

# **SCHEME FOR FINANCING SCHOOLS**

**2022-23**

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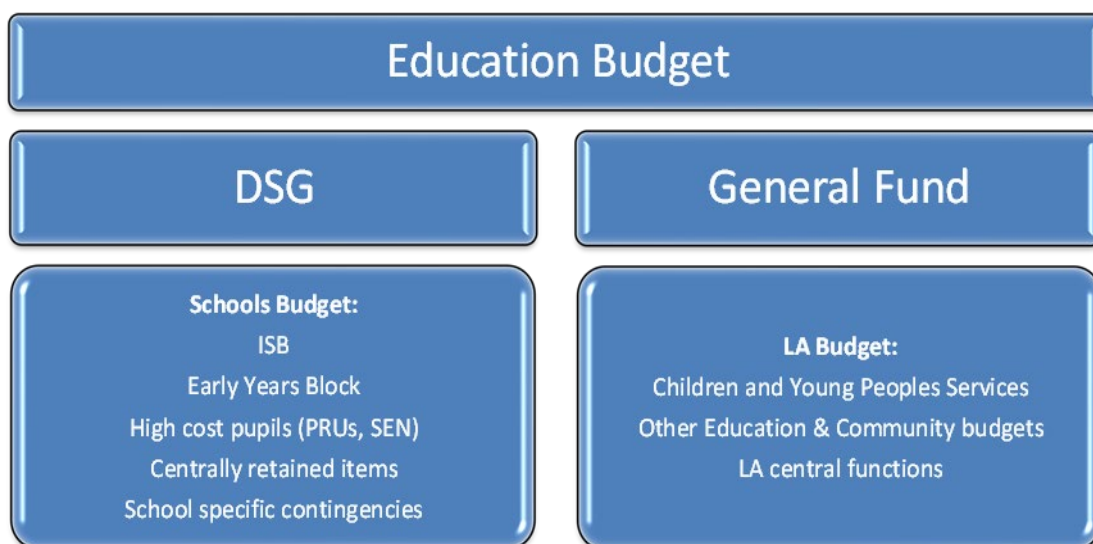
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# 1. RESPONSIBILITY AND ACCOUNTABILITY

## 1.1 The Funding Framework

- 1.1.1 The funding framework is based on the legislative provisions pursuant to sections 45 to 53 of the School Standards and Framework Act 1998.
- 1.1.2 Under this legislation, Local Authorities (LAs) determine for themselves the size of their Schools Budget and LA Budget – although at a minimum a LA must appropriate its entire Dedicated Schools Grant to its Schools Budget. The categories of expenditure that fall within the two budgets are prescribed under regulations made by the Secretary of State. Included within the two budgets, taken together, is all direct and indirect expenditure on LA maintained schools, except for capital and certain miscellaneous items.
- 1.1.3 Local authorities may deduct funds from the Schools Budget for purposes defined in regulations made by the Secretary of State under S.45A of the Act (the centrally retained expenditure). The amounts to be retained centrally are decided by the LA, subject to any limits or conditions (including gaining the approval of their School Forum or the Secretary of State in certain instances) as prescribed by the Secretary of State. The balance of the Schools Budget left after deduction of centrally retained funds is termed the Individual Schools Budget (ISB). Expenditure items in the LA budget (the non-school's education budget) must be retained centrally although earmarked allocations may be made to schools.



- 1.1.4 Local authorities must distribute the ISB amongst their maintained schools using a formula that accords with regulations made by the Secretary of State and enables the calculation of a budget share for each maintained school. This budget share is then delegated to the governing body of the school concerned, unless the school is a new school that has not yet received a delegated budget, or the right to a delegated budget has been suspended in accordance with s.51 of the Act. The financial controls within which delegation works are set out in this scheme made in accordance with s.51 of the Act and regulations made under that section.
- 1.1.5 The Schools Forum must approve all revisions to the scheme, although the LA may apply to the Secretary of State for approval in the event of the Schools Forum rejecting a proposal or approving it subject to modifications that are not acceptable to the LA.
- 1.1.6 Subject to provisions of the scheme, governing bodies of schools may spend their budget shares for the purposes of their school. They may also spend budget shares on any additional purposes prescribed by the Secretary of State in regulations made under s.50 of the Act, including the provision of community facilities or services under section 27 of the Education Act 2002.

- 1.1.7 The LA may suspend a school's right to a delegated budget if the provisions of this scheme, or rules applied by it have been substantially or persistently breached, or if the budget share has not been managed satisfactorily. A school's right to a delegated budget share may also be suspended for other reasons (schedule 15 of the Act). These include situations where the school is subject to a formal warning (e.g. for poor performance or breakdown of discipline) and has not complied; or is deemed by OFSTED to have serious weaknesses, require special measures or notice to improve.
- 1.1.8 Each local authority is obliged to publish each year a statement setting out details of its planned Schools Budget and other expenditure on children's services, showing the amounts to be centrally retained and funding delegated to schools. After each financial year the authority must publish a statement showing outturn expenditure.
- 1.1.9 The detailed publication requirements for financial statements are set out in directions issued by the Secretary of State. A copy of each year's budget and outturn statement should be made easily accessible to all schools.
- 1.1.10 The LA is required to publish their Scheme, and any revisions to it, on a public accessible website, by the date it or any revisions to it come into force with a statement that the revised scheme comes into force on that date.

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

- 1.2.1 This Scheme sets out the financial relationship between Islington Council (the Authority) and its maintained schools. It contains the requirements relating to financial management and associated issues. These are binding both on the Authority and on schools.

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

- 1.3.1 This Scheme applies in respect of all community, voluntary, nursery, foundation (including trust), community special or foundation special schools and pupil referral units (PRUs) maintained by the LA. The schools are listed for information in Appendix A.

## **1.4 Publication of the Scheme**

- 1.4.1 A copy of the scheme will be supplied to the head teacher and to the governing body of each school covered by the scheme, and any approved revisions will be notified to each such school.
- 1.4.2 In addition, the Scheme, with any revisions as they occur, will be published on Islington Council's website prior to, and stating the date that, the revised scheme comes into force.

## **1.5 Revision of the Scheme**

- 1.5.1 Any proposed revisions to the scheme will be the subject of consultation with schools before they are submitted to the Schools Forum for approval by members of the forum representing maintained schools.
- 1.5.2 In the event where the schools forum does not approve LA revisions or approves them subject to modifications which are not acceptable to the local authority, the authority may apply to the Secretary of State for approval.
- 1.5.3 The Secretary of State may make directed revisions to the scheme following consultation. Such revisions become part of the scheme from the date of the direction.

## **1.6 Delegation of Powers to the Head teacher**

- 1.6.1 The governing body should consider the extent to which it wishes to delegate financial powers to the head teacher in respect of the financial management of a school. Its decision and subsequent revisions should be recorded in the minutes of the governing body.
- 1.6.2 The first formal budget plan of each financial year must be approved by the governing body, or a committee of the governing body.

## **1.7 Maintenance of Schools**

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

## **2. FINANCIAL CONTROLS**

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

- 2.1.1 Schools must abide in the management of their delegated budgets with Islington Council's requirements on financial controls and monitoring. This includes not only requirements in this Scheme but also those in Financial Regulations, insofar as these are compatible with this Scheme.

### **2.2 Provision of Information by the Council**

- 2.2.1 The Council will supply schools with information on resources that have been allocated for each financial year and any other income and expenditure data available, which is necessary for efficient planning by schools.
- 2.2.2 Schools will be provided (via Islington CS) with an annual Finance Calendar showing when this information and resources will be made available to schools throughout the year and when returns are expected from schools.

### **2.3 Provision of information by schools**

- 2.3.1 Schools are required to provide the Council with regular returns of their income and expenditure. These are:
- The quarterly disbursement account return;
  - Quarterly budget monitoring reports in a format specified by the Council. Reports to include projections of year-end balances and a commentary on material variances.
  - Monthly budget monitoring reports where schools are in receipt of funding for schools in priority support or who have deficit budgets;
  - Monthly budget monitoring reports in the final quarter, January to March, in a format specified by the Council. Reports to include projections of year-end balances and a commentary on material variances.
  - If not using the Council's payroll services, monthly reports on payments made to staff and deductions and timely information regarding teacher pension contributions;
  - Claim forms relating to government grants;
  - Specified reports at year end to allow the authority to reconcile the schools accounts;
  - A detailed return on proposed use of balances to be returned with the final budget plan;
  - Specific returns in relation to ring fenced grants on an annual basis, by 31<sup>st</sup> March;
  - Quarterly Capital in relation to Devolved Formula Capital (DFC), match funding and other capital allocations, including revenue contributions to capital
  - Any other return on income or expenditure requested by the Council's chief finance officer.
- 2.3.2 All forms must be submitted within the deadlines specified by the Council. Schools that have budget deficits or are a cause for concern for other reasons may be required to submit additional information. Such additional requirements will be communicated to individual schools in writing.
- 2.3.3 The DfE requirements for the statutory reporting of Schools' Pupil Premium expenditure have been provided to schools and we have shared models of good practice.

### **2.4 Payment of salaries, wages, pensions and gratuities**

- 2.4.1 The budget for payroll administration has been delegated to schools. Accordingly, governing bodies are responsible for making suitable arrangements (or ensuring that



such arrangements are made) for the administration of payroll services in respect of their staff. Paragraph 2.4.2 below sets out the responsibilities of governing bodies in respect of payroll administration. However, the extent to which governing bodies need to play a direct role in ensuring that the responsibilities are fulfilled will depend upon their choice of service delivery. In all cases schools will be required to meet the costs of payroll administration from their budget shares.

- a) Where a school has entered into a service agreement with the Council for the provision of payroll services, specific school responsibilities will be set out, however most of these responsibilities will be carried out by the Council or its sub-contractor. These will include making the appropriate deductions from salaries/wages, paying these to the relevant third parties, submitting statutory returns as required. Charges will be published in advance of each financial year.
- b) Where a school has entered into any arrangement with a person other than the Council for the provision of payroll services, the governing body must ensure that the contract/agreement covers all of the responsibilities. If it does not, the governing body must ensure that any that are not are fulfilled by the school itself. The Council will hold the school (rather than its contractor) responsible for any statutory returns that are required and may charge the school's budget share for failure to comply. As such, schools are advised to include within the agreement appropriate clauses penalising the contractor.
- c) Where a school runs its own payroll through staff employed by the school, the governing body must ensure that all the responsibilities are covered. If a governing body fails to carry out its responsibilities the school's budget share may be charged in accordance with paragraph 6.2.

2.4.2 The governing body is responsible for the following in respect of payroll administration:

- Ensuring that all payroll matters are handled in accordance with statutory requirements, and that any payroll provider keeps records of proof to this effect;
- Monthly returns to HM Revenues and Customs to ensure real time data for all members of staff
- Auto-enrolment for all new members of staff
- Ensuring that salary and wages payments made to staff are done so in accordance with the terms and conditions of service applying to the employee, as determined nationally and locally by the appropriate bodies;
- Ensuring that staff are paid on time in accordance with Council schedules;
- Ensuring that all staff payments are subjected to PAYE Income Tax, National Insurance, superannuation deductions and any other deductions or rules as may be appropriate.
- Ensuring that, in cases where a person (consultant or specialist service provider) to whom payments are requested to be made by invoice, on the basis that they are to be treated as self-employed; the school should complete the "Check Employment for Tax" (CEST) and ensure that on completion, the indicator confirms the tax status as self-employed. If it is not clear from the responses to the questions in the CEST as to a person's tax status, further guidance should be sought from HMRC or internal audit. A copy of completed CESTs should be kept on file.
- Ensuring that the relevant payroll contractor is aware of changes to rates of pay and terms and conditions of service, as appropriate, following notification received from the Council (in the case of local conditions of service) or following notification received from the appropriate national negotiating body (in the case of national conditions of service);
- Paying over attachment orders and court orders to the appropriate bodies, and paying over non-statutory deductions to the appropriate bodies as required by them, for example:
  - Trade union subscriptions deductions (where such an agreement exists)

- Prudential Additional Voluntary Contributions deductions
- HSA (Health Plan) subscriptions deductions;
- Keeping records of non-statutory payments made to bodies above, and ensuring that the payroll contractor is notified of any changes to the rates of deductions;
- Ensuring that other appropriate payroll and associated payroll records are kept, as may be deemed necessary by the Council from time to time, in order to fulfil statutory responsibilities and making such records available to the Council for inspection on request;
- The provision to the Council of service and salary information in such formats as specified, to enable the assessment of entitlement to and calculate any gratuity which may be due to a non-pensionable employee upon leaving the service;
- Ensuring that PAYE Income Tax, national insurance, superannuation employee and employer contributions, Statutory Sick Pay, Statutory Maternity Pay and all other gross and net deductions and refunds in each pay period correspond to the cumulative year-to-date and end-of-year totals displayed on the reconciliation report provided by the contractor;
- Ensuring that, by the specified deadline, the following information is submitted to the Council in the format required covering all of that month's monthly payroll transactions:
  - PAYE income tax deducted and refunded this pay period and year-to-date cumulative for each employee and for the payroll as a whole;
  - national insurance employee contributions deducted and refunded this pay period and year-to-date cumulative for each employee and for the payroll as a whole;
  - national insurance employer's contributions paid and refunded this pay period and year-to-date for each employee and for the payroll as a whole;
  - national insurance category for the employee in the current pay period;
  - superannuation employee contributions deducted and refunded this pay period and year-to-date cumulative for each employee and for the payroll as a whole. This must be clearly distinguishable for each separate superannuation scheme;
  - superannuation employer's contributions in this pay period and year-to-date cumulative for each employee and for the payroll as a whole. This must be clearly distinguishable for each separate superannuation scheme;
  - additional superannuation contributions deducted and refunded from each employee to the DFE, Islington Council or London Pensions Fund Authority (LPFA) superannuation schemes, both this pay period and year-to-date cumulative. This must identify separately for each employee the reason for the deduction (e.g. family benefits, added years), together with the value of the percentage amount being deducted where appropriate;
  - additional emolument superannuation contributions deducted and refunded from each employee to the Islington Council and LPFA superannuation schemes, both this pay period and year-to-date cumulative where appropriate;
  - employee gross pay totals in this pay period and year-to-date cumulative;
  - statutory sick pay in this pay period and year-to-date cumulative; and
  - statutory maternity pay in this pay period and year-to-date cumulative;
- Ensuring that year-end P35 (substitute) and P11(D) returns are provided to the Council;
- Providing additional superannuation reports to the appropriate superannuation scheme manager(s) as may be required by them to fulfil their statutory obligations in respect of running the superannuation schemes; all such returns from schools and providers must be submitted by the 30<sup>th</sup> April in each financial year.

- Providing the Council at the end of each financial year, by a specified deadline to be notified at the appropriate time, a hard copy and an electronic record (Excel) of service for all teachers employed at the school, in order to enable the preparation of the annual service return to the Teachers' Pensions Agency. The school is responsible for ensuring that its contractor meets the requirements of the annual service return as defined by the Teachers' Pensions Agency;
- Providing any other ad-hoc or regular reports to the Council as may be required by it to fulfil its statutory obligations.

## **2.5 Payments for works, goods and services**

- 2.5.1 The governing body will be responsible for ensuring the validity of all orders issued, for the control and safe custody of all official order forms and books, and for obtaining alternative estimates or quotations as required before orders are placed. The governing body will also be responsible for the effective control of purchase cards and petty cash and the reimbursement of staff expenses. In particular, the governing body will be responsible for ensuring that there is budget provision for paying for the goods and services ordered, and in no circumstances should goods and services be ordered without the governing body having the resources to make payment without causing the school budget to go into deficit.
- 2.5.2 Official funds must not be used for the purchase of alcohol.
- 2.5.3 The governing body will be responsible for ensuring that invoices and accounts are paid in accordance with the Authority's regulations on ordering and certifying invoices for payment, guidelines on separation of duties and Construction Industry Tax (CIT) and Value Added Tax (VAT) regulations.
- 2.5.4 As of 1 April 2017, all schools are now subject to the requirements of the reformed IR35 legislation. Under this reform, schools are responsible for identifying and reviewing the employment status of all workers engaged through intermediaries/Personal Services Companies (PSCs), including those provided via an agency. Where the employment is deemed to be within the scope of IR35 schools will need to ensure that income tax and primary National Insurance contributions are calculated and paid to HMRC. Financial sanctions may be applied where there is failure to comply with these requirements.
- 2.5.5 The Head of Internal Audit, shall check that accounts and payments vouchers have been properly certified in accordance with the regulations (above) and shall examine such documents as they consider necessary to ensure compliance with contracts, accepted tenders and the resolutions and regulations of the Council or governing body. For the purpose of this examination they shall be entitled to call for such information and explanations as they consider necessary.
- 2.5.6 The head teacher shall make available for inspection by Council officers or the governing body invoices as may be required and shall give any explanation or report as may reasonably be called for.
- 2.5.7 The school must maintain the original record of all invoices paid using the school disbursement account. These shall be retained for a minimum of six years.

## **2.6 Control of assets**

- 2.6.1 The head teacher shall be responsible for the custody and physical control of the school's moveable non-capital assets by maintaining adequate inventories for the school. Inventories for all assets worth more than £1,000 shall be in a form agreed with the Corporate Director Resources who shall issue instructions for their completion from time to time. In addition to this formal requirement it is recommended that head teachers keep a register of all desirable and portable electronic items valued at £80 or more. The head teacher shall be responsible for carrying out an annual check of all items on an inventory, taking any action in relation to any surpluses and deficiencies and noting the inventory accordingly.
- 2.6.2 Furniture, equipment and plant owned by the school shall, as far as reasonable, be marked as being Council property, and shall not be removed from the school without the

specific approval of the Council.

2.6.3 Where the school does not own an inventory item the inventory entry shall specify the name and address of the owner.

2.6.4 Any deficiency in inventories shall be reported to the governing body that shall have the power to authorise their amendment up to a value of £1,000. If an amendment is required in excess of this amount, a report shall be submitted by the governing body to the Corporate Director Resources.

#### Stocks and Stores

2.6.5 The head teacher shall be responsible for the custody, physical control and security of stocks and stores in his/her school.

#### Sale and Disposal of Stocks

2.6.6 Any item, inventory or stock deemed obsolete or surplus to requirements shall, when the disposal value does not exceed £1,000, be sold or disposed of on the authorisation of the governing body. Any item to be sold or disposed of must be the property of the school. Where the disposable value exceeds £1,000 a report shall be submitted to the Council stating the reasons for the proposed disposal and containing a recommendation as to the method of disposal.

2.6.7 Sales of surplus or obsolete items shall be by public tender except where the amount receivable by the school is unlikely to exceed £1,000 and where, in the opinion of the governing body, the financial interest of the school would be better served by disposal by other means.

2.6.8 Disposal of surplus or obsolete items directly to employees of the school or the Council is not permitted unless disposal is by open tender.

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

2.7.1 The Council's Chief Finance Officer shall be responsible for keeping the principal accounting records of the Council.

2.7.2 All principal systems of accounting shall be maintained in schools on a basis suitable for integration with the Council's overall system.

2.7.3 Schools are required to submit returns to the Council showing expenditure, income, and VAT in a specified format and by dates set out in the Finance Calendar which can be found on the Finance section of IslingtonCS. Separate Capital expenditure and income returns are required from community and Trust schools. Such returns will be used for the purposes of high level monitoring of expenditure, preparing government returns and reclaiming VAT.

2.7.4 Schools are also required to keep clear accounts for all expenditure on which government grant can be secured (e.g. Pupil Premium for Looked After Children, subject to government regulations) and to submit such regular returns to the Council as are required by the dates specified.

2.7.5 The Council will provide monitoring information to schools from the Council's general ledger (CEDAR) on a regular basis to assist governing bodies to monitor the progress of their expenditure against their budget share.

2.7.6 Similarly, the Council's Chief Finance Officer will be able to fulfil their essential monitoring and advisory role through central access to the CEDAR.

2.7.7 Where schools intend to develop their own internal accounting systems, they must do so in accordance with these conditions and with audit requirements and the need to submit expenditure and income returns as required.

## **2.8 Writing off debts**

2.8.1 Generally, governing bodies should arrange for income to be collected in advance of the provision of a supply or service so that bad debts are avoided (e.g. school lettings, school meals, sales etc.)

- 2.8.2 Accounts may be rendered exceptionally for items such as the purchase of musical instruments, damage to the school etc.
- 2.8.3 Certain charges, such as school meals are governed by legislation and the governing body does not have authority to waive the payment for meals unless criteria for free school meal eligibility are met. Under the universal free school meal scheme charges are abated if guardians have registered for a free school meal, those who refuse to do so must continue to be charged.
- 2.8.4 Pupils should only be recorded as eligible on census returns if they meet the national criteria and have claimed free school meals and (1) the relevant authority has confirmed their eligibility, or (2) final confirmation of eligibility is still awaited but the school has seen documents that strongly indicate eligibility (for example an Income Support order book) and on the basis of those has commenced provision of free meals. Specific guidance on free school meals will be issued to schools from time to time.
- 2.8.5 Charges due to the school in respect of school lettings, use of educational buildings and other income may be abated by the school governing body in accordance with the law and with principles and conditions agreed by the governing body and the Council.
- 2.8.6 Amounts not exceeding £100 may be written off on the authority of the governing body. These will represent a charge against the school's budget.
- 2.8.7 Amounts in excess of £100 must be recommended for write off by the governing body. All such proposals must be referred to the Council for examination and approval.
- 2.8.8 A record shall be kept by the governing body of all items that have been written off.

## **2.9 Basis of accounting**

- 2.9.1 Reports and accounts furnished to the LA should be on an accruals basis. This means that expenditure reported will be based on an accruals basis annually. Accruals and prepayments are limited to a minimum notified annually by the Authority, currently £3,000 per item. Schools must not accrue for income or expenditure which relates to services provided to or from the Council, including other LBI schools. Schools can choose their own basis of accounting for internal spending and reporting on a monthly basis.

## **2.10 Submission of budget plans**

- 2.10.1 The governing body, or a delegated committee of the governing body, must set an annual budget and send to the Council in the specified Consistent Financial Reporting (CFR) format by 31<sup>st</sup> May each year. In the event of a full governing body having not endorsed the budget by that time, a final draft, endorsed by the Chair of Governors, may be submitted together with the date of the meeting at which the final endorsement will be sought.
- 2.10.2 The LA requires schools to submit assumptions underpinning the budget plan, in particular regard to pupil number forecasts.
- 2.10.3 The Council will supply schools with any school income and expenditure data it holds which is necessary to ensure efficient planning by schools by dates specified in the Finance Calendar published each year.
- 2.10.4 The governing body has the power of virement between budget heads. The Council must be informed of major revisions to the budget during the year by dates specified.
- 2.10.5 The governing body is entitled to raise income externally to balance the budget. Any income generated for this purpose must be transferred to the school's disbursement account as soon as is practicable.
- 2.10.6 A governing body setting its annual budget is expected to do so within the resources available to its school for that year, taking account of any surplus or deficit balances brought forward. In exceptional circumstances it may be possible for a governing body to apply for a Licensed Deficit Agreement, see 4.5.
- 2.10.7 The LA requires schools to submit reforecasted budget plans for years 2 and 3 in the autumn term, reflective of updated information from the DfE and latest pupil number

projections.

## **2.11 Submission of financial forecasts**

- 2.11.1 Schools must submit a 3-year budget forecast in CFR format by 31 May.
- 2.11.2 Should the future year's forecast show a deficit, the governing body is responsible for ensuring appropriate action is taken to address it and that these are documented within relevant minutes.
- 2.11.3 Budget plans will be used as evidence to support the LA's assessment of schools financial value standard (SFVS) as well as supporting of the LA's balance control mechanism.

## **2.12 School Resource Management**

- 2.12.1 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 Local Authority's purchasing, tendering and contracting requirements.
- 2.12.2 It is for heads and governors to determine at school level how to secure better value for money. They should review efficiency and value for money through regular review of collaborative purchasing and benchmarking with other schools, taking account of the requirements of the Schools Financial Value Standard and purchasing, tendering and contracting requirements outlined in sections 2.16 and 2.21, respectively.

## **2.13 Virement**

- 2.13.1 Schools may vire freely between budget heads in the expenditure of their budget shares. Governors are advised to establish criteria for virements and the financial limits above which the approval of governors is required.

## **2.14 Internal Audit**

- 2.14.1 In line with the Accounts and Audit Regulations 2015, the Council must undertake an effective internal audit to evaluate the effectiveness of its risk management and control and governance processes, taking into account public sector internal auditing standards or guidance.
- 2.14.2 Internal Audit's primary objective is to offer the Council (via the Audit Committee), Chief Executive, S151 Officer, External Audit and senior managers an independent and objective appraisal of whether risk management, internal controls and governance processes are being managed efficiently, effectively and economically. Internal Audit also provides advice and guidance to management on risk and control issues within individual systems. The Council's response to internal audit activity should lead to the strengthening of the control environment.
- 2.14.3 The Accounts and Audit Regulations 2015 state that any officer must, if required to do so for the purposes of the internal audit, make available such documents and records; and supply such information and explanations as are considered necessary by those conducting the internal audit. Therefore, the governing body shall at all times offer the necessary facilities to enable the internal audit to be carried out and, in particular, the Council's Corporate Director Children's Services, and the Head of Internal Audit (or officers designated by them) shall have authority to:-
  - enter at all reasonable times any Council premises or land or school maintained by the Council;
  - have access to all records, documents and correspondence relating to all transactions of the Council and to the school's budget share.
  - require and receive such information and explanations as are necessary concerning any matter under examination;
  - require any person on the payroll of the Council to produce cash, stores or any other Council property under his/her control.

- 2.14.4 This regulation is subject to the proviso that the person carrying out the audit examination shall not knowingly inspect or call for documents in which s/he has a pecuniary interest, whether direct or indirect.

## **2.15 External Audit**

- 2.15.1 The external auditors may undertake such reviews of financial and other operations of schools, as they deem necessary, for the discharge of their statutory functions. However, it is not expected that the external auditors would wish to undertake a comprehensive investigation into all schools in any financial year.
- 2.15.2 The governing body shall at all times provide access to the school's records for external auditors.
- 2.15.3 The governing body may spend funds from its budget share to obtain external audit certification of its accounts, separate from any Council internal or external audit process if it so wishes. Any external audit commissioned by the school would have to take into account the status of the school as a spender of Council funds.

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

- 2.16.1 All local authority maintained schools (including nursery schools and Pupil Referral Units (PRUs) that have a delegated budget) must demonstrate compliance with the Schools Financial Value Standard (SFVS) and complete the assessment form on an annual basis. It is for the school to determine at what time in the year they wish to complete the form but the deadline for the annual submission to the LA is 31 March.
- 2.16.2 Governors must demonstrate compliance through the submission of the SFVS assessment form signed by the Chair of Governors. The form must include a summary of remedial actions with a clear timetable, ensuring that each action has a specified deadline and an agreed owner. Governors must regularly monitor the progress of these actions to ensure that all actions are cleared within specified deadlines.

## **2.17 Fraud**

- 2.17.1 'Fraud' encompasses an array of irregularities and illegal acts characterised by intentional deception with intent to make a gain or to cause a loss, or to expose another to a risk of loss. There are a number of acts which can be considered fraudulent under this broad heading. However, the best definition is provided by the Fraud Act 2006, which outlines three ways of committing fraud:
- By false representation
  - By failing to disclose information
  - By abuse of position
- 2.17.2 'Corruption' is defined as the abuse of entrusted power for personal gain.
- 2.17.3 All schools must have a strong system of controls and procedures to safeguard themselves against fraudulent or inappropriate use of public money and assets. The governing body, Head Teacher, Business Manager and other staff with financial responsibilities must be aware of the Council's Anti-Fraud and Corruption Policy, see Appendix C.
- 2.17.4 The Head Teacher and governing body must inform all staff of school policies and procedures relating to fraud, theft, the controls in place to prevent them and the consequences of breaching these controls. This information must also be included in induction for new school staff and governors.
- 2.17.5 Members of each governing body must apply the expected standards and give their full support to all systems and controls in place to assure probity.
- 2.17.6 Pre-employment checks appropriate to the nature of the post must be carried out. These may include checks on identity, qualifications, previous employment and permission to work in the UK, credit status and DBS. This applies to both permanent and temporary staff. Where false references are provided or identity fraud is found, then the job offer will

be rejected. An investigation will be carried out and in some cases, will be subject to arrest by the relevant authorities.

- 2.17.7 All procurement must be in accordance with the Procurement Rules and Contract Regulations. Staff are responsible for ensuring adequate and proportionate customer due diligence checks and anti-bribery measures are followed in any pre- and post-engagement with suppliers or contractors of any value. This will include declaring any conflicts of interest between supplier and officer. Failure to do this will result in disciplinary action as gross misconduct. Where fraud is identified, both the employee and the supplier or contractor will be subject to investigation and possible prosecution.
- 2.17.8 Work undertaken by contractors must be necessary and carried out to the specifications in the contract, ensuring effective contract management. If fraud is suspected on the part of the officer or the contractor, then a criminal investigation will take place.

## 2.18 Whistleblowing

- 2.18.1 Under the Employee Code of Conduct and the Whistleblowing Policy and Procedure, employees must report any suspected cases of fraud, financial irregularity or bribery and corruption to the appropriate manager, or, if necessary, directly to the Head of Internal Audit. Reporting cases in this way is essential to the success of the Anti-Fraud and Corruption Strategy. Details of how to report fraud are contained within the Fraud Response Plan, see Appendix C.
- 2.18.2 The Council encourages staff to report their concerns when the interests of others or the organisation are at risk. Members and staff are advised that where their concern falls into one or more of the following areas they should come forward:
- A criminal act
  - A failure to comply with any legal obligation
  - Danger to health and safety
  - Breaking the law
  - Any damage to the environment
  - Breach of the Code of Conduct
  - An attempt to cover up any of these.
- 2.18.3 The Whistleblowing Policy and guidelines (see Appendix C) have been developed so that staff know how to raise a concern in the right way at an early stage and are assured that concerns raised will be dealt with properly and appropriately.
- 2.18.4 The council will not tolerate the victimisation or harassment of anyone raising a genuine concern. Employees are protected from victimisation and harassment when raising genuine concerns by the Public Interest Disclosures Act 1998. This legislation aims to ensure employees who may be worried about coming forward can do so in the knowledge that it is safe to do so

## 2.19 Audit of voluntary and private funds

- 2.19.1 Any voluntary or private fund held by the school shall be subject to an external audit within three months of the end of the accounting period by persons independent of the administration of the fund and independent of the Council's internal audit function to avoid conflict of interest. The audited accounts shall be presented to the governing body. A copy of all audit certificates shall be presented, when requested, to the Council's auditors.

## 2.20 Register of business interests

- 2.20.1 The governing body of each school is required to establish and maintain a register which lists for each member of the governing body and the head teacher:
- Any business interests they or any member of their immediate family have
  - Details of any other educational establishments that they govern
  - Any relationships between school staff and members of the governing body
- 2.20.2 The governing body is required to keep the register up to date with notification of changes through annual review of entries, and to make the register available for inspection by



governors, staff, parents and the Local Authority and made available on a publicly accessible website. The Council requires that relationships are to be disclosed only to the Head Teacher, Chair of Governors and Director of Learning & Culture.

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

- 2.21.1 The Council will not restrict the choices open to governing bodies in respect of suppliers of goods and services. Schools may purchase goods and services from wherever they see fit unless contracts are already in place. However, governing bodies will be expected to obtain value for money by way of price, quality and convenience for the school. Schools must not enter into contracts without the advice of the Council's Legal Services.
- 2.21.2 Governing bodies must also always have due regard for the proper accountability for, and control over, the expenditure of public funds and assess in advance, where relevant, the health and safety competence of contractors, taking account of the LA's policies and procedures.
- 2.21.3 The Council reserves the right to charge the school's budget share with the cost of any contractual liability arising from a decision by a governing body to cancel an existing contract entered into by the governing body for the supply of goods or services.
- 2.21.4 In purchasing, tendering and contracting matters, governing bodies must follow any statutory provision or any EU procurement directives. They will also be expected to comply with the Council's Procurement Code with respect to quotations and tenders (Appendix B) insofar as these are not incompatible with the EU directives or any other provisions in this Scheme. The Council's procedures may be amended from time to time.
- 2.21.5 Schools are not required to use contractors on any of the Council's frameworks but it may be beneficial to do so where this reduces the burden of schools in securing best value and complying with EU procurement requirements.
- 2.21.6 Schools may seek advice on a range of compliant deals via Buying for Schools.

## **2.22 Application of contracts to schools**

- 2.22.1 Although governing bodies are empowered under paragraph 3 of schedule 1 to the School Standards and Framework Act 1998 to enter into contracts, in most cases they do so on behalf of the LA as maintainer of the school and the owner of the funds in the budget share. Governing bodies should thus not enter into contracts that are large (over £60,000 nursery/primary/special/PRU, £100,000 secondary) or long term (over 36 months) without approval by the Council and advice from the Council's Strategic Procurement Team.
- 2.22.2 Schools must refer to the legal department before entering into any operating leases. Schools are not permitted to enter into any finance leases without approval of the Secretary of State. A loan scheme for purchasing capital assets has been set-up as a cost effective alternative to leasing for schools.
- 2.22.3 Other contracts may be made solely on behalf of the governing body, when the governing body has clear statutory obligations such as contracts made by voluntary aided or foundation schools for the employment of staff.
- 2.22.4 Governing bodies are free to choose whether or not to be part of contracts negotiated centrally by the Council. In the event that schools choose to be part of new contracts, governing bodies will be required to sign "Participation and Contribution Agreements". These will vary for each contract but the broad aims of each will be to set out:
  - The period for which schools are being tied into the contract;
  - Responsibilities of all parties e.g. schools, contractor, Islington Council;
  - Methods of payment and/or the basis for charging school budget shares;
  - Termination arrangements.

## **2.23 Additional earmarked funds from central budgets**

- 2.23.1 The LA may make sums available to schools from central funds, in the form of earmarked allocations that are additional to, and separate from, the ISB. Such allocations are

subject to conditions setting out the purposes for which the funds may be used. 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.

- 2.23.2 Such earmarked funding from central funds should be spent only on the purposes for which it is given and should not be incorporated into the ISB for use on general expenditure as determined by the school. Schools may be asked to account for this funding separately and should be able to demonstrate that the requirements for which funding was allocated have been complied with.
- 2.23.3 Examples of earmarked funds include
- Grant funding external to the ISB for which guidance is sent out each year
  - Schools Contingency, see Appendix D
  - LA Initiatives e.g. to support priorities
- 2.23.4 Earmarked funds must be returned to the LA if not spent in year, or within the period over which schools are allowed to use the funding if different.
- 2.23.5 The LA is not permitted to make any deduction in respect of interest costs to the LA, from payments to schools of devolved specific or special grant.

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

- 2.24.1 Governing bodies may spend budget shares for the purposes of the school, subject to the provisions of this Scheme, for example for the repayment of deficit balances.
- 2.24.2 The Secretary of State may prescribe additional purposes for which expenditure of the budget share may occur.
- 2.24.3 As from 1<sup>st</sup> April 2011, by virtue of Section 50(3A), amounts spent by governing bodies on community facilities or services under section 27 of the Education Act 2002 are deemed eligible as being spent for the purposes of the school.
- 2.24.4 In addition, Section 50(3)(b) allows schools to spend their budgets on pupils who are on the roll of other maintained schools or academies

## **2.25 Capital spending from budget shares**

- 2.25.1 Governing bodies may use their budget shares to meet the cost of capital expenditure on the school premises. This is to help meet responsibilities under the 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.
- 2.25.2 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. However, if the expected capital expenditure from the budget share in any one year will exceed £15,000, the governing body must notify the Council and take into account any advice from the Council as to the merits of the proposed expenditure. If the premises are owned by the Council, then the governing body should seek the consent of the Council to the proposed works but such consent can be withheld only on health and safety grounds.
- 2.25.3 Schools may not transfer revenue funding to capital until the works have been completed, nor may they accrue for capital works that are planned.
- 2.25.4 Schools are able to ask the Council to hold Devolved Formula Capital balances for a period of three financial years, in line with the DFE guidance on the use of balances, all requests for the transfer of funding should be made to the Council before the 28th February.
- 2.25.5 These requirements would not affect expenditure from any capital allocation made available by the LA outside the delegated budget share.

## 2.26 Notice of Concern

- 2.26.1 The Council may issue a notice of concern to the governing body of any school it maintains where, in the opinion of the Chief Finance Officer and the Corporate Director of Children's Services, the school has failed to comply with any provisions of the scheme, or where actions need to be taken to safeguard the financial position of the local authority or the school.
- 2.26.2 Such a notice will set out the reasons and evidence for it being made and may place on the governing body restrictions limitations or prohibitions in relation to the management of funds delegated to it. These may include:
- insisting that relevant staff undertake appropriate training to address any identified weaknesses in the financial management of the school;
  - insisting that an appropriately trained/qualified person chairs the finance committee of the governing body;
  - placing more stringent restrictions or conditions on the day to day financial management of a school than the scheme requires for all schools – such as the provision of monthly accounts to the local authority;
  - insisting on regular financial monitoring meetings at the school attended by local authority officers;
  - requiring a governing body to buy into a local authority's financial management systems; and
  - imposing restrictions or limitations on the manner in which a school manages extended school activity funded from within its delegated budget share – for example by requiring a school to submit income projections and/or financial monitoring reports on such activities.
- 2.26.3 The notice will clearly state what these requirements are and the way in which and the time by which such requirements must be complied with in order for the notice to be withdrawn. It will also state the actions that the authority may take where the governing body does not comply with the notice.

### **3. INSTALMENTS OF THE BUDGET SHARE; BANKING ARRANGEMENTS AND CASH ADVANCES**

#### **3.1 Definition of budget share.**

- 3.1.1 For the purposes of this Section, Budget Share includes any place-led funding for special schools or pupil referral units.

#### **3.2 Frequency of instalments**

- 3.2.1 The Council will make a monthly advance into the designated disbursement bank account of each school three working days after the 15<sup>th</sup> of each month.
- 3.2.2 Additionally, a second monthly payment will be made to each school using an external payroll provider.
- 3.2.3 Schools may also ask for additional cash advances provided that the school has not already spent its relevant budget share – i.e. budgets not paid centrally for the year and including Pupil Premium, devolved formula capital and any grant or other income advised to schools through the Statement of Income
- 3.2.4 Each school's monthly advance will be an estimate of the expenditure to be incurred from its bank account during the year based on size of budget share and other central income, operating requirements and regular central monitoring of each school's cash balances.
- 3.2.5 Schools will be able to change the monthly cash advance if supporting reasons are provided.

#### **3.3 Interest scheme**

- 3.3.1 The Council operates an interest scheme for those schools that use the Council's bankers (currently Barclays Bank).

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

- 3.4.1 The Council will adjust the budget shares and instalments for closing schools to take account of the date of closure. Instalments will be made net of estimated central expenditure. Closing schools will be notified in advance of the financial year of the basis for calculating the budget share and the cash instalments to be paid.

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

- 3.5.1 Schools currently use the Council's bankers and receive the benefits of being a sub-account under the overall Council account. They receive an interest payment from the Council. Regulations state that governing bodies will be allowed to hold external bank accounts of their choice in respect of the management of their school's budget share and earn interest on the balances in these bank accounts. In such circumstances the school and the Council will agree an amount of the estimated surplus balance held by the Council in respect of the schools' budget share, on the basis that there is then a subsequent correction when accounts for the relevant year are closed.

#### **3.6 Restrictions on accounts**

- 3.6.1 All bank accounts should be set up in consultation with the Council's Chief Finance Officer where the approved list will be in line with the LA's treasury management policy. The Chief Finance Officer would only veto the use of a particular institution on the grounds of its financial probity. The Council does not wish to limit the choice of institutions where schools can hold their bank accounts except where the financial probity of an institution is in question.
- 3.6.2 The account must be operated in accordance with the school's Financial Regulations and Scheme of Delegation, which should set out signatories, signatory limits, controls on the use of purchase cards and BACS payments and on the use of on-line banking and the integrity of passwords and PINs.

- 3.6.3 School accounts for budget share purposes can be in the name of the school rather than the Council. School accounts with the Council's bankers will be in the name of Islington Council but specific to each school. Money paid by the Council for budget share purposes and held in an external bank account remains Council property until spent (s.49(5) of the 1998 Act).

### **3.7 Borrowing by schools**

- 3.7.1 Governing bodies are not permitted to borrow money, including the use of finance leases, without the consent of the Secretary of State. Requests to the Secretary of State should be submitted by the Council's Corporate Director Resources. This does not apply to Trustees and Foundations, whose borrowing, as private bodies, makes no impact on Government accounts. These debts may not be serviced directly from the delegated budgets, but schools are free to agree a charge for a service which the Trustees or Foundation are able to provide as a consequence of their own borrowing. Governing bodies do not act as agents of the Council when repaying loans.
- 3.7.2 The use of credit cards and the existence of overdrafts is prohibited. However, the use of procurement/purchase cards is permitted, as these cards can be a useful means of facilitating electronic purchase, following Governing Body approval and providing the school has an appropriate purchase card policy and procedure in place.
- 3.7.3 Schools will be required to seek approval prior to entering into leasing agreements that would affect the Council's credit cover. Schools will receive guidance on leasing to enable them to comply with this requirement. A loan scheme for purchasing capital assets has been set-up as a cost effective alternative to leasing for schools.
- 3.7.4 Borrowing includes the use of finance leases and is not allowed.
- 3.7.5 Schools are permitted to use any scheme that the Secretary of State has said is available to schools without specific approval.

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

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

- 4.1.1 Schools are allowed to carry forward from one financial year to the next any shortfall in expenditure relative to the school's budget share for the year plus/minus any balance brought forward from the previous year.
- 4.1.2 A school's surplus balance at 1 April is equal to that at the preceding 31 March.

### **4.2 Reporting on and control of the use of surplus balances**

4.2.1 Surplus balances held by schools as permitted under this scheme are subject to the following restrictions:

- a) the Authority shall calculate by 31 May each year the surplus balance, if any, held by each school as at the preceding 31 March. For this purpose, the balance will be the recurrent balance as defined in the Consistent Financial Reporting Framework;
- b) the Authority shall deduct from the calculated balance any amounts for which the school has a prior year commitment to pay from the surplus balance;
- c) the Authority shall then deduct from the resulting sum any amounts which the governing body of the school has declared to be assigned for specific purposes permitted by the authority, and which the authority is satisfied are properly assigned. To count as properly assigned, amounts must not be retained beyond the period stipulated for the purpose in question, without the consent of the Authority. In considering whether any sums are properly assigned the Authority may also take into account any previously declared assignment of such sums but may not take any change in planned assignments to be the sole reason for considering that a sum is not properly assigned.
- d) if the result of steps a-c is a sum greater than 10% of the current year's budget share then the Authority shall seek the reasons for this amount and may deduct from the current year's budget share an amount equal to the excess.
- e) Funds deriving from sources other than the Authority will be taken into account in this calculation if paid into the budget share account of the school, whether under provisions in this scheme or otherwise.
- f) Funds held in relation to a school's exercise of powers under s.27 of the Education Act 2002 (community facilities) will not be taken into account unless added to the budget share surplus by the school as permitted by the Authority.

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

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

- 4.3.1 Schools which use the Council's bankers and leave their balances with the Council will be paid interest on their surplus balances on 31 March of the previous financial year at a fixed rate in accordance with the terms of the scheme.

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

- 4.4.1 If a school has a deficit balance this will be deducted from the following year's budget share.
- 4.4.2 A school's deficit balance at 1 April of a new financial year is equal to that at 31 March of the previous financial year.

## 4.5 Licensed Deficits.

- 4.5.1 A governing body setting its annual budget is expected to do so within the resources available to its school for that year, taking account of any surplus or deficit balances brought forward.
- 4.5.2 Schools must submit a recovery plan to the LA when their revenue balance projects a deficit when measured against the preceding March year-end balance. A governing body must apply for a Licensed Deficit Agreement (LDA) that allows for the setting of a deficit budget for an agreed period not exceeding three years. In cases where a governing body considers a deficit unavoidable the Chair of Governors must make a formal application in writing to the Corporate Director of Children's Services and Chief Finance Officer.
- 4.5.3 The formal application must set out the reasons why the budget could not be balanced and the expected annual deficits over the life of the requested LDA (not to exceed three years). The application must be accompanied by a detailed action plan showing how the school will bring its annual budget back into balance and eliminate any accumulated deficits.
- 4.5.4 When the deficit is reported as part of the annual budget setting process the application should be made by 31 May. When the deficit becomes apparent as a result of the budget monitoring process the application should be made as soon as possible after the governing body has assessed the accuracy of the projection and satisfied itself of the school's inability to find in-year compensating savings.
- 4.5.5 The Corporate Director of Children's Services in consultation with the Chief Finance Officer will consider the application taking the following into account:
- i. The materiality of the expected deficit. Materiality will be determined by the LA taking account of the size of the school's budget. If the deficit is considered immaterial the governing body will be required to reconsider their budget plans to achieve a balanced position. The LA may also impose a maximum allowed deficit. In most circumstances a LDA will be limited to 20% of the budget share or £500k, whichever is the lower.
  - ii. The purpose of the LDA requested. This would normally be to smooth the implementation of the action plan to prevent undue disturbance to the education provided at the school. It may also be to allow the school to accommodate the severance costs arising from staffing restructures.
  - iii. The robustness of the action plan and the capability of the governing body and school staff to deliver the plan.
  - iv. The impact on the education of the pupils at the school if an LDA is not agreed.
  - v. Whether there are more appropriate avenues of support, such as the Contingency for Schools in Financial Difficulty.
  - vi. The cause of the deficit. Applications will be more favourably viewed if the deficit is due to:
    - Factors outside the governing body's control, such as an unforeseen reduction in pupil numbers.
    - The governing body's plans to restructure the budget resulting in unacceptable turbulence if implemented in one year.
    - A new senior management team inheriting an unsustainable budget position.
- 4.5.6 If the LDA application is agreed, it will be signed by the Corporate Director of Children's Services and the Chief Finance Officer for the LA and by the Chair of Governors and head teacher for the school. It will set out the following.
- i. The length of the LDA, this can be for a maximum of three years. A LDA in respect of an unforeseen year-end deficit will not normally exceed a year.
  - ii. The agreed maximum deficit at each year-end.
  - iii. The action plan for bringing the budget back into balance, including the elimination of prior-year deficits.

- iv. The additional monitoring and support arrangements required by the Chief Finance Officer. This may require an additional charge to the school.
  - v. The action to be taken if the terms of the LDA are not complied with. This can include the removal of delegated budgets for serious breaches.
  - vi. The right to charge interest on deficits at the Bank of England Base Rate plus 1%.
- 4.5.7 The existence of a LDA does not automatically confer a right to additional cash payments. Any cash advances will be dealt with as part of the LAs financial administration procedures.
- 4.5.8 Licensed deficits are backed by the accumulated level of surpluses of all Islington's maintained schools, including balances held in school bank accounts. The total of agreed deficits may not exceed 30% of this accumulated surplus.
- 4.5.9 Loans are not available in the context of LDAs as regulations state that loans must only be used to assist schools in spreading the cost over more than one year of large one-off individual items of a capital nature that have a benefit to the school lasting more than one financial or academic year. Loans must not be used as a means of funding a deficit that has arisen because a school's recurrent costs exceed its current income. If loans are made to fund a deficit, 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.

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

- 4.6.1 The legal position is that no Council is permitted to write off the deficit balance of any school. Assistance towards elimination of a deficit balance may be available through the allocation of a cash sum, from the authority's school budget. Such funds are determined annually by the Schools Forum through de-delegation from mainstream maintained schools, or, from a centrally held budget specified for the purpose of expenditure on special schools and pupil referral units.

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

- 4.7.1 When a school closes any balance, whether surplus or deficit, reverts to the Council. Where in the funding period, a school has been established or is subject to a prescribed alteration as a result of the closure of a school, the Council may add an amount to the budget share of the new or enlarged school to reflect all or part of the unspent budget share (including any surplus carried over from previous funding periods) of the closing school for the funding period in which it closes.



## **5. INCOME**

### **5.1 Income from lettings**

#### **Community Use**

- 5.1.1 Governing bodies have control of the use of school premises out of school hours' subject to any directions issued by the Council.
- 5.1.2 The Council considers it important that school premises continue to be available for community use. The cost of community use of schools is not included in the Local Schools Budget.

#### **Private Lettings**

- 5.1.3 Schools are encouraged to let their premises privately as a source of income. Private letting should not displace agreed community lettings but could take place alongside if appropriate.
- 5.1.4 In organising private lettings, schools must have regard for the licensing and other laws governing the premises, ensure that the group using the school has taken out appropriate insurance, and that the guidelines for charging VAT (issued to schools) are followed.
- 5.1.5 The school may incur financial penalties if the above principles are not followed for which the schools budget share will be charged.
- 5.1.6 Schools must pay any income from private lettings into their disbursement account.
- 5.1.7 These provisions do not affect lettings of school premises not owned by the LA.

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

- 5.2.1 Schools may retain income from fees and charges except where a service is provided by the Council from centrally retained funds. However, schools are required to have regard to the Council's Charging Policy for Schools that sets out items for which the school is not permitted to charge and recommendations on charging for other items.

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

- 5.3.1 Schools are allowed to retain income from fund-raising activities.

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

- 5.4.1 Schools will be allowed to retain the proceeds of sale of assets except in cases where the asset was purchased with non-delegated funds (in which case it will be for the Council 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 Council.

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

- 5.5.1 The governing body is responsible for approving and the head teacher for implementing procedures for the collection of income. The procedures must take into account the requirements of the Council's Chief Financial Officer including the maintenance of a clear audit trail between income due, income collected and income banked. As a minimum the procedures must cover the following:
  - i. The arrangements for the collection, custody, control, disposal and prompt accounting for all cash and remittances received in the school.
  - ii. Separation of the responsibility for identifying sums due to the school from the responsibility for collecting and banking such sums;
  - iii. Where invoices are required they must be issued promptly;
  - iv. The issuing of official, pre-numbered, receipts or the maintenance of other formal documentation for all income collected;
  - v. Transfers of money between staff must be signed for;

- vi. Receipts, tickets and other records of income must be securely retained;
- vii. Cash and cheques must be locked away to safeguard against loss or theft;
- viii. All income collections (including donations), in their entirety must be paid promptly into the School Budget Share Account;
- ix. Income collections must not be used for the encashment of personal cheques or for other payments;
- x. Sums collected must be reconciled to the sums deposited at the bank;
- xi. HMRC regulations on VAT must be applied where relevant.
- xii. An effective debt recovery procedure for any arrears, including the use of aged debt analysis.

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

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

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

### **6.1 General provision**

- 6.1.1 The budget share of a school will be charged by the Council without the consent of the governing body only in circumstances listed in 6.2 below. The Council will consult schools as to the intention to so charge, and notify schools when it has been done.
- 6.1.2 Where schools have signed a service agreement with the Council they will be given the opportunity not to authorise payments where they consider that the charge is not justified e.g. where they have not received an adequate level of service or there is a dispute as to whether the service was provided. If no agreement between the parties can be reached the dispute will be arbitrated through an agreed dispute resolution procedure.
- 6.1.3 Local authorities may de-delegate funding for permitted services without the express permission of the governing body, provided this has been approved by the appropriate phase representatives of the Schools Forum.

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

- 6.2.1 In the case of schools using payroll services secured by the Council, the salaries of school-based staff will be charged at actual costs. In the case of schools not using the Council's payroll service, tax, national insurance, superannuation and any other payments the Council are required to make on behalf of these schools, will be charged to the school's budget share at actual cost.
- 6.2.2 Where premature retirement costs have been incurred without the prior written agreement of the Council to bear such costs (the amount chargeable being only the excess over any amount agreed by the Council);
- 6.2.3 Other expenditure incurred to secure resignations where there is good reason to charge this to the school;
- 6.2.4 Awards by courts and employment tribunals against the Council (or out of court settlements) arising from action or inaction by the governing body contrary to advice from the Council;
- 6.2.5 Expenditure by the Council in carrying out health and safety work or capital expenditure for which the Council 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;
- 6.2.6 Expenditure incurred by the Council in making good defects in building work funded by capital spending from budget shares, where the premises are owned by the Council, or the school has voluntary controlled status.
- 6.2.7 Expenditure incurred by the Council 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 Council;
- 6.2.8 Charges commensurate with the work involved, where the Council has to undertake additional work in order to rectify or update its records as a result of a failure or omission on the part of a school to provide any of the regular or ad-hoc payroll information required in paragraph 2.4.2 above;
- 6.2.9 Recovery of monies due from a school for services provided by the Council to the school, where a dispute over the monies due has been referred to a disputes procedure set out in a service level agreement and the result is that monies are owed by the school to the authority.
- 6.2.10 Cost of work done in respect of teacher pension remittance and records for schools using non-Council payroll, the charge to be the minimum needed to meet the cost of compliance with statutory obligations;
- 6.2.11 Charges or surcharges made by the, the Contributions Agency, HM Revenue and Customs, Teachers' Pensions, the Environment Agency or other regulatory authorities as a result of school negligence or any other Government body for a failure to provide accurate payroll data or to make correct payroll contributions in the case of PAYE income tax, National Insurance contributions or other statutory payment/deductions, when the

cause of the charge or surcharge is as a direct result of the school or its payroll contractor failing to meet any of the requirements specified in paragraph 2.4.2 above.

- 6.2.12 Recovery of penalties imposed on the Council by the, the Contributions Agency, HM Revenues and Customs, Teachers Pensions or other regulatory authorities as a result of school negligence.
- 6.2.13 Additional transport costs incurred by the Council arising from decisions by the governing body on the length of the school day, and failure to notify the Council of non-pupil days resulting in unnecessary transport costs.
- 6.2.14 Legal costs which the Council incurs because the governing body did not accept their advice.
- 6.2.15 Costs of necessary health and safety training for staff employed by the Council, where funding for training had been delegated but the necessary training not carried out.
- 6.2.16 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.
- 6.2.17 Costs incurred by the Council in securing provision required by an education, health and care (EHC) plan where the governing body of a school fails to secure such provision despite the delegation of funds in respect of that statement. This includes SEN equipment where if schools do not purchase relevant equipment the school could be charged.
- 6.2.18 Costs incurred by the Council due to submission by the school of incorrect data;
- 6.2.19 Recovery of amounts spent from specific grants on ineligible purposes;
- 6.2.20 Costs incurred by the Council or another school as a result of a school withdrawing from a cluster arrangement, for example where this has funded staff providing services across the cluster.
- 6.2.21 Costs incurred by the Council as a result of the governing body being in breach of the terms of a contract.

### **6.3 Building Schools for the Future (BSF) programme and Governing Bodies**

- 6.3.1 The Governing Bodies of schools that are part of the BSF programme enter into a Governing Body Agreement (GBA) when the decision is made for a school to be part of the BSF programme.
- 6.3.2 The GBA requires schools to provide funding to the Council towards the unitary payment. The unitary payments cover utility payments, insurance (if PFI), and hard and soft facilities management (FM) costs. (Non-PFI schools may retain responsibility for hard FM services.)
- 6.3.3 Schools contributions are index linked and based upon pupil numbers and previous funding for premises – indexed at 2012 prices. Schools have agreed to transfer to the Local Education Partnership (LEP) their Premises budgets including the premises elements deemed to be included within the AWPU. Schools will be notified of the amounts payable as part of the school budget information. Delegated BSF funding will be recovered from BSF schools at the start of the financial year.
- 6.3.4 Devolved Formula Capital (DFC) is allocated on a national formula. Schools in BSF retain the percentage set out in the Governing Body Agreements the remainder being contributed to the unitary charge fund.

## **7. TAXATION**

### **7.1 Value Added Tax**

- 7.1.1 HM Revenues and Customs have agreed that VAT incurred by schools when spending any funding made available by the LA is treated as being incurred by the LA and qualifies for reclaim by the LA. This does not include expenditure by the governors of a voluntary aided school when carrying out their statutory responsibilities to maintain the external fabric of their buildings nor capital works at Foundation Schools funded directly by the DfE.
- 7.1.2 Schools may reclaim VAT on expenditure on non-business related activities made from their disbursement account. The VAT reclaim is made as part of the quarterly disbursement account summary (DAS) return from the school to the Council. Schools will be given a credit on the Council's general ledger (CEDAR) for the VAT claimed on expenditure, less any VAT to be paid over on income collected by the school. The VAT will normally be credited on CEDAR within a month of a correct DAS return being received from the school.
- 7.1.3 In reclaiming VAT, governing bodies have responsibility for ensuring that all financial arrangements are carried out in accordance with statutory requirements and guidance from the relevant Government Department/statutory body.
- 7.1.4 Guidelines on VAT will be issued by the Council and updated as necessary.

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

- 7.2.1 Schools must abide by procedures issued by the Council in connection with CITS.

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

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

- 8.1.1 The Council will determine the basis on which services from centrally retained funds will be provided to schools. It will not discriminate in its provision of services on the basis of categories of schools except where this is permitted under the School and Early Years Finance Regulations or the Dedicated Schools Grant conditions of grant. Services in this context encompass premature retirement costs and redundancy costs.
- 8.1.2 When 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 will be offered at prices that are intended to generate income that is no less than the cost of providing those services. The regulations imply that the total cost of the service must be met by the total income, even if schools are charged differentially.

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

- 8.2.1 The Council offers schools a number of service agreements or Service Level Agreements/ Annual Service Packages (SLAs/ ASPs). The agreements are for varying periods, not exceeding three years (or five years with subsequent extensions). An exception is contracts for the supply of catering services where the limits are five and seven years. Schools are required to give 3 months' written notice unless otherwise specified in the agreement if they wish to terminate the agreement.
- 8.2.2 Service agreements will be deemed to be continuing unless the school has given notice to terminate the agreement. Details of charges and services available to schools will be issued to schools at least one month before the beginning of the financial year and schools will be able to opt out of agreements where prices have risen more than inflation.
- 8.2.3 Some services are offered on an ad-hoc basis. Schools buy these services as and when they require them, although, depending on the nature of the service and whether staff are specially employed to provide it, a minimum period of notice may be specified in the agreement for its termination.
- 8.2.4 Central funded premises and liability insurance are excluded from the above and from the provision in section 8.4.3.

### **8.3 Packaging**

- 8.3.1 Each service agreement offered is self-contained. To subscribe to one agreement, there is no obligation to purchase other service agreements or SLAs. However, the Council may offer discounts to schools that subscribe to a package of services.

### **8.4 Service level agreements/Annual Service Packages**

- 8.4.1 If services or facilities are provided under a service 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.
- 8.4.2 Services will be available on a basis that is not related to an extended agreement.
- 8.4.3 Centrally arranged premises and liability insurance are specifically excluded from these requirements as to service supply, as the limitations envisaged may be impracticable for insurance purposes

### **8.5 Teachers' Pensions**

- 8.5.1 In order to ensure that the performance of the duty on the authority to supply Teachers Pensions with information under the Teachers' Pensions 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.

- 8.5.2 The conditions only apply to governing bodies of maintained schools that have not entered into an arrangement with the authority to provide payroll services.
- 8.5.3 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.
- 8.5.4 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.
- 8.5.5 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.

## **9. PRIVATE FINANCE INITIATIVE (PFI)**

### **9.1 Power to issue regulations.**

- 9.1.1 The Authority has the power to issue regulations from time to time relating to PFI projects. Amongst other issues these may deal with the reaching of agreements with the Governing Body of a school as to the basis of charges relating to any such schemes; and the treatment of monies withheld from contractors due to poor performance.

### **9.2 Charging school budget shares.**

- 9.2.1 The Authority may charge to a school's budget share amounts agreed under a PFI agreement entered into by the Governing Body. Where funding is delegated through a school's budget share the funds distributed in this way will be repayable to the Authority.



## 10. INSURANCE

### 10.1 Insurance cover

- 10.1.1 The Council has delegated the resources for insurance to schools and as such governing bodies are required to demonstrate that
- school premises and contents are covered adequately against loss; and that
  - the potential liability of governors towards staff or third parties for any negligence in the exercise of their responsibilities as governors is adequately covered.
- 10.1.2 Governing bodies can choose to buy into this cover through the Council's Insurance SLA or from outside the Council. However, governing bodies must be able to demonstrate to the Council's Chief Finance Officer, through the Insurance Section, that their proposal provides adequate cover, as good as the Council's insurance arrangements, and that the insurance company is financially sound. The evidence required to demonstrate the parity of cover will be determined by the Insurance Section and will be reasonable, not place an undue burden upon the school, nor act as a barrier to the school exercising their choice of supplier. The Council will have regard to the actual risks that might reasonably be expected to arise at the school in question in operating such a requirement, rather than applying an arbitrary minimum level of cover for all schools.
- 10.1.3 Schools that are part of the Building Schools for the Future (BSF) scheme who were rebuilt under a PFI scheme (not design and build) are insured via the Local Education Partnership (LEP).
- 10.1.4 The governing body must inform the Insurance Section by 31 October preceding the beginning of the financial year if it does not wish to take advantage of the Council's insurance policies.
- 10.1.5 The Insurance Section shall keep a register of all insurances and the properties of risks covered thereby, and shall periodically provide the head teacher with particulars of cover in force affecting the school.
- 10.1.6 The governing body shall notify the Insurance Section immediately of all matters arising in the school which may give rise to insurance risks such as:
- the acquisition of major items of property, equipment, vehicles etc; and
  - work involving a special hazard either physically or legally.
- 10.1.7 The governing body shall keep under review the insurances for the school in order to ensure that all risks for which insurances should be affected are adequately covered. Particulars of any deficiencies in cover should be notified to the Insurance Section.
- 10.1.8 The governing body may arrange cover additional to that made by the Council's Insurance Section having due regard to the risks and cost of insurance premiums. If the annual cost of additional insurance premiums exceeds £500 in any year a report shall be submitted to the Insurance Section.
- 10.1.9 The benefit of discounts on insurance premiums shall accrue to the Council. Individual employees shall not be permitted to enter into arrangements whereby discounts accrue to a Council employee or other individual person.
- 10.1.10 The governing body shall notify the Council's Insurance Section immediately of:-
- any loss to the school/Council;
  - any claim against the school/Council;
  - any event which might give rise to a claim for or against the school/Council;
  - any possible or proposed prosecution by the police of any person(s) accused of causing any loss or damage to school/Council property;
  - any loss or injury to a governor, school/Council employee or pupil;
  - any claim against a governor, school/Council employee or pupil;
  - any event which might give rise to a claim against a governor, school/Council employee or pupil;
- 10.1.11 In all cases where schools have arranged their own insurance cover from their budget

shares they shall negotiate settlement of claims, but should seek the advice of the Insurance Section.

- 10.1.12 The governing body shall keep records to ensure that inspections of engineering plant and other equipment at the school are carried out as prescribed by various Factory Acts and Safety regulations. In the event of failure to carry out an inspection within the prescribed period the head teacher should notify the Insurance Section immediately.
- 10.1.13 No school employee must give an indemnity unless its terms have first been approved by the Council's Legal Department and the Council's insurers have been notified.
- 10.1.14 An alternative to taking out insurance with another provider, a school may join the Secretary of State's risk protection arrangement (RPA) for risks that are covered by the RPA. Schools may do this individually when any insurance contract of which they are in expires or, where all primary and/or secondary schools join the RPA collectively, then the phase representatives on the Schools Forum may agree to de-delegate funding.

## **11. MISCELLANEOUS**

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

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

### **11.2 Liability of governors**

- 11.2.1 The governing body is a corporate body, as such, of the terms of s.50 (7) of the SSAF Act, governors of maintained schools will not incur personal liability in the exercise of their power to spend the delegated budget share provided they act in good faith.

### **11.3 Governors' expenses**

- 11.3.1 The Authority has the right to delegate to the governing body of a school yet to receive a delegated budget funds to meet governors' expenses. The amounts of the allowances to be paid would be set by the Council.
- 11.3.2 Under section 50(5) of the Act, only allowances in respect of purposes specified in regulations may be paid to governors from a school's delegated budget share. Payment of any other allowances is forbidden. Schools are not allowed to pay expenses duplicating those paid by the Secretary of State to additional governors appointed by them to schools under special measures.

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

- 11.4.1 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 Council.
- 11.4.2 A school cannot expect to be reimbursed with the cost of legal action against the LA itself (although there is nothing to stop the authority making such reimbursement if it believes this to be desirable or necessary in the circumstances).
- 11.4.3 The costs referred to above are those awarded in legal actions, not the cost of legal advice provided.

All schools have delegated funding to purchase the Legal Services SLA, if they choose to. Schools not buying the service will be charged on an hourly rate basis for any advice they request. If there is a conflict of interest between the school and the Council, the school may obtain legal advice from Islington's Legal Services and will be advised by Legal Services if it is necessary for them to seek independent advice, in which case the costs (action and advice) will fall to be met in its entirety by the governing body.

### **11.5 Health and Safety**

- 11.5.1 Governing bodies should have due regard to duties placed on the LA in relation to health and safety, and the Council's policy on health and safety matters in the expending of the budget share.

### **11.6 Right of attendance for the Corporate Director, People Directorate**

- 11.6.1 Governing bodies must permit the Corporate Director, People Directorate, or his/her representative, to attend any meeting of the governing body or its committees and working parties if it is necessary to do so.

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

- 11.7.1 Governing bodies must permit the Council's Chief Finance Officer (or their representative) to attend meetings of the governing body at which any agenda items are

relevant to the exercise of their responsibilities. This will normally be limited to issues of probity or overall financial management. The LA will give prior notice of such attendance unless this is impracticable to do so.

## **11.8 Delegation to New Schools**

- 11.8.1 The Council has the right to delegate selectively and optionally to the governing bodies of new schools that have yet to receive delegated budgets. The Council will decide whether and to what extent to exercise this power on a case-by-case basis.

## **11.9 Child Protection**

- 11.9.1 Schools will be expected to release staff to attend child protection case conferences and other related events. No additional payments will be made to schools to meet costs arising from this since they are deemed to be covered by the Additional Educational Needs sub-formulae in the funding allocated to schools via their budget shares.

## **11.10 School Meals**

- 11.10.1 The Council has appointed a third party to deliver meals in schools. Primary and Special Schools that buy into the third party contract, pay back into an equalisation scheme and are then charged for the paid meals at the start of the year, net of income relating to non-eligible free school meal pupils. Pupils are deemed to be required to pay for a meal if the parent is ineligible for free school meals and not permitted to have a free school meal either as part of the national Universal Infants Free School Meal (UIFSM) or as part of Islington Council's policy of offering free meals to all children in Nursery or Primary schools (UFSM). In order to be permitted to have a free meal all parents must register with the Council. Governing bodies will be required to have regard to the policy document in discharging their duties in relation to school meals.
- 11.10.2 Primary and Special Schools that run their own catering will not be required to hand back their catering budgets. The schools will then be reimbursed for meals provided to children who receive a meal under the LBI UFSM scheme or receive grant income under the UIFSM scheme. An audit of all schools and the data provided will be required
- 11.10.3 Secondary schools that buy into the third party contract will not be required to contribute to the pooled budget and will be charged for any free meals supplied to students and staff. Charges for student meals will include an allowance for contract management overheads.
- 11.10.4 Termination costs will only be met by centrally retained budgets if the following criteria are met as appropriate: that there has been full consultation on redundancy with staff, trade unions and the governing body; that the Council has been fully informed of the process from the outset and is satisfied that the termination meets legal requirements; where the school is making redundancies resulting from the school having a deficit budget and or is deemed to be in an OFSTED category and requiring restructuring; that the amount of funding from centrally retained budgets is available. All redundancies will need to be signed off by the Council's Chief Finance Officer and approved by the Council's Heads of HR and Finance (see also Section 13).

## **11.11 Special Educational Needs**

- 11.11.1 Governing bodies are required to use their best endeavours, in spending their budget share, to secure the special educational needs of their pupils. Although this is a statutory requirement, if there is a situation that is serious enough to warrant it, (and would not normally relate to an individual pupil) the Local Authority may suspend delegation.

## **11.12 Business Continuity Plans**

- 11.12.1 Governing bodies should ensure that plans are in place to ensure the continuity of key activities.

## **12. RESPONSIBILITY FOR REPAIRS AND MAINTENANCE**

### **12.1 Distinction between capital and revenue expenditure**

- 12.1.1 For the purpose of determining whether the LA or schools are responsible for funding capital or repair work the Council follows the DfE's interpretation of the CIPFA code of practice.
- 12.1.2 It is worth noting that some funding for capital work is directly allocated to voluntary aided schools by the DfE and to all schools via the Devolved Formula Capital allocation. Furthermore, the Council sometimes devolves to schools the responsibility for spending capital funds made available by the Council.

### **12.2 LA responsibilities**

- 12.2.1 Regulations require that only capital expenditure be retained by LAs. For these purposes, expenditure may be treated as capital only if it fits the definition of capital used by Islington Council for financial accounting purposes in line with the CIPFA Code of Practice on local authority accounting.
- 12.2.2 The de minimus limit for Islington is £10,000. This means that expenditure that is less than £10,000 should not be treated as capital.

### **12.3 Responsibility of Governing Bodies**

- 12.3.1 Funding for revenue repairs has been delegated to governing bodies and they are responsible for undertaking all such repairs.
- 12.3.2 Funding for repairs and maintenance of kitchens and kitchen equipment has been delegated to all schools.

### **12.4 Local Authority Expectations**

- 12.4.1 Schools are expected to use their Devolved Formula Capital (DFC) allocations to undertake capital improvement projects and where appropriate, contribute their DFC to Council funded and managed improvement projects at their school.

## **13. RESPONSIBILITY FOR REDUNDANCY AND EARLY RETIREMENT COSTS**

### **13.1 Legal Position**

- 13.1.1 The position relating to the charging of voluntary early retirement and redundancy costs is based on the Education Act 2002. Section 37 of the 2002 Education Act states:

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

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

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

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

### **13.2 The Charging of dismissal/resignation costs to the delegated school budget**

Will apply:

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

### **13.3 The Charging of premature retirement costs to the local authority non-schools budget**

Will apply:

- Where a school has a long-term reduction in pupil numbers and charging such costs to their budget would impact on standards

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

#### **13.4 Charging of the Costs of New Early Retirements or Redundancies to the Central School Services Block**

- 13.4.1 Costs of early retirements or redundancies may only be charged to the Central Schools Services Block of the Schools Budget, as a historic commitment, where the expenditure is to be incurred as a result of decisions made before 1st April 2013. Costs may not exceed the amount budgeted in the previous financial year and must relate to specific costs and cannot be a general provision.
- 13.4.2 An example of where a charge to the central Schools Budget might be appropriate would be a school reorganisation where the decision was taken prior to April 2013. A reorganisation involving the closure of a number of schools would be likely to result in savings in the lump sum and business rate factors. If the savings in the formula exceeded the on-going costs of the redundancy, then this would qualify.

#### **13.5 Central Budgets Supporting Redundancy Costs.**

- 13.5.1 Until March 2017 the Education Services Grant (ESG) provided funding for local authority liabilities in respect of redundancy and early retirement costs not covered by the Dedicated Schools Grant allowed in Section 13.4. The ESG ceased in April 2017 but the Council is allowed to seek School Forum's permission to de-delegate funding from maintained schools to continue to fund former ESG services.
- 13.5.2 Primary and secondary school representatives on Islington's Schools Forum are asked annually to approve, by phase, any de-delegation of contingencies to support individual schools. Any centrally held contingency would only be accessed where "a governing body has incurred expenditure which it would be unreasonable to expect them to meet from the school's budget share". The de-delegation and therefore access to contingencies only applies to mainstream maintained schools in a phase that has agreed de-delegation.
- 13.5.3 The criteria for accessing school contingencies is set out in Appendix D.

#### **13.6 Community Use Facilities**

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

*(7) Where a local education authority incur costs—*  
*(a) in respect of any premature retirement of any member of the staff of a maintained school who is employed for community purposes, or*  
*(b) in respect of the dismissal, or for the purpose of securing the resignation, of any member of staff of a maintained school who is employed for those purposes.,*  
*they shall recover those costs from the governing body except in so far as the*

*authority agree with the governing body in writing (whether before or after the retirement, dismissal or resignation occurs) that they shall not be so recoverable.*

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

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

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



## **14. APPLICATION OF SCHEMES FOR FINANCING SCHOOLS TO THE COMMUNITY FACILITIES POWER**

### **14.1 Application of schemes for financing schools to the community facilities power**

- 14.1.1 Schools, which choose to exercise the power conferred by s.27 (1) of the Education Act 2002 to provide community facilities will be subject to a range of controls. Regulations made under s.28 (2), if made, can specify activities, which may not be undertaken at all under the main enabling power. The Secretary of State issues guidance to governing bodies about a range of issues connected with the exercise of the power, and a school must have regard to that.
- 14.1.2 It is no longer necessary for a school to consult the local authority nor have regard to its advice before establishing community facilities; however, as public bodies, schools are expected to act reasonably, and this includes consulting those affected by its decisions.
- 14.1.3 Under s. 28(1), the main limitations and restrictions on the power will be:
- those contained in schools' own instruments of government, if any; and
  - in the maintaining LA's scheme for financing schools made under section 48 of the School Standards and Framework Act 1998. Paragraph 2 of Schedule 3 to the Education Act 2002 extends the coverage of schemes to the powers of governing bodies to provide community facilities.
- 14.1.4 Schools are therefore subject to prohibitions, restrictions and limitations in the scheme for financing schools.
- 14.1.5 This section of the scheme does not extend to joint-use agreements; transfer of control agreements, or agreements between Islington and schools to secure the provision of adult and community learning.

### **14.2 School's budget share**

- 14.2.1 The budget share of a school may be used to fund community facilities – either start-up costs or for on-going expenditure - or to meet deficits arising from such activities.

### **14.3 Mismanagement of community facilities funds**

- 14.3.1 The mismanagement of community facilities funds can be grounds for suspension of the right to a delegated budget.

### **14.4 Funding Agreements with Third Parties – LA Powers**

- 14.4.1 The provision of community facilities in many schools may be dependent on the conclusion of a funding agreement with a third party, which will either be supplying funding or supplying funding and taking part in the provision. A very wide range of bodies and organisations are potentially involved.
- 14.4.2 The Council's requirement in relation to funding agreements with third parties (as opposed to funding agreements with Islington itself) are that any such proposed agreement should be submitted to Islington for its comments, giving the Council at least 6 weeks to allow adequate time to consider and respond.
- 14.4.3 There is no right of veto for the Council on such agreements, either directly or through requiring a right to countersign the agreement. If the third party requires Council consent to the agreement for it to proceed, such a requirement and the method by which Council consent is to be signified is a matter for that third party, not for the scheme.

### **14.5 Agreements seriously prejudicial to the interests of the school or Islington**

- 14.5.1 Schools should be aware that, if an agreement has been or is to be concluded against the wishes of the Council, or has been concluded without informing the Council, which in the view of the Council is seriously prejudicial to the interests of the school or the Council,

that may constitute grounds for suspension of the right to a delegated budget.

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

### **A) Constraints on the exercise of the community facilities power**

- 14.6.1 Section 28 provides that the exercise of the community facilities power is subject to prohibitions, restrictions and limitations in the scheme for financing schools.
- 14.6.2 The Council may, if it wishes, propose other scheme provisions that it believes to be necessary for inclusion within this section. This option will be kept under review and, where the Council feels additional provisions are required to safeguard the financial position of Islington or school, or to protect pupil welfare or education, it will seek to amend the Scheme, following consultation with schools and the Schools Forum.

### **B) Property considerations**

- 14.6.3 In considering any proposals for the provision of community facilities, the Council will need to be satisfied regarding the use or change of use of buildings, access, fire and other safety aspects, restrictions on use (where covenants on use bar certain activities or limit the use of the building to educational use), provision of additional accommodation by third parties and the maintenance responsibilities and liabilities.

### **C) Projects with significant financial risk**

- 14.6.4 The scheme may not give a right of veto either to funding agreements with third parties, or for other proposed uses of the community facilities power. The Council may, however, require that in a specific instance of use of the community facilities power by a governing body, the governing body concerned shall make arrangements to protect the financial interests of the Council by either carrying out the activity concerned through the vehicle of a limited company formed for the purpose, or by obtaining indemnity insurance for risks associated with the project in question, as specified by the Council.
- 14.6.5 The Council is required to operate this provision in a reasonable fashion, imposing such a requirement only where it has good reason to believe that the proposed project carries significant financial risks.

## **14.7 Supply of Financial Information**

### **A) Financial statements**

- 14.7.1 Schools, which exercise the community facilities power, are required to provide the Council every six months, from the commencement date of the project, with a summary statement, in a form determined by the Council. This must show the income and expenditure for the school arising from the facilities in question for the previous three months and on an estimated basis, for the next six months.
- 14.7.2 If the Council believes there is cause for concern as to the school's management of the financial consequences of the exercise of the community facilities power, the Council, on giving notice of its concern, will require such financial statements to be supplied every three months. If the Council sees fit, it may also require the submission of a recovery plan for the activity in question.
- 14.7.3 The Council requires such information in order to ensure that schools are not at financial risk. Schedule 3 of the Education Act 2002 inserts a new provision into Schedule 15 of the Act to make mismanagement of funds received for community facilities a basis for suspension of the right to delegation of the budget share. The Council will suspend the right to delegation, if necessary.

## **14.8 Agreements between schools and the Council**

- 14.8.1 These provisions do not preclude the insertion of other provisions in specific funding agreements between schools and the Council as to the financial reporting requirements

arising from the funding in question.

## **14.9 Audit**

### **A) Access to schools' records**

- 14.9.1 The school is required to grant access to the school's records connected with exercise of the community facilities power, in order to facilitate internal and external audit of relevant income and expenditure.

### **B) Access to other records**

- 14.9.2 In concluding funding agreements with other persons pursuant to the exercise of the community facilities power, schools are required to ensure that such agreements contain adequate provision for access by the Council to those persons, their records and other property held on the school premises, or held elsewhere insofar as they relate to the activity in question, in order for the Council to satisfy itself as to the propriety of expenditure on, and income from, the facilities in question.

## **14.10 Treatment of Income and Surpluses**

### **A) Retention of income**

- 14.10.1 Schools are permitted to retain all net income derived from community facilities except where otherwise agreed with a funding provider, whether that be the Council or some other person. Schools are also permitted to carry such retained income over from one financial year to the next as a separate community facilities surplus, or, subject to the agreement of Islington at the end of each financial year, transfer all or part of it to the budget share balance. Further details on the procedure to be adopted to transfer any community facility surplus to the school budget share are contained in the Schools Financial Procedures Manual.

### **B) Schools ceasing to be maintained**

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

### **C) Recovery of funds**

- 14.10.3 If there is a deficit on community facilities and the Council needs to recover funds to meet third party liabilities it may only do so from any accumulated community facilities surplus. If this is insufficient the Council will have to meet the third party liabilities from its own resources. This arises from the provision of s.51A of the School Standards and Framework Act 1998 (inserted by paragraph 4 of Schedule 3 to the Education Act 2002), which provides that such liabilities are part of the expenses of maintaining the school; may be recovered from the governing body but the expenditure incurred by the governing body in the exercise of the community facilities power may not be met from the budget share unless such a purpose is prescribed by regulations made under s.50(3)(b) of the 1998 Act.

## **14.11 Health and Safety Matters**

### **A) Extension of Health and Safety provisions**

- 14.11.1 The health and safety provisions of the main scheme are extended to the community facilities power exercised by schools. These include that the governing body is required to have due regard to duties placed on the Council in relation to health and safety, and the Council's policy on health and safety matters in the management of the budget share.

- 14.11.2 Schools are reminded that where they directly employ a contractor using delegated funding, they must ensure that the contractor is competent, adequately insured and that the contractor has an appropriate health and safety policy and arrangements. The contractor should demonstrate to the school's satisfaction that they have considered all the health and safety implications of working on the school site.
- 14.11.3 Some work commissioned by schools may fall under the requirements of the Construction Design and Management Regulations 1994 and schools must ensure that all the requirements of these regulations are met.

### **B) Criminal records clearance**

- 14.11.4 The governing body is responsible for the costs of securing Disclosure and Barring Service clearance for all adults involved in community activities taking place in the school. Governing bodies would be free to pass on such costs to a funding partner as part of an agreement with that partner.

## **14.12 Insurance**

### **A) Schools' responsibilities for insurance arrangements**

- 14.12.1 It is the responsibility of the governing body to make adequate arrangements for insurance against risks arising from the exercise of the community facilities power. Such insurance cannot be funded from the school budget share.
- 14.12.2 In principle, the insurance issues arising from use of the community facilities power are the same as those that already arise from non-school use of school premises. However, a school proposing to provide community facilities should, as an integral part of its plans, undertake an assessment of the insurance implications and costs, seeking professional advice if necessary. All schools are required to provide information to the Council to confirm the details of its insurance arrangements/cover for any community facilities provision. This enables the Council to check that any insurable interest it may have is covered.
- 14.12.3 It may be necessary for insurance to be in the joint names of the governing body and Islington. All schools are required to seek Islington's advice before finalising any insurance arrangement for community facilities.

### **B) Council's insurance responsibility**

- 14.12.4 The Council is empowered to undertake its own assessment of the insurance arrangements made by a school in respect of community facilities, and if it judges those arrangements to be inadequate, make arrangements itself and charge the resultant cost to the school. Such costs could not be charged to the school's budget share. These provisions are necessary in order for Islington to protect itself against possible third party claims.

## **14.13 Taxation**

### **A) Value Added Tax (VAT)**

- 14.13.1 In general, schools may only make use of Islington's VAT reclaim facility for expenditure on community facilities when this is from Council funds and not expenditure from other funds. Islington will follow HM Revenues and Customs guidance (Notice 749 on local authorities) concerning the recovery of VAT where schools use donated funds.
- 14.13.2 The facility for local authorities to reclaim VAT can be used by schools in spending their budget shares, which by virtue of s.49(5) of the Act are the property of the Council. This facility also applies to funding given by Islington to schools outside the budget share.
- 14.13.3 Schools should, however, seek the advice of the Council (and the local VAT office) on any issues relating to the possible imposition of Value Added Tax on expenditure in connection with community facilities, including the use of the local authority VAT reclaim

facility. The Council will make further, specific advice available to schools, as appropriate and this will be contained in the Schools Financial Procedures Manual.

### **B) School/LA employees**

- 14.13.4 If any member of staff employed by the school or Council in connection with community facilities at the school is paid from funds held in the school's own bank account (whether a separate account is used for community facilities or not – see section 12.11.1), the school is likely to be held liable for payment of income tax and National Insurance, in line with HMRC rules.

### **C) Construction industry scheme**

- 14.13.5 Schools are required to abide by procedures issued by Islington in connection with the Construction Industry Tax Deduction Scheme (CIS) and contained in the Schools Financial Procedures Manual.

## **14.14 Banking**

### **A) Banking arrangements**

- 14.14.1 Where a school opts to provide community facilities, it must operate the same banking arrangements, which it uses for its budget share. Schools should maintain a separate bank account with adequate internal accounting controls to maintain separation of funds.
- 14.14.2 The remainder of the Scheme for Financing Schools continues to apply in respect of banking arrangements for schools in the instance of community facilities.

### **B) Bank accounts and signatories**

- 14.14.3 The Scheme for Financing Schools continues to apply in respect of banks which may be used, signing of cheques, the titles of bank accounts, the contents of bank account mandates (except that such mandates may provide that funds for community facilities not provided by Islington are not the property of Islington), and similar matters.

### **C) Borrowing by schools**

- 14.14.4 Governing bodies may borrow money only with the written permission of the Secretary of State. This requirement does not extend to monies lent to schools by Islington Council. The Government's requirement on borrowing does not apply to Trustees and Foundations, whose borrowing, as private bodies, make no impact on Government accounts. These debts may not be serviced directly from the delegated budgets, but schools are free to agree a charge for a service which the Trustees or Foundation are able to provide as a consequence of their own borrowing. Governing bodies do not act as agents of Islington when repaying loans.
- 14.14.5 Schools must notify the Corporate Directors of People and Finance & Resources in advance of any proposed leasing arrangements or any other arrangements to delay or defer payment for goods or services. Any scheme, however described, which effectively spreads the cost of payments across financial years, is likely to fall into this category. Such arrangements may only be entered into after obtaining written approval from the Corporate Directors of People and Finance & Resources.
- 14.14.6 Certain leasing arrangements count against the Council's capital finance programme and schools are not free to enter into such arrangements without specific written authority from the Corporate Director of Children's Service and Corporate Director Resources. Careful advice is needed as to what constitutes an operating lease or a finance lease.

## 15. APPENDIX A - THE SCHOOLS TO WHICH THIS SCHEME APPLIES

### Nursery Schools

1033 Kate Greenaway  
1009 Margaret McMillan  
1047 North Islington

### Primary Schools

2015 Ambler  
2809 Ashmount  
3643 Blessed Sacrament  
2854 Canonbury  
3633 Christ the King  
2128 Copenhagen  
2166 Drayton Park  
2170 Duncombe  
2251 Gillespie  
2261 Grafton  
2279 Hanover  
2282 Hargrave Park  
2805 Highbury Quadrant  
2855 Hugh Myddelton  
2379 Laycock  
2852 Montem  
2429 Moreland  
2853 Newington Green  
2455 Pakeman  
2856 Pooles Park  
2850 Prior Weston  
2515 Robert Blair  
2857 Rotherfield  
3384 Sacred Heart  
3606 St Andrew's  
3631 St Joan of Arc  
3456 St John the Evangelist  
3471 St John's Highbury Vale  
3465 St John's Upper Holloway  
3483 St Joseph's  
3488 St Jude's & St Paul's  
3495 St Luke's  
3501 St Mark's  
3527 St Mary's  
3575 St Peter's & St Paul's  
2596 Thornhill  
2803 Tufnell Park  
2624 Vittoria  
2646 Winton  
2666 Yerbury

### Secondary Schools

4325 Arts & Media School Islington  
4112 Beacon High  
4614 Central Foundation for Boys  
4324 Elizabeth Garrett Anderson  
4307 Highbury Fields  
4651 St Aloysius College

### Special Schools

7030 Richard Cloudesley  
7146 Samuel Rhodes

### Pupil Referral Units

1101 New River College - Primary  
1104 New River College - Secondary  
1110 New River College - Medical

## **16. APPENDIX B – PROCUREMENT RULES**

- 16.1.** These Procurement Rules (the ‘Rules’) are an amended version of the Council’s Procurement Rules. The Council’s Strategic Procurement Team and / or Legal Services may be requested to support the procurement process in appropriate cases.

The Council’s Procurement Rules can be found in Part 6 (Page 252 onwards) at the following link:

Islington Council - Democracy

- 16.2.** These rules are designed to ensure competition, provide protection against inappropriate use of Council and school funds, look at full life costs of any purchase, assist legislative compliance and deliver best value for the Council and schools supported by our policies and codes of practice.
- 16.3.** The procurement procedure to be followed is determined according to the band of whole life cost into which the contract falls. This is determined by the estimated value of the contract over its full term including any potential renewals or contract extensions. Recurring procurements should be based on the four-year value. Spend must not be fragmented in any way to circumvent the appropriate procedure. The budget must be appropriately approved by each school’s governing body prior to spending.
- 16.4.** The procedure is:
- 16.4.1. To utilise an existing corporate contract or established framework agreement wherever available.
- 16.4.2. When no corporate contract or framework agreement is available, follow the procedure illustrated in the following table which provides the current recommended schools’ procurement authorisation limits.

## Recommended Schools' Procurement Authorisation Limits 9-<sup>1</sup>

Sector	Value Band	Estimated whole life value (excluding VAT)	Required Procedure:  <i>First look at the availability of an existing suitable contract or framework arrangement for each value band</i>
<b>Nursery/ Primary/ Special/PRU/Secondary</b>	i)	£ 0 - £4,999	No formal written quotation required.
<b>Nursery/ Primary/ Special/PRU/Secondary</b>	ii)	£5,000 to £24,999	One (1) written quotation from a suitable provider with a reason for decision based on value for money recorded in writing.
<b>Nursery/ Primary/ Special/PRU/Secondary</b>	iii)	£25,000 - £59,999 (£99,999 in the case of a secondary school)	A minimum of three (3) competitive written quotations with justification on grounds of value for money for award recorded in writing.  The three (3) quotations must include one (1) quotation from a local (Islington) supplier, as long as a suitable supplier is available.  Approval of a governor delegated by the governing body should be sought.
<b>Nursery/ Primary/ Special/PRU/Secondary</b>	iv)	£60,000 and above	A formal tender process with a minimum of five (5) written competitive tenders.  School Finance Committee approval required.  Note: Since the UK's departure from the EU, OJEU has been replaced by a UK-only tendering service called 'Find a Tender Service' and works in the same format as OJEU.
<b>Secondary only</b>	iv)	£100,000 and above	A formal tender process with a minimum of five (5) written competitive tenders.  School Finance Committee approval required.  Note: Since the UK's departure from the EU, OJEU has been replaced by a UK-only tendering service called 'Find a Tender Service' and works in the same format as OJEU.

Post-Brexit, the UK procurement thresholds are governed by the WTO's GPA. These thresholds are not subject to review or change until January 2022, so thresholds will remain largely the same as the usual, EU figures for now.

<sup>1</sup> The value bands are a guide that schools should use in setting their own bands according to their ability to manage and control spending and that ensure procurement processes are secure and demonstrate effective management of resources.



The procurement thresholds for the UK are:

	<b>Supply, Service and Design contracts</b>	<b>Works contracts</b>	<b>Social and other specific services</b>
<b>Central Government</b>	£122,976	£4,733,252	£663,540
<b>Other Contracting Authorities</b>	£189,330	£4,733,252	£663,540
<b>Small Lots</b>	£70,778	£884,720	N/A

*\*The thresholds are not round figures (as in £4,500,000) as they are based on the historic exchange rate against the Euro. They are also excluding VAT.*

#### **16.5. Notes on Contracts in Band iv).**

All contracts with an estimated value in value band iv) must be advertised. The advertisement must include:

- 16.5.1. The price/quality breakdown of award criteria;
- 16.5.2. The time by which an interested party must respond to be considered;
- 16.5.3. How, to whom and in which way to respond;
- 16.5.4. Any other relevant requirements for participating in the procurement.

*Note: The price/quality breakdown of award criteria including any weighting cannot be amended during the tender process once published.*

**16.6. The Public Contract Regulations 2015 (the Regulations)** apply to all contracts that exceed the UK procurement thresholds, although which specific rules apply will depend on the value and subject matter of the contract. Specific advertising and tender process requirements apply to the procurement of most contracts with a value estimated to exceed the thresholds.

**16.7. All contracts with an estimated value over £500,000** should be referred to the Director of Learning and Schools [for approval to proceed] after first obtaining formal agreement to proceed from the school governing body. Schools should contact the Strategic Procurement Team for advice.

#### **16.8. Exceptions to the Procurement Procedure.**

- 16.8.1. When procuring goods and services from an approved central purchasing body such as the London Contracts and Supplies Group (LCSG) or Crown Commercial Services (CCS) the financial thresholds in the table at paragraph 16.14.2 above do not apply. In these instances, the procedures laid out in the existing contract or framework prevail which may require a mini competition exercise to be completed.
- 16.8.2. The process for undertaking a mini competition or a direct call-off will be clearly set out in the framework agreement. The rules governing purchases via a framework agreement are specific to each framework. In the event of calling-off the framework schools can consult with the Council's Legal Services who can also advise on the call-off process and the terms and conditions of the contract.
- 16.8.3. Exceptions to the Procurement Rules will only be considered on the basis of a written report ("waiver request") produced in advance of procurement activity to the Governing Body Chair and Director of Learning and Schools. The waiver request

should set out good operational and financial reasons and be based on value for money principles. Examples of exceptions, such as an emergency where serious financial loss or loss of life may be concerned, or when the goods, works or services are of an exclusive proprietary nature should be outlined in the waiver request.

*Note: waivers must only be used as a last resort and in exceptional circumstances. This is because of the risk of a Court challenge being brought by an aggrieved contractor. That risk is greater where the European Procurement Directive or (Public Contracts Regulations 2015) apply to the procurement and there is also a separate risk of a complaint being made to the European Commission. Waivers may only be approved when there has been a considered approach, including balancing of and accepting the risks and a clear forward plan for the re-tender of the contract.*

- 16.8.4. The waiver request must include comments from Strategic Procurement, the Legal Services Contracts Team, and the Director of Learning and Schools.
- 16.8.5. Chairs of Finance under delegated authority from the school governing body can agree exceptions for Value Bands i), ii) and iii) contracts up to their delegated authority levels by approving a written waiver request from the Head Teacher. Any such waivers are to be reported to the next meeting of the full governing body.
- 16.8.6. Chairs of governing bodies in agreement with the Director of Learning and Schools can agree exceptions for Value Band iv) contracts up to their delegated authority levels by approving a written waiver request from the Head Teacher. Any such waivers are to be reported to the full governing body.
- 16.8.7. Decisions made under delegated authority must in all cases be reported to the governing body and duly minuted.
- 16.8.8. There is no Council authority to waive or override the requirements of European or National Law.

## **16.9. Risk and Insurance Financial Management.**

- 16.9.1. All Value Band iv) procurements must have a risk assessment completed by the commissioning officer.
- 16.9.2. All Value Bands procurements should give consideration to financial and legal risks of the proposed procurement. For Value Band iv) this should be recorded in writing.
- 16.9.3. All contracts where there is direct advice and/or design services provided by a contractor, including all Consultancy arrangements, must include a requirement for Professional Indemnity Insurance.
- 16.9.4. For Value Band iii) procurements all contractors must have and maintain Public Liability insurance and Employers Liability insurance of £5m or more as recommended by the Council and for Voluntary Aided schools, by the respective Diocesan Authority. Value Band iv) procurement insurance values should be checked with the Council's Insurance Section, (note: sole traders with no employees are excluded from Employers Liability) and, for Voluntary Aided schools, with the respective Diocesan Authority.
- 16.9.5. All variations to agreed insurance levels must be made in discussion with the

Insurance Section and must be recorded in writing in the contract file.

- 16.9.6. The Strategic Procurement Team shall procure independent financial appraisals if required by schools.
- 16.9.7. In the event of any doubt as to the Contractor's financial viability, or any non-availability of an external report, the commissioning officer shall seek expert advice. The Contractor may still be considered if the risk is deemed acceptable by the commissioning officer but if so this must be reported and agreed by the school governing body.
- 16.9.8. Financial appraisals are not required when contracting directly with other local authorities, the Police, Crown Prosecution Service, Greater London Authority, Clinical Commissioning Groups, National Health Service, Her Majesty's Prison Service, Fire Brigade or other public sector bodies as agreed by the Head of Strategic Procurement (or their European equivalents in all cases). Such organisations are underwritten by Central Government(s) and thus are deemed financially viable at all times.
- 16.9.9. Where there is doubt as to the financial viability of a contractor but the school has either no acceptable alternative provider or has decided to accept the level of risk then additional form of security to a level determined between Legal Services Contracts Team and financial services shall be provided such as:
- A parent company, ultimate holding company or holding company guarantee where its finance proves acceptable.
  - A director's guarantee or personal guarantee where their finances prove acceptable;
  - A performance bond, retained funds or cash deposit;
  - Any other security as determined by legal services.
- 16.9.10. Following financial appraisal, a contractor may need to provide further financial security.

## **16.10. E-Procurement.**

- 16.10.1. For procurements above the UK thresholds, the regulations require tenderers to have unrestricted and full direct access via the internet, free of charge to the procurement documents from the date of the publication on the OJEU.

## **16.11. Policy, Regulations and Indirect rules.**

### **16.11.1. Resident Impact Assessment.**

- 16.11.1.1. It is mandatory to complete a Resident Impact Assessment (RIA) for all contracts in value band iv) prior to the specification being completed. RIAs have replaced Equality Impact Assessments (EIAs) in Islington. Although there is no legal requirement to carry out EIAs, public bodies still have to demonstrate that they are taking the Public Sector Equality Duty (PSED) into account when making decisions. Local authorities also have obligations in relation to safeguarding and human rights. The main focus of RIAs is on drawing out the equality impacts of proposals with additional sections for highlighting safeguarding risks and potential human rights breaches. Schools are recommended to complete a risk assessment that includes equalities, Health and Safety, and environmental impact on the school

community.

16.11.1.2. Contract clauses inserted in respect of a Protected Characteristic under the Equalities Act 2010 must be approved by the Legal Services Contracts Team.

16.11.1.3. Contractors should complete an equalities statement.

#### 16.11.2. **Freedom of Information Act 2000**

16.11.2.1. The Freedom of Information Act 2000 gives people the right to see information that is held by any public organisation. It is intended to make public authorities more open and responsible for their actions. The Act recognises that there are some valid reasons for withholding information. Contractors must be asked to complete a Freedom of Information Schedule identifying any confidential or commercially sensitive information in their tender response.

#### 16.11.3. **Conduct**

16.11.3.1. School staff shall conduct themselves in line with the School Employee Code of Conduct available on the Council's HR School Intranet pages and Scheme for Financing Schools. School staff must not accept any gift or reward before, during or after a tender process beyond nominal value. School staff must declare any personal interest(s) in a contract prior to any involvement in a contract the School is/are considering or a contract that has already commenced.

#### 16.11.4. **Transfer of Undertakings (Protection of Employment) Regulations (TUPE)**

16.11.4.1. Whenever a new contractor is appointed to take over an existing service, the employees of the original contractor (or the Council, if the service was previously provided in-house) may be affected by transferring the services to another provider. If so, the school must make sure TUPE issues are considered. The school must get legal advice from the Legal Services before asking for tenders or quotations. This may also apply where a service is being re-configured and will in future be covered by a number of providers.

#### 16.11.5. **London Living Wage**

16.11.5.1. As a matter of Council policy, London Living Wage (LLW) is considered on all contracts where the Citizen's UK accreditation criteria for contracts apply. LLW consideration is encouraged on all contracts and shall be considered on all Value Band ii) contracts and above. LLW shall be encouraged by schools on all contracts insofar as this is permitted by law.

16.11.5.2. It is advisable to keep a record of discussions with tendering contractors setting out all relevant considerations relating to the payment of LLW. The report must be approved by the Head Teacher and Finance Committee for inclusion in the contract file.

#### 16.11.6. **Public Services (Social Value) Act 2012.**

16.11.6.1. The Public Services (Social Value) Act 2012 came into force in January 2013. It applies to service contracts that are covered by the Regulations but the principles

can be applied to other contracts. In planning and conducting a Value Band iv procurement you must consider, and record within the contract file, how the procurement and contract shall:

- Consult and improve the economic, social and environmental wellbeing of the borough and relevant partners;
- Secure and achieve any noted economic, social and environmental improvement.

Consideration shall be proportionate, reasonable, relevant and non-discriminatory to the procurement and subsequent contract.

## **16.12. Responsibilities.**

### **16.12.1. School Governing Body Responsibilities**

The School Governing Body shall:

- Approve the award or variation of contracts where the value of the contract or variation is estimated to exceed the Head Teacher's delegated authority to authorise (in the case of Revenue Spend or Capital Spend) from the School's delegated budget.
- Ensure that appropriate procedures are carried out in relation to each value band as set out in School Financial Regulations and the School Internal Scheme of Delegation
- Give approval to accept a contract with lower levels of insurance cover and to accept a contract without professional indemnity insurance

### **16.12.2. School Head Teacher Responsibilities.**

The School Head Teacher has responsibility for all contracts awarded by the School. Her /his responsibilities include:

- Ensuring that the Rules are followed;
- Awarding contracts paid for using revenue money of up to £59,999 (nursery and primary schools) and £99,999 (secondary schools);
- Ensuring that the School achieves value for money;
- Taking immediate action if someone breaks the Rules;
- Making sure proper and detailed records of all contracts are kept;
- Making sure a record is kept when it is decided that these Rules do not have to be followed;
- Making sure arrangements are in place for opening tenders and keeping copies of tenders safe;
- Deciding to accept a contract with lower levels of insurance cover and to accept a contract without professional indemnity insurance and recording this decision for reporting to the School Governing Body;
- Deciding, with the School Governing Body with advice from the Head of Strategic Procurement and the Legal Services Contracts Team on whether to apply a competitive procedure with negotiation or a competitive dialogue where in response to an open or a restricted procedure only irregular or unacceptable tenders are submitted
- In cases where the Regulations do not require a specified process to be followed in respect of the procurement, agreeing a waiver to enable a contract to be negotiated direct with a contractor; and

- Keeping a register of all contracts for their School.

### 16.12.3. **Legal Services Contracts Team Responsibilities.**

The Legal Services Contracts Team shall, where requested by Schools:

- Provide advice on the Regulations, the Rules and responsibilities to schools' commissioning officers;
- Prepare conditions of contract and associated documents to include in the tender documents in a timely manner;
- Advise on any legal issues arising in relation to the contract and the procurement process;
- Review any proposed contractor terms and conditions at the request of the school commissioning officer;
- Advise on amendments to the conditions of contract.

### 16.12.4. **School Commissioning Officer Responsibilities.**

School Commissioning officers (officers leading on procurement) shall:

- Follow the Rules and decision making procedures;
- In planning and conducting a Value Band iv) procurement consider, and record within the contract file, how the procurement and contract will:
  - Improve the economic, social and environmental wellbeing of the borough and relevant partners;
  - Secure and achieve any noted economic, social and environmental improvement.
- Complete a Health and Safety Impact Assessment, and London Living Wage consideration report for a Value Band ii) contract or above;
- Complete a Resident Impact Assessment, an Environmental Impact Assessment, and Risk Assessment for a Value Band iv) contract;
- Instruct the Legal Services Contracts Team in good time to prepare, or give advice on, the contract terms and conditions (where the School has chosen to instruct the Legal Services Contracts Team);
- Where required, write reports for submission to the School Governing Body in time to meet deadlines in the procurement timetable;
- Ensure resources are in place to manage the let contract;
- Ensure there is sufficient budget for the contract;
- Seek legal advice (as appropriate) when terminating a contract and/or withholding payments; and
- Ensure that all annual contracts are reviewed once each year and longer contracts reviewed on a rolling programme. This is to ensure the quality of the service and to promote continuous improvement.

### 16.12.5. **Strategic Procurement Team Responsibilities:**

The Council's Strategic Procurement Team shall:

- Provide its input into any review of the Rules and associated policies and documentation;
- Maintain a repository of skills and expertise to provide generic procurement advice to Schools, if required.
- Provide additional support / advice. This will incur a cost.

## **16.13. Procurement Administrative Process:**

### **16.13.1.1. Quotations (non-tender)**

- All quotations for Value Band ii) and iii) must be received in a written format of formal letter quotation, facsimile, email or catalogue and based on a written statement of needs and have a written justification under value for money for selection of provider;
- All quotations for Value Band ii) and iii) should have formal terms and conditions prepared and agreed by the School.

### **16.13.1.2. Selection Criteria for Tenders (estimated value of contract over the EU financial threshold).**

In accordance with the Regulations selection criteria may only relate to:

- Exclusion grounds;
- Suitability to pursue a professional activity;
- Economic and financial standing;
- Technical and professional ability.

16.13.1.3. The Council has a Standard Selection Questionnaire (SQ) to ensure contractors meet these conditions (where permitted by the Regulations) which is available for use by Schools.

16.13.1.4. Any deviation from the Council's SQ must be reported to the Head of Strategic Procurement for approval and subsequent reporting to the Crown Commercial Service.

16.13.1.5. Organisations found guilty of conducting fraud, such as 'cover pricing', (where a firm that did not want to win the contract would in collusion with another company submit a price that was much too high to permit the other company to be successful), will not normally be considered. Organisations shall be required to make declarations in regards to professional and business conduct, including Blacklisting, to the satisfaction of the School before being invited to tender or having their tenders assessed.

### **16.13.1.6. Award Criteria Value Band iii) and above.**

- All award criteria must be linked to the subject matter of the contract, ensure the possibility of effective competition and be accompanied by specifications. The award conditions should be documented in the procurement documents including any weighting to be applied. Contractors assessed against these criteria are entitled to have access to their results and feedback records must be kept of these results for matters in relation to procurement.
- Tenders can only be awarded against the criterion of most economically advantageous tender, in accordance with the Regulations.
- All award criteria should be published in the tender advert. In all cases the award criteria shall be included within the procurement documents in accordance with the appended Regulations.

### **16.13.1.7. Invitations to Tender (Band iv)**

All invitations to tender must include:

- A description of the requirements with enough detail to allow the tenderer to make a competitive offer (a specification or term brief);
- A requirement for tenderers to declare that they have not given the tender content and price to any other organisation (unless if necessary in confidence, such as the tenders' subcontractors, with prior authorisation);
- A requirement for tenderers to fill in fully and sign all tender documents;
- A statement explaining how any pricing mistakes discovered in the tender will be dealt with;
- A statement that the school can recover costs from the cancellation of any contract in the event the contractor should offer, agree to offer or provide a member of the school staff or member of the school governing body or person associated with the school, its partner or its agent an inducement or reward in respect of a contract.
- A statement that tenders are put forward at the tenderer's expense;
- A list of the award criteria and the scoring/weighting system;
- A statement that the school does not have to accept the lowest tender, or indeed any tender;
- If the tender is being returned by post this must be agreed by the Head Teacher and a statement that no tender will be considered unless it is enclosed in a sealed envelope or container which has the word 'tender' followed by the contract name, but no other name or mark showing who sent it;
- A statement that tenders sent by post, or e-mail will only be considered and accepted by the School with the authority of the Head Teacher;
- Secure e-mail tenders are preferred. The London Tenders Portal is available via the Strategic Procurement Team at a negotiated charge.

#### **16.13.1.8. Putting Tenders Forward**

- School Commissioning Officers should sufficiently prepare in advance for procurement processes to allow for the regulation and other decision making timescales.
- Tenders should normally be received by post or email as directed by the Head Teacher.
- Tenders awarded must be notified to the Strategic Procurement Team in writing including title, estimated annual value, contract length and commissioning officer (or responsible officer if different).

#### **16.13.1.9. Receiving and Opening tenders:**

- A tender must be noted with the date and time it was received;
- Tenders must be kept in a safe place;
- Tenders must be opened in the presence of a Tender Opening Panel (TOP). The TOP must be made up of at least two school staff, including the School Commissioning Officer, and the School Finance Committee Chair or delegated governor. When opening electronic tenders, all tenders must be opened at the same time.
- Tenders received after the set time for receiving them, but before the TOP has begun opening them, may be opened and then considered only if agreed by the Head Teacher (or, in her /his absence, her/his nominated representative) that it is appropriate to do so.



- Tenders received after the TOP has begun opening tenders “late tenders” will not be considered unless specifically agreed by the Head Teacher (or, in her /his absence, her/his nominated representative). Tenders received late and not to be considered will be returned or the relevant bidder written to as indicated by the Head Teacher (or, in her /his absence, her/his nominated representative).
- All tenders opened by the TOP will be evaluated in a timely manner against the advertised award criteria.
- All extensions to tender return dates must be authorised by the Head Teacher (or, in her /his absence, her/his nominated representative).
- Errors or matters of ambiguity in tenders should be highlighted to the Head Teacher (or, in her /his absence, her/his nominated representative) to decide whether an extension is appropriate for satisfactory return of bids.

#### 16.13.1.10. **Negotiation:**

- The negotiated procedure, either with or without competition, may be used in accordance with the Regulations where agreed by the Head Teacher after consulting the Chair of Finance and after taking legal advice, as required.
- Negotiations must be carried out by at least two persons including the School Commissioning Officer and / or another senior member of staff nominated by the Head Teacher or Procurement consultant engaged by the School.
- Negotiations must be fully minuted and the minutes and actions agreed by the School and Contractor.

#### 16.13.1.11. **Awarding Tenders**

The School Commissioning Officer must prepare a contract award report for every contract which is in value band ii) or above and keep that report on the contract file. The report must normally include:

- An introduction and summary of the requirement;
- Outcomes, efficiencies and savings as a consequence of award;
- Chosen procurement route and justified options discounted;
- Length of arrangement including any extension options;
- Criteria against which the contractor was selected and subsequently awarded the contract;
- The makeup of the project team, noting any Governor involvement;
- The estimated value/actual value for the life of the contract;
- Dates and information regarding previous tendering in the case of a recurring procurement;
- Pre-tender assessment information;
  - Copies of any documentation required under Commissioning Officer Responsibilities within these Procurement Rules.
  - The Commissioning officer must write to the successful bidder telling them that the School has accepted their offer and to the unsuccessful bidders telling them that the School has not accepted their offers including in both cases their evaluation scores and the score of the winning tender(s) at the same time.
- Tenders awarded in line with the Regulations must be notified that the School will accept the successful tender as long as no objections are raised

by any of the unsuccessful bidders during the ten (10) day standstill period where applicable;

- The Contract must not be signed until the ten (10) day standstill period has passed without objection where applicable;
- The successful Contractor must not commence work until the contract has been signed.

16.13.1.12.        **Keeping Records**

The School must keep:

- Successful contract files for twelve (12) years after the end of the contract for all sealed contracts;
- Successful contract files for six (6) years after the end of the contract for all other contracts;
- Unsuccessful contract files for two (2) years.

16.13.1.13.        **Contract Management.**

- A record of all contract amendments and variation orders (orders to amend contracts) must be issued in writing and kept in the contract file.

## 17. APPENDIX C - ANTI FRAUD AND CORRUPTION STRATEGY INCLUDING WHISTLEBLOWING

### INTRODUCTION

Islington Council is committed to ensuring that risk of fraud and corruption are minimised and have agreed the *Anti-Fraud and Corruption Strategy*, which can be found at:

<https://www.islingtoncs.org/sites/default/files/files/Council%20Anti-Fraud%20and%20Corruption%20Policy.pdf>

All schools must have a strong system of controls and procedures to safeguard themselves against fraudulent or inappropriate use of public money and assets. The governing body, Head Teacher, Business Manager and other staff with financial responsibilities must be aware of the Council's Strategy and governing bodies should adapt and adopt it as a policy for their schools.

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

Members of each governing body must apply the standards for schools and give their full support to all systems and controls in place to assure probity.

School-specific guidance in addition to those set out in this Strategy are:

- The Scheme for Financing Schools
- LBI Model School Financial Regulations
- Schools Financial Value Standard self-evaluation questionnaire and DFE supporting documentation.
- The Schools Fraud Reporting Flowchart, which can be found at:

<https://www.islingtoncs.org/system/files/Reporting%20Flowchart%20-%20schools%20Jan%202018.pdf>

### Whistleblowing

The Strategy includes a section on Whistleblowing and additional guidance on this can be found at:

<https://www.islingtoncs.org/node/367>

## 18. APPENDIX D – CENTRALLY RETAINED SCHOOL CONTINGENCIES

Centrally retained contingencies fall into two categories:

- i. Those 'top-sliced' from the Schools Block before the funding formula is applied. Such contingencies reduce the total funding delegated to schools and academies and therefore access to the contingencies applies equally to maintained schools and academies. These contingencies include The Growth Fund and the Falling Rolls Fund. The criteria for accessing these funds are agreed annually by Schools' Forum.
- ii. Those de-delegated from maintained primary and secondary schools only. De-delegation has to be agreed by phase so only those maintained primary and secondary schools that have contributed to the contingency are eligible to claim from it. These contingencies include the Contingency for Schools in Financial Difficulty, Priority Support and the Schools Redundancy Contingency. The criteria are again agreed annually by Schools Forum.