



**THE FUNDING FRAMEWORK**  
**Scheme for Financing Schools**

**LONDON BOROUGH OF LEWISHAM**

**Effective from 16<sup>th</sup> January 2020**

## **LIST OF CONTENTS**

### **1. INTRODUCTION**

- 1.1 The funding framework
- 1.2 The role of the scheme
- 1.3 Application of the scheme to the LA and maintained schools
- 1.4 Publication of the scheme
- 1.5 Revision of the scheme
- 1.6 Delegation of powers to the Headteacher
- 1.7 Maintenance of Schools

### **2. FINANCIAL CONTROLS**

#### **2.1 General Procedures**

- 2.1.1 Application of financial controls to schools
- 2.1.2a Provision of financial information and reports
- 2.1.2b Challenge of School Financial Performance
- 2.1.3 Payment of salaries; payment of bills
- 2.1.4 Control of assets
- 2.1.5 Accounting policies (including year-end procedures)
- 2.1.6 Writing off of debts
  
- 2.2 Basis of accounting
- 2.3 Submission of budget plans
- 2.4 School resource management
- 2.5 Virement
- 2.6 Audit: General
- 2.7 Separate external audits
- 2.8 Audit of voluntary and private funds
- 2.9 Register of business interests
- 2.10 Purchasing, tendering and contracting requirements
- 2.11 Application of contracts to schools
- 2.12 Central funds and earmarking
- 2.13 Spending for the purposes of the school
- 2.14 Capital spending from budget shares
- 2.15 Notice of Concern
- 2.16 School Financial Value Standard
- 2.17 Fraud

### **3. AVAILABILITY OF CASH FOR LOCAL EXPENDITURE; BANKING ARRANGEMENTS**

- 3.1 Frequency of cash advances
- 3.2 Amount of cash advances
- 3.3 Ad hoc cash advances retirement
- 3.4 Late cash advances
- 3.5 Bank and building society accounts
- 3.5.1 Restrictions on accounts
- 3.6 Other provisions

### **4. THE TREATMENT OF SURPLUSES AND DEFICIT BALANCES ARISING IN RELATION TO BUDGET SHARES**

- 4.1 Right to carry forward surplus balances
- 4.2 Reporting on and control of the use of balances (Balance control mechanism)
- 4.3 Interest on surplus balances
- 4.4 Obligation to carry forward deficit balances
- 4.5 Planning for deficit balances
- 4.6 Charging of interest on deficit balances
- 4.7 Writing off deficits
- 4.8 Balances of closing and replacement schools
- 4.9 Borrowing by Schools
- 4.10 Licensed deficits
- 4.11 Loan /Innovation Fund

### **5. INCOME**

- 5.1 Income from lettings
- 5.2 Income from fees and charges
- 5.3 Income from fund raising activities
- 5.4 Income from the sale of assets
- 5.5 Administrative procedures for the collection of income
- 5.6 Purposes for which income may be used

### **6. THE CHARGING OF SCHOOL BUDGET SHARES**

- 6.1 General provision
- 6.1.1 Charging of salaries to schools budgets
- 6.2 Circumstances in which charges may be made

6.3 Charges by schools to the LA

## **7. TAXATION**

7.1 Value Added Tax

7.2 Payments to individuals claiming to be self employed

## **8. THE PROVISION OF SERVICES AND FACILITIES BY THE LA**

8.1 Provision of services from centrally retained budgets

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

8.2.1 Packaging

8.3 Service level agreements

8.4 Teachers Pensions

## **9. PFI/PPP CLAUSES**

## **10. INSURANCE**

## **11. MISCELLANEOUS**

11.1 Right of access to information

11.2 Liability of governors

11.3 Governors expenses

11.4 Responsibility for legal costs

11.5 Health and Safety

11.6 Right of attendance for Chief Finance Officer

11.7 'Whistleblowing'

11.8 Special Educational Needs

11.9 Child Protection

11.10 Redundancy and early retirement costs

## **12. COMMUNITY FACILITIES**

**ANNEX A: Schools to which the scheme applies**

**ANNEX B Provision of financial information and reports**

**ANNEX C: Blank**

**Annex D: Whistleblowing Policy**

**ANNEX E Responsibility for redundancy and early retirement costs**

## **THE OUTLINE SCHEME**

### **SECTION 1: INTRODUCTION**

#### **1.1 The Funding Framework**

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

The Secretary of State may by a direction revise the whole or any part of the scheme as from such date as may be specified in the direction. In order to make a directed revision to schemes, the Secretary of State is required, by provisions in the School Standards and Framework Act 1998, to consult the relevant local authorities and other interested parties.

Under this legislation, Local Authorities determine for themselves the size of their Schools Budget and their non-schools education budget- although at a minimum the full amount of the Dedicated Schools Grant must be appropriated to the schools budget.

The categories of expenditure that 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.

The LA may retain funding for certain purposes<sup>1</sup>. The amounts to be retained centrally are decided by the LA concerned, 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 Local School Budget left after deduction of centrally retained funds is termed the Individual Schools Budget (ISB).

Expenditure items in the non-schools education budget must be retained centrally (although earmarked allocations may be made to schools).

LAs must distribute amounts from their ISB amongst their maintained schools using a formula which accords with regulations made by the Secretary of State, and enables the calculation of a budget share for each maintained school. This budget share is then delegated to the Governing Body of the school concerned<sup>2</sup>.

The Act<sup>3</sup> requires the financial controls within which delegation works to be set out in a scheme made by the LA and approved by the Schools Forum. All revisions to the scheme must also be approved by the Schools Forum, though the authority may apply

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<sup>1</sup> These purposes are defined in regulations made by the Secretary of State under s.45A of the School Standards and Framework Act 1998.

<sup>2</sup> 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 School Standards and Framework Act 1998 Act.

<sup>3</sup> S.48 of the School Standards and Framework Act 1998.

to the Secretary of State for approval in the event of the forum rejecting a proposal or approving it subject to modifications that are not acceptable to the authority. This document forms the required scheme for this LA

Subject to provisions of this scheme, governing bodies of schools may spend budget shares for the purposes of their school. They may also spend budget shares on any additional purposes prescribed by the Secretary of State<sup>4</sup>.

An LA may suspend a school's right to a delegated budget if the provisions of the school financing scheme (or rules applied by the scheme) have been substantially or persistently breached, or if the budget share has not been managed satisfactorily.<sup>5</sup>

The LA is obliged to publish each year a statement setting out details of its planned Schools Budget and other expenditure on children's services, showing the amounts to be centrally retained and funding delegated to schools.;

After each financial year the LA must publish a statement showing outturn 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 and for schemes are set out in directions issued by the Secretary of State, but each school must have access to each year's budget and out-turn statements so far as they relate to that school or central expenditure.

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

## **1.2 The role of the scheme**

This scheme sets out the financial relationship between the LA and the maintained schools which it funds. It contains requirements relating to financial management and associated issues, which are binding on both the LA and on the schools.

## **1.3 Application of the scheme to the LA and maintained schools**

From 1 April 2007 this scheme applies to all community, nursery, voluntary, foundation (including trust), community special and foundation special schools (including trust) and PRU's maintained by the LA. (As listed in Annex A). The scheme will also apply to

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<sup>4</sup> In regulations made under s.50 of the School Standards and Framework Act 1998. 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.

<sup>5</sup> A school's right to a delegated budget share may also be suspended for other reasons (s.17 of the SSAF Act 1998).

any new maintained schools which open after 1 April 2007.

This scheme does not apply to academy schools or maintained schools situated in the authority's area which are maintained by another authority.

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

The publication requirements are contained in the regulations. The scheme must be published on a website which is accessible to the general public and that any revised version must be published by the date the revisions come into force, together with a statement that the revised scheme comes into force on that date.

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

Any proposed revisions to the scheme will be subject to a consultation process with the governing body and Headteacher of every school maintained by the authority. Following consultation, an updated scheme will be presented to Schools Forum for approval.

Where the schools forum does not approve the proposed revisions or where modifications are not supported by the authority, the authority may apply to the secretary of state for approval.

It is also possible for the Secretary of State to make directed revisions to schemes after consultation. Such revisions become part of the scheme from the date of the direction

#### **1.6 Delegation of powers to the Headteacher**

Subject to the requirement that

- the first formal budget plan of each financial year
- the second budget plan
- SFVS and any specific documents must be approved by the Governing Body

Each Governing body is asked to consider the extent to which it wishes to delegate its financial powers to the Headteacher, and to record its decision (and any revisions) in the minutes of the Governing Body.

The LA has no wish to impose uniformity on schools but considers that the following level of delegation to Headteachers is desirable:

- Governors adopt a scheme of delegation devolving defined responsibilities for day to day financial decisions to the Headteacher.
- Any virement should either be authorised by the Head or Chair of Governors. It is recommended that all transfers valued at £1,000 or more are made by the Chair of Governors and any others by the Head. The Head however, must report



to governors, if he/she makes a budget virement because the overall responsibility for managing the school's budget ultimately rests with the Governing Body.

Other guidance is included in the Schools Finance Manual.

With regards formal returns requiring Governing Body sign off "A Governing Body may delegate responsibility to a working group (e.g. resources committee) to undertake the detailed review of the budget plans/SFVS /other documents. For a school that is able to set a balanced budget in the current year (and at least the next financial year), submission to the LA ratification may take place post submission to the LA. The Full Governing Body must ensure that they have been provided with all appropriate supporting information to enable ratification. Where the school is in a Deficit Recovery Plan or unable to set a balanced budget it may not delegate any powers to a working group e.g. resources committee. Detailed working may still be undertaken by the working group but the full governing body must have full sign off before submission to the LA. Additional, time has been factored in to the submission time lines to recognise this requirement."

## **1.7 Maintenance of Schools**

The LA is responsible for maintaining the schools covered by the scheme. 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 LA maintains schools is through the funding system put in place under sections 45 to 53 of the School Standards and Framework Act 1998.

## **SECTION 2: FINANCIAL CONTROLS**

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

In managing their delegated budgets schools must abide by the LA's requirements for financial controls and monitoring.

Certain of these are directly referred to in this scheme while others are included in the following documents already sent to schools as part of the existing Local Management of Schools Scheme:

- Schools' Finance Manual
- Council's Standing Orders,
- Council's Financial Regulations

As far as is possible schools will be given freedom to exercise choice which is compatible with exercising management autonomy over their budgets.

Lewisham will seek only to impose regulations which are consistent with the need for accountability and control over expenditure of public funds.

The Council's Standing Orders, financial regulations and financial procedures ensure the control of expenditure within a framework of devolved management and fully delegated budgets. The School Finance Manual sets out detailed guidance for schools in all financial matters and will be updated as necessary.

Schools will be required to

- a) Ensure that there are appropriate controls in place authorising expenditure and obtaining value for money, to ensure all decisions support the delivery of effective resource management.
- b) Maintain accurate records of all income and expenditure transactions,
- c) Provide the LA with copies of accounts, records, information and other relevant documents as required (this includes provision of information to Internal and External Audit, HM Revenue and Customs, etc).

Under Section 151 of the Local Government Act 1972, the Director of Corporate Resources is responsible for the probity and regularity of Lewisham's financial activities. The Director of Financial Services has authority to act on their behalf in most instances relating to the financial affairs of the Directorate of Children and Young People. The Director of Financial Services will have the right to intervene in the financial affairs of schools where there are concerns about compliance with financial regulations or other guidance set out in the Schools Finance Manual.

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

Schools must provide the LA with financial information and reports as set out in Annex B, in a format and at intervals determined by the Director of Financial Services. Financial Reports must be accompanied by an authorisation cover sheet, signed by the Head and Chair of Governors (where necessary, as indicated on the authorisation sheet).

Any additional reports / information required by the LA, not included within Annex B above, will be subject to a separate notification to which schools must comply.

### **2.1.2b Challenge of School Financial Performance**

The Local Authority has a duty to ensure the effective management of resources by schools. To this end we require schools to submit returns as mentioned above and listed at Annex B. All submissions must be completed in a timely manner and should be accurate. The Authority has a duty to challenge schools financial performance and will monitor and check school financial returns as part of the challenge process.

Where the Authority has concerns over the financial management of a school, they may require submission of financial information and reports from that school on a more frequent basis than that set out in Annex B. The school will be notified of such requirements if necessary.

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

The procedures for these will vary according to the choices schools make about the holding of bank accounts and the buying back of the LA's payroll system.

The procedures which apply to the different choices made by schools are as set out in the following documents:

- Schools Finance Manual
- Personnel Guide for Schools
- Guidance for Schools on Personnel and Payroll Documentation

Where a School chooses to purchase services outside of the LA such as payroll, the school will continue to be responsible for providing appropriate information as required by the LA. The governing body may incur additional cost as such which may be chargeable to the schools delegated budget share.

### 2.1.4 Control of assets

Each school must maintain an inventory of its moveable non-capital assets, in a form determined by the LA, and setting out the basic authorisation procedures for disposal of assets.

The format of the required inventory for such assets with a value in excess of £1,000 and the basic authorisation procedures for disposal of assets is as set out in the Schools Finance Manual.

The format of the required inventory for such assets with a value of £1,000 or less shall be determined by the school. **Schools are encouraged to register anything that is portable and attractive, such as a camera”**

Assets of the school which are to be disposed of by sale or destruction must be appropriately authorised for disposal and, where significant, should be sold following Competitive tender. Specific instructions for obtaining consent and notifying disposals are included in the Financial Procedure Manual for Maintained Schools.

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

Schools must abide by procedures issued by the LA in relation to accounting policies and year-end procedures. These procedures are as set out in the Schools Finance Manual.

### 2.1.6 Writing off of debts

The writing off of debts must be in accordance with the local authority financial regulations. A debt should not be considered for write-off until the school has exhausted the recovery procedures as set out in the Financial Procedure Manual for Maintained Schools.

Governing bodies are only authorised to write off debts up to a level stipulated by the Chief Finance Officer. It is proposed that this level is £1,000. In the case of larger debts the school must carry out the following procedure:

The school must consult with the Group Finance Manager for Children and Young People and provide sufficient details of the debt and background to it as may be requested, to allow a decision to be taken.

- 1) The Director of Financial Services shall have the power to write off debts not exceeding £5,000.
- 2) The Director of Corporate Resources shall have the power to write off of debts exceeding £5,000.

## 2.2 Basis of accounting

Schools should have a financial management information system which meets their requirements. The system adopted must be capable of producing the requisite reports and returns for the LA fulfil its statutory obligations.

The LA requires schools to submit:

- VAT return at end of the each month, including supporting documentation.
- Bank reconciliations, including supporting documentation for September and March.
- Trial Balance as at end of the financial year.
- Details of the expenditure and income by CFR incurred locally and centrally during the financial year.
- CFR return as at end of the financial year.

The returns to the LA must be based on the CIPFA code of practice in that they must be submitted on an accruals basis i.e. 'income and expenditure'. This convention requires that expenditure incurred, but not paid for in an accounting period, is brought into account as a creditor and income due, for which no cash has been received, is brought into account as a debtor.

The current Consistent Financial Reporting (CFR) Regulations (S.I. 2012/674), came into force on 31<sup>st</sup> March 2012, formalise CFR policy previously approved by Ministers. The regulations set out the statutory duties of schools and LAs to submit annual returns in the appropriate CFR format by specified dates.

## 2.3 Submission of budget plans

Each school is required to submit a governing body approved budget plan to the LA by the 15<sup>th</sup> June of each year. In exceptional cases and at the discretion of the LA the submission deadline may be extended to the 30<sup>th</sup> June.

**The budget plan's must cover a three year period.** Schools are encouraged to undertake longer term planning for their local forecasting needs.

The budget plan must show the school's intentions for expenditure in the current financial year and the assumptions underpinning the budget plan.

The budget plans should also include non-financial data and performance statistics as advised by the Department for Education. This will include data such as pupil projections, staffing ratio's etc. The LA shall provide appropriate templates for completion and return

The format of the budget plan and supporting data should be as set out in the Schools Annual Budget Plan template which will be sent to schools with the annual notification of budget shares.

The LA in agreement with Schools Forum has supported the need for all schools to provide an updated budget plan following the October pupil count. Schools will be required to refresh the first submission based on any changes arising from the pupil count data and any assumption updates. The second budget plan will be required for submission by the 15<sup>th</sup> November. In exceptional circumstances, and in agreement with the LA In exceptional cases and at the discretion of the LA the submission deadline may be extended to the 30<sup>th</sup> November.

The LA will supply schools with all school income and expenditure data which it holds and which is necessary to efficient planning by schools, and an annual statement detailing the times during the year when this information will be available.

## **2.4 School Resource Management**

Schools are required to manage their resources to maximise pupil outcomes. Taking into account the purchasing, tendering and contracting requirements.

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

It is for heads and governors to determine at school level how to optimise the use of resources and maximise value for money.

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

## **2.5 Virement**

A governing body may vire resources between budget headings in the expenditure process provided that such transactions are within the total approved budget share for the school.

Financial limits must be laid down by the governing body together with the authorisation required to vire funds between budget headings.

## **2.6 Audit: General**

Schools are required to cooperate with, and provide access to all School records to, both auditors employed by the LA (internal audit) and auditors appointed to audit the LA itself (external audit).

An audit must take place within a three year period.

In regard to internal audit, all schools come within the audit regime determined by the

LA. Details of this are set out in the Schools Finance Manual.

In relation to external audit all schools come within the LA external audit.

## **2.7 Separate external audits**

In instances where a school wishes to seek an additional source of assurance at its own expense, a Governing Body is permitted to spend funds from its budget share to obtain external audit certification of its accounts, separate from any LA internal or external audit process. Where a school chooses to seek such an additional audit it does not remove the requirement that the school must also cooperate with the LA's internal and external auditors.

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

In addition to the normal internal and external audits, schools must provide audit certificates in respect of any voluntary and private funds they hold and of the accounts of any trading organisations controlled by the school.

The Consistent Financial Reporting framework requires that private funds under the control of the Governing Body be included.

The procedures for furnishing these audit certificates and advice on the handling of such voluntary and private funds is set out in the Schools Finance Manual

## **2.9 Register of business interests**

The Governing Body of each school is required to establish a register which lists for each member of the Governing Body, the Headteacher and any staff with financial responsibilities any business interests they or any member of their immediate family have; to keep the register up to date with notification of changes and through annual review of entries, and to make the register available for inspection by governors, staff, parents and the LA.

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

Schools are required to abide by the authority's financial rules and standing orders in purchasing, tendering and contracting matters. This include a requirement to assess in advance, where relevant, the health and safety competence of contractors, taking account of the authority's policies and procedures.

However, the scheme should also contain a provision which has the effect of disapplying from schools any provision of those rules or standing orders which would require them:

- to do anything incompatible with any of the provisions of the scheme, or any statutory provision, or any EU procurement directive

- to seek local authority officer countersignature for any contracts for goods or services for a value below £60,000 in any one year
- to select suppliers only from an approved list
- or would 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 listed exceptions

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

The countersignature requirement should be applied sensibly by authorities and schools alike, avoiding attempts to artificially aggregate or disaggregate orders to avoid or impose the requirement.

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

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

Schools have the right to opt out of LA contracts.

Although governing bodies are empowered under paragraph 3 of schedule 1 to the Education Act 2002 to enter into contracts, in most cases they do so on behalf of the authority as maintainer of the school and the owner of the funds in the budget share (this is the main reason for allowing authorities to require authority counter-signature of contracts exceeding a certain value).

Other contracts may be made solely on behalf of the governing body, when the governing body has clear statutory obligations; for example, contracts made by aided or foundation schools for the employment of staff.

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

The LA is authorised to 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 shall be subject to conditions setting out the purpose or purposes for which the funds may be used: and while these conditions need not preclude virement (except, of course, where the funding is supported by a specific grant which the LA itself is not permitted to vire), this should not be carried to the point of assimilating the allocations into the school's budget share.

Such earmarked funding from centrally retained funds is to be spent only on the purposes for which it is given, or on other budget heads for which earmarked funding is given, and is not to be vired into the school's budget share.



The LA may require earmarked funds to be returned to the LA if not spent within any period stipulated by the LA over which schools are allowed to use the funding.

In order that schools may demonstrate compliance with this requirement, procedures are set out in the Schools Finance Manual, together with guidance on specific schemes e.g. Literacy and Numeracy projects; National Grid for Learning.

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

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

Governing bodies are free<sup>6</sup> to spend budget shares for the purposes of the school, subject to any provisions of this scheme. "Purposes of the school<sup>7a</sup>" includes spending on pupils at other maintained schools or academies and on community facilities.

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

Governing bodies are permitted to use their budget shares to meet the cost of capital expenditure on the school premises<sup>7</sup>.

If the expected capital expenditure from the budget share in any one year will exceed £15,000, the Governing Body must notify the LA and take into account any advice from the Executive Director for Children and Young People as to the merits of the proposed expenditure.

Where the premises are owned by the LA, or the school has voluntary controlled status, then the Governing Body shall seek the consent of the LA to the proposed works, however such consent can only be withheld on health and safety grounds <sup>8a</sup>

## **2.15 Notice of Concern**

The LA 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 Executive Director of Children and Young People, 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 LA or the school.

Such a notice will set out the reasons and evidence for it being made and may

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<sup>6</sup> In accordance with s.50(3) of the School Standards and Framework Act 1998 (the SSAF Act 1998)

<sup>7a</sup> Under section 50(3)(b) the Secretary of State may prescribe additional purposes for which expenditure of the budget share may occur. They have done so in the School Budget Shares (Prescribed Purposes)(England) Regulations 2002 (SI 2002/378), which have been amended by the School Budget Shares (Prescribed Purposes)(England)(Amendment) Regulations 2010 (SI 2010/190).

<sup>7</sup> 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 SSAF Act 1998.

<sup>8a</sup> School Premises (England) Regulations 2012, the Workplace (Health, Safety and Welfare) Regulations 1992, the Regulatory Reform (Fire Safety) Order 2005, the Equality Act 2010, and the Building Regulations 2010.

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;
- insisting on regular financial monitoring meetings at the school attended by LA officers;
- Requiring a Governing Body to buy into the LA's finance SLA or any other recommended by the LA.
- requiring a Governing Body to buy into a LA's recommended 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 LA may take where the Governing Body does not comply with the notice.

It should be noted that if a Notice of Concern is issued in relation to financial controls, this may affect the judgement of whether the School should be placed in LA category 4a (notice to improve)

## **2.16 Schools Financial Value Standard.**

All local authority maintained schools (including nursery schools and pupil referral units (PRUs) that have a delegated budget) must demonstrate compliance with the Schools Financial Value Standard (SFVS) and complete the assessment form on an annual basis. The form should be submitted in line with the LA deadline which must be before the end of the financial year.

Governing bodies have formal responsibility for the financial management of their schools, and so the standard is primarily aimed at governors. Governors must

demonstrate compliance through the submission of the SFVS assessment form signed by the Chair of Governors.

- The standard consists of questions which governing bodies should formally discuss annually with the head teacher and senior staff.
- The questions which form the standard are in sections A to D. Each question requires an answer of Yes, In Part, or No.
  - If the answer is Yes, the comments column can be used to indicate the main evidence on which the governing body based its answer.
  - If the answer is No or In Part, the column should contain a summary of the position and proposed remedial action.
- In Section E, governors should summarise remedial actions and the timetable for reporting back. Governors should ensure 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.
- The governing body may delegate the consideration of the questions to a finance or other relevant committee, but a detailed report should be provided to the full governing body and the chair of governors must sign the completed form.
- The school must send a copy of the signed standard to their local authority's finance department.
- There is no prescription of the level of evidence that the governing body should require. The important thing is that governors are confident about their responses.

## **2.17 Fraud**

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

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

## **SECTION 3: AVAILABILITY OF CASH FOR LOCAL EXPENDITURE; BANKING ARRANGEMENTS**

### **3.1 Frequency of cash advances**

The LA will make available to schools sufficient cash to cover their local expenditure (that amount of expenditure made from schools' bank accounts). Advances of cash will be considered and, where necessary, will be made into schools' bank accounts by the 18th of April each year.

### **3.2 Amount of cash advances**

The amount of the cash advance will be calculated with the aim of providing sufficient cash to cover local expenditure and will be based primarily on the amount of local expenditure in the previous year, with increased regard given to the level of spend in the new year in the calculation of the January advance. Schools will receive the majority of their annual requirement in the April cash advance (unless the LA is constrained by external factors, e.g. limits placed by the LA's banking contract).

### **3.3 Ad hoc cash advances**

Schools are not permitted credit without express permission from the Secretary of State. This includes overdrafts. All schools should be completing regular cash flow forecasts to assess whether their bank accounts contain sufficient cash to cover anticipated expenditure.

Any school which is forecasting that their school bank account will be overdrawn should contact the LA to request an additional cash advance. A cash flow forecast will be required.

### **3.4 Late cash advances**

If a school incurs costs as a consequence of insufficient cash in its bank account that results from a late or erroneous cash advance, the LA shall meet those costs that it deems reasonable.

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

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

New bank account arrangements may only be made with effect from the beginning of each financial year.

When a school opens an external bank account, the LA shall, upon request from the school, transfer immediately to the account an amount agreed by both school and LA as the estimated surplus balance held by the LA in respect of the schools budget share. This transfer is made on the basis that there shall be a subsequent correction when accounts for the relevant year are closed.

### **3.5.1 Restrictions on accounts**

Accounts may only be held for the purpose of receiving budget share payments, at Royal Bank of Scotland (including National Westminster)

Any School wishing to change Banks must seek prior approval from the Local Authority.

Schools are allowed to have accounts for budget share purposes which are in the name of the school rather than the LA<sup>8</sup>. However, the LA may require that the account mandate shows the LA to be 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.

The LA will continue with the arrangements already negotiated whereby the accounts are in the name of the LA but specific to each school, for schools that wish to use such arrangements.

The LA may restrict the signatories for schools' bank accounts as per provisions in the Schools Finance Manual, however such approved signatories shall include at least LA employees and school employees.

The LA shall not restrict the use of direct debits or standing orders for a bank account operated by schools, except where the account is part of an LA contract.

### **3.6 Other provisions**

The LA has formulated separate detailed rules and guidance in respect of other aspects of banking arrangements which are included in the Schools Finance Manual.

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<sup>8</sup> Money paid by the LA and held in such accounts remains LA property until spent (s.49(5) of the Act).

## **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/deficit in net expenditure relative to the school's budget share for the year plus/minus any balance brought forward from the previous year.

### **4.2 Reporting on and control of the use of balances (Balance control mechanism)**

Lewisham in agreement with Schools Forum has suspended the use of a balance control mechanism. This policy will be kept under review.

Schools will however be required to specify their surpluses over the following category as part of the closure of accounts process.

- Capital works.
- Savings made to make enhancements to new builds from the Building Schools for the Future programmes and Private Finance Initiatives.
- To cover funding shortfalls for future temporary drops in pupil numbers.
- Building up funds to dampen the effects of step increases in pupil numbers that occur in September but not funded until the next financial year.
- New funds to support potentially unfunded directives e.g. salary increases.
- Holding the funds for joint schools collaboration project which run over more than one year.
- Accruals that should have taken place but it was not possible to action them in time for closing the accounts.
- Any administrative error in the accounts.
- New funds to support IT upgrade
- New funds to support restructures

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

Balances held by the LA on behalf of schools will attract interest.

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

Deficit balances will be carried forward by the deduction of the relevant amounts from the following year's budget share (see also 4.10)

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

Schools may only plan for a deficit budget in accordance with the terms of para 4.9 below.

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

The LA shall charge interest on any unapproved deficit balances.

The basis of the calculation of interest shall be as follows:

- Deficit balance at start of year, multiplied by
- The rate of interest used by the LA in calculating the interest due to be paid will be interest rate given on schools' bank balances in credit + 1%.

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

The LA has no power to write off the deficit balance of any school.

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

When a school closes, any balance (whether surplus or deficit) shall revert to the LA; it cannot be transferred as a balance to any other school, unless it is to convert to an Academy under the provisions of the Academies Act 2010 which requires the LA to pay over the schools surplus to the successor academy.

The LA may deduct any deficit balance from a closed school from any additional funding made available to a successor school, such as non-earmarked LA funding, but not from the ISB budget

#### **4.9 Borrowing by schools**

A Governing Body of a school may borrow money (which includes the use of finance leases) only with the written permission of the Secretary of State. The Secretary of State's general position is that schools will only be granted permission for borrowing in exceptional circumstances.

From time to time, however, the Secretary of State may introduce limited schemes in order to meet broader policy objectives. Borrowing under such dispensation may be permissible and would need to be notified to the Local Authority in advance of any application including the Salix scheme, which is designed to support energy saving.

#### **4.10 Licensed deficits**

It is not permissible for a Governing Body to set a deficit budget without the prior agreement of the Executive Director of Children and Young Peoples Service. Any approval for a licensed deficit must be supported with a detailed recovery plan.

A deficit recovery plan should not exceed 5% of the schools budget. "Budget" for the purpose of this calculation is based on the Schools Delegated Budget Share plus supporting grants such as teachers pay. Income such as locally derived, pupil premium

and other grants are to be excluded from this calculation due to their volatile nature.

A recovery plan must be provided by the governing body demonstrating its ability to set a balanced budget position within a 3 year plan.

The governing body of a school must take appropriate action as part of its longer term strategic planning to avoid a position of licensed deficit. As part of the changes being introduced by the Secretary of State, governing bodies will be expected to demonstrate what actions have been taken to prevent the school from a deficit position.

Loans will not be used as a means of funding a deficit that has arisen because a school's recurrent costs exceed its current income.

Loans will only be used to assist schools in spreading the cost over more than one year of large one-off individual items of a capital nature that have a benefit to the school lasting more than one financial or academic year.

If loans are made to fund a deficit and a school subsequently converts to academy status, the Secretary of State will consider using the power under paragraph 13(4)(d) of Schedule 1 to the Academies Act 2010 to make a direction to the effect that such a loan does not transfer, either in full or part, to the new academy school.

The general provision in para 3.6 above forbidding Governing bodies to borrow money shall not apply to schemes run by the LA as set out in the following sections:

## **4.11 Loan/Innovation Fund**

### **Background**

The Loan Fund seeks to change how major projects are implemented by allowing schools to incur the expenditure when a need is identified, then paying for the asset created or the school is facing a deficit budget situation.

Schools may only borrow from the LA this is because any borrowing by a school counts as borrowing by the LA, which is regulated by government i.e. schools may not borrow independently from banks.

### **Scheme Overview**

The Authority to operate a loan scheme for schools funded by the collective balances held by schools as per 4.10.

All schools maintained by the LA will be eligible to apply for a loan facility that can be for the:

- Purchase or replacement of equipment including computer equipment;
- Full or part funding of premises projects;



- Energy and environmental improvements;

The normal maximum loan will be up to 10% of the schools budget share. However, subject to a detailed business plan, the Authority may approve a loan in excess of this limit, provided it is satisfied that the school can meet the ongoing commitment.

It is generally assumed that the loans will be between two and five years unless circumstances dictate otherwise.

Equipment loans will normally be for a maximum period of three years. Only in exceptional cases will loans for equipment be extended to a maximum of five years.

### **Approval Arrangements**

- Loans between 0 to £500,000 must be approved by the Executive Director of Children and Young People's Services and the Director of Finance.
- Loans over £500,000 will be approved by the Mayor and Cabinet following consultation with the Schools Forum.

There will be no charge for arranging the loan or for early repayment of the loan.

Loans to schools from the Loan Fund will not exceed 40% of the collective balances held by schools of the total.

Any loan repayment remains the responsibility for the governing body to priorities repayment. Any change in status for the school will require the loan to be repaid in full.

## **SECTION 5: INCOME**

Schools shall be able to retain income except in certain specified circumstances.

### **5.1 Income from lettings**

Schools may retain income from lettings of the school premises which would otherwise accrue to the LA, subject to alternative provisions arising from any joint use or PFI agreements. Schools are permitted to cross-subsidise lettings for community and voluntary use with income from other lettings, provided there is no net cost to the budget share and that the governing body is satisfied that this will not interfere to a significant extent with the performance of any duties imposed on them by the Education Acts, including the requirement to conduct the school with a view to promoting high standards of educational achievement. Schools whose premises are owned by the LA shall be required to have regard to directions issued by the LA as to the use of school premises as permitted under the School Standards and Framework Act 1998 for various categories of schools<sup>9</sup>. Any such income should not be paid into a school's voluntary or private fund.

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

Schools may retain income from fees and charges except where a service is provided by the LA from centrally retained funds. However, schools are required to have regard to any policy statements on charging produced by the LA from time to time. A summary of the current policy is included in the Schools Finance Manual.

However, where land is held by a charitable trust, it will be for the school's trustees to determine the use of any income generated by the land

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

Schools may retain income from fund-raising activities.

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

Schools may retain the proceeds of sale of assets except in cases where the asset was purchased with non-delegated funds (in which case it should be for the LA to decide whether the school should retain the proceeds), or the asset concerned is land or buildings forming part of the school premises and is owned by the LA.

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

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<sup>9</sup> The LA has limited powers to direct the use of Voluntary Aided schools premises, and no power to direct the use of Foundation Schools

Because of the potential VAT implications of providing services which lead to fees and charges, fund raising activities and the sale of assets, the LA has established administrative procedures for the collection of income which are set out in the Schools Finance Manual. These procedures shall apply only to income which accrues to the LA and may be varied from time to time in the light of advice from the VAT authorities.

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

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

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

### **6.1 General provision**

The LA must charge the salaries of schools based staff to the budget share of a school at actual cost. Otherwise, the budget share of a school may be charged by the LA without the consent of the Governing Body only in circumstances set out in 6.2 below.

The LA shall consult a school as to the intention to so charge, and shall notify a school when it has been done.

Schools are reminded that the LA cannot act unreasonably in the exercise of any power given by this scheme, or it may be the subject of a direction under s.496 of the Education Act 1996.

The LA shall make arrangements for a disputes procedure for such charges.

#### **6.1.1 Charging of salaries to schools budgets**

The LA shall charge salaries to school budgets on the basis of actual cost.

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

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

6.2.2 "Other expenditure incurred to secure resignations where there is good reason to charge this to the school (see Annex C)"

6.2.3 Awards by courts and industrial tribunals against the LA, or out of court settlements, arising from action or inaction by the Governing Body contrary to the LA's advice.

6.2.4 Expenditure by the LA in carrying out health and safety work or capital expenditure for which the LA 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 LA incurred in making good defects in building work funded by capital spending from budget shares, where the premises are owned by the LA or the school has voluntary controlled status.

6.2.6 Expenditure incurred by the LA 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 LA.

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

6.2.8 Recovery of penalties imposed on the LA by HM Revenue and Customs, Environment Agency, the Contributions Agency or Teachers Pensions as a result of school negligence.

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

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

6.2.11 Legal costs which are incurred by the LA because the Governing Body did not accept the advice of the LA (see also section 11.4).

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

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

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

6.2.15 Costs incurred by the LA in securing provision specified in a statement of SEN where the Governing Body of a school fails to secure such provision despite the delegation of funds in respect of low cost high incidence SEN and/or specific funding for a pupil with high needs.

6.2.16 Costs incurred by the LA where the school has failed to return information required by the LA on time, or where the information has to be corrected.

6.2.17 Recovery of amounts spent from specific grants on ineligible purposes.

6.2.18 Costs incurred by the LA as a result of the Governing Body being in breach of the terms of a contract.

6.2.19 Costs incurred by the LA or another school as a result of a schools withdrawal from a cluster arrangement into which they entered voluntarily; this is to remove disincentives to the employment of shared staff in clusters and partnerships. At present schools can agree to share the cost of a member of staff for, say, three

years but one school can then withdraw without notice putting extra costs on the school actually employing the member of staff.

6.2.20 Compensation for costs incurred by the LA if a school fails to pay a debt and which subsequently fall upon the LA to pay. This will include interest payments as per the Late Payment Of Commercial Debts Act 1998.

6.2.21 Sums outstanding for 30 days or more, where the school has entered into a service level agreement (SLA) with the LA, but has failed to pay an amount due under the SLA and has not disputed the payment through the relevant contracts dispute procedure; or has where the dispute procedure has held the school to be liable for a sum and it has not paid.

6.2.22 Sums outstanding for 30 days or more, where the school has entered into a contract managed by the LA, but has failed to pay an amount due under the contract and has not disputed the payment through the relevant contracts dispute procedure; or has where the dispute procedure has held the school to be liable for a sum and it has not paid.

6.2.23 Cost incurred by the LA in securing education outside of the school for a pupil where a school has not taken the advice of the Local Authority regarding the timely admission of a pupil including those with SEN.

6.2.24 Where the school has failed to notify the council of a change in circumstances of a member of staff and that this has resulted in an overpayment that is not recoverable the cost will be charged to the school. A debt recovery fee will also be charged if the employee has left the councils employment and an overpayment has been made.

6.2.25 For the costs of dismissals, resignations and premature retirement, see Annex E.

### **6.3 Charges by schools to the LA**

Losses incurred by a school where the LA has failed to provide a service agreed between the school and the LA on time and this causes a direct financial loss to the school, or where there is an error which has to be corrected which causes a direct financial loss to the school.

#### **Examples of the circumstances which would be covered include:**

- ❖ failure by the LA to arrange for payment of instalments of budget shares in accordance with the published timetable, causing a school to incur interest on an overdraft, but not failure by the bank to process such payments (in this case, redress should be sought from the bank). Compensation would cover the interest charge incurred.
- ❖ failure to stop payment of a salary by the payroll section, if the correct

notification has been received by the payroll section before the published deadline and if attempts to recover the overpayment of salary from the member of staff fail. It would not cover cases where the school had not sent in the correct notification, or where these were received after the published payroll deadline.

Only direct losses will be covered. Where a delay by the LA causes administrative inconvenience, or means that a deadline for return of information by a school is not achievable, that deadline should be extended.

Arrangements covering remedies and compensation for poor performance or non-performance under service level agreements will be covered in those agreements. Where these overlap with this provision, only one compensation payment will be made.

Losses due to policy decisions by the LA will not be compensated.

## **SECTION 7: TAXATION**

### **7.1 VALUE ADDED TAX**

The LA has established procedures to enable schools to utilise the LA's ability to reclaim VAT on expenditure relating to non-business activity. These are set out in the Schools Finance Manual.

Amounts reclaimed through these procedures will be passed back to the school.

### **7.2 Payments to individuals claiming to be self-employed**

Schools are required to abide by procedures issued by the LA in connection with payments to individuals claiming to be self-employed.



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

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

The LA shall determine on what basis services from centrally retained funds (including those for premature retirement compensation and redundancy pay, but excluding centrally funded premises and liability insurance) will be provided to schools, but the LA is debarred from discriminating in its provision of services on the basis of categories of schools except where this would be allowable under the school and early years finance regulations or the dedicated schools grant (DSG) conditions of grant

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

The term of any arrangement with a school starting on or after 1 April 2007 to buy services or facilities from the LA (excluding those dealing with centrally funded premises and liability insurance) shall be limited to a maximum of three years from the inception of the scheme or the date of the agreement, whichever is the later, and periods not exceeding five years for any subsequent agreement relating to the same services, or five and seven years respectively for contracts for supply of catering services.

Where a service is provided for which expenditure is not retainable centrally by the LA under the regulations made under section 45a of the Act, it must be offered at prices which are intended to generate income which is no less than the cost of providing those services. The total cost of the service must be met by the total income, even if schools are charged differentially.

#### **8.2.1 Packaging**

The LA may provide any services for which funding has been delegated. But where the LA is offering the service on a buyback basis it must do so in a way which does not unreasonably restrict schools' freedom of choice among the services available.

### **8.3 Service level agreements**

8.3.1 If 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 LA, shall be available on a basis which is not related to an extended agreement, as well as on the basis of such agreements.

8.3.3 Service level agreements must be agreed one week before the beginning of a financial year to be effective for that financial year and schools shall have at least one month prior to the agreement date to consider the terms of the agreement.

## 8.4 Teachers' Pensions

The Governing Bodies of schools which provide payroll services should submit a monthly return of salary and service to the authority.

Governing bodies should also ensure that details of additional voluntary contributions (AVCs) are passed to the authority within the time limit specified in the AVC scheme. The standard text for this is:

"In order to ensure that the performance of the duty on the authority to supply Teachers' Pensions with information under the Teachers' Pension Scheme Regulations 2014, 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 monthly 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 monthly return of salary and service to Teachers' Pensions and to produce its audited contributions certificate.

"The authority will advise schools each year of the timing, format and specification of the information required from each school. A governing body shall also ensure that additional voluntary contributions (AVCs) are passed to the authority within the time limit specified in the AVC scheme. The governing body shall meet any consequential costs from the school's budget share."

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

The LA shall have the power to charge a school's budget share amounts agreed under a PFI/PPP agreement entered into by the Governing Body. Governing bodies will be asked to sign specific agreements for each PPP/PFI and these agreements will contain the contract terms, mechanisms for charging budget shares and other relevant details. Once agreements have been signed governing bodies will be bound by these and will be required to make contributions towards the cost of the contract.

## **SECTION 10: INSURANCE**

If funds for insurance are delegated to any school, the LA may require the school to demonstrate that cover relevant to an LA's insurable interests, under a policy arranged by the Governing Body, is at least as good as the relevant minimum cover arranged by the LA if the LA makes such arrangements, either paid for from central funds or from contributions from schools' delegated budgets. Details of the minimum cover required will be circulated to schools and may be amended annually. When establishing the minimum cover required, the LA shall have regard to the actual risks which might reasonably be expected to arise at each individual school.

The evidence required to demonstrate the parity of cover should be reasonable, not place an undue burden upon the school, nor act as a barrier to the school exercising their choice of supplier.

## **SECTION 11: MISCELLANEOUS**

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

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

### **11.2 Liability of governors**

Because the Governing Body is a corporate body<sup>10</sup>, governors of maintained schools will not incur personal liability in the exercise of their power to spend the delegated budget share provided they act in good faith.

### **11.3 Governors' expenses**

The LA shall have the power to delegate to the Governing Body of a school yet to

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<sup>10</sup> and because of the terms of s.50(7) of the SSAF Act

receive a delegated budget, funds to meet governors' expenses

Only allowances in respect of purposes specified in regulations<sup>11</sup> may be paid to governors from a school's delegated budget share. Schools are expressly forbidden from paying any other allowances to governors.

Schools are also barred from payment of expenses duplicating those paid by the Secretary of State to additional governors appointed by him to schools under special measures.

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

Legal costs incurred by the Governing Body, although the responsibility of the LA as part of the cost of maintaining the school - unless they relate to the statutory responsibility of aided school governors for buildings - may be charged to the school's budget share unless the Governing Body acts in accordance with the advice of the LA.

Where there is a conflict of interest between the LA and the Governing body, the Governing Body should seek their own independent legal advice. Governing bodies should be aware that the costs of such advice will be their responsibility.

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

##### **Background**

The Health & Safety at Work Act 1974 together with the specific supporting Regulations and associated Approved Codes of Practice, places overall responsibility for health & safety with the employer. Who the employer is, varies with the type of school i.e.:

- for community schools, voluntary controlled schools, pupil referral units and maintained nursery schools, the employer is usually the LA.
- for voluntary aided schools, foundation schools and independent schools the employer is usually the governing body.

Where relevant the governing body in all categories of school will also have health and safety responsibilities when exercising its role as the controller of school premises.

The Health & Safety Executive (HSE) is the organisation who enforces health & safety responsibilities imposed on LA's, Schools and Governing Bodies. The HSE will usually take action against the employer for non-compliance but they may take action against employees who have failed to undertake their health & safety responsibilities.

Schools may take advice on health & safety from other bodies but must heed the

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<sup>11</sup> schedule 11 of the School Standards and Framework Act 1998,

advice and recommended policies of the LA.

Schools are also required to ensure, as far as is reasonably practical, that relevant Governors and staff attend appropriate health & safety training.

### **Health & Safety Responsibilities**

The LA has delegated the responsibility for health & safety to schools: this includes the requirement for all schools to have a health & safety policy and associated protocols & practices in place & arrangements to implement this. The employer retains the ultimate responsibility for health & safety, and who the employer is, varies according to the school (see above).

In complying with its responsibilities and to assist governing bodies to comply with their responsibilities the LA will:

- undertake regular health and safety audits to confirm that these responsibilities are being undertaken.
- provide health & safety guidance
- provide training for various categories of staff on their health & safety responsibilities and in particular the roles & responsibilities of "Responsible, Nominated & Competent" persons within the meaning of the Act.
- direct schools to release staff for health & safety training as necessary, the cost of which can be recharged to schools.
- request Governing Bodies to supply financial & other information to ensure that the school is managing its budget satisfactorily. This will include the use of both the school's Individual School Budget (ISB) and their Devolved Formula Capital (DFC) budget.
- require Governing Bodies to assess in advance the health & safety competence of contractors taking into account the LA's procurement policies.

### **Monitoring of Health & Safety responsibilities by the LA & financial implications for schools**

The LA has a statutory duty to monitor robustly how schools are complying with their responsibilities & to take appropriate action where there is non-compliance. This will include recharging schools the costs for health & safety work which have been delegated to them but which have not been undertaken e.g: statutory maintenance costs; staff training. The LA can also withhold funds to cover the strategic management of health & safety i.e: establishing policies; setting standards; providing

competence at a strategic level; undertaking monitoring; reviewing policies & standards & advising schools.

Where the LA believes that the health & safety of anyone on-site or of anybody engaged on school activities off-site, is at risk, it will make a direction to the Governing Body & Head Teacher to remedy this as a matter of urgency.

Substantial or persistent non-compliance is a ground for suspending delegation, subject to the Governing Body's right of appeal.

### **LA intervention in Schools**

The LA can & will give a warning notice to any school in its area where the safety (not health) of staff or pupils is threatened.

### **Reserve Power of Entry**

LA's may need to obtain information in order to exercise their health & safety responsibilities & if necessary have a right of entry to any school maintained by them.

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

Governing bodies are required to permit the Chief Finance Officer of the LA or any officer of the LA 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 shall normally be limited to items which relate to issues of probity or overall financial management and shall not be regarded as routine.

### **11.7 'Whistleblowing'**

Persons working at a school or school governors who wish to complain about financial management or financial propriety at said school should consult the LA's whistleblowing policy contained in Annex C.

### **11.8 Special Educational Needs**

Schools should use their best endeavours in spending the budget share or any specific funding provided to secure the special educational needs of their pupils. Where collaborative funding is available for SEN provision, all schools must ensure that the funding is used in the most effective way for all pupils within the collaborative schools.

### **11.9 Child Protection**

The LA acknowledges the need to release staff to attend child protection case conferences and other related events but shall not make specific payments to the schools to contribute towards the associated costs.

### **11.10 Redundancy and early retirement costs**

The 2002 Education Act sets out how premature retirement and redundancy costs should normally be funded. Further guidance is provided at [Annex B](#).

There is a duty of care on a Schools Governing Bodies to ensure effective financial management is in place thereby mitigating /minimizing costs associated with redundancy of individuals. The Local Authority in consideration of supporting any associated costs will consider the actions taken by the governing body to avoid /mitigate such costs.

## **SECTION 12: COMMUNITY FACILITIES**

Schools which choose to exercise the power conferred by section 27 (1) of the Education Act 2002 to provide community facilities will be subject to controls. Regulations made under section 28 (2), if made, can specify activities which may not be undertaken at all under the main enabling power.

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

Under section 28(1), the main limitations and restrictions on the power will be those contained in the maintaining authority's scheme for financing schools made under section 48 of the School Standards and Framework Act 1998 as amended by paragraph 2 of Schedule 3 to the Education Act 2002.

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

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

### **Funding Agreements - LA Powers**

**12.1** Schools must provide the LA with details of any third party funding agreements before they are signed. The LA must be given at least 2 weeks to comment on the

agreement.

**12.2** The LA does not have a right of veto over any such agreements. However if an agreement is signed against the wishes of the LA, which the LA considers is contrary to Financial standing orders or seriously prejudicial to the interests of the school or the LA, that may constitute grounds for suspension of the rights to a delegated budget.

### **Other Prohibitions, restrictions, and limitations**

**12.3** The LA may require that in the interests of the LA the Governing Body should carry out the facilities through a schools company or must obtain indemnity insurance. The LA will only impose this request if it considers that the project carries significant financial risk.

### **Supply of Financial Information**

**12.4** Where the LA has notified a school that they believe there is cause for concern with the schools management of the community facility, they may request detailed income and expenditure statements every three months. If necessary the LA may also request the submission of a recovery plan for the activity.

**12.5** All income and expenditure on Community facility should be reported under the CFR Framework.

### **Audit**

**12.6** Schools must grant access to the school's records connected with exercise of the community facilities power, in order to facilitate internal and external audit of relevant income and expenditure.

**12.7** 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 LA to the records and other property of those persons held on the school premises, or held elsewhere insofar as they relate to the activity in question, in order for the LA to satisfy itself as to the propriety of expenditure on the facilities in question.

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

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

**12.9** The school may carry such retained net income over from one financial year



to the next as a separate community facilities surplus, or, subject to the agreement of the LA at the end of each financial year, transfer all or part of it to the budget share balance.

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

## **Health & Safety**

**12.11** The Health and Safety provision (11.5) is also applicable to Community Facilities.

**12.12** Governing bodies will have responsibility for the costs of securing Disclosure Barring service clearance for all adults involved in community activities taking place during the school day. Governing bodies will be free to pass on such costs to a funding partner as part of an agreement with that partner.

## **Insurance**

**12.13** 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 can not be funded from the school budget share. The school should seek the LA's advice before finalising any insurance arrangement for community facilities.

**12.14** The LA may undertake its own assessment of the insurance arrangements made by a school in respect of community facilities, and if it judges those arrangements to be inadequate, make arrangements itself and charge the resultant cost to the school. Such costs can not be charged to the school's budget share.

## **Taxation**

**12.15** Schools should seek the advice of the LA 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 LA VAT reclaim facility.

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

## Banking

**12.17** Schools may maintain a separate bank account or use the schools main account for Community Facilities.

Where a separate bank account is used, transaction must be recorded under the CFR Framework and audited copies of the year end accounts must be submitted to the LA.

Where the schools main bank account is used separate identification of the Community Facilities funds from the Schools Budget share will be facilitated through the use of the CFR framework.

**12.18** Restrictions on banking arrangements for Community Facilities are the same as those for the schools main bank account (see section 3.5.1)

**12.19** Schools are reminded that they may not borrow money without the written consent of the Secretary of State. This requirement does not extend to monies lent to schools by their maintaining LA.

## ANNEX A List of Schools to which this Scheme Applies

### PRIMARY SCHOOLS

Adamsrill	Launcelot
All Saints CoE	Lee Manor
Ashmead	Lucas Vale
Athelney	Marvels Lane
Baring	Myatt Garden
Beecroft Garden	Our Lady & St Philip Neri
Brindishe Green	Perrymount
Brindishe Lee	Rangefield
Brindishe Manor	
Childeric	Rathfern
Christchurch	Rushey Green
Coopers Lane	Sandhurst Infants
Dalmain	Sandhurst Junior
Deptford Park	Sir Francis Drake
Downderry	St. Augustine's
Edmund Waller	St. Bartholomew's
Elfrida	St. James Hatcham
Eliot Bank	St. John the Baptist
Fairlawn	St. Joseph's RC
Forster Park	St. Margaret's Lee C of E
Good Shepherd	St. Mary Magdalene's RC
Gordonbrock	St. Mary's Lewisham RC
Grinling Gibbons	St. Michael's CE
Haseltine	St. Saviour's Catholic
Holbeach	St. Stephen's CE
Holy Cross	St. William of York RC
Holy Trinity	St. Winifred's RC
Horniman	Stillness Infants
John Ball	Stillness Junior
John Stainer	Torridon Primary
Kelvin Grove	
Kender	
Kilmorie	

### SECONDARY SCHOOLS & ALL THROUGH SCHOOLS

Addey & Stanhope	Prendergast School
Bonus Pastor RC	Prendergast Ladywell School
Conisborough College	Prendergast Vale School
Deptford Green	Sedgehill
Forest Hill	Sydenham
	Trinity Lewisham

### SPECIAL SCHOOLS

Brent Knoll	New Woodlands
Drumbeat	Watergate
Greenvale	

### NURSERY SCHOOLS

Chelwood	Clyde
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### PUPIL REFERRAL UNIT

Abbey Manor College	
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## ANNEX B Provision of financial information and reports

Schools are required to submit the following information and reports to the LA in the agreed formats and within the stated timelines.

Due to the evolving needs of statutory returns, this list is subject to amendments which must be communicated with schools in a timely and appropriate manner.

Some requests vary year on year and are driven by wider statutory guidance such as the closure of accounts process. In this case detailed information will be provided annually.

<b>Financial information and reports</b>	<b>Required by :</b>
SFVS	Mid-February
Closure of Statutory Accounts Process	Per annual timelines
CFR returns	Per closing timetable
1 <sup>st</sup> Approved Budget Plan and Supporting Documentation	15 <sup>th</sup> June (in exceptional circumstances a school may agree an extension with the LA to a maximum of the 30 <sup>th</sup> June)
2 <sup>nd</sup> Approved Budget Plan and Supporting Documentation (updated for Schools Census and known adjustments)	15 <sup>th</sup> November (in exceptional circumstances a school may agree an extension with the LA to a maximum of the 30 <sup>th</sup> November)
VAT returns including supporting documents	Within 2 weeks of month end.
Bank reconciliations, including supporting documentation for September and March.	Within 2 weeks of month end.
Trial Balance as at the end of year.	Per closing timetable
Details of the expenditure and income by CFR incurred locally and centrally during the financial year.	Per closing timetable

ANNEX C LA is not allowed to offer schools loans for deficit recovery - this appendix is no longer required

## ANNEX D

### WHISTLEBLOWING POLICY OCTOBER 2015

#### 1. INTRODUCTION

- 1.1 The Council is committed to openness, probity and full accountability for the services it provides. It seeks to achieve the highest standards of conduct and has in place detailed rules and procedures to ensure such standards are observed. However, sometimes malpractice or wrongdoing may occur. The Council is not prepared to tolerate any malpractice or wrongdoing and this policy is intended to be a clear and unequivocal statement that whenever malpractice or wrongdoing by the Council, its employees, contractors or suppliers is reported, it will promptly investigate. If malpractice or wrongdoing has occurred, the Council will take appropriate action to rectify, if possible, and investigate means of preventing it in future.
- 1.2 This policy is one of a number of corporate policies<sup>12</sup> which together demonstrate the Council's commitment to the prevention of malpractice in public life. Those documents can be found on the Council's website.

#### 2. Principles

- 2.1 The overriding principle underpinning this policy and its implementation is that the Council will act fairly and in the public interest.

#### 3. Aims

- 3.1 This policy aims to encourage people to feel confident to come forward with serious concerns
- to ensure that those concerns are properly and promptly investigated;
  - where concerns are well founded that appropriate action is taken; and
  - that feedback is given to the whistleblower about the outcome of the investigation.

#### 4. Scope

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<sup>12</sup> **Employee Code of Conduct** – <http://www.lewisham.gov.uk/mayorandcouncil/aboutthecouncil/how-council-is-run/Documents/EmployeeCodeConduct.pdf> **Member Code of Conduct** – <http://www.lewisham.gov.uk/mayorandcouncil/aboutthecouncil/how-council-is-run/Pages/council-ethical-standards.aspx> **Anti-Fraud and Corruption** - <http://www.lewisham.gov.uk/mayorandcouncil/aboutthecouncil/Pages/Report-fraud.aspx>

4.1 This whistleblowing policy is intended to cover major concerns that fall outside the scope of other procedures. It is intended that the whistleblowing policy be a supplement to and not a substitute for other avenues through which complaints or matters of genuine concern may be raised. Examples of the issues which it might be appropriate to raise through the whistleblowing policy include:

- Conduct that is a criminal offence or a breach of law
- Disclosures relating to miscarriage of justice
- Health & safety risks to the public and/or employees
- Damage to the environment
- The unauthorised use of public funds
- Possible fraud or corruption
- Sexual or physical abuse of clients, or
- Other unethical conduct

4.2 Concerns may also be raised under this whistleblowing policy where the nature of an allegation means that it would not be appropriate to use those other avenues of complaint, for example, where the allegation relates to a more senior officer, or the whistleblower fears reprisals should they make a complaint through other channels.

## **5. Grievance Procedure**

5.1 There are existing procedures to enable employees to lodge a grievance relating to their own employment, including allegations of bullying, harassment, or breach of the Council's equal opportunities policy. Disclosures relating to an employee's own contract of employment will not normally be investigated under this policy, unless there are compelling public interest reasons to do so.

## **6. Complaints about the conduct of Council Members**

6.1 Complaints about malpractice/wrongdoing against Council members will be handled in accordance with the Council's procedure for handling complaints of breach of the Council's Member Code of Conduct.

## **7. Making a Complaint**

7.1 Anyone may make a complaint under this policy, including councillors, employees, and members of the public. Anyone considering making a complaint under this policy should first consider whether another avenue to raise the complaint is more appropriate. If so, they are urged to use it. Details of other avenues for complaint are set out in paragraph xx below. If none of these avenues is appropriate, then concerns should be raised with the Director of Law who is the Council's whistleblowing officer. Concerns may be raised verbally or in writing.

- 7.2 Anyone making a written report is invited to mark the envelope "to be opened by addressee only" and to set out the background and history of the concern, giving relevant dates. Whistleblowers should also set out the reason why they are particularly concerned about the situation.
- 7.3 The earlier a concern is expressed, the easier it is to take action.
- 7.4 Whistleblowers are not expected to prove the truth of an allegation. However, they will need to demonstrate to the Director of Law that there are reasonable grounds for the concern.
- 7.5 The Director of Law will provide advice/guidance on how to pursue a matter of concern under the whistleblowing policy to anyone who asks and how to do so.

## **8. The Council's response**

- 8.1 The Director of Law will acknowledge in writing any complaint brought to her attention and record the complaint in a register kept specially for the purpose.
- 8.2 The Director of Law , or in her absence her deputy, will make an initial assessment of the complaint to decide whether an investigation ought to take place and if so, how. This initial consideration will allow the Council to decide on the appropriate method of enquiry and to ensure that resources are not wasted where investigation would not be in the public interest.
- 8.3 Unless the issue is raised anonymously, then the Director of Law will generally interview the whistleblower as part of this initial assessment.
- 8.4 Once this initial assessment is complete, the Director of Law will write to the whistleblower to inform them of the outcome of that assessment. If an investigation is to ensue, then the Director of Law will inform the whistleblower of that fact and inform them who will be conducting the investigation (either the Director of Law personally, or an investigating officer nominated by her to do so).
- 8.5 The Director of Law will inform the whistleblower that the investigation should normally be completed within 28 days, though this will depend upon the nature of the complaint and its complexity. If it proves not to be possible, the investigating officer will write to the whistleblower before expiry of that 28 days to give an estimated time for completion of the investigation. In any event, the investigating officer will inform the whistleblower of progress of the investigation every 28 days. Copies of this correspondence from the investigating officer to the whistleblower will also be sent to the Monitoring Officer and details entered in the register.
- 8.6 In the most serious cases it may be that a police enquiry will ensue, or an independent investigation may be called for. In some cases the issue will be



referred for a management investigation, possibly by the Chief Executive, or another officer nominated to act on his behalf. Allegations of fraud, corruption, or financial irregularity will be referred to the Special Investigations Manager for investigation. In any investigation conducted by or on behalf of the Council the provisions of paragraph 8.5 above will apply so that the whistleblower is kept updated on the progress of the investigation.

8.7 Once the investigation is complete the Director of Law will inform the whistleblower of the outcome and this will be noted in the register. She will also ask the whistleblower for feedback about the way their complaint was handled.

8.8 In appropriate circumstances, the Director of Law will prepare a report for the Standards Committee and/or Council dealing with the outcome of a particular investigation, and any action taken in response to rectify the situation and/or prevent a recurrence.

## **9. Safeguards**

### **9.1 No Victimisation**

The Council recognises that the decision to blow the whistle can be a difficult one to make, not least if there is a fear of reprisal from those who may be perpetrating malpractice, or others. The Council will not tolerate any victimisation of a person who raises a concern in good faith and will take appropriate steps to protect them, including where appropriate, disciplinary action.

### **9.2 Vexatious complaints**

Just as the Council seeks to protect those who raise complaints in good faith, it will seek to protect those against whom claims are made which turn out to be unfounded. No action will be taken against anyone who reasonably raises a concern in good faith which transpires to be unfounded. However, the Council will take disciplinary action against any employee who makes a vexatious claim. In either case, where it turns out that a claim was without foundation, the Council will use its best endeavours to ensure that any negative impact upon the person complained of is minimised.

### **9.3 Confidentiality**

Wherever possible, the Council will protect the identity of a whistleblower who raises a concern and does not want his/her name to be disclosed. When a whistleblower has requested that their identity be kept confidential all reasonable efforts will be made to obtain evidence which is pertinent to the claim without disclosing the whistleblower's identity. However, it may not be possible in all circumstances to keep the identity of the whistleblower confidential, for example, if the matter needs to be referred to the police, or it is not possible to obtain other corroborating evidence. The very fact of the

investigation may serve to reveal the source of the information and the statement of the whistleblower may be needed as part of evidence against the perpetrator. Where a whistleblower has requested confidentiality but it is not possible to continue the investigation on that basis if the investigation is to proceed, the Director of Law /investigating officer will discuss this with the whistleblower before doing so.

## **10 Anonymity**

- 10.1 Complaints which are made anonymously are usually more difficult to investigate. However, the Council prefers anonymous complaints to be made, rather than serious concerns to go unreported. Whether or not an anonymous complaint can be investigated will depend upon the circumstances of the case. If there is sufficient detail provided to enable an investigation to be carried out without knowing the identity of the whistleblower an investigation will ensue, provided it is in the public interest to do so. Where an anonymous complaint raises serious concerns every effort will be made to investigate thoroughly.

## **11. Alternative Avenues for complaint**

- 11.1 Where an appropriate internal avenue exists to deal with a concern, people are urged to use it. This policy is intended to supplement rather than replace existing channels. Where practicable existing internal channels should be used. These include:

### **Service Managers/Directors**

Anyone with a complaint about Council services is encouraged to contact the manager directly responsible for that service or the relevant Executive Director. In most cases where there is concern this avenue will be the first point of reference. If a complaint relates to an Executive Director, it should be referred to the Chief Executive.

### **The Council's Complaints Procedures**

The Council has a corporate complaints procedure by which it invites any person to raise a complaint they may have about Council Services. Information about this procedure is available from the Advice and Information Service on extension 48761.

### **Local Councillors**

Members of the public are encouraged to refer matters of concern to their local Councillor who can then either identify the best point of contact for them to report the matter or take up the issue on their behalf. Information about how to contact local Councillors is available from Governance Support at Lewisham Town Hall on extension 49455.

## **Anti-fraud Procedures**

The Council's Anti-Fraud & Corruption Team (A-FACT) investigates all allegations of fraud within and against Lewisham Council and is part of the Audit & Risk Group based within the Corporate Services Directorate. The team has specialist officers covering housing fraud, employee fraud, fraud relating to contractors, blue badges etc.

The Council's Financial Regulations state that it is the responsibility of any employee discovering or having reasonable suspicion of any irregularity, misconduct or fraud immediately to notify the relevant Executive Director or Director of Corporate Resources. When so informed, the Executive Director appraise the circumstances and shall notify and discuss the action to be taken with the Director of Corporate Resources. All information shall be treated in complete confidence.

Reports of suspected fraud may also be made to the suspected fraud, corruption or other financial irregularity can also be made to the Anti-Fraud & Corruption Team Manager who will conduct an investigation and make recommendations for appropriate action. Further information about this procedure can be obtained from Carol Owen ext. 47909.

## **Benefit Fraud**

All allegations of Benefit fraud should be made to Carol Owen, Anti-Fraud & Corruption Team Manager, preferably by email to, [carol.owen@lewisham.gov.uk](mailto:carol.owen@lewisham.gov.uk).

## **Tenancy Fraud**

The Council has a dedicated Housing Investigator who investigates fraudulent applications for housing. They also receive allegations of subletting on behalf of Lewisham Homes and other housing providers. All allegations of housing related fraud should be made to Juliet Bennett, Housing Investigation Practitioner, preferably by email to, [juliet.bennett@lewisham.gov.uk](mailto:juliet.bennett@lewisham.gov.uk)

Any reports of suspected, corruption or other financial irregularity may also be made to [reportfraud@lewisham.gov.uk](mailto:reportfraud@lewisham.gov.uk) or to the team's 24 hour freephone Hotline on 0800 0850119.

## **Statutory Officers**

In addition the officers who have particular responsibility for regulating the conduct of the Council and its activities. They are as follows:

Chief Executive – Head of Paid Service – Kim Wright ext. 46444

Responsible for overall management of workforce.

Executive Director of Corporate Services – Vacant ext. 48013

Chief Finance Officer – David Austin – ext: 49114

The Council's officer with responsibility for the financial management, audit and financial probity of the Council.

Director of Law – Monitoring Officer – Kath Nicholson ext. 47648

Dealing with advising on the probity and legality of the Council's decision making. The Director of Law , as Monitoring Officer, is the Council's Whistleblowing officer.

Employees with serious concerns about Councillors should in the first instance raise them with the Director of Law .

### **Children & Vulnerable Adults**

Concerns about the safety and wellbeing of children and vulnerable adults may be raised either with Pauline Maddison, Interim Executive Director for Children and Young People on 020 8314 8527, email:

[Pauline.maddison@lewisham.gov.uk](mailto:Pauline.maddison@lewisham.gov.uk),

Thomas Brown, Executive Director Community Services, 020 8314 8107, email: [Thomas.Brown@lewisham.gov.uk](mailto:Thomas.Brown@lewisham.gov.uk)

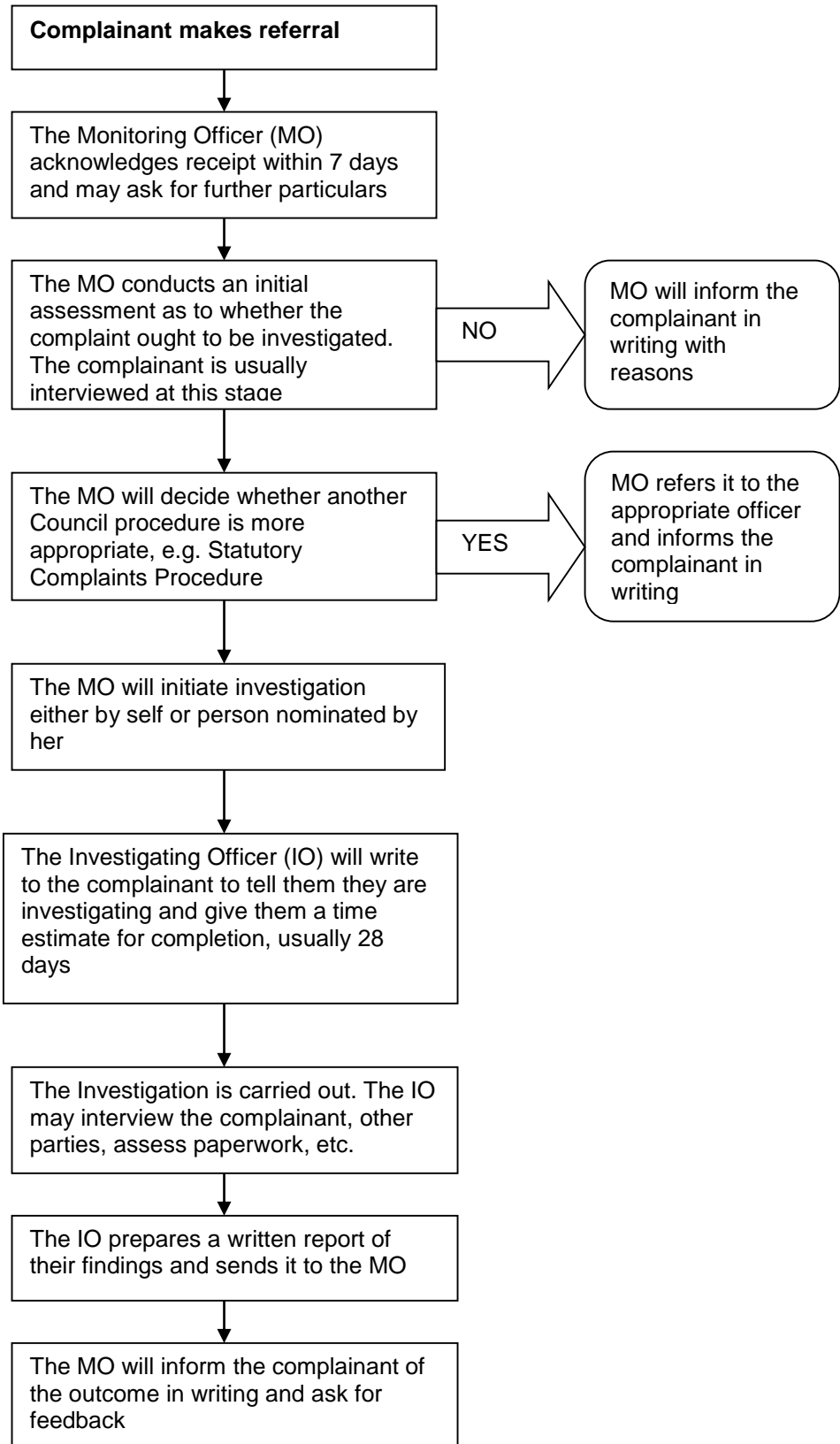
### **The Standards Committee**

The Council also has a Standards Committee made up of councillors and independent people. The role of the Standards Committee is to promote the highest standards of ethical conduct amongst members.

- 11.2 If anyone is unhappy with the process or outcome of an investigation and the Council's response, they may wish to raise the matter externally with:
- The Council's auditors Grant Thornton LLP, Darren Wells, Director on 01293 554 120, email: [Darren.j.wells@uk.gt.com](mailto:Darren.j.wells@uk.gt.com) for all matters relating to fraud, corruption or misuse of public money.
  - The Local Government Ombudsman on 0300 061061
  - The Whistleblowing Helpline for NHS and Social Care on 08000 724725
  - The independent charity "Public Concern at Work" on 020 3117 2520, email: [whistle@pcaw.org.uk](mailto:whistle@pcaw.org.uk)

- 11.3 If an employee does choose to take a concern outside the Council, then it is their responsibility to ensure that confidential information is not handed over (i.e. confidential information, in whatever format, must not be handed over to a third party, unless in line with the Data Protection Act 1998). If clarification is required on this, the advice of the Director of Law should be taken.

## Procedure for dealing with whistleblowing referrals



## **Costs of dismissals, resignations and premature retirement**

### **Statutory framework**

The circumstances in which costs incurred in respect of dismissals etc. may or must be met from a school's budget share, whether in whole or in part, are addressed by section 37 of the Education Act 2002.

Separate rules apply where the member of staff concerned is employed (wholly or partly) for "community purposes" (see below).

Otherwise, the two basic rules laid down by the legislation for members of the staff of a maintained school are that:

(A) Costs incurred by the local authority in respect of premature retirement **MUST** be met from the school's budget share **UNLESS** (and to the extent that) the authority and the governing body agree otherwise in writing [section 37(4)]; and

(B) Costs incurred by the local authority in respect of dismissal or securing the resignation of the staff member **MAY** be met from the school's budget share **BUT ONLY**

IF (and to the extent that) the authority has "good reason" to deduct those costs from the budget share [section 37(5)].

What follows sets out Lewisham's policy in relation to these matters. Further guidance and assistance may, if required, be sought from the Lewisham's Schools HR service in particular cases.

### **Premature retirement costs**

Any governing body contemplating incurring costs in respect of premature retirement, and inviting Lewisham to agree that the costs will be met otherwise than from the school's budget share, should raise the issue with Lewisham at the earliest opportunity, and certainly in any normal case before any commitment to such costs has been made. Lewisham will normally require a full reasoned justification as to why it would be appropriate to give its agreement, and (given what is said below about the management of staffing and budgets) it is expected that such agreement will only exceptionally be forthcoming, although applications will be considered on their merits.

### **Other dismissal/resignation costs**

The legislation does not define what is a "good reason" to charge such costs to the school's budget share (save that a "no redundancy" policy cannot itself be a good reason).

The DfE's guidance Schemes for Financing Schools (December 2015) suggests that schemes should contain a provision setting out the circumstances "in which exceptions will be made". When read with Annex B to the guidance, it appears that the DfE's advice is that an authority's scheme should set out its policy on what it will treat as a good reason for charging dismissal/resignation costs to a school's budget.

Annex B suggests that: "Although each case should be considered on its merits, this should be within an agreed framework." Annex B also sets out a number of examples of situations in which a good reason for charging costs to a school's budget might exist:

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

Lewisham has considered the DfE guidance as set out above. It agrees that it is appropriate to consider whether a good reason applies in each case on its own merits.

To that end, when relevant costs have been or are expected to be incurred, the school will be expected to complete a proforma giving details of the member of staff whose employment is terminating or has terminated, the reasons for and terms of the termination, and other relevant circumstances. Lewisham may seek other information if necessary. Lewisham's Schools HR service will then record on the proforma what the costs associated with the dismissal are, and will give an initial view as to whether (and if so, why) good reason exists to charge all or part of those costs to the school's budget. The school will have the opportunity to comment upon any such proposal to charge costs to its budget. If there is disagreement between Schools HR and the school as to what should happen, a decision will normally be taken by an officer at a senior level within the Directorate of Children and Young People, consulting if necessary with Schools HR and/or other officers. Exceptionally, the Executive Director Children and Young People may decide to refer such an issue for decision at an appropriate level outside the Directorate. Schools will be expected to co-operate fully and promptly with this process, and a failure to do so may itself be treated as a good reason to charge the relevant costs to the school's budget share.



Lewisham does not consider that it is possible satisfactorily to provide a complete advance definition of what may constitute a good reason for charging the school's budget share. The examples of "good reason" given in the DfE guidance are helpful and applicable but will not be treated as exhaustive. In particular, Lewisham expects schools to manage their staffing and budgets responsibly, both in the short term and over longer periods. This includes developing plans to adjust expenditure in line with actual and anticipated funding and income levels. There is an expectation that in many cases it should be possible to avoid the need for redundancies, or payments in lieu of notice, by appropriate planning and vacancy management. Schools which have incurred redundancy costs will be expected to explain why such costs could not reasonably have been avoided, and the absence of a satisfactory explanation is likely to be regarded as a good reason for charging the school's budget share. Likewise, schools are expected to engage at an early stage with the Schools HR service, and to follow Lewisham's policies, and other good employment practice, with a view to avoiding or minimising the cost of redundancies through redeployment. If a school has significant unspent and uncommitted balances (even if those balances are not "excess" ones as contemplated by the DfE guidance), and no pressing need to retain those balances, then that may constitute a good reason why costs should fall to the school's budget share, rather than having to be met from other hard-pressed budgets.

Where an individual's employment is terminated for reasons other than redundancy (e.g. misconduct or lack of capability), it should normally be possible to effect this without additional cost by following proper procedures, and giving any notice to which the individual may be entitled. It is acknowledged that there may be cases where that is not so, but the incurring of unnecessary costs will normally be regarded as a good reason for charging the school's budget share. Where liability for costs arises from an adverse decision of a court or tribunal concerning the lawfulness of a dismissal, or where it has been necessary to pay sums by way of settlement in the face of a claim or potential claim of such unlawfulness, then that will normally be regarded as a good reason for the school's budget share to be charged – although the LA will always be prepared to consider the individual circumstances of the case.

It is only in unusual cases that it is appropriate for payments to be made to secure the resignation of an individual employed to work at a school. Schools which anticipate offering such payments should consult with Schools HR in advance. A failure to do so, or a departure from the advice given, will generally amount to a good reason for charging any resulting additional costs to the school's budget share.

Even where there is a "good reason" for charging costs to a school's budget share, Lewisham may exercise its discretion so as not to do so, in whole or in part. A favourable exercise of discretion may be considered, for example, if meeting the costs in full would have a disproportionate impact upon the school's budget and functioning.

However, schools must be aware that there is no centrally retained budget or contingency fund for meeting such costs, and that Lewisham is therefore likely to take a rigorous approach in such cases.

## **Staff employed for community purposes**

“Community purposes” refers, in relation to the staff of a maintained school, to members of staff employed for the purposes of the provision of services and facilities under section 27 of the Education Act 2002.

In such cases, the legislation requires both costs in respect of premature retirement, and costs in respect of dismissal, or incurred for the purpose of securing resignation, to be recovered from the governing body except in so far as it is agreed in writing between the authority and the governing that they shall not be so recoverable.

Where schools wish to seek such agreement, the same guidance and policy applies as set out under “Premature retirement costs” above.

The governing body may meet such costs out of the school’s budget share, but only if it is satisfied that to do so will not to a significant extent interfere with the performance of its duties.

Where a person is employed partly for community purposes and partly for other purposes then section 37(9) provides that the costs are to be apportioned between the two purposes.