

**Children, Education and Communities Directorate**



**Scheme for Financing Schools**  
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**Contact Details:**

Children, Education and Communities Directorate  
West Offices  
Station Rise,  
York  
YO1 6GA

Telephone: 01904 554231  
Email: [schools.business@york.gov.uk](mailto:schools.business@york.gov.uk)

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## CONTENTS

SECTION 1: INTRODUCTION	1
1.1 The Funding Framework: Main Features	1
1.2 The role of the Scheme	2
1.2.1 Application of the Scheme to the Authority and maintained schools	2
1.3 Publication of the Scheme	2
1.4 Revision of the Scheme	3
1.5 Delegation of powers to the head teacher	3
1.6 Maintenance of Schools	3
SECTION 2: FINANCIAL REQUIREMENTS; AUDIT	4
2.1 Financial Requirements; Audit	4
2.1.1 Application of financial controls to schools	4
2.1.2 Provision of financial information and reports	4
2.1.3 Payment of salaries; payment of bills	4
2.1.4 Control of assets	4
2.1.5 Accounting Policies (including year-end procedures)	5
2.1.6 Writing off of debts	5
2.2 Basis of accounting	5
2.3 Submission of budget plans	5
2.4 Efficiency and Value for Money	6
2.5 Virement	6
2.6 Audit: General	6
2.7 Separate external audits	6
2.8 Audit of voluntary and private funds	6
2.9 Register of business interests	7
2.10 Purchasing, tendering and contracting requirements	7
2.11 Application of contracts to schools	8
2.12 Central funds and earmarking	8
2.13 Spending for the purposes of the school	9
2.14 Capital Spending from Budget Share	9
2.16 School Financial Value Standard	10
2.16 Notice of concern	10
2.17 Suspension of Financial Delegation	101
2.18 Fraud	112
SECTION 3: INSTALMENTS OF THE BUDGET SHARE; BANKING ARRANGEMENTS	133
3.1 Frequency of instalments	133
3.2 Proportion of budget share payable at each instalment	133
3.3 Interest clawback	133
3.3.1 Interest on late budget share payments	133
3.4 Budget shares for closing schools	133
3.5 Bank and building society accounts	134
3.5.1 Restrictions on accounts	144
3.6 Borrowing by schools	144
3.7 Other provisions	144
SECTION 4: THE TREATMENT OF SURPLUS AND DEFICIT BALANCES ARISING IN RELATION TO BUDGET SHARES	155
4.1 The right to carry forward surplus balances	155
4.2 Reporting on the intended use of surplus balances	155
4.3 Interest on surplus balances	166
4.4 Obligation to carry forward deficit balances	166
4.5 Planning for deficit budgets	166

4.6	Charging of interest on deficit balances	166
4.7	Writing off deficits	177
4.8	Balances of closing and replacement schools	177
4.9	Licensed deficits	177
4.10	Loan Schemes	188
4.10.1	Credit Union approach	188
SECTION 5: INCOME		199
5.1	Income from lettings	199
5.2	Income from fees and charges	199
5.3	Income from fund-raising activities	199
5.4	Income from the sale of assets	199
5.5	Administrative procedures for the collection of income	199
5.6	Purposes for which income may be used	20
SECTION 6: THE CHARGING OF SCHOOL BUDGET SHARES		21
6.1	General Provision	21
6.1.1	Charging salaries at actual cost	21
6.2	Circumstances in which charges may be made	21
SECTION 7: TAXATION		244
7.1	Value Added Tax	244
7.2	CIS (Construction Industry Scheme)	244
SECTION 8: THE PROVISION OF SERVICES AND FACILITIES BY THE AUTHORITY		255
8.1	Provision of services from centrally retained budgets	255
8.2	Provision of services bought back from the Authority	255
8.2.1	Packaging	255
8.3	Service level agreements	255
8.4	Teachers' Pensions	266
SECTION 9: PRIVATE FINANCE INITIATIVE and PUBLIC/PRIVATE PARTNERSHIPS (PFI/PPP)		277
SECTION 10: INSURANCE		288
10.1	Insurance cover	288
SECTION 11: MISCELLANEOUS		299
11.1	Right of access to information	299
11.2	Liability of governors	299
11.3	Governors' expenses	299
11.4	Responsibility for legal costs	299
11.5	Health and Safety	299
11.6	Right of attendance for Chief Finance Officer	30
11.7	Special Educational Needs	30
11.8	Interest on late payments	30
11.9	"Whistleblowing"	30
11.10	Child protection	30
11.11	Redundancy/Early retirement costs	30
SECTION 12: RESPONSIBILITY FOR REPAIRS AND MAINTENANCE		333
12.1	School Responsibilities	333
12.2	Capital Expenditure	333
12.3	The de minimis Limit	333

SECTION 13: COMMUNITY FACILITIES	344
13.1 Introduction	344
13.2 School Budget Share and Community Facilities	344
13.3 Mismanagement of Community Facilities Funds	344
13.4 Consultation with the Authority – Financial Aspects	344
13.5 Procedure for Consultation - Schools	345
13.6 Procedure for Consultation – The Authority	355
13.7 Funding Agreements – Authority powers	355
13.8 Protecting financial positions	355
13.9 Other Prohibitions, restrictions and limitations	355
13.10 Supply of Financial Information	355
13.11 Cause for Concern	366
13.12 Audit	366
13.13 Property of Other Persons held on the School’s Premises	366
13.14 Income	366
13.15 Surpluses	366
13.16 Health and Safety Matters	366
13.17 Criminal Records Bureau Clearance	366
13.18 Insurance	377
13.19 Assessment of the Insurance Arrangements	377
13.20 Taxation	377
13.21 Employment of Staff	377
13.22 Construction Industry Scheme	377
13.23 Banking	377
13.24 Borrowing Money	377
ANNEX A Schools maintained by City of York Council covered by this Scheme	399
ANNEX B Information Requirements	411
ANNEX C Purposes for which Deficits are Permitted	422

# SECTION 1: INTRODUCTION

## 1.1 The Funding Framework: Main Features

This funding framework replaces Local Management of Schools scheme and is set out in the legislative provisions in sections 45-53 of the School Standards and Framework Act 1998 (the “Act”). School and Early Years (England) Regulations 2012 made under the Act are referred to as the “Regulations”.

Under this legislation, local authorities determine for themselves the size of their schools budget and their non-schools education budget – although at a minimum an authority must appropriate its entire Dedicated Schools Grant to their schools budget. The categories of expenditure which fall within the two budgets are prescribed under regulations made by the Secretary of State, but included within the two, taken together, is all expenditure, direct and indirect, on an authority's maintained schools except for capital and certain miscellaneous items.

City of York Council (the “Authority”) may deduct funds from its schools budget for purposes specified in regulations made by the Secretary of State under s.45A of the Act. This is known as the centrally retained expenditure. The amounts to be deducted for these purposes are decided by the Authority, subject to any limits or conditions, including gaining the approval of their School Forum or the Secretary of State in certain instances, as prescribed by the Secretary of State. The balance of the schools budget left after deduction of the centrally retained expenditure is termed the Individual Schools Budget (ISB). Expenditure items in the non-schools education budget must be retained centrally (although earmarked allocations may be made to schools).

The Authority must distribute the ISB amongst its maintained schools using a formula which accords with regulations made by the Secretary of State, and enables the calculation of a budget share for each maintained school. This budget share is then delegated to the governing body of the school concerned, unless the school is a new school which has not yet received a delegated budget, or the right to a delegated budget has been suspended in accordance with s.51 of the Act. The financial controls within which delegation works are set out in a scheme made by the 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 York Schools Forum, though the Authority may apply to the Secretary of State for approval in the event of the Partnership rejecting a proposal or approving it subject to modifications that are not acceptable to the Authority.

Subject to any provision made by or under the scheme, governing bodies of schools may spend such amounts of their budget shares as they 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 body on providing community facilities or services under section 27 of the Education Act 2002 are treated as if they were amounts spent for the purposes of the school (s50(3A) of the Act.*

The 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)

The 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, the budget share for each school, the formula used to calculate those budget shares, and the detailed calculation for each school. After each financial year the Authority must publish a statement showing out-turn expenditure at both central level and for each school, and the balances held in respect of each school.

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 the Authority to publish its scheme and any revisions to it on a website accessible to the general public, by the date that any revisions come into force, together with a statement that the revised scheme comes into force on that date.

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

The City of York Scheme for Financing Schools 2016 (the Scheme) sets out the financial relationship between the City of York Council and the maintained schools which it funds. It contains requirements relating to financial management and associated issues, binding on both the Authority and on schools. It refers to certain other documents, including the Council's Standing Orders and Financial Regulations, and its Scheme of Delegation, to make clear that the provisions of those documents apply to schools carrying out the purposes of the Authority's Children, Education and Communities Directorate. In particular it refers to the formula used to calculate each school's budget share. Some of the clauses of the Scheme are followed in this document by information or commentary in italic script. Such paragraphs are not part of the scheme but are intended to give assistance to readers.

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

The schools maintained by the Authority are listed for information in Annex A to this Scheme.

The Scheme covers all community, nursery, special, voluntary, foundation (including trust) foundation special schools and Pupil Referral Units (PRUs), schools in the area of the Authority except those maintained by another authority. The Scheme does not apply to academies.

## **1.3 Publication of the Scheme**

A copy of this Scheme will be made available to the head teacher, the governing body of each school covered by the Scheme and the general public via the Internet. An up-dated link shall also be supplied to each school for reference at all reasonable times and without charge. Any approved revisions will be notified to each such school. Schools will be notified of any revised version which 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.

#### **1.4 Revision of the Scheme**

Any proposed revisions to the scheme will be the subject of consultation with the governing body and the head teacher of every school maintained by the Authority before they are submitted to the York Schools Forum for approval by members of the forum representing maintained schools.

*All proposed revisions must be submitted to the schools forum for their approval. Where these specific members of the schools forum does not approve them or approves them subject to modifications which are not acceptable to the Authority, the Authority may apply to the Secretary of State for approval.*

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

Each governing body will consider the extent to which it wishes to delegate its financial powers to the head teacher, and each will record its decision (and any revisions) in the minutes of governing body meetings.

Each governing body, or committee of the governing body, will consider and approve its school's annual budget plan each year in time for submission to the Authority (see 2.3). Governing bodies will consider monitoring reports at appropriate intervals, and approve budget revisions if necessary, bearing in mind virement powers delegated to the head teacher.

#### **1.6 Maintenance of Schools**

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



## **SECTION 2: FINANCIAL REQUIREMENTS; AUDIT**

### **2.1 Financial Requirements; Audit**

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

Schools are required, in the management of their delegated budgets, to abide by this Scheme and the Authority's other requirements on financial controls and monitoring. In particular the Standing Orders of the City of York Council and its Financial Regulations, including the Bank Accounts for Schools (BafS) Scheme. Detailed information about processes is included in the Schools Finance Manual.

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

Schools will provide the Authority with details of anticipated and actual expenditure and income. This report will be in the form of a City of York Monitoring Report (Summary version), taking due account of the Consistent Financial Reporting framework, and submitted once each term after it has been presented and agreed by governors. The only exceptions to this will be connected with tax or banking reconciliation which should be provided monthly, unless the Authority has notified the school in writing that in its view the schools' financial position requires it, or the school is in its first year of operation. If a school is not using the Authority's recommended accounting software the Authority may require more frequent reporting.

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

The procedures to be followed by schools in accounting for the payment of salaries and invoices are contained in the Schools Finance Manual. These will be amended from time to time in consultation with schools.

Schools using the central payroll must submit to deadline timesheets and other information to the Authority. Schools using payroll services other than those provided by the Authority must provide a range of information (on National Insurance contributions for instance) needed by the Authority to complete its financial returns. These will be notified in writing to schools at the time they are required. See paragraph 8.4 Teachers' Pensions for more details.

#### **2.1.4 Control of assets**

Each school will maintain an inventory of its moveable non-capital assets with a replacement value in excess of £1,000, in a form to be determined by the Authority, currently an Excel spreadsheet. Disposal of those assets will be authorised at school level according to the Authority's procedures, see the Schools Finance Manual. An inventory for assets worth less than £1,000 must be maintained but the form of it will be at each school's discretion.

*When determining which assets should be recorded, schools should consider items whose value is over, say, £100, except where assets are mobile and desirable but not necessarily expensive, e.g. digital cameras.*

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

The Authority will publish policies for preparing statements of accounts and other financial information which will be available in advance of the accounting period to which they refer. Procedures to be followed at the close of each financial year will be notified to schools at an appropriate time each year. Schools will abide by both policies and procedures.

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

Governing bodies may write off debts up to the level stipulated in the Authority's Financial Regulations. The procedure is explained in the Schools Finance Guidance.

## **2.2 Basis of accounting**

Reports and accounts provided to the Authority will be on an accruals basis, to conform to its accounting practices. If this is impracticable and data is provided by a school on a cash basis this will be clearly signalled and if reconciliation data is required by the Authority it will be made available by the school.

The Authority does not seek to impose either method on schools' internal systems. Schools may use whatever financial software they wish, providing they meet any costs of support and any modification required to provide the output required by the Authority.

*This provision is to enable the Authority to prepare statements efficiently, on a consistent basis.*

## **2.3 Submission of budget plans**

The Authority does not have a requirement for schools to submit a provisional budget plan prior to the formal budget plan. Each school will submit a formal budget plan to the Authority, taking due account of the Consistent Financial Reporting framework, showing its intentions for income and expenditure in the current financial year, income and expenditure projections for the following two years and the assumptions underpinning the whole three-year period. Schools will include estimated surpluses and deficits as at the previous 31st March in the plan. The date by which this will be submitted will be stipulated by the Authority each year, allowing reasonable notice; it will be no earlier than 1 May nor later than 15 May each year and this latter date will come into force if the Authority sets no other. Prior to submission to the Authority, the plan must be approved by the governing body or a committee of the governing body where the governing body has delegated this function.

*This section refers to the Start Budget for each year. It is considered good practice for this function to be held by the full governing body rather than one of its committees.*

Where a school is considering setting a deficit budget, the guidance contained in paragraphs 4.5 and 4.9 should be followed.

Revised budget plans will not be requested if other financial reports carry the relevant data. (See 2.1.2 above)

To assist schools with this work, the Authority will supply all income and expenditure data it holds, including guidance on assumptions, e.g. inflation, to facilitate efficient financial planning by schools. The Authority will specify the format of the plan in a separate publication.

## **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 heads and governors to determine at school level how to secure better value for money.

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

## **2.5 Virement**

Schools may vire freely between budget heads in the expenditure of their budget shares.

## **2.6 Audit: General**

Schools and governing bodies will co-operate in the arrangements made by the Authority's Head of Financial Services for the audit of its affairs. These may involve both internal and external auditors, for which a school must make access available to its records. Reviews may cover any activity in which the Authority has a financial interest, including the application of its resources, delegated or otherwise, and the security of its assets.

*Audit reviews are an aid to management and are intended to assist governors and heads in the management of their schools, as well as ensuring the accuracy and truthfulness of the Authority's financial statements and those presented by schools to their governing bodies. Schools and governing bodies will assist both internal and external auditors in establishing whether any liability arises from the actions or inaction of its employees in relation to their involvement with the assets of other bodies or funds.*

## **2.7 Separate external audits**

Each governing body may spend funds from its budget share to obtain external audit certification of its accounts, separate from any internal or external audit process arranged by the Authority.

*There is no expectation by the Authority or the Secretary of State that routine annual external audit at school level of budget share expenditure should be a usual feature of the funding system; merely that schools should not be prevented from seeking an additional source of assurance at their own expense.*

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

Schools should seek advice as to whether they must register their school fund account with the Charity Commission. Where a school fund qualifies for registration, it must comply with the Commission's reporting requirements.

All schools must provide audit certificates to the Authority in respect of voluntary and private funds held by them, and of the accounts of any trading organisations controlled by them. The Consistent Financial Reporting framework requires that expenditure and its related income in private funds under the control of the governing body that benefits a school's pupils be included in each school's statutory CFR return.

*The purpose of such a provision is to allow the Authority to satisfy itself that public funds are not being misused. The Authority does not seek to impose through the Scheme a right to audit such funds itself but Internal Auditors will need to satisfy the Council that arrangements to administer the funds are of a good standard to ensure financial control. Any other requirement as to audit of such funds is a matter for those making the funds available, and any Charity Commission requirements.*

## **2.9 Register of business interests**

The governing body of each school will:

- have a register which lists, for each member of the governing body, head teacher and others with financial responsibilities, any business interests they or any member of their immediate families have;
- provide details of other educational establishments they govern
- provide details of any relationship between school staff and members of the governing body
- keep the register up to date by notification of changes and through annual review of entries;
- make the register available for inspection by governors, staff, parents and the Authority and publish the register on a publically accessible website.

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

Schools will abide by the Authority's Standing Orders and Financial Regulations in purchasing, tendering and contracting matters. This will 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 no provision of the Standing Orders and Financial Regulations will apply which purports to require schools:

- a. To do anything incompatible with any of the provisions of the Scheme, or any statutory provision, or any EU Procurement Directive. Where an Authority contract has been let in accordance with EU procurement procedures it 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.
- b. To seek the countersignature of any officer of the Authority for any contracts for good or services for a value below £60,000 in any one year;

*LAs and schools alike should apply the countersignature requirement sensibly, avoiding attempts to artificially aggregate or disaggregate orders to avoid or impose the requirement.*

- c. To select suppliers only from an approved list;

*The Authority maintains lists of contractors which have been selected for their financial stability and technical suitability. Schools may find it helpful or reassuring to consult these lists before choosing a contractor, although the Authority does not offer any guarantees in respect of such contractors.*

- d. To permit schools to seek fewer than three tenders or quotations in respect of any contract with a value exceeding £10,000 in any one year subject to specific exceptions:

*Schools must comply with the Authority's Contract Procedure rules, which contain a threshold of £5,000.*

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

Schools may opt out of Authority-arranged contracts except where they have lost that right for particular contracts (whenever started) in accordance with the written procedure specified below. In such cases they will be bound into the contract for its length (although the contract might contain clauses allowing variance of its terms and conditions).

Where a contract is entered into with the intention that schools will be bound by it the Authority will consult them and when the contract is signed it will write to schools with the relevant details. Schools may not opt out of such contracts without the prior written consent of the Corporate Director of Children, Education and Communities.

*Schools are only bound into LA arranged contracts through scheme provisions. Without such cover they are free to leave an LA arranged contract at any time. Where provisions are in force schools may be required to indemnify the Authority against consequent costs before being permitted to opt out.*

Governing bodies are empowered (under paragraph 3 of schedule 10 of the Act) to enter contracts, but in most cases do so on behalf of the Authority as maintainer of the school and the owner of the funds in the budget share. However other contracts may be made solely on behalf of the governing body, for example contracts made by aided or foundation schools for the employment of staff.

## **2.12 Central funds and earmarking**

The Authority may make sums available to schools from central funds, in the form of allocations which are additional to and separate from the schools' budget shares. Such allocations will be subject to conditions setting out the purpose or purposes for which the funds may be used.

*These might, for example, be sums for SEN or initiatives funded from the central expenditure of the Authority's Schools Budget or other Authority budget. Where the funding for such an allocation is supported by a specific grant which the Authority itself is not permitted to vire there can be no virement within the school. Since these are allocations in addition to the budget share the general power of virement in clause 2.5 is not applicable.*

*The Authority is required to account separately for many of these activities and the information requirements of clause 2.1.2 may be invoked in such cases.*

Such earmarked funding from centrally retained funds may be spent only on the purposes for which it is given, or on other budget heads for which earmarked funding is given, and may not be vired into the budget share. The Authority will provide an accounting mechanism for schools to be able to demonstrate that this requirement has been complied with. Where such earmarked funds are not spent in full within the period over which schools are allowed to use the funds, the Authority may revise the allocation to a level not lower than the actual amount spent. The Authority will not make deductions to cover interest costs it incurs in respect of devolved special or specific grants.

*Where the Authority has no power of virement and can only claim specific grant for the amounts actually spent, it must be able to “claw back” unspent values from schools to protect its position.*

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

Governing Bodies will spend the school’s budget share for the purposes of the school, subject to provisions of this scheme. Please note the following Statutes amend the definition of the term “purposes of the school”:

- Section 50(3A) (which came into force on 1st April 2011): amounts spent by governing bodies on community facilities or services under section 27 of the Education Act 2002 (extended services) will be treated as if spent for any purposes of the school.
- 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 and academies.

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

*Under s.50(3)(b) the Secretary of State may prescribe additional purposes for which expenditure of the budget share may occur.*

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

Governing bodies may use their budget shares to meet the cost of capital expenditure on the school premises. This includes expenditure by the governing body of a voluntary aided school on work which is their responsibility under paragraph 3 of Schedule 3 of the Act. However if the expected capital expenditure from the budget share in any one-year will exceed £15,000 the governing body will notify the Authority. The governing body will take into account the advice of the Corporate Director of Children Education and Communities as to the merits of the proposed expenditure. If the premises are owned by the Authority (or the school has voluntary controlled status) then the governing body will seek the consent of the Authority to the proposed works. Consent will only be withheld on health and safety grounds as requiring consent helps ensure compliance with the current School Premises regulations, DfE Construction Standards, and health and safety legislation. Where a school carries out works which will affect the budget share in subsequent years, the Authority may withhold the increase if it has not already agreed to pay them.

*These requirements will not affect expenditure from any capital allocation made available by the LA outside the delegated budget share, although separate conditions may be attached (see clause 2.12).*

## 2.15 School 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 what time in the year they wish to complete the form.

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

All maintained schools with a delegated budget must submit the completed review and signed form to the local authority annually, prior to 31<sup>st</sup> January each year.

*DfE will consider requests from local authorities to have an earlier deadline where there is a good reason. Any change will be agreed by the York Schools Forum.*

## 2.16 Notice of concern

The Authority may issue a notice of concern to the governing body of any school it maintains where, in the opinion of the Chief Finance Officer and the Corporate Director of Children Education and Communities, 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 body restrictions, limitations or prohibitions in relation to the management of funds delegated to it. These may include:

- insisting that relevant staff undertake appropriate training to address any identified weaknesses in the financial management of the school;
- insisting that an appropriately trained/qualified person chairs the finance committee of the governing body;
- placing more stringent restrictions or conditions on the day to day financial management of a school than the scheme requires for all schools – 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 body to buy into a local authority's financial management systems; and
- imposing restrictions or limitations on the manner in which a school manages extended school activity funded from within its delegated budget share – for example by requiring a school to submit income projections and/or financial monitoring reports on such activities.

The notice will clearly state what these requirements are and the way in which and the time by which such requirements must be complied with in order for the notice to be withdrawn. It will also state the actions that the Authority may take where the governing body does not comply with the notice. Once a governing body can clearly evidence compliance with the requirements of a Notice of Concern, the Authority will withdraw the notice.

There is no formal right of appeal to the issue of a notice but any dispute regarding the issue or contents of the notice should be made formally in writing to the Chief Finance Officer within one week of the issue of the notice.

## **2.17 SUSPENSION OF FINANCIAL DELEGATION**

2.17.1 Governing bodies and Head teachers are required to manage their delegated budgets with due propriety and to the standards of stewardship required for public money. If they fail to do so the authority will be entitled to take the following action:

- Give advice
- Issue warnings
- Take other direct remedial action in accordance with the Scheme for Financing Schools

2.17.2 The Local Authority will consider the Suspension of a Governing Body's right to a delegated budget where: -

- there is evidence of substantial or persistent failure to comply with any requirements applicable under the Scheme for Financing Schools.
- there is evidence of financial mismanagement, where the Governing Body is not managing the appropriation or expenditure of the sum put at their disposal for the purposes of the school in a satisfactory manner.
- there has been mismanagement of the educational affairs of the school.

2.17.3 Where delegation is withdrawn, the following conditions will apply:

- the Local Authority will give at least one month's notice of the suspension to the Governing Body and the head teacher
- the authority will withdraw delegation before the expiry of the period of notice in an emergency situation, but must provide immediate written notification and justification of the action to the Secretary of State.
- the Governing Body has a right of appeal to the Secretary of State against withdrawal of delegation where the grounds are either failure to comply with the Scheme or financial mismanagement, but not in the case of mismanagement of the educational affairs of the school.

2.17.4 Where a school has been the subject of an inspection which identified the school as being in need of special measures, the authority is empowered to suspend the Governing Body's right to a delegated budget subject to conditions specified in section 17 of the School Standards and Framework Act 1998.

2.17.5 Schools will continue to have limited delegation as laid down in para.4 of schedule 15 to that Act. The Authority will be responsible for ensuring that the school budget is not overspent, the following procedures will apply to schools where delegation has been withdrawn:

- When financial delegation is suspended, schools operating a bank account may, in certain circumstances, also have the cheque book facility suspended and the school may be required to transfer to the Council's central debtor, creditor and banking systems.
- The school bank account will be frozen and any balance retained in the bank account under the control of the Authority. However interest accruing to the account may be used to support the financial plans of the school.

- A limit on a school's Authority to incur expenditure (this limit will normally be restricted to £1,000) and other financial processes to be followed will be set down in a school specific agreement document produced by the Authority. The document will define the roles and responsibilities of both school based staff and the designated Local Authority monitoring and support officers.

## **2.18 Fraud**

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

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



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

**For the purposes of this section, Budget Share includes any place-led funding for special schools or the PRU**

### **3.1 Frequency of instalments**

Budget shares will be made available to governing bodies each calendar month.

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

Where budget shares are paid into a school's bank account the share will be calculated in accordance with the Bank Accounts for Schools (BAFS) Scheme. In accordance with the BAFS Scheme monthly instalments are paid net of expenditure paid on a school's behalf through the Authority's financial system. Schools may opt for instalments of the total budget share to be made available to them by payment into their school bank account. Arrangements for this must be in place prior to 1st April. Top up payments for pupils with high needs should be made on a monthly basis unless alternative arrangements have been agreed with the provider.

*Where a school uses the Authority's bank account the entire budget will be available in April each year.*

### **3.3 Interest clawback**

The Authority will deduct from a school's budget share instalments, an amount up to the estimated interest lost in making available the budget share in advance. The calculation is as set out in the BAFS Scheme.

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

The Authority will add interest to late payments of budget share instalments, where the delay is a result of its error, at the same rate applied under clause 3.3.

### **3.4 Budget shares for closing schools**

The budget share of a school for which approval for discontinuation has been secured will be made available until closure on a monthly basis net of pay and other costs, even where a different basis was previously used.

### **3.5 Bank and building society accounts**

All maintained schools may have external bank accounts into which their budget share instalments (as determined by other provisions) will be paid. Where schools have such accounts they may retain all interest payable on the account unless they choose to have an account within an Authority contract that makes other provisions.

Schools may only opt into the BAfS Scheme with effect from the beginning of a financial year, except where a school opens at some other time and wishes to operate a bank account immediately. Schools without bank accounts may not have one until any deficit balance is cleared; and any school requesting a bank account at a later date may not have one until any deficit is cleared.

When a school opens its first bank account the amount to be paid into it will be estimated jointly by the Authority and the school and transferred immediately. The calculation will be based on the budget share up to that date net of transactions made centrally on the school's behalf. When the accounts for the period are closed a correction will be made if necessary.

### **3.5.1 Restrictions on accounts**

Where a school wants to open a new bank account for the purpose of receiving and managing its budget share it will choose one from the Authority's list which is consistent with the Authority's Treasury Management policy.

Schools' accounts for budget share purposes may be in the name of the school rather than the Authority but with the prefix "CYC" The Authority will continue arrangements whereby the accounts are in the name of the Authority but specific to each school, and will continue to offer such arrangements to schools. Where the bank account is in the school's name the account mandate must provide that the Authority is the owner of the funds in the account; that it is entitled to receive statements; and that it can take control of the account if the school's right to a delegated budget is suspended. Governors who are not members of staff are barred from being bank signatories.

*Money paid by the Authority and held in such accounts remains Authority property until spent (s.49(5) of the Act).*

### **3.6 Borrowing by schools**

Governing bodies may only borrow money with the express written permission of the Secretary of State. This does not apply to Trustees and Foundations, whose borrowing, as private bodies, makes no impact on Government accounts. However these debts may not be serviced directly from the delegated budget. Governing bodies do not act as agents of the LA when repaying loans. This provision does not apply to loan schemes run by the Authority (see sections 4.9/4.10) Schools are not permitted to use credit cards as this constitutes borrowing. However, schools are encouraged to use procurement cards as a means of facilitating electronic purchase. These must be used as laid out by the Authority's regulations.

Schools may use any scheme that the secretary of state has said is available to schools without specific approval, currently includes the Salix energy saving scheme.

*If you have queries about school borrowing contact the Department for Education via its website, [www.gov.uk/contact-dfe](http://www.gov.uk/contact-dfe).*

### **3.7 Other provisions**

From time to time, the Authority, in consultation with schools, may make detailed rules and guidance in respect of other aspects of banking arrangements. No aspect of those rules and guidance will conflict with the Scheme's own requirements.



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

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

Schools may carry forward from one financial year to the next any surplus of income over expenditure for the year plus or minus any balance brought forward from the previous year.

*The amount of a surplus balance would be shown in the relevant out-turn statement published in accordance with directions given by the Secretary of State under s.251 of the Apprenticeships, Skills, Children and Learning Act 2009 (any commitments against this figure will be shown in the school's year end statements).*

The amount to be transferred to a new bank account opened by a school will equal the balance(s) from any account(s) closed by the school. If a school is opening an account for the first time, the amount to be transferred will be calculated using the method set out in the BAFS Scheme.

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

Surplus balances held by schools as permitted under this scheme are subject to the following restrictions with effect from 1 April 2007:

- a. the Authority shall calculate by 31 May each year the surplus balance, if any, held by each school as at the preceding 31 March. For this purpose the balance will be the recurrent balance as defined in the Consistent Financial Reporting Framework;
- b. the Authority shall deduct from the calculated balance any amounts for which the school has a prior year commitment to pay from the surplus balance and any unspent grants received in the previous financial year;
- c. the Authority shall then deduct from the resulting sum any amounts which the governing body of the school has declared to be assigned for specific purposes permitted by the 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.

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

- d. if the result of steps a-c is a sum greater than 5% of the current year's budget share for secondary schools, 8% for primary and special schools, or £25,000 (where that is greater than either percentage threshold), then the Authority may deduct from the current year's budget share an amount equal to the excess.

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

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

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

Specific purposes permitted by the Authority under paragraph 4.21.c are defined as:

- a. Capital building or refurbishment projects
- b. Major ICT or equipment acquisition or replacement
- c. Specific redundancy or early retirement costs outside the scope of the LA scheme.
- d. Dealing with the short-term implications of falling pupil numbers whilst class and/or staffing structures are reorganised.
- e. Provisions for long-term unexpected staff sickness for those schools not in the Staff Absence Scheme.

Other purposes may be considered in exceptional circumstances on a case-by-case basis.

#### **4.3 Interest on surplus balances**

Balances held by the Authority on behalf of schools will attract no interest. The exception to this will be for schools who invest money in the High Interest Scheme. The scheme will show the basis of interest calculation.

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

Schools must carry forward from one financial year to the next any deficit of income over expenditure for the year plus or minus any balance brought forward from the previous year. All deficit balances reported at the end of a financial year will be carried forward, by deduction from the following year's budget share. (see also 4.9)

#### **4.5 Planning for deficit budgets**

Schools may plan for deficits only with the written consent of the Corporate Director of Children Education and Communities . This consent will indicate the date by which the deficit must be cleared. The date can only be extended by a replacement plan made necessary by exceptional circumstances.

*This is known as a licensed deficit. See paragraph 4.9 for further details.*

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

Deficit balances held by the Authority on behalf of schools will be charged no interest.

#### **4.7 Writing off deficits**

The Authority cannot write off the deficit balance of any school. The LA may give assistance towards elimination of a deficit balance. This would be funded through the allocation of a cash sum from the Authority's Schools Budget (from a centrally held budget specified for the purpose of expenditure on special school and PRUs in financial difficulty or, in respect of mainstream schools, from a de-delegated contingency budget where this has been agreed by Schools Forum.)

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

When a school closes any balance (whether surplus or deficit) reverts to the Authority. It will not be transferred as a balance to any other school, even where the school is a successor to the closing school, except that a surplus transfers to an academy where a school converts to academy status under section 4(1)(a) of the Academies Act 2010.

The Authority may, at Members' discretion, make additional sums available to a successor school equal to or less than the balances of relevant preceding schools. It will inform the school of the reason for its decision. Where a preceding school had a deficit the Authority may, also at Members' discretion, reduce additional funding in recognition of that deficit but will not reduce any normal funding, and will inform the school of the basis of calculation.

#### **4.9 Licensed deficits**

*Deficits under this section also includes Loans made under the Schools' Loan Scheme, since they too are funded from other schools' surpluses.*

All schools will normally plan to spend no more than their budget share plus brought forward surplus in each financial year. However long-term planning may lead a school to wish to set a deficit budget. In such cases the school will obtain the written consent of the Corporate Director of Children Education and Communities. That consent will be given (if at all) within the following constraints:

- a) the maximum length over which schools may repay the deficit (i.e. reach at least a zero balance), with appropriate mechanism to ensure that the deficits are not simply extended indefinitely. The maximum length allowed should not exceed three years except where a longer period has already been agreed prior to a revised scheme incorporating a limit not exceeding three years
- b) The purpose of the deficit is among those set out in Annex C
- c) The deficit will be no greater than 10% of the school's annual budget share for the year in which the deficit arises, or such other limits as the Corporate Director of Children Education and Communities shall set following consultation with the Chief Finance Officer.
- d) The aggregate deficits of all schools maintained by the Authority, both brought forward and proposed, will not exceed 40% of the surpluses of schools held by the Authority at 1st April of the financial year for which the budget is proposed.

- e) Balances held by a school in external bank accounts remain the property of the authority (if made available by the authority initially) and therefore may legally be taken into account by the authority in assessing the total level of loans which it might wish to make to schools. The Authority will ask the Schools Forum to give a view in the first year of any budget round whether it should take them into account in this way.
- f) The Corporate Director of Children Education and Communities will have regard to the advice of the Chief Finance Officer of the Authority in agreeing arrangements for individual schools.

*Under a licensed deficit scheme the only effect on budget and out-turn statements is that in the latter, the balance goes into deficit because expenditure is at a higher level than the budget share, but this deficit reduces to zero by the end of the repayment period because the school has to constrain its expenditure to effect the repayment. No 'payment' to the school is recorded.*

#### **4.10 Loan Schemes**

Schools may, instead of agreeing a deficit budget, choose to accept a payment, or have a payment made by the Authority on their behalf, funded from the collective surpluses of the Authority's maintained schools. Such a loan will be repaid by the school from its budget share according to a written agreement with the Corporate Director of Children Education and Communities which will be made in accordance with the conditions set out in clause 4.9a, b, c and d.

##### **4.10.1 Credit Union approach**

If schools wish to group together to utilise externally held balances for a credit union approach to loans they will inform the Authority and provide it with audit certification, if it does not itself act as administrator of the arrangement.



## **SECTION 5: INCOME**

*The basic principle which the Scheme adheres to is that schools should be able to retain income except in certain specified circumstances.*

### **5.1 Income from lettings**

Schools will retain income from lettings of the school premises which would otherwise accrue to the Authority, subject to alternative provisions arising from any joint use or PFI agreements. Schools may cross-subsidise lettings for community and voluntary use with income from other lettings, provided the governing body is satisfied that this will not interfere to a significant extent with the performance of any duties imposed on them by the Education Acts, including the requirement to conduct the school with a view to promoting high standards of educational achievement and there is no net cost to the budget share. However, schools should have regard to directions issued by the Authority (as permitted for various categories of schools under the Act) as to the use of school premises. Income from lettings of school premises should not normally be payable into voluntary or private funds held by the school.

*Lettings of school premises not owned by the Authority would not be affected by this provision.*

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

Schools will retain income from fees and charges except where a service is provided by the Authority from centrally retained funds. However, schools should have regard to any policy statements on charging produced by the Authority.

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

Schools will retain income from their own fund-raising activities.

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

Schools will retain the proceeds of sale of assets except in cases where the asset:

- was purchased with non-delegated funds (in which case it will be for the Authority to decide whether the school should retain the proceeds), or
- is land or buildings forming part of the school premises and is owned by the Authority. See paragraph 2.1.4.

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

The Authority issues advice to schools in the Schools Finance Manual. Any income which accrues to the Authority, e.g. the School Meals Service, must be paid to the Authority. Schools share the Authority's VAT registration and must account for VAT on income belonging to the Authority, e.g. not private funds, according to HM Revenue and Custom's regulations.

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

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

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

### **6.1 General Provision**

The Authority will charge the budget share of a school without the consent of the governing body only in circumstances expressly permitted by clause 6.2 of the Scheme. Schools will be consulted as to the intention so to charge, and notified when it has been done.

The Authority may dedelegate funding for permitted services without the express permission of the governing body, provided this has been approved by the appropriate phase representatives of the York Schools Forum.

Disputes arising from such charges shall be referred in the first instance to the Corporate Director of Children Education and Communities in consultation with the Executive Member for Education.

*The right of LAs to protect their financial position from liabilities caused by the action or inaction of governing bodies by charging budget shares is well established. Schools are reminded that the Authority cannot act unreasonably in the exercise of any power given by the scheme, or it may be the subject of a direction under s.496 of the Education Act 1996.*

#### **6.1.1 Charging salaries at actual cost**

The Authority will charge salaries of school-based staff to school budget shares at actual cost.

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

The following are 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, or other judicial or non-judicial bodies against the Authority, or out of court settlements, arising from action or inaction by the governing body contrary to the Authority's advice.

*Awards may sometimes be against the governing body directly and would fall to be met from the budget share. Where the Authority is joined with the governing body in the action and has expenditure as a result of the governing body not taking Authority advice, the charging of the budget share with the Authority expenditure protects the Authority's position. NB relevance of section. 60(5) of the SSAF Act 1998.*

*Advice given by the Authority includes all regulations, policies and procedures that have been communicated to the school. This would include information provided to the head teacher or other staff who might reasonably be expected to carry out the policy or procedure, even if the governing body has not been specifically informed verbally or in writing. It is for the head teacher, acting according to the delegation scheme in operation at the school under S 1.5 of the Scheme, to decide whether to inform governors of the details of the regulations, policies and procedures.*

6.2.4 Expenditure by the Authority in carrying out health and safety work or capital expenditure for which the Authority is liable where funds have been delegated to the governing body for such work, but the governing body has failed to carry out the required work;

6.2.5 Expenditure by the Authority incurred in making good defects in building work funded by capital spending from budget shares, where the premises are owned by the Authority or the school has voluntary controlled status;

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 Insurance Cover.*

6.2.7 Recovery of monies due from a school for services provided to the school, where a dispute over the payment due has been referred to a disputes procedure set out in a service level agreement, and the result is that payment is owed by the school to the Authority;

6.2.8 Recovery of penalties imposed on the Authority by, the Contributions Agency, HM Revenue and Customs, Teachers Pensions, the Environment Agency or regulatory authorities as a result of school negligence or action contrary to the Authority's advice.

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 will consider whether it is reasonable to do so.*

6.2.10 Additional transport costs incurred by the Authority arising from decisions by the governing body on the length of the school day, and failure to notify the Authority of non-pupil days resulting in unnecessary transport costs.

6.2.11 Legal costs which are incurred by the Authority because the governing body did not accept the advice of the Authority (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 Costs 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 body of a school fails to secure such provision despite the delegation of funds in respect 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 body being in breach 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.

*For each of these circumstances (except 6.2.11) the Authority would have to be able to demonstrate that it had necessarily incurred the expenditure now charged to the budget share. This means that where the Authority cannot incur a liability because the statutory responsibility rests elsewhere, no charging is possible. Therefore the position on charging will vary between categories of school.*

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



## **SECTION 7: TAXATION**

### **7.1 Value Added Tax**

The procedure schools should follow in order to be able to utilise the Authority's ability to reclaim VAT on expenditure relating to non-business activity is to be found in the Council's website. Amounts so reclaimed will be passed back to the school net of any VAT on income received by the school due to be paid to HM Revenue and Customs.

*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 external fabric of their buildings.*

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

Schools will abide by procedures issued by the Authority in connection with CIS.

*See Schools Finance Manual*



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

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

The Authority will determine on what basis services (including existing Premature Retirement Compensation (PRC) and redundancy payments) from centrally retained funds will be provided to schools, but it will not discriminate in its provision of services on the basis of categories of schools except where (a) funding has been delegated to some schools only or (b) such discrimination is justified by differences in statutory duties.

### **8.2 Provision of services bought back from the Authority using delegated budgets**

The term of any arrangement between the Authority and a school to buy services or facilities from the Authority will be of a maximum of three years from the inception of the scheme or the date of the agreement, whichever is the later. Any subsequent agreement relating to the same services shall have a maximum term of five years except in the case of catering services contracts, which may extend to seven years.

Where the Authority provides a service for which expenditure may not be retained centrally under regulations made under S46 of the Act it will be offered at a price which is expected to generate income which is no less than the cost of providing that service. Total cost will be met by total income, even if schools are charged differentially. Information about the services provided by the Authority can be found in the [yorkeducation.co.uk](http://yorkeducation.co.uk) website. See 8.3 below

#### **8.2.1 Packaging**

Any service which the Authority provides on a buyback basis will be offered 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 provision will not prevent the Authority offering packages of services which offer a discount for schools taking up a wider range of services.

### **8.3 Service level agreements**

The Authority will make draft service agreements available for consideration by governing bodies at least one month before they must be agreed, where a date has been set for agreement in order to allow proper financial management. That date will usually be the at the end of the Autumn term before the agreement becomes operational on 1<sup>st</sup> April. This excludes centrally arranged premises and liability insurance, as these limitations may be impractical for insurance purposes.

8.3.1 where services or facilities are provided under a service level agreement - whether free or on a buyback basis - the terms of any such agreement starting on or after the inception of the scheme will be reviewed at least every three years if the agreement lasts longer than that.

8.3.2 services if offered at all by the Authority will be available on a basis which is not related to an extended agreement. Where services are provided on an ad hoc basis they may be charged for at a different rate than if provided on the basis of an extended agreement.

#### **8.4 Teachers' Pensions**

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

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

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

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

## **SECTION 9: PRIVATE FINANCE INITIATIVE and PUBLIC/PRIVATE PARTNERSHIPS (PFI/PPP)**

The Authority will not enter any PFI/PPP contract without the agreement of the governing body of the school concerned on the relative liabilities of the Authority and the school over the payments of charges to the contractor, or the method of withholding of payments due to poor performance.

The Authority has the power to charge the school's budget share amounts agreed under a PFI/PPP agreement entered into by the governing body of a school.



## **SECTION 10: INSURANCE**

### **10.1 Insurance cover**

Where funds for insurance are delegated to any school, the Authority will require the school to demonstrate that cover relevant to its insurable interests, under a policy arranged by the governing body, is at least as good as the relevant minimum cover arranged by the Authority if the Authority makes such arrangements, either paid for from central funds or from contributions from schools' delegated budgets. The Authority will have regard to the actual risks which might reasonably be expected to arise at the school in question and will not apply an arbitrary minimum level of cover for all schools.

*(see also 6.2)*



## **SECTION 11: MISCELLANEOUS**

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

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

### **11.2 Liability of governors**

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

*An example of behaviour which is not in good faith is the carrying out of fraudulent acts.*

### **11.3 Governors' expenses**

The Authority may delegate to the governing body of a school yet to receive a delegated budget funds to meet governors' expenses.

Under schedule 11 of the School Standards and Framework Act 1998, only allowances in respect of purposes specified in regulations may be paid to governors from a school's delegated budget share. Therefore payment of any other allowances will not be made by schools. Schools will not pay expenses duplicating those paid by the Secretary of State to additional governors appointed by him to schools under special measures.

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

Legal costs incurred by the governing body, although the responsibility of the Authority as part of the cost of maintaining the school unless they relate to the statutory responsibility of aided school governors for buildings, will be charged to the school's budget share unless the governing body acts in accordance with the advice of the Authority.

In the event of a dispute between the Authority and the governing body which would lead to a conflict of interest for the Authority's legal advisor, Governors should consult the Legal Services Service Agreement.

*See also section 6. The effect of this is that a school cannot expect to be reimbursed with the cost of legal action against the Authority itself (although there is nothing to stop it making such reimbursement if it believes this to be desirable or necessary in the circumstances)*

### **11.5 Health and Safety**

Governing bodies will have due regard to duties placed on the Authority in relation to health and safety, and the Authority's policy on health and safety matters in the management of the budget share.

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

Governing bodies in expending the school's budget share will permit the Chief Finance Officer of the Authority, or any officer of the Authority nominated by the Chief Finance Officer, to attend meetings of the governing body at which any agenda items are relevant to the exercise of her or his responsibilities.

The Chief Finance Officer's attendance will normally be limited to items which relate to issues of probity or overall financial management; such attendance will not be regarded as routine. The Authority will give prior notice of such attendance unless it is impracticable to do so.

## **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. Where this is not the case the Authority has the right to suspend delegation were the situation considered serious enough to warrant it.

## **11.8 Interest on late payments**

The terms of the scheme will not affect statutory requirements now introduced on late payments to suppliers.

## **11.9 "Whistleblowing"**

The Authority has approved a procedure to be followed by anyone who wishes to complain about financial management or financial propriety at a school. Governors should adopt a Whistleblowing Policy, appropriate to their school, which allows any member of staff to make their concerns known without fear of victimisation, and to be confident that they will be taken seriously.

*Full details are available on the York Education website.*

## **11.10 Child protection**

Schools will make all reasonable efforts to release staff to attend child protection case conferences and related events. The Authority does not make any payments to schools to help meet the costs.

## **11.11 Redundancy/Early retirement costs**

The 2002 Education Act sets out how premature retirement and redundancy costs should normally be funded. Section 37 of this Act says:

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

*(5) Costs incurred by the local education authority in respect of the dismissal, or for the purpose of securing the resignation, of any member of the staff of a maintained school shall not*

*be met from the school's budget share for any financial year except in so far as the authority have good reason for deducting those costs, or any part of those costs, from that share.*

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

Based on the above, all premature retirement costs will be charged to the school's delegated budget, while redundancy costs will be charged to the Authority's central redundancy budget. When good reason is present, the Authority can decide that a redundancy will not be centrally funded. Currently, there is no legal definition of "good reason" in relation to this issue. The Authority has therefore set out indicative situations below where redundancy costs will be funded from the LA's central budget.

#### 11.11.1. Charge of redundancy costs to local authority central budget

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

#### 11.11.2. Charge of redundancy costs to the school's delegated budget

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

Whilst each case will be considered on its merits, this will be within the above framework agreed with the Schools Forum. The school must provide whatever information is requested to enable the Authority to consider the case. As a minimum this will include a full detailed costing of the school staffing structure both before and after the proposed staffing changes, and an updated 3 year budget plan.

In some cases the costs may be shared between the school and the Authority. Where the outcome of any case is in dispute, the school should write to the Director of Children's Services, Education & Skills in the first instance to set out the reasons for the dispute.

### 11.11.3 Premature Retirement and Redundancy in Relation to Community Facilities Staff

For staff employed under the community facilities power, any costs must be met by the governing body. These must be funded from the school's delegated budget. However, the governing body must satisfy itself that this will not interfere to a significant extent with the performance of any duties imposed on them by the Education Acts, including the requirement to conduct the school with a view to promoting high standards of educational achievement.

Where a member of staff is employed partly for community purposes and partly for other purposes the previous provisions will be applied to reflect the percentage of time employed for each purpose.

*This is set out in Section 37, subsections 7 and 8 which now states:*

*(7) Where a local education authority incur costs —*

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

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

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

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

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



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

### **12.1 School Responsibilities**

The Authority will delegate all funding for repairs and maintenance to schools. Governing bodies will fund all repairs and maintenance from their delegated budgets or resources extended to the Authority. VA governors will continue to be eligible for grant from the DfE in respect of their statutory responsibilities and in addition they will have responsibility for other repair and maintenance items on the same basis as Community and Foundation schools.

### **12.2 Capital Expenditure**

Only capital expenditure will be retained by the Authority, as defined in regulations. For these purposes, expenditure will be treated as capital only if it fits the definition of capital used by the Authority for financial accounting purposes in line with the CIPFA Code of Practice on local authority accounting. In particular, where, in line with the Code of Practice, the Authority uses a *de minimis* limit for defining what expenditure is treated as capital and what is revenue in its financial accounts, the same *de minimis* limit will be used in defining what is delegated.

### **12.3 The *de minimis* Limit**

The Authority's capital *de minimis* limit is currently £0 (Nil). However, eligibility for capital grant from the Secretary of State for capital works at voluntary aided schools depends on the *de minimis* limit applied by DfE to categorise such work, not the *de minimis* limit used by the authority.



## **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 the Authority and have regard to advice from the Authority. Thirdly, the Secretary of State issues guidance to governing bodies about a range of issues connected with exercise of the power, and a school must have regard to that.

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

- a). Those contained in a school's own instrument of government, if any; and
- b). In this, the Authority's scheme for financing schools made under section 48 of the SSFA 1998. Paragraph 2 of Schedule 3 to the Education Act 2002 extends the coverage of scheme to the powers of governing bodies to provide community facilities.

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

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

### **13.2 School Budget Share and Community Facilities**

The schools budget share may be used to fund community facilities– either start-up costs or ongoing expenditure – or to meet deficits arising from such activities.

### **13.3 Mismanagement of Community Facilities Funds**

Mismanagement of Community Facilities Powers funds can be grounds for suspension of the right to a delegated budget.

### **13.4 Consultation with the Authority – Financial Aspects**

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

### **13.5 Procedure for Consultation - Schools**

Schools must seek the advice of the Authority before exercising the community facilities power. This must be done three months before the intended opening date for the facility. Advice should be sought from the Authority's Schools Business Support and Extended Schools teams. Schools should provide all the information they hold when seeking advice including the following:

- Proposed activity to take place
- Governance arrangements
- Planned income and expenditure

- Use of school buildings (within and outside the normal school day)
- Insurance arrangements
- Assessment of risk (financial or otherwise) associated with the proposal
- Involvement of third parties (including proposed funding agreements)
- Proposed banking arrangements

### **13.6 Procedure for Consultation – The Authority**

The Authority shall provide advice within six weeks. Schools must inform the Authority about the action they have taken with regard to the advice given. There will be no charge for this advice.

### **13.7 Funding Agreements – Authority powers**

The provision of community facilities in many schools may be dependant on the conclusion of a funding agreement with a third party which will either be supplying funding or supply funding and taking part in the provision. A very wide range of bodies and organisations are potentially involved. Any such agreement must be submitted to the Authority as part of the proposal.

Schools are advised to take legal advice before entering into any such agreement. This does not provide the Authority the right to veto the agreement.

### **13.8 Protecting financial positions**

If the Authority has reason to believe that the proposed project carries significant financial risks it may require the governing body concerned to 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.

### **13.9 Other prohibitions, restrictions and limitations**

Section 28 provides that the exercise of the community facilities power is subject to prohibitions, restrictions and limitations in the scheme for financing schools. The Authority does not intend to impose any further specific restrictions on schools with regard to this provision but would expect governing bodies to be aware of the need to safeguard the financial position of the Authority or school and to protect pupil welfare and education as well as the sensitivities and needs of the community in exercising this power. See also 13.10.

### **13.10 Supply of Financial Information**

Schools that exercise the community facilities power must provide the Authority with a summary financial statement every six months. This statement must be in a form determined by the Authority and show the income and expenditure for the school arising from the facilities in question for the previous six months and on an estimate basis, for the next six months. The financial information relating to community facilities will be included in the school's Consistent Financial Reporting return.

### **13.11 Cause for Concern**

The Authority may require, on giving notice to a school where 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, such financial statements to be supplied every three months. If the Authority sees fit, it will require the submission of a recovery plan for the activity in question. Schedule 15 of the Act makes mismanagement of funds received for community facilities a basis for suspension of the right to delegation of the budget share.

### **13.12 Audit**

A school that exercises its community facilities powers must grant the Authority access to the school's records connected with its community facilities. This is to facilitate internal and external audit of relevant income and expenditure.

### **13.13 Property of Other Persons held on the School's Premises**

Schools, in concluding funding agreements with other persons pursuant to the exercise of the community facilities power, 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. This is for the Authority to be able to be satisfied as to the propriety of expenditure on the facilities in question.

### **13.14 Income**

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

### **13.15 Surpluses**

Schools will be allowed to carry such retained net income over from one financial year to the next as a separate community facilities surplus, or, subject to the agreement of the Authority at the end of each financial year, transfer all or part of it to the schools reserves.

### **13.16 Health and Safety Matters**

All health and safety provisions of this Scheme will apply to the community facilities power.

### **13.17 Disclosure and Barring Service Clearance (DSB)**

The governing body will have the responsibility for the costs of securing DBS clearance for all adults involved in community activities taking place during the school day. Governing bodies would be free to pass on such costs to a funding partner as part of an agreement with that partner.

### **13.18 Insurance**

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

### **13.19 Assessment of the Insurance Arrangements**

The Authority is empowered to undertake its own assessment of the insurance arrangements made by a school in respect of community facilities, and if it judges those arrangements to be inadequate, make arrangements itself and charge the resultant cost to the school.

### **13.20 Taxation**

Schools should 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.

### **13.21 Employment of Staff**

Schools are reminded that if any member of staff employed by the school or the Authority in connection with community facilities at the school is paid from funds held in a school's own bank account the school is held liable for payment of income tax and National Insurance, in line with HM Revenue and Customs' rules.

### **13.22 Construction Industry Scheme**

Schools are required to follow the Authority's advice in relation to the Construction Industry Scheme where this is relevant to the exercise of the community facilities power.

### **13.23 Banking**

The Authority requires the schools to make banking arrangements, in connection with the community facilities power, that maintains separate bank accounts for budget share and community facilities. These accounts must comply with Section 3.5 of this Scheme, save that, where a bank account is set up specifically for community facilities, the account mandate should not imply that the Authority is the owner of the funds in the account except insofar as those funds have been provided by the Authority itself.

### **13.24 Borrowing Money**

Schools are reminded that they should not borrow money without the written consent of the Secretary of State. This requirement does not extend to monies lent to schools by the Authority.



# ANNEXES

The following pages contain:

- Annex A Schools Maintained by City of York Council Covered by this Scheme
- Annex B Information Requirements
- Annex C Purposes for which Deficits are permitted

**ANNEX A Schools maintained by City of York Council covered by this Scheme. This list is correct at the time of writing, although subject to change as maintained schools convert to academies.**

<b>NURSERY SCHOOLS</b>			
<b>DfE No.</b>	<b>SCHOOL NAME</b>	<b>FEDERATION</b>	
1000	St Paul's Nursery including ERC		

<b>PRIMARY SCHOOLS</b>			
<b>DfE No.</b>	<b>SCHOOL NAME</b>	<b>FEDERATION</b>	<b>NURSERY UNIT</b>
2000	Acomb Primary		
3229	Archbishop of York CE Junior		
3222	Askham Richard St Mary's CE		
2386	Bishopthorpe Infant		
2003	Carr Infant including ERC		✓
2002	Carr Junior		
2018	Clifton Green Primary		✓
2430	Clifton with Rawcliffe Primary		✓
2013	Copmanthorpe Primary		
2007	Dringhouses Primary		
3151	Dunnington CE Primary		
3152	Elvington CE Primary		
2008	Fishergate Primary		✓
3156	Fulford St Oswald's CE including ERC		
2241	Headlands Primary		
2028	Hob Moor Primary	F1	✓
2428	Lakeside Primary		
3158	Lord Deramore's Primary		
3159	Naburn CE Primary		
3901	New Earswick Primary		✓
2176	Osbalwick Primary		✓
3904	Our Lady's Queen of Martyrs		✓
2014	Poppleton Road Primary		
2058	Ralph Butterfield Primary		
2349	Rufforth Primary		
2169	Skelton Primary		
3401	St Aelred's RC Primary		✓
3002	St Barnabas' CE Primary		
3402	St George's RC Primary		✓
3003	St Paul's CE Primary		
3403	St Wilfrid's RC Primary		
2227	Stockton-on-the-Forest Primary		
2429	Tang Hall Primary		✓
2017	Westfield Primary		✓
3380	Wheldrake with Thorganby CE Primary		
2240	Wigginton Primary		
2027	Woodthorpe Primary		✓

<b>PRIMARY SCHOOLS Continued</b>			
<b>DfE No.</b>	<b>SCHOOL NAME</b>	<b>FEDERATION</b>	<b>NURSERY UNIT</b>
2015	Yearsley Grove Primary		✓

<b>SECONDARY SCHOOLS</b>			
<b>DfE No.</b>	<b>SCHOOL NAME</b>	<b>FEDERATION</b>	<b>SIXTH FORM</b>
4702	All Saint's RC School		✓
4153	Fulford School including ERC		✓
4063	Huntington School		✓
4508	Joseph Rowntree School		✓
4703	York High School including ERC		

<b>SPECIAL SCHOOLS</b>			
<b>DfE No.</b>	<b>SCHOOL NAME</b>	<b>FEDERATION</b>	
7032	Applefields School		
7033	Hob Moor Oaks School	F1	

<b>PUPIL REFERRAL UNIT</b>			
<b>DfE No.</b>	<b>SCHOOL NAME</b>	<b>FEDERATION</b>	
1100	Danesgate Community		

## **ANNEX B Information Requirements**

Information requirements are available on the LA dedicated school website  
[www.yorkeducation.co.uk](http://www.yorkeducation.co.uk)

## **ANNEX C Purposes for which deficits are permitted**

The excess expenditure leading to a deficit will be on items associated with:

- falling pupil numbers, including managing a reduction in staff and other costs of surplus places (until they are removed);
- repair and maintenance of the school building (whether capital or not)
- rising pupil numbers as shown by the September intake at a school. In this case the expenditure may not exceed the AWPU value of the increased numbers and must be repaid by the end of the following financial year.
- asset purchases (e.g. IT equipment, audio-visual equipment or other educational equipment such as a School minibus)
- improvements to school property
- investment projects that produce future revenue savings (e.g. energy efficiency projects or projects to improve security in schools.)
- Other items approved by the Corporate Director of Children, Education and Communities