Budget shares for closing schools**

Budget shares will continue to be made to those schools where it has been agreed they will close or amalgamate. Budget shares will be made up until the point the school closes, and the school will have to account for all cash payments made at the point of closure and any subsequent payments that need to be made and the accounts updated accordingly. The balance on the bank account will be reconciled and audited, and the final balance returned to the LA. The final balance will be dealt with in accordance with the provisions set out in section 4.7.

Although budget shares will be made up to the point of closure, they will be calculated for a full financial year and the balance for the remaining period from the first day of closure to the final day of the financial year held as an unallocated contingency within the ISB. This budget will be used to meet residual costs arising from the closure of the school that cannot be met from a returned surplus. Any balance at the end of the financial year is distributed to all schools in the same sector as the closing school.

The above will not apply where the school's budget share is recouped by the Education Funding Agency for re-allocation to an academy.

### **3.7 Borrowing by schools**

Governing Boards may borrow money (which includes the use of finance leases) only with the written permission of the Secretary of State. The Secretary of State's general position is that schools will only be granted permission for borrowing in exceptional circumstances. From time to time, however, the Secretary of State may introduce limited Schemes in order to meet broader policy objectives. The Scheme must contain a provision that allows schools to use any Scheme that the Secretary of State has said is available to schools without specific approval, currently including the Salix Scheme, which is designed to support energy saving.

The restrictions do not apply to Trustees and Foundations, whose borrowing, as private bodies, makes no impact on Government accounts. These debts may not be serviced directly from the delegated budget, but schools are free to agree a charge for a service which the Trustees or Foundation are able to provide as a consequence of their own borrowing. Governing Boards do not act as agents of the authority when repaying loans.

This provision does not apply to loan Schemes run by the authority (see section 4.9).

Schools will not be allowed to lend money to any third parties.

This provision does not apply to loan Schemes run by the LA.

### **3.8 Other provisions**

The cheque book / BACS can be used to make payments for all items related to the delegated and earmarked budget.

Payments to staff, where the payroll is operated by Havering, and payment of annual Non Domestic Rates will be made by direct debit to the school's bank account.

Where schools use the nationally agreed rates for the payment of car mileage as applied by the Havering scales, claims must be processed through the payroll in order that the appropriate deductions for national insurance purposes are made from the individual's salary.

Schools will be obliged to complete a monthly reconciliation of the bank account with their own finance system in a format to be determined by the Chief Finance Officer. This return will also include the reconciled VAT summary used to reclaim paid VAT back from Customs and Excise. This will be made in accordance with the timetable at Annex B. Failure to do so will result in the Council being unable to reclaim VAT on time, and therefore incur additional interest charges. Any such loss of interest will be recharged to the school budget and will not be borne by the Council.

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

### **4.1 The carry forward of surplus and deficit balances**

Schools may carry forward underspends from their delegated budgets from one financial year to the next. Any deficits from delegated budgets will reduce the funding available to a school in the following financial year and will need to be taken into account in the management of their budget.

### **4.2 Reporting on the intended use of surplus balances**

School Governing Boards will all be required to report to the LA, on the use which the school intends to make of surplus balances. A proforma will be sent to schools which LAs will require schools to return by the end of June in the subsequent financial year.

### **4.3 LA Control of School Balances**

Surplus budget share balances held by schools as permitted under this Scheme are subject to the following restrictions:

- a. the authority shall calculate by 31<sup>st</sup> May each year the surplus balance, if any, held by each school as at the preceding 31 March;
- b. the authority shall deduct from the calculated balance any amounts for which the school already has a prior-year commitment to pay from the surplus balance;
- c. the authority shall then deduct from the resulting sum any amounts which the school declares to be assigned for specific purposes as permitted by the authority and which the authority is satisfied are properly assigned. To count as properly assigned, amounts must not be retained beyond the period stipulated for the purpose in question, without the consent of the Authority. In considering whether any sums are properly assigned the Authority may also take into account any previously declared assignment of such sums but may not take any change in planned assignments to be the sole reason for considering that a sum is not properly assigned.
- d. Where balances have exceeded 10% of the budget share or the LA has concerns about any of the plans submitted for the use of balances then the LA will challenge schools on the appropriateness of the expenditure.

Where balances remain above 10% for a second, third or fourth financial year the LA will seek assurances that the original plans for the use of the balance continue to apply. Balances above 15% for continuous period of 5 years will be permitted only in exceptional circumstances only.

In all cases the LA may claw back excessive balances and redistribute these funds to the greatest benefit within the areas funded by the DSG.

No funds deriving from sums allocated by the authority other than budget shares, or funds derived by the school from sources other than the authority, shall be taken into account in this calculation.

#### **4.4 Interest on surplus balances**

A school is permitted to invest up to its previous year's underspend. Investments above this amount are not permitted.

Schools may make their own arrangements for interest payments through their bank but must not commit to other investment opportunities without the consent of the Chief Finance Officer.

#### **4.5 Charging of interest on deficit balances**

Any deficit balances held with the Authority will be subject to interest charges at a rate calculated with reference to BASE RATE + 1.5%.

#### **4.6 Writing off deficits**

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

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

In the case of a closing school (other than when converting to academy status), any balance (surplus or deficit) reverts to the LA; it cannot be transferred to any other school, even when the school is a successor to the closing school.

Additional sums may be allocated to the new school that is equal or less than the balances of the relevant closing schools. Any deficits may be offset against any additional funding due to the school e.g. transitional funding, but may not be set against funding which the school would be entitled to under the formula if it was not a new school.

In the case of amalgamations of Havering schools, this would allow the combined balances of both schools to be carried forward.

#### **4.8 Licensed deficits**

Schools may, with the written consent of the LA, and subject to the payment of such interest charges as may be determined by the Council, anticipate their budget share in future years, and may plan to overspend their budget share in the financial year(s) in question by the agreed amount anticipated. In exceptional cases, schools may be allowed to anticipate their budget share over a period of more than one year. Should the school fail to honor its agreement with the Council in any way (for example, by increasing its end of year deficit above the level agreed), then, at the Council's discretion, the full amount outstanding will be recovered as a first charge from the school's allocation for the following financial year. There will be a limit of three years and a maximum of five years in exceptional circumstances on any continuous period during which the school's budget remains in deficit.

The purposes for which deficits may be agreed are as follows:

- (i) where, following a significant budget reduction, it is agreed by the LA that a corresponding reduction in expenditure is unachievable within the same financial year;
- (ii) where there has been unavoidable expenditure during the year and it is agreed by the LA that it cannot be reasonably met from the school's resources within the same financial year.

Deficit arrangements may only be agreed on the basis of the anticipated budget share being insufficient to sustain the projected annual expenditure of the school.

The maximum deficit that may be agreed will be 10% of the school's budget share. In all cases this will be following consultation with the LA on a realistic recovery plan that will reduce the deficit to zero.

Deficit arrangements will need to be agreed by both the Director of Children's Services and the Chief Finance Officer and, where appropriate, the appropriate lead Cabinet Member of the Council. The Local Authority and the Governing Board of the school seeking a licensed deficit should agree plans to resolve the deficit by 30 June of the relevant year.

#### **4.9 Loan arrangements**

For schools with licensed deficits and agreed recovery plans or where there is unplanned and unavoidable expenditure close to the end of the financial year which may present a risk of the balance of resources being insufficient to meet expenditure commitments for the rest of the year, an LA loan Scheme will enable these schools to apply for an advance on the subsequent year's allocation. The advance will be recovered as a first charge on the following year's budget with interest charged at the Bank of England base rate + 1.5%. The recovery of loans may be structured over a longer period for schools with licensed deficits. The Chief Finance Officer must be notified immediately of any such requirement.

## **SECTION 5: INCOME**

### **5.1 Income from lettings**

Schools may retain income derived from the letting of their premises. Where facilities are shared by schools or there are joint use arrangements, schools should ensure that there are clear agreements prior to the letting to determine any apportionment of income. Schools may cross-subsidise lettings for community and voluntary use with income from other lettings, but must ensure that for lettings as a whole, all related costs are recovered.

Schools should have regard to directions issued by the LA as to the use of their premises as permitted under the Schools Standards and Framework Act 1998 for various categories of schools. Compensation arrangements will be in place for such directions and for any dual use arrangements involving the LA or its services.

### **5.2 Income from fees and charges**

Schools may retain income derived from fees and charges except where a service is provided by the LA from centrally retained funds. Schools should have regard to any policy statements on charging produced by the LA.

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

Schools may retain income derived from fund raising activities.

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

Schools may retain income derived from the sale of assets except in cases where the asset was purchased with non-delegated funds (in which case the LA will decide whether the school may retain the proceeds), or the asset concerned is land or buildings forming part of the school's premises and is owned by the LA. Income from the sale of assets purchased with delegated funds may only be spent for the purposes of the school.

### **5.5 Administrative procedures for the collection of income**

Any income generated from the use of school premises collected in relation to expenditure that has been incurred from the school delegated budget should be credited to an appropriate budget heading within the school delegated budget and not paid into voluntary or private funds held by the school.

Schools should be aware of any duty to collect VAT. If it subsequently transpires that VAT has not been correctly accounted for then the school budget will be subject to a penalty charge determined by Customs and Excise.



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

### **6.1 General provision**

- 6.1.1** The LA may, in the circumstances set out in paragraph 6.2 of this Scheme only, charge the budget share of schools without the consent of the Governing Board. In all cases, the LA will consult schools as to the intention to charge and notify schools when it has been done. A school wishing to dispute such a charge may refer the matter to a panel of head teacher and officer representatives who will decide, on the merits of each individual case, if the charge was justified.
- 6.1.2** Where charges are made to schools by the LA for school-based staff salaries, these should be charged at actual cost.

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

- 6.2.1** Where premature retirement costs have been incurred without the prior written agreement of the authority to bear such costs (the amount chargeable being only the excess over any amount agreed by the authority);
- 6.2.2** Other expenditure incurred to secure resignations where the school had not followed authority advice;
- 6.2.3** Awards by courts and industrial tribunals against the authority, or out of court settlements, arising from action or inaction by the Governing Board contrary to the authority's advice.

Awards may sometimes be against the Governing Board directly and would fall to be met from the budget share. Where the authority is joined with the Governing Board in the action and has expenditure as a result of the Governing Board not taking authority advice, the charging of the budget share with the authority expenditure protects the authority's position.

- 6.2.4** Expenditure by the authority in carrying out health and safety work or capital expenditure for which the authority is liable where funds have been delegated to the Governing Board for such work, but the Governing Board has failed to carry out the required work;
- 6.2.5** Expenditure by the authority incurred in making good defects in building work funded by capital spending from budget shares, where the premises are owned by the authority or the school has voluntary controlled status or where the school's neglect of maintenance is at a level that has required the local authority to incur costs;
- 6.2.6** Expenditure incurred by the authority in insuring its own interests in a school where funding has been delegated but the school has failed to demonstrate that it has arranged cover at least as good as that which would be arranged by the authority;

See also 10.1. The authority itself needs to consider whether it has an insurable interest in any particular case.

- 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 authority;

**6.2.8** Recovery of penalties imposed on the 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 school negligence.

**6.2.9** Correction of authority errors in calculating charges to a budget share (e.g. pension deductions)

Before applying any such provision the authority should consider whether it is reasonable to do so. If the error dates back several years it may be questionable whether such charging is reasonable.

**6.2.10** Additional transport costs incurred by the authority arising from decisions by the Governing Board on the length of the school day, or failure to notify the authority of non-pupil days resulting in unnecessary transport costs.

**6.2.11** Legal costs which are incurred by the authority because the Governing Board did not accept the advice of the authority (see also section 11).

**6.2.12** Costs of necessary health and safety training for staff employed by the authority, where funding for training had been delegated but the necessary training not carried out.

**6.2.13** Compensation paid to a lender where a school enters into a contract for borrowing beyond its legal powers, and the contract is of no effect.

**6.2.14** Cost of work done in respect of teacher pension remittance and records for schools using non-authority payroll contractors, the charge to be the minimum needed to meet the cost of the authority's compliance with its statutory obligations;

**6.2.15** Costs incurred by the authority in securing provision specified in a statement of SEN where the Governing Board of a school fails to secure such provision despite the delegation of funds in respect of low cost high incidence SEN and/or specific funding for a pupil with High Needs;

**6.2.16** Costs incurred by the authority due to submission by the school of incorrect data;

**6.2.17** Recovery of amounts spent from specific grants on ineligible purposes;

**6.2.18** Costs incurred by the authority as a result of the Governing Board being in breach of the terms of a contract.

**6.2.19** Costs incurred by the authority or another school as a result of a school withdrawing from a cluster arrangement, for example where this has funded staff providing services across the cluster.

**6.2.20** Costs incurred by the authority in administering admissions appeals, where the local authority is the admissions authority and the funding for admission appeals has been delegated to all schools as part of their formula allocation.

## **SECTION 7: TAXATION**

### **7.1 Value Added Tax**

VAT incurred by schools when spending any funding on non-business activities through the school accounts may be reclaimed through the LA from HM Revenue & Customs. Reclaimed VAT will be passed back to the school. Reimbursement of VAT will be on a monthly basis following the receipt of the VAT claim from schools.

HM Revenue and Customs have agreed that VAT incurred by schools when spending any funding made available by the authority is treated as being incurred by the authority and qualifies for reclaim by the authority. This does not include expenditure by the governors of a voluntary aided school when carrying out their statutory responsibilities to maintain the fabric of their buildings.

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

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

Before the start of each financial year, the LA will provide to all schools, information on the services available through the Support Services for Education Providers initiative. Other services may also be provided by the LA, outside of these arrangements such as premature retirement compensation and redundancy payments. The LA will determine the basis on which central services are provided to schools. There will be no discrimination in the provision of services on the basis of categories of schools except where (a) funding has been delegated to some schools only or (b) such discrimination is justified by difference in statutory duties.

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

For those services charged on the basis of an annual subscription, agreements with the LA will be need to be completed by 30<sup>th</sup> April. To assist schools in making their decisions, by 31<sup>st</sup> December of the previous year, service providers must advise schools of any significant restructuring of their services or price increases above the rate of inflation.

Where a school has advised the LA's Business Support Team between 1 October and 30 April (inclusive) that it does not wish to continue the service for the following financial year, the service will discontinue on 31 August.

Where a school has advised the LA's Business Support Team between 1 May and 30 September (inclusive) that it does not wish to continue the service for the following financial year, the service will discontinue on 31 March.

The term of any arrangement with a school to buy services or facilities from the LA will be limited to a maximum of three years from the date of the agreement, and periods not exceeding five years for any subsequent agreement relating to the same services. In the case of catering services an extension applies to five and seven years respectively.

Services will 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 will be met by the total income, even if schools are charged differentially.

### **8.3 Packaging**

Any service for which funding has been delegated will be offered to schools on a buyback basis in a way which does not unreasonably restrict schools' freedom of choice among the services available, and where practicable, this will include provision on a service-by-service basis as well as in packages of services. This does not prevent the LA from offering package of services which offer a discount to schools taking up a wider range of services.

### **8.4 Service Level Agreements**

**8.4.1** Where services or facilities are provided under a service level agreement (including Services to Schools arrangements) - 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. At least one month will be given for schools to consider the terms of the agreements.

**8.4.2** Although many Council services will be available to schools through extended agreements and payment of an annual subscription, some services may be offered on a more ad hoc basis as “pay as you go” and may be charged at differentiated rates.

**8.4.3** Centrally commissioned premises and liability insurance is excluded from the requirements under 8.2 and 8.3 as the limitations envisaged may be impracticable for insurance purposes.

## **8.5 Teachers’ Pension**

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

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

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

## **SECTION 9: PFI/PPP**

### **9.1 PFI/PPP projects**

Should the LA develop PFI (Private Finance Initiatives) or PPI (Private/Public Partnerships) projects, there would need to be agreement with schools about meeting the cost of ongoing contractual arrangements and the treatment of monies withheld from contractors due to poor performance.

## **SECTION 10: INSURANCE**

### **10.1 Insurance Cover**

If resources for insurance are delegated to any school, the LA will require the school to demonstrate that cover relevant to the LA's insurable interests, under a policy arranged by the Governing Board, is at least as good as the relevant minimum cover arranged by the LA (taking into account 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, either paid for from central funds or from contributions from schools' delegated budgets. (See 6.2.6 - charging of school budgets).

## **SECTION 11: MISCELLANEOUS**

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

The Authority may require Governing Boards to supply financial information that might be reasonably required to enable the Authority to satisfy itself as to a school's management of its delegated budget share, or the use made of any central expenditure by the Authority on the school.

### **11.2 Liability of governors**

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

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

### **11.3 Governors' expenses**

Under section 50(5) of the SSAF Act 1998, only allowances in respect of purposes specified in regulations under section 19 of the Education act 2002 may be paid to governors from a school's delegated budget share. The payment of any other allowances to governors is forbidden. Schools should not pay expenses which duplicate those paid by the Secretary of State to additional governors appointed by him to schools under special measures. The LA may delegate funds to a school yet to receive a delegated budget to meet governors' expenses.

### **11.4 Responsibility for legal costs**

Costs of legal actions (including costs awarded against the LA) which are incurred by the Governing Board, although the responsibility of the LA as part of the cost of maintaining the school, (unless they relate to the statutory responsibility of voluntary aided school governors for buildings) may be charged to the school's budget share unless the Governing Board acts in accordance with the advice of the LA. If there is a potential conflict of interest between the LA and the Governing Board, the school should seek independent legal advice.

### **11.5 Health and Safety**

Governing Boards will be expected, in expending the school's budget share, to have due regard to duties placed on the LA in relation to health and safety, and the Authority's policy, guidance and procedures on health and safety matters in the management of the budget share.



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

The Council's officer with section 151 responsibility or his/her nominated representative may attend meetings of the Governing Board at which any agenda items are relevant to the exercise of his/her duties. Attendance will be limited to issues of probity or overall financial management; such attendance should not be regarded as routine. The authority should give prior notice of such attendance unless this is impracticable.

## **11.7 Special Educational Needs**

Schools are required to use their best endeavours in spending the budget share to secure the special educational needs of their pupils. Although this is a statutory requirement this provision makes it possible to suspend delegation where a situation is serious enough to warrant it.

## **11.8 'Whistleblowing'**

Persons working at a school or school governors who wish to complain about financial management or financial propriety at their school, should contact the either internal audit, the Finance Manger or Assistant Head of Learning and Achievement. All complaints will be treated confidentially.

## **11.9 Child Protection**

Schools should be aware of the need to release staff to attend child protection case conferences and other related events. Costs should be met from schools' delegated budget shares.

## **11.10 Redundancy and Early Retirement Costs**

Annex C sets out the process for the payment of premature retirement and redundancy costs.

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

### **12.1 School responsibilities**

Schools are responsible for the repair and maintenance of their premises. To support schools in meeting these responsibilities it is advised that they seek assistance from Education Asset Management to help them draw up an Asset Management Plan for a period of at least three years. The plan should address building priorities identified in their condition survey. In certain circumstances there may be a central capital contribution available to support schools to undertake necessary condition works. Such projects may include:

- larger projects that a school could not reasonably fund from its budget
- unforeseen/emergency projects that a school could not reasonably have planned for

### **12.2 Definition of capital**

The definition of a capital project is a single project that exceeds a de minimus of £5,000 and expenditure on the areas set out in section 2.14.

### **12.3 LA responsibilities**

The LA will continue to provide strategic support to help schools manage their premises responsibilities. This support may include:

- central funding towards the costs of projects identified in condition surveys in schools which would not reasonably be expected to totally fund the works from their own resources
- robust premises data and information data and information
- advice and support to schools on managing their premises responsibilities

### **12.4 Voluntary Aided schools**

Voluntary Aided schools will continue to be eligible for LCVAP grant funding from the Education Funding Agency (EFA) in respect of their statutory responsibilities. There is a responsibility to provide a 10% contribution to any capital Scheme undertaken. In addition schools will have responsibility for other repairs and maintenance items on the same basis as Community and Foundation schools.

### **12.5 Records of expenditure**

All schools will be required to maintain records of expenditure on repairs and maintenance, to be made available to the LA in support of capital bids on behalf of schools and in the assessment of capital expenditure priorities. A proforma is provided for this purpose.

### **12.6 Construction Design and Management Regulations**

Schools should be aware of and adhere to the legal requirements of the Construction (Design and Management) Regulations 2015 (CMD 2015) that came into force on the 6 April 2015, replacing CDM 2007. This law applies to the whole construction process on all construction projects, from concept to completion and schools are required to ensure projects are carried out in a way that secures health and safety.

## **SECTION 13: COMMUNITY FACILITIES**

### **13.1 Introduction**

Schools which choose to exercise the power conferred by s.27(1) of the Education Act 2002 to provide community facilities will be subject to a range of controls. First, regulations made under s.28 (2), if made, can specify activities which may not be undertaken at all under the main enabling power. Secondly, the school is obliged to consult its authority and have regard to advice from the LA. Thirdly, the Secretary of State issues guidance to Governing Boards about a range of issues connected with exercise of power, and a school must have regard to that. However, under s28(1), the main limitations and restrictions on the power will be those contained in the maintaining LA's Scheme for financing schools made under s.48 of the Act as amended by paragraph 2 of Schedule 3 to the Education Act 2002.

This amendment extended the coverage of Schemes to include the exercise of powers of Governing Boards to provide community facilities. Schools are therefore subject to prohibitions, restrictions and limitations in the Scheme for financing schools.

This part of the Scheme does not extend to joint -use agreements: transfer to control agreements, or agreements between the authority and schools to secure the provision of adult and community learning.

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

### **13.2 Consultation Requirements**

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

**13.2.2** Before exercising the community facilities power governing boards must consult with local authority. Formal consultation with the LA will commence when the full consultation material has been submitted in writing. The response period will begin from receipt of the full material. It would also be helpful to all parties if schools gave the LA notice of their intent in advance of the formal consultation itself. A written proposal should be submitted to the LA at least three months prior to the planned date of implementation. The LA will respond and provide advice within six weeks of receipt of the proposal.

**13.2.3** The LA may request from any school operating community activities a report on any action taken following the LA's advice.

### **13.3 Funding Arrangements**

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

**13.3.2** Any funding agreements with third parties (as opposed to funding agreements with the Authority itself) should be submitted to the authority for its comments prior to the governing board signing any such agreement so that the LA can ensure that any agreement is not

seriously prejudicial to the interests of the school or the LA. If an agreement has been or is to be concluded against the wishes of the LA, or has been concluded without informing the LA, which in the view of the Authority is seriously prejudicial to the interests of the school or the Authority, that may constitute grounds for suspension of the right to a delegated budget.

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

### **13.4 Other Prohibitions, Restrictions and Limitations**

The Governing Board should endeavour to protect the financial interests of the LA. The LA may require that in a specific instance of use of the community facilities power, the Governing Board concerned shall make arrangements to protect the financial interest of the LA. Arrangements for protection may include the setting up of a limited company formed for the purpose or obtaining indemnity insurance for risks associated with the project in question, as specified by the LA.

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

**13.5.1** Schools must provide the LA every six months with a summary statement, in a form determined by the LA, showing the income and expenditure to the school arising from the facilities (actual for previous six months, estimate for the following six months).

**13.5.2** The authority, on giving notice to the school that it believes there to be cause for concern as to the school's management of the financial consequences of the exercise of the community facilities power, may require such financial statements to be supplied every three months and, if the authority sees fit, to require the submission of a recovery plan for the activity in question.

### **13.6 Audit**

**13.6.1** The Governing Board is required to grant access to all records connected with the community facilities provided to facilitate internal and external audit of income and expenditure

**13.6.2** In concluding funding agreements with other persons pursuant to the exercise of the community facilities power, schools must ensure that such agreements contain adequate provision for access by the authority to the records and other property of those persons held on the school premises, or held elsewhere insofar as they relate to the activity in question, in order for the Authority to satisfy itself as to the propriety of expenditure on the facilities in question.

**13.6.3** If a Governing Board is operating a Limited company, there will be a need to engage its own external auditors.

**13.6.4** Any cost arising from either an internal or external audit of community activities are not a legitimate charge to the school budget and must be a charge to community focused activities.

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

**13.7.1** Except where there is an agreement with the Authority or a third party to the contrary, all net income derived from community facilities will be retained by the school in the community facilities budget.

**13.7.2** End of year balances will be carried forward as a separate community facilities balance. Deficit balances must be carried forward and cannot be transferred into the School's budget share. Transfer of some or all of any surplus into the school's budget share balance is subject to approval by the Authority.

### **13.8 Health and Safety**

**13.8.1** Health and safety requirements of the main Scheme are extended to the facilities.

**13.8.2** The Governing Board are responsible for the costs of securing Disclosure and Barring Service clearance for all adults involved in community activities taking place during the school day. Governing Boards would be free to pass on such costs to a funding partner as part of an agreement with that partner.

### **13.9 Insurance**

**13.9.1** It is the responsibility of the governing board to ensure adequate arrangements are made for insurance against risks arising from the exercise of the community facilities power, taking professional advice as necessary. Such insurance should not be funded from the school budget share. The school must seek the authority's advice before finalising any insurance arrangement for community facilities.

**13.9.2** The LA may undertake its own assessment of the insurance arrangements made by the Governing Board in respect of community facilities. If the Authority judges that the arrangements made by the school are inadequate, the LA may make arrangements itself and require schools to meet the additional cost.

### **13.10 Taxation**

**13.10.1** Schools must seek the advice of the authority and the local VAT office on any issues relating to the possible imposition of Value Added Tax on expenditure in connection with community facilities, including the use of the local authority VAT reclaim facility.

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

**13.10.3** Schools must follow authority advice in relation to the Construction Industry Scheme where this is relevant to the exercise of the community facilities power.

### **13.11 Banking**

**13.11.1** The school must either keep separate bank accounts for Budget Share and community facilities or have adequate internal control to ensure adequate separation of funds.

**13.11.2** The requirements in relation to banks, requirements for signing of cheques etc. will be the same as for the Budget Share account.

**13.11.3** Schools are reminded that they cannot borrow money without the written consent of the Secretary of State. This requirement does not however extend to monies lent by the maintaining LA

## Annexes

### Annex A - Havering maintained schools

#### Primary LA maintained

Ardleigh Green Infant  
Ardleigh Green Junior  
Benhurst Primary  
Brady Primary  
Branfil Primary School  
Broadford Primary  
Brookside Infant  
Clockhouse Primary  
Crowlands Primary  
Crownfield Infant  
Crownfield Junior  
Dame Tipping CE Primary  
Elm Park Primary  
Engayne Primary  
Gidea Park Primary  
Hacton Primary  
Harold Court Primary  
Harold Wood Primary  
Hilldene Primary  
Hylands Primary  
La Salette Catholic Primary  
Langtons Infant  
Mead Primary  
Nelmes Primary  
Newtons Primary  
Parklands Infant  
Parklands Junior  
Parsonage Farm Primary  
Rainham Village Primary  
Scargill Infant  
Scargill Junior  
Scotts Primary  
Squirrels Heath Infant  
Squirrels Heath Junior

#### Primary LA maintained

St Alban's Catholic Primary  
St Edward's CE Primary  
St Joseph's Catholic Primary  
St Mary's Catholic Primary  
St Patrick's Catholic Primary  
St Peter's Catholic Primary  
St Ursula's Catholic Infant  
St Ursula's Catholic Junior  
Suttons Primary  
The James Oglethorpe Primary  
The Mawney Primary  
The R J Mitchell Primary  
Towers Infant  
Towers Junior  
Whybridge Infant  
Whybridge Junior  
Wykeham Primary

#### Secondary LA maintained

Gaynes  
Marshalls Park  
Sanders  
The Royal Liberty

#### Special LA maintained

Corbets Tey

#### Pupil Referral Units LA maintained

Manor Green College



## ANNEX B

Timetable for submission of reports to the LEA for reclaiming VAT from HMRC

<b>Related month - month end</b>	<b>Report needed by</b>	<b>VAT reimbursed to school</b>
April	15th May	end of May
May	15th June	end of June
June	15th July	end of July
July } August } September	15th September 15th October	end of September end of October
October	15th November	end of November
November	15th December	end of December
December	15th January	end of January
January	15th February	end of February
February	15th March	end of March
March	15th April	end of April

### London Borough of Havering

#### Policy on Paying Redundancy, Dismissal and Early/Premature Retirement Costs for School Based Staff within Maintained Schools within The London Borough of Havering

##### 1. Introduction

This policy sets out the circumstances when the costs of early/premature retirement, redundancy and other dismissal costs may/will be paid in full or part by the Local Authority for school based staff in maintained schools\* within the borough.

With regard to staff employed directly by Academies within the borough, the liability for these costs remains the responsibility of the governing board (as the employer of their staff). All liability for such costs passes to the governing board of the Academy at the point the TUPE transfer takes place.

*\*maintained schools include community, voluntary controlled, voluntary aided and foundation/trust schools.*

##### 2. Background

Section 37 of the 2002 Education Act states:

(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 Local Authority agree with the governing board 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 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 Local Authority has a policy precluding dismissal of their employees by reason of redundancy is not regarded as a good reason for the purposes of the 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 a good reason was, but the examples provided within DFE guidance on Schemes For Financing Schools indicate the situations in which exceptions to the default position may be taken. These are set out in section 3 below.

##### 3. Payment of Redundancy Costs

The Local Authority will view it as 'good reason' to pass the costs (in full or part) to the school's delegated budget:

- if a school has decided to offer more generous terms than the Local Authority's redundancy policy then it would be reasonable to charge the excess to the school;
- if a school is otherwise acting outside the Local Authority policy and procedures;
- where the school is making staff 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 the staffing reductions arise from a deficit caused by factors within a 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 (part of the Managing Organisational Change Procedure For School Based Staff).

In respect of the above, all schools would be expected to comply and fully engage with all the provisions of the current Managing Organisational Change Procedure for School Based Staff. Schools would also be expected to adhere to the advice provided by Local Authority representatives in respect of this procedure, best practice and any relevant employment legislation. Schools are also fully expected to maintain close liaison with the Schools Finance team.

Not to do so, may justify as 'good reason' to pass all cost associated with any redundancy to the school's delegated budget.

In addition, the Local Authority deems it both fair and reasonable to only accept to meet such costs that would otherwise result in the school having a deficit budget.

#### **4. Payment Of Early/Premature Retirement Costs**

##### **4.1 Teaching Staff**

The Local Authority does not generally support the payment of early retirement benefits to teaching staff. This applies to funding either the making up of an actuarial reduction and/or the payment of enhancements (added years). There is no automatic release of a teacher's pension if they are made redundant before the earliest date their pension can be released.

The Local Authority generally recommends that schools also do not normally agree to fund such costs. This is on the basis that these costs will fall to the school's delegated budget and the costs are normally significant and there is normally an ongoing financial commitment to the school until the death of the employee concerned.

##### **4.2 Support Staff**

If a member of the support staff is made redundant at age 55 or over and they pay into the Local Government Pension Scheme, then the employee's pension will automatically be released early. In such cases, all costs associated with the early release of the pension will fall to the school's delegated budget.

#### **5. Payment of Premature Retirement Costs From A Non Schools' Budget**

In accordance with DFE guidance on Schemes For Financing Schools and in limited circumstances, the Local Authority may agree to fund early retirement costs for support staff from a central non school's budget. These are in such circumstances such as where:

- a school has a long term reduction in pupil numbers and charging such costs to their budget would impact upon standards;
- a school is closing, does not have sufficient balances to cover the costs and where the central schools budget does not have the capacity to absorb the deficit;
- 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;

- 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 the local authority or government intervention to improve standards.

## **6. Payment of Premature Retirement & Redundancy Costs From The Central Part Of The Schools' Budget**

If the School Funding Forum agrees and the Local Authority can demonstrate that the "revenue savings achieved by any termination of employment are equal to or greater than the costs incurred", early retirement and redundancy costs can also be charged to the central part of the schools budget. This would apply to organisational changes, particularly school closures that may affect either an individual school or more than one school. This is because savings are likely to be achieved as there would be a reduced amount being allocated through the formula for factors such as flat rate amounts to all schools or floor area. If the savings in the formula exceeded the ongoing costs of the early retirement/redundancy then this would qualify.

The School Funding Forum has already agreed in principle that such costs can be charged to the central part of the school budget in the circumstances described above.

Overall, each case would be considered on its merits and in certain circumstances it may be appropriate that the costs are shared between the central part of the school's budget and the central non schools budget.

## **7. Payment Of Dismissal Costs For Reasons Other Than Redundancy.**

These are costs normally arising from compensation payments awarded by the Employment Tribunals in respect of a successful unfair dismissal claim.

The Local Authority will only fund (in part or full) the payment of any other dismissal cost, outside of redundancy and early retirement, in the event that the school has:

fully complied with Local Authority's agreed procedures where a dismissal may arise. i.e.

- Disciplinary Procedure
- Managing Sickness Absence Procedure
- Capability Procedures for Teaching and Support staff

or

fully complied with their school's own procedures (in respect of the above), which must be in line with the Council's standards and practice and be fully compliant with employment legislation and best practice.

In addition the school must also, in all cases, adhere to advice and guidance provided by the appropriate local authority representatives, e.g. (Human Resources (HR), Legal and Finance staff). In all cases, a Local Authority HR representative must be present and be able to give advice at the dismissal and any subsequent appeal hearing. This is even where a school may purchase its operational HR support from another provider. Where appropriate, Occupational Health advice should be sought and fully considered before a dismissal is confirmed.

The individual circumstances of each case will be considered and there may be occasions where the Local Authority believes there is 'good reason' not to pay or only part pay the dismissal costs. This may be in the case where:

- appropriate policies and procedures have not been adhered to;
- appropriate Local Authority representatives have not been involved in the dismissal process and/or their advice and guidance as set out above has not been sought and/or followed. For example, where a school was advised that there was medium/high risk that making a decision to dismiss was likely to result in a successful unfair dismissal claim;
- in relation to compensation awarded for claims of constructive dismissal. i.e. the employee terminates the contract under which he is employed (with or without notice) in circumstances in which he/she is entitled to terminate it without notice by reason of the employer's (the school's) conduct.

In respect of the final bullet point above, the appropriate legislation\* does not specify that the Local Authority should pay any compensation awarded to in the event of a successful constructive dismissal claim. Therefore it is reasonable for the Local Authority to view that normally all such associated costs would be charged to the school's delegated budget unless otherwise agreed.

\* Education (Modification of Enactments Relating To Employment) Order 2003

In addition, where a school has surplus balances and the school has not designated these monies for a more suitable use, the Local Authority will consider it appropriate and a 'good reason' for the school to pay (in full or part) any compensation awarded.

#### **8. Payment of Legal Costs For the Preparation of Employment Tribunal Cases**

All internal legal costs and any external legal charges, such as the costs of employing Counsel, to support the preparation and presentation of the case, will fall to the school and be paid from their delegated budget. Legal Services will advise the school in advance what the estimated costs are likely to be regarding each individual case.

#### **9. Payment of Compensation Payments Agreed as Part of a Compromise Agreement**

This policy excludes funding for compensation payments made to staff as part of securing a resignation through a compromise agreement. These payments and any associated costs are the responsibility of the governing boards unless otherwise agreed in writing by the Local Authority.

#### **10. Staff Employed Under the Community Facilities Power**

In accordance with Section 37 of the Education Act 2002, for staff employed under the community facilities power, the default position is that any dismissal and premature retirement costs must be met by the governing board, but not from the delegated budget.

Any such costs incurred by the Local Authority with regard to these staff can be recovered from the governing board, if both parties agree this in writing either before or after the termination of employment occurs.

With regard to staff that are employed partly for community purposes and partly for other purposes, a payment in respect of the above costs must be apportioned between the two purposes in accordance with the guidance above.

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