

THE ROYAL BOROUGH OF
KENSINGTON AND CHELSEA
SCHEME FOR FINANCING SCHOOLS
(As at 09/02/12)

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SECTION 1

1 - INTRODUCTION

1.1 - The Funding Framework

Under the terms of the School Standards and Framework Act 1998 (SSFA) Local Authorities (LAs) are required to maintain a scheme, setting out clearly the funding framework and controls governing the funding of all maintained schools with delegated budgets. From April 2004 this included nursery schools. All revisions to the scheme must also be approved by the Schools' Forum. This document forms the required scheme for the Royal Borough of Kensington and Chelsea.

1.2 - Main Features

The funding framework which replaces Local Management of Schools is set out in the legislative provisions in sections 45-53 (s.45-53) of the School Standards and Framework Act 1998.

Under this legislation, local authorities determine for themselves the size of their schools budget and their non-schools education budget – although at a minimum an authority must appropriate its entire Dedicated Schools Grant (DSG) to their schools budget. The categories of expenditure which fall within the two budgets are prescribed under regulations made by the Secretary of State, but included within the two, taken together, is all expenditure direct and indirect, on an authority's maintained schools, except for capital and certain miscellaneous items. Authorities may deduct funds from their schools budget for purposes specified in regulations made by the Secretary of State under s.45(a) of the Act (the centrally retained expenditure). The amounts to be deducted for these purposes are decided by the authority concerned, subject to any limits or conditions (including gaining the approval of their School Forum or the Secretary of State in certain instances) as prescribed by the Secretary of State. The balance of the schools budget left after deduction of the centrally retained expenditure is termed the Individual Schools Budget (ISB). Expenditure items in the non-schools education budget must be retained centrally (although earmarked allocations may be made to schools).

Local authorities must distribute the ISB amongst their maintained schools using a formula which accords with regulations made by the Secretary of State, and enables the calculation of a budget share for each maintained school. This budget share is then delegated to the Governing Body of the school concerned, unless the school is a new school which has not yet received a delegated budget, or the right to a delegated budget has been suspended in accordance with s.51 of the Act. The financial controls within which delegation works are set out in a scheme made by the authority in accordance with s.48 of the Act and regulations made under that section. All proposals to revise the scheme must be approved by the Schools Forum, though the authority may apply to the Secretary of State for approval in the event of the forum rejecting a proposal or approving it subject to modifications that are not acceptable to the authority.

Subject to any provision made by or under the scheme, governing bodies of schools may spend such amounts of their budget shares as they think fit for any purposes of their school and for any additional purposes prescribed by the Secretary of State in

regulations made under s.50 of the Act. From 1st April 2011 s.50 has been amended to provide that amounts spent by a governing body on providing community facilities or services under s.27 of the Education Act 2002 are treated as if they were amounts spent for the purposes of the school (s.50(3a) of the Act).

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

RBKC is obliged to publish each year a statement setting out details of its planned Schools Budget and other expenditure on children's services, (S251 Budget Statement) showing:

- i) the amounts to be centrally retained;
- ii) the budget share for each school;
- iii) the formula used to calculate those budget shares;
- iv) the detailed calculation for each school.

After each financial year the authority must publish a statement showing out-turn expenditure (S251 Out-Turn Statement) at both central level and for each school, and the balances held in respect of each school.

The detailed publication requirements for financial statements are set out in directions issued by the Secretary of State, but the statements must be made available on a publically accessible website.

1.3 - The role of the scheme

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

1.4 - Application of the scheme to the Authority and maintained schools

This scheme applies to all community, nursery, special, voluntary, foundation and foundation special schools in the area of the LA (as listed in Annex A). It does not apply to the pupil referral unit (it is not legally a school) or to Academies (because they are not maintained by the Authority).

1.5 - Publication of the scheme

A copy of the scheme will be supplied to the Governing Body and the Head Teacher of each school covered by the scheme, and any approved revisions will be notified to each school. The Scheme is published on the website under the transparency section at www.rbkc.gov.uk.

1.6 - Revision of the scheme

Any proposed revisions to the scheme will be the subject of consultation with all schools and will require approval by the Schools Forum.

1.7 - Delegation of powers to the Head Teacher

Each Governing Body is asked to consider the extent to which it wishes to delegate its powers to the Head Teacher, and to record its decision (and any revisions) in the minutes of the Governing Body. However, the Governing Body cannot delegate the approval of the **first** formal budget in each financial year to the Head Teacher. It can however delegate the budget approval to a Committee of the Governing Body. The LA does not impose a limit on the level of delegation to Head Teachers, but in making their decisions, the Governing Body must consider the level of experience of the Head Teacher, the practicalities of day to day running of a school and the level of risk.

1.8 - Maintenance of schools

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

SECTION 2

2 - FINANCIAL CONTROLS

2.1 - Application of financial controls to schools

In managing their delegated budgets schools must abide by the Authority's requirements on financial controls and monitoring. These are set out in the detailed Financial Regulations for Schools with delegated budgets (Annex E).

2.2 - Provision of financial information and reports

Schools are required to provide the authority with details of expected and actual expenditure and income and other information for financial purposes, in a form and at times determined by the authority. The details of these requirements are as follows:

(Note: some of these will not require to be specially prepared for those schools using the Council's financial management system)

- At the start of the financial year:
 - i) A detailed breakdown of the planned use of the school's budget share no later than the 31st May. This breakdown must have been approved by the Governing Body.
- During the financial year:
 - i) Quarterly statements of expenditure and income, including a forecast of expected out-turn. However where school reports are persistently late or inaccurate, or where the audit report suggests financial management is poor, statements will be required monthly.
 - ii) A monthly VAT statement.
 - iii) Data required as notified for the purposes of calculating the school's budget share.
 - iv) Details of expenditure incurred in relation to Standards Fund activities delegated to Schools, for the previous academic year as, required by the DfE.
- At the end of the financial year:
 - i) A detailed breakdown of expenditure and income for the previous financial year. This must be in Consistent Financial Reporting (CFR) format.
 - ii) Details of all accruals included in the accounts at the end of the year.
 - iii) An analysis of expenditure incurred in relation to monies delegated to the school for Standards Fund (or other specific grants if notified) activities by category.
 - iv) An annual return of all non-payroll payments to staff and all payments to contractors.

- v) Statement of purposes to which end of year balances are to be applied in the following financial year.
- vi) Statement of how end of year balances brought forward from the previous year have been applied during the year.
- vii) Statement of expenditure on assets above a notified limit.
- viii) A bank reconciliation statement.
- ix) Statement reconciling cash at bank to the sum of unspent budget being carried forward into the next year.
- x) A statement of lettings income received during the year.
- xi) A statement of internal control relating to the previous financial year.

2.3 - Payment of salaries; payment of bills

The procedures for these will vary according to the choices schools make about the holding of bank accounts and the buying back of the authority's payroll system. Where a school does not use the Council's payroll system, information relating to the statutory responsibilities of the authority will need to be provided in a format as specified by the LA (See also section 6.3 relating to fees to the GTC).

All payments must comply with the requirements laid out in the Financial Regulations.

2.4 - Control of assets

Each school must maintain an inventory of all of its moveable non-capital assets. For items below £1,000 each school can determine their own arrangements for keeping such a register. For items with a value exceeding £1,000, the Local Authority shall determine the format of the register and set out the basic authorisation procedures for the disposal of assets. The required inventory and the basic authorisation procedures for disposal of assets are set out in the Financial Regulations.

2.5 - Accounting Policies (including year-end procedures)

Schools must abide by procedures issued by the authority in relation to accounting policies and year-end procedures.

Details of these are included in the Financial Regulations, and any additional requirements will be notified to schools as they arise.

2.6 - Writing off of debts

Governing Bodies are only authorised to write off debts up to a level stipulated by the Executive Director of Finance. Full details of the procedures to be followed are contained in the Financial Regulations.

2.7 - Basis of accounting and accounting policies

Schools must abide by procedures issued by the authority in relation to accounting policies and year-end procedures. Reports and accounts furnished to the LA must be on an accruals basis i.e. expenditure and income must be accounted for in the year the supply was rendered and not when payment was actually made. Details of

the accounting policies are set out in the financial regulations and any additional requirements will be notified to schools as they arise.

2.8 - Submission of budget plans

Each school is required to submit a budget plan to the Authority by the 31st May each year. The plan must be formally approved by the Governing Body (or where delegated, to the relevant Finance committee).

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

Where schools do not use the Council's financial management system, the format of the budget plan may be specified to ensure compliance with the CFR framework.

The authority may also require the submission of revised plans where the authority deems it necessary. Such revised plans shall not be required at intervals of less than three months.

The LA will supply schools with all income and expenditure data that it holds and which is necessary for efficient planning by schools, and will provide schools with annual information as to when such data will be available.

In planning their budget, schools should take full account of estimated surpluses / deficits at the previous 31st March.

2.9 - Submission of financial forecasts

Schools are required to submit a financial forecast covering each year of a multi-year period for which the school has received notification of budget shares, by 31st May. These forecasts are necessary, as they will be used in conjunction with the Local Authority's balance control mechanism.

2.10 - Best Value/Value For Money

Given the very high proportion of local authority spending which flows through delegated budgets, it is important that schools demonstrate that they are following best value principles in all areas of their activities. Schools should seek to achieve value for money and efficiencies, taking into account the purchasing, tendering and contract requirements noted in paragraph 2.16.

2.11 - Virement

Schools are free to vire between budget heads in the expenditure of their budget shares but the Governing Body is advised to establish criteria for virements and financial limits above which the approval of the Governing Body is required.

2.12 - Audit: General

Schools are required to cooperate both with auditors employed by the local authority (internal audit) and auditors appointed to audit the local authority itself (external audit). With regard to internal audit, all schools come within the audit regime determined by the LA as detailed in the Financial Regulations. In relation to external audit all schools come within the LA external audit regime.

2.13 - Separate external audits

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

2.14 - Audit of voluntary and private funds

In addition to the normal internal and external audits, schools must provide audit certificates in respect of any voluntary and private funds they hold and of the accounts of any trading organisations controlled by the school. The audit must be carried out by someone who is independent from the school fund i.e. having no part in the administration of the fund or in any decisions as to its use. Governors who are members of the Finance Committee of the Governing Body **may not** undertake this audit.

2.15 - Register of business interests

The Governing Body of each school is required to establish a register which lists for each member of the Governing Body, the Head Teacher and any other member of staff with financial management responsibilities, any business interests they or any member of their immediate family have; to keep the register up to date with notification of changes and through annual review of entries, and to make the register available for inspection by governors, staff, parents and the LA. For this purpose, immediate family is defined as "partners, parents, children, siblings, parent's siblings and first cousins". The format of such a register is determined by the school.

2.16 - Purchasing, tendering and contracting requirements

Schools are required to abide by the Authority's financial and contract regulations in purchasing, tendering and contracting matters. Details are included in this document at Annex F.

Schools are required to abide by these contract regulations except where these would require schools:

- i) To do anything incompatible with any provisions of the scheme, or any statutory provision, or any EU Procurement Directive;
- ii) To seek LA officer countersignature for any contracts for goods or services for a value below £60,000 in any one year;
- iii) To select suppliers only from an approved list; or,
- iv) To seek fewer than 3 tenders or quotations in respect of any contract with a value exceeding £10,000 in any one year.

2.17 - Application of contracts to schools

Schools have the right to opt out of LA-arranged contracts. Schools are not constrained, other than the requirements of complying with public tendering rules, TUPE, and RBKC contract regulations. Should any school act voluntarily to extract

from the above or similar contracts, any costs associated with the action will fall to be paid for from the budget share of the school.

This will not apply where the school withdraws on the grounds of poor performance, where the procedures within the contract relating to poor performance have been followed and agreed with the LA.

Although Governing Bodies are empowered under paragraph 3 of s.10 of 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. However, contracts may be made solely on behalf of the Governing Body, when the Governing Body has clear statutory obligations e.g. contracts made by aided or foundation schools for the employment of staff.

2.18 - Central funds and earmarking

The LA is authorised to make sums available to schools from central funds, in the form of allocations that are additional to and separate from the schools' budget shares. Such allocations shall be subject to conditions setting out the purpose or purposes for which the funds may be used and while these conditions need not preclude virement (except, of course, where the funding is supported by a specific grant which the LA itself is not permitted to vire), this should not be carried to the point of assimilating the allocations into the school's budget share. Where such allocations are made in year, a specific payment for the relevant amount will be made to the school e.g. sums for statemented pupils.

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

The LA may not make any deduction from payments to schools of devolved specific or special grants in respect of interest costs.

In order that schools may demonstrate compliance with this requirement, expenditure on these purposes should be clearly identifiable within the school's accounting records, and full supporting documentation should be available.

2.19 - Spending for the purposes of the school

Governing Bodies are free to spend budget shares 'for the purposes of the school', subject to any provisions of this scheme. However, schools must use their best endeavours in spending the budget share to secure the delivery of services for which funding has been delegated e.g. SEN.

2.20 - Capital spending from budget shares

Governing Bodies are permitted to use their budget shares to meet the cost of capital expenditure on the school premises in accordance with the Financial Regulations. If the premises are owned by the LA or the school has voluntary controlled status, then the Governing Body should seek the consent of the LA to the proposed works. Such consent will only be withheld on the grounds of health and safety.

2.21 - Notice of concern

The authority may issue a notice of concern to the governing body of any school it maintains where, in the opinion of the Executive Director of Finance, Information Systems and Property and the Executive Director of Family and Children's Services the school has failed to comply with any provision of the scheme, or where actions need to be taken to safeguard the financial position of the local authority or the school.

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

These may include:

- i) Insisting that relevant staff undertake appropriate training to address any identified weaknesses in the financial management of the school;
- ii) Insisting that an appropriately trained / qualified person chairs the finance committee of the governing body;
- iii) 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;
- iv) Insisting on regular financial monitoring meetings at the school attended by local authority officers;
- v) Requiring a governing body to buy into a local authority's financial management systems; and
- vi) Imposing restrictions or limitations on the manner in which a school manages extended school activity funded from within its delegated budget share - for example by requiring a school to submit income projections and / or financial monitoring reports on such activities.

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

The purpose of this provision is to enable a local authority to set out formally any concerns it has regarding the financial management of a school it maintains and require a governing body to comply with any requirements it deems necessary. The principal criterion for issuing a notice, and determining the requirements included within it, must be to safeguard the financial position of the local authority or school.

It should not be used in place of withdrawal of financial delegation where that is the appropriate action to take; however, it may provide a way of making a governing body aware of the authority's concerns short of withdrawing delegation an identifying the actions a governing body should take in order to improve their financial management to avoid withdrawal.

Once the governing body has complied with the requirements contained within the notice of concern, the LA will withdraw the notice in writing.

When issuing a notice of concern to a school, the LA will consider ways in which disputes regarding any of the aspects within the notice may be resolved. These proposals will be submitted in writing to the governing body.

SECTION 3

3 - INSTALMENTS OF THE BUDGET SHARE; BANKING ARRANGEMENTS

3.1 - Frequency of instalments

The budget share will be paid by made available to Governing Bodies each term. Payments will be made by BACS no later than the end of the second week of April, September and January.

3.2 - Proportion of budget share payable at each instalment

For the Schools Budget Share the proportion of the budget share to be made available to schools will be April (40%), September (35%) and January (25%). For the Early Years Single Funding Formula Budget Share the termly payments will be 1/3rd of the original / revised budget. The final adjustment will be made in March each year.

3.3 - Interest claw back

The LA may deduct from budget share instalments an amount equal to the estimated interest lost by the LA in making available the budget share in advance where this includes payroll costs.

However, the LA has chosen not to exercise this option at present, but maintains the right to reinstate this option. Such a change would be notified to schools before the start of the financial year. The calculation basis of any such deduction is set out in Annex C.

If as a result of an LA error, the budget shares are paid after the dates stated in 3.1 above the LA will add interest to the payments. The rate of interest would be the same as that used for clawing back interest as set out in paragraph 3.3 above.

3.4 - Budget shares for closing schools

Budget shares of schools for which approval for discontinuation has been secured, will be made available until closure on a monthly basis, net of estimated pay costs, even where some different basis was previously used.

3.5 - Bank and building society accounts

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

Procedures for opening and operating bank accounts are detailed in the Financial Regulations.

3.5.1 - Restrictions on accounts

Accounts may be held for the purpose of receiving budget share payments at the following banks:

Barclays Banks plc
HSBC plc

Lloyds Banking Group (including Lloyds, TSB, Halifax and Bank of Scotland)
Royal Bank of Scotland plc (including Nat West)

Some schools have bank accounts with other banks prior to 31st March 2011. In today's economic climate schools need to show due diligence on risk assessment whichever institution they chose to provide their banking service, amongst other matters they may wish to look at the institutions credit rating and the rating of the Sovereign State that would stand behind them if anything further were to happen which affected their ability to continue trading.

The Council's Executive Director of Finance and the Head of Finance (FCS) should be included as the two LA signatories on the account. It is intended that LA signatories would only be used in extreme emergency or if the school's right to a delegated budget share had been removed.

Any school closing an account used to receive its budget share and opening another must seek approval from the Council's Executive Director of Finance.

Schools are allowed to have accounts for budget share purposes that are in the name of the school rather than the LA. However, if a school has such an account, the Executive Director of Finance and the Head of Finance (FCS) must be included as signatories on the account, the account mandate must provide that the Authority is the owner of the funds in the account; that it is entitled to receive statements; and that it can take control of the account if the school's right to a delegated budget is suspended by the Authority.

3.6 - Borrowing by schools

In certain exceptional circumstances, governing bodies may borrow money from external sources, but only with the written permission of the Secretary of State. However, arrangements exist for schools to borrow from the LA through the loan scheme (see section 4.8).

SECTION 4

4 - THE TREATMENT OF SURPLUS AND DEFICIT BALANCES ARISING IN RELATION TO BUDGET SHARES

4.1 - The right to carry forward surplus balances

Schools may carry forward from one financial year to the next any surplus / deficit in net expenditure relative to the school's budget share for the year plus / minus any balance brought forward from the previous year.

4.2 - Reporting on the intended use of surplus balances

In order to allow the LA to monitor levels of balances, Governing Bodies are required to report to the LA on the use that the school intends to make of surplus balances where they exceed 5% of the delegated budget share.

Surplus balances held by schools as permitted under this scheme are subject to the following restrictions with effect from 1st April 2011:

- i) The authority shall calculate by 31st May each year the surplus balance, if any, held by each school as at the preceding 31st March. For this purpose the balance will be the recurrent balance as defined in the Consistent Financial Reporting Framework (B02) – uncommitted revenue balances and (B06) community focussed balances.
- ii) The authority shall deduct from the calculated balance any amounts for which the school has a prior year commitment to pay from the surplus balance and any unspent Standards Fund grant for the previous financial year (this item to be removed for 1st April 2012).
- iii) 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.

If the result of steps (i) to (iii) is a sum greater than 5% of the current year's budget share for secondary schools, 8% for nursery, primary and special schools, or £10,000 (where that is greater than either percentage threshold), then the authority shall inform the schools of the intention to deduct from the current year's budget share an amount equal to the excess, for decision to be considered by Schools Forum in September.

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

Funds held in relation to a school's exercise of powers under s.27 of the Education Act 2002 (community facilities) will be taken into account.

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, and decision for application considered by Schools Forum in September.

4.3 - Interest on surplus balances

Balances held by the Authority on behalf of schools will attract no interest, unless specific arrangements are instituted at the school's request.

4.4 - Obligation to carry forward deficit balances

Deficit balances will be carried forward by the deduction of the relevant amounts from the following year's budget share (see also 4.9)

4.5 - Planning for deficit balances

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

4.6 - Writing off deficits

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

4.7 - Balances of closing and replacement schools

When a school closes, any balance (whether surplus or deficit) shall revert to the LA; it cannot be transferred as a balance to any other school, even where the school is a successor to the closing school.

4.8. Borrowing for agreed purposes

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

i) Loan schemes:

The LA shall provide a form of loan arrangement for schools, which does not operate by way of a licensed deficit but rather by way of actual payments to schools or expenditure by the LA in respect of a particular school on condition that a corresponding sum is repaid from the budget share.

The detailed arrangements applying to this scheme are set out below:

- i) The maximum length over which schools may repay the loan will be five years.
- ii) Loans will be available for the acquisition of IT equipment and also for expenditure arising from exceptional circumstance where these are agreed by the Executive Director of Family and Children's Services and the Group Finance Manager.

- iii) The maximum loan available shall be no more than 5% of the school's annual budget.
- iv) Annual repayments will be based on repayment of capital and interest at the bank base rate and charged to the school at the commencement of each financial year. In special circumstances, preferential rates may be negotiated and agreed with the Director of Finance and Information Services.

4.9 - Licensed Deficits

- i) Schools are able to plan for a deficit budget only with the prior written agreement of the Executive Director of Family and Children's Services. Such agreement must be obtained before the first formal budget is set i.e. by 31st May in the financial year of the planned deficit. Headteachers should contact the Schools Finance Team at an early stage during the budget setting process.
- ii) If as a result of a change of circumstances, a school is required to revise its planned budget at a later point in the year, and as a result the budget is in deficit, this must be notified in writing to the Executive Director of Family and Children's Services immediately.
- iii) Approved deficit must be repaid to the LA over an agreed period, normally a maximum of three years.
- iv) The size and purpose of the deficit will be agreed between the LA and the school.
- v) Schools will be encouraged to use surplus balances held, rather than plan for a deficit budget, unless there is good reason why this should not be so.
- vi) Any application for a licensed deficit must not exceed 10% of the school's delegated budget and must be accompanied by a recovery plan.

SECTION 5

5 - INCOME

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

5.1 - Income from lettings

Schools may retain income from lettings of the school premises that would otherwise accrue to the LA, subject to alternative provisions arising from any joint use or PFI agreements. Schools are permitted to cross-subsidise lettings for community and voluntary use with income from other lettings, provided that this is agreed by Governing Bodies. However, income from lettings should **not be paid into** voluntary or private funds held by the school. Schools whose premises are owned by the LA shall be required to have regard to directions issued by the LA as to the use of school premises.

5.2 - Income from fees and charges

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

5.3 - Income from fund-raising activities

Schools may retain income from fundraising activities.

5.4 - Income from the sale of assets

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

5.5 - Administrative procedures for the collection of income

Because of the potential VAT implications of providing services, which lead to fees and charges, fund raising activities and the sale of assets, the LA has established administrative procedures for the collection of income, which are set out in the Financial Regulations. These may vary from time to time in the light of advice from the VAT authorities.

5.6 - Purposes for which income may be used

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

SECTION 6

6 - THE CHARGING OF SCHOOL BUDGET SHARES

6.1 - General provision

The LA must charge the salaries of school staff to the budget share of a school at actual cost where the school participates in the Council's payroll contract. Otherwise the budget share of a school may be charged by the LA without the consent of the Governing Body only in circumstances set out in 6.2 below.

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

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

6.2 - Circumstances in which charges may be made

- i) Where premature retirement costs have been incurred without the prior written agreement of the LA to bear such costs (the amount chargeable being only the excess over any amount agreed by the LA). Costs will not be incurred by the school in relation to severance pay in ill health matters, providing procedures and advice issued by staff responsible for Education Personnel matters have been properly applied.
- ii) Other expenditure incurred to secure resignations where the school had not followed LA advice.
- iii) Awards by courts and industrial tribunals against the LA, or out of court settlements, arising from action or inaction by the Governing Body contrary to the LA's advice.
- iv) Expenditure by the LA in carrying out health and safety work or capital expenditure for which the LA is liable where funds have been delegated to the Governing Body for such work, but the Governing Body has failed to carry out the required work.
- v) Expenditure by the LA incurred in making good defects in building work funded by capital spending from budget shares, where the premises are owned by the LA or the school has voluntary controlled status.
- vi) Expenditure incurred by the LA in insuring its own interests in a school where funding has been delegated but the school has failed to demonstrate that it has arranged cover at least as good as that which would be arranged by the LA.
- vii) Recovery of monies due from a school for services provided to the school, where a dispute over the monies due has been referred to a disputes procedure set out in a service level agreement, and the result is that monies are owed by the school to the LA.

- viii) Recovery of penalties imposed on the LA by the Board of Inland Revenue, the Contributions Agency or HM Customs and Excise, Teachers Pension or regulatory authorities as a result of school negligence.
- ix) Correction of LA errors in calculating charges to a budget share.
- x) Additional transport costs incurred by the LA arising from decisions by the Governing Body on the length of the school day, and failure to notify the LA of non pupil days resulting in unnecessary transport costs.
- xi) Legal costs which are incurred by the LA because the Governing Body did not accept the advice of the LA (see also section 11).
- xii) Costs of necessary health and safety training for staff employed by the LA, where funding for training has been delegated but the necessary training not carried out.
- xiii) 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.
- xiv) Cost of work done in respect of teacher pension remittance and records for schools using non-LA payroll contractors, the charge to be the minimum needed to meet the cost of the Authority's compliance with its statutory obligations.
- xv) Costs incurred by the LA in securing provision specified in the statement of SEN where the Governing Body fails to secure such provision despite the delegation of funds in respect of that statement.
- xvi) Costs incurred by the LA due to submission by the school of incorrect data.
- xvii) Recovery of amounts spent from specified grants on ineligible purposes.
- xviii) Costs incurred by the LA as a result of the governing body being in breach of the terms of a contract.
- xix) Compensation for loss of interest to the Council arising from a school's budget share being paid in advance as described in Annex C.
- xx) Interest payments arising from the late payment of invoices.

6.3. Fees to be deducted from Teachers salaries and remitted to the General Teaching Council

The General Teaching Council for England (Deduction of Fees) Regulations 2001 ("the Regulations", S.I. 2001 No. 3993) came into force on 10 January 2002. The regulations apply to teachers at maintained schools registered with the General Teacher Council for England ("the GTC) or required to be so registered by the Teachers (Compulsory Registration) (England) Regulations 2001 (S.I. 2001 No. 1266). The regulations place a duty on the employer of such teachers to deduct and remit the GTC fee in respect of a teacher who has not already paid the fee to the GTC where the GTC has notified the employer to deduct and remit the fees of that teacher. This includes teachers who have indicated to the GTC that wish to pay the fee by salary deduction as well as teachers who have not indicated how they wish to pay this fee.

In order to ensure the performance of the duties to deduct and remit the fee imposed on the employers by the Regulations 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 and come into effect of February 2002.

By virtue of section 46 of the School Standards and Framework Act 1998 and the regulations made under that section (at present the Financing of Maintained schools (England) Regulations 2001 (S.I.). 2001 No. 475, Part 11 and Schedule 1 the costs of the payroll administration for teachers in the Authority's maintained schools fall to be met from the budget shares which are allocated to governing bodies pursuant to s.47 of the Act, and which are delegated to them pursuant to s.49-50. Accordingly by virtue of Chapter IV of Part II of the Act and this Scheme, Governing Bodies of maintained schools are responsible for making suitable arrangements (or ensuring that such arrangements are made) for the administration of payroll services in respect of their teachers.

A Governing Body of a community school, community special school or a voluntary controlled school, though not the employer of the teachers at such a school, shall:-

- i) Where the governing body has entered into any arrangement or agreement with the Authority to provide payroll services, ensure that any such arrangement or agreement is amended to allow for the deduction and remittance of fees by the Authority to the GTC. The Governing Body shall meet any consequential costs from the school's budget share,
- ii) Where the Governing Body has entered into any arrangement or agreement with a person other than the Authority to provide payroll services, ensure that any such arrangement or agreement is amended to allow for the deduction and remittance of fees by that person to the Authority or directly to the GTC where this has been agreed between the GTC and the Authority. The Governing Body shall meet any consequential costs from the school's budget share and,
- iii) Where the Governing Body directly administers the payroll, deduct and remit the fees to the Authority or directly to the GTC where this has been agreed between the Authority and the GTC. The Governing Body shall meet any consequential costs from the school's budget share.

A Governing Body of a foundation school, a foundation special school or a voluntary aided school, as employers of its teachers, is by virtue of the regulations under a duty to deduct (or arrange for the deduction of) the fee and to remit the fee to the GTC.

Accordingly a governing body shall:-

Where the Governing Body has entered into any arrangement or agreement with the Authority to provide payroll services, ensure that any such arrangement or agreement is amended to allow for the deduction and remittance of the fees by the Authority to the GTC on the Governing Body's behalf. The Authority shall agree to

any such amendment. The Governing Body shall meet and consequential costs from the schools budget share;

Where the Governing Body has entered into any arrangement or agreement with a person other than the Authority to provide payroll services, ensure that any such agreement is amended to allow for the deduction and remittance of the fees by that person to the GTC or the Governing Body for onward transmission to GTC.

The Governing Body shall meet any consequential costs from the schools budget share: and

Where the Governing Body directly administers the payroll, deduct and remit the fees to the GTC. The Governing Body shall meet any consequential costs from the school's budget share.

All this shall be done whether the funding for the salary payments is paid to the Authority by the school from budget share instalments that have been held by the school in an independent bank account, or the salary costs are charged directly by the Authority to the school's budget share account.

SECTION 7

7- TAXATION

7.1 - Value Added Tax

The LA has established procedures to enable schools to utilise the Authority's ability to reclaim VAT on expenditure relating to non-business activity.

These are set out in separate guidance in the Financial Regulations and the VAT Manual issued to schools.

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

7.2 - Construction Industry Scheme (CIS)

Schools are required to abide by procedures issued by the Authority in connection with CIS.

SECTION 8

8 - THE PROVISION OF SERVICES AND FACILITIES BY THE AUTHORITY

8.1 - Provision of services from centrally retained budgets

The LA shall determine on what basis services from centrally retained funds will be provided to schools, but the LA is debarred from discriminating in its provision of services on the basis of categories of schools except where (a) funding has been delegated to some schools only or (b) such discrimination is justified by differences in statutory duties.

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

The term of any arrangement with a school starting on or after 1 April 1999 to buy services or facilities from the LA shall be limited to a maximum of three years from the inception of the scheme or the date of the agreement, whichever is the later, and periods not exceeding five years for any subsequent agreement relating to the same services.

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

The LA must show during audit tests that the charging policy can reasonably be expected to avoid central subsidy of services.

8.2.1 - Packaging

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

8.3 - Service level agreements

If services or facilities are provided under a service level agreement – whether free or on a buy-back basis - the terms of any such agreement starting on or after the inception of the scheme will be reviewed at least every three years.

Services offered by the LA shall be available on a basis that is not related to an extended agreement, as well as on the basis of such agreements. The term 'services' in this paragraph includes PRC and redundancy payments but excludes centrally funded premises and liability insurance.

Service Level Agreements will be in place by 31st March prior to the year in which they operate. Schools will be given at least one month to consider the terms of the agreement before this date.

8.4 - Teachers' pensions

In order to ensure that the performance of the duty on the Authority to supply Teachers Pensions with information under the Teachers' Pensions Regulations

1997, the following conditions are imposed on the Authority and the Governing Bodies of all maintained schools covered by this scheme in relation to their budget shares.

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

Schools are free to engage the payroll provider of their choice. Where a school selects a provider other than RBKC, the school will be responsible for ensuring that the auditors of the 3rd party certify that the payroll system used is robust by 15th May after the end of each financial year. Where such an assurance is not provided, such schools will be liable for the cost of an audit by RBKC to determine the robustness of the payroll provider and systems.

SECTION 9

9 - PFI/PPP

Not Applicable.

SECTION 10

10 - INSURANCE

10.1 - Insurance cover

If funds for insurance are delegated to any school, the LA may require the school to demonstrate that cover relevant to an LA's insurable interests, under a policy arranged by the Governing Body, is at least as good as the relevant minimum cover arranged by the LA if the LA makes such arrangements, either paid for from central funds or from contributions from schools' delegated budgets.

However, the LA must have regard to the actual risks that might be reasonably expected to arise at the school in question in operating such a requirement. Further requirements are detailed in the Financial Regulations.

SECTION 11

11 - MISCELLANEOUS

11.1 - Right of access to information

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

11.2 - Liability of governors

Because the Governing Body is a corporate body, 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

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

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

11.4 - Responsibility for legal costs

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

In the event of a conflict of interest arising between the Governing Body and the LA, the LA will be prepared to fund any reasonable costs of independent legal advice, subject to these costs being notified to the Director of Law and Admin of the Council in advance of any commitment being incurred.

11.5 - Health and Safety

Governing Bodies in expending the school's budget share, are required to have due regard to duties placed on the LA in relation to health and safety, and the Authority's policy on health and safety matters in the management of the budget share.

Under s.39(3) of the School Standards and Framework Act the LA may issue directions to the Governing Body and head teacher of a community, community special or voluntary school on health and safety matters; these directions are enforceable as far as Governing Bodies are concerned, via s.497 of the Education Act 1996 if not complied with.

11.6 - Right of attendance for Chief Finance Officer

Governing Bodies are required to permit the Executive Director for Finance of the Authority or his nominated representative to attend meetings of the Governing Body at which any agenda items are relevant to the exercise of her or his responsibilities.

The Executive Director of Finance attendance shall normally be limited to items that relate to issues of probity or overall financial management and shall not be regarded as routine.

11.7 - Delegation to new schools

Under s.49 of the Act, the Governing Body of a new school is entitled to receive a delegated budget not later than the date on which it opens. The same section allows LA's to delegate some spending powers to the temporary Governing Body of a new school in advance of its opening date and therefore before it has a delegated budget.

The extent of the power is to be decided by the LA.

11.8 - Right to opt for delegation of specific items

Where a school exercises an option to receive delegated funding for an item, this decision must be notified to the LA no later than the date specified by the LA prior to the year in question.

11.9 - Special Educational Needs

Governing Bodies are required to use their best endeavours to secure the special educational needs of pupils. The LA retains the right to suspend delegation where this is not happening.

11.10 - Interest on late payments

Schools are required to ensure that payments are not delayed such that they attract interest under the provisions of the Late Payment of Commercial Debts (Interest) Act 1998. Such interest, when claimed by a supplier, may be charged against a school's budget share.

11.11 - Whistle blowing

Regulations setting out procedures for persons working at a school or school governors who wish to complain about financial management or financial propriety at the school are contained in the Employee Code of Conduct together with details about how such complaints will be dealt with.

The Royal Borough has a strong anti-fraud and corruption culture. As an employee you have a significant contribution to make to ensuring that fraud and corruption continues to be detected and prevented. The Royal Borough has a number of policy and guidance documents relating to fraud and corruption and are contained on the Intranet link below:

<http://kcnet/Doing%20my%20job/Advice%20and%20guidance/Anti-fraud%20and%20corruption/Pages/Default.aspx>

11.12 - Child Protection

Staff must be released to attend child protection case conferences and other related events. The LA would not normally expect to make additional payments to schools to help meet such costs.

11.13 - School Meals

The price that is charged for a school meal is set annually by RBKC through the fees and charges process.

The current price of a school meal is £1.85 (1st April 2011). Schools have had responsibility for checking free school meals eligibility since 1991, and should continue to check and maintain as it is related directly to service provision and cash collection.

SECTION 12

12 - CAPITAL EXPENDITURE

The LA delegates all funding for repairs and maintenance to schools. Only capital expenditure is retained by the LA. For these purposes, expenditure may be treated as capital only where compliant with the CIPFA Code of Practice on local authority accounting and the statement of recommended practice (SORP).

The RBKC definition of capital expenditure is noted at Annex B.

VA governors will have responsibility for repairs and maintenance on the same basis as Community and Foundation schools.

VA schools should be aware of the capital requirements in DfE-VA Blue Book, and that payments under capital expenditure should not be put through the LAs VAT reclaim system. VA bursars should refer to guidance from the Schools Finance Team and Corporate Finance.

SECTION 13

13 - COMMUNITY FACILITIES

13.1 - Powers and controls

Schools that chose to exercise the power conferred by s.27(1) of the Education Act 2003 to provide community facilities will be subject to a range of controls.

Regulations made under s.28 (2) if made, may specify certain activities which cannot be undertaken under the main enabling power.

The school must consult the LA and have regard to advice from the LA. Any application must be submitted to the Asset Management Team for consideration.

Where a third party is involved in the proposals, the details of the financial arrangements must be submitted with the application.

The Authority may require the Governing Body to make arrangements to protect the interests of the Authority by carrying out the activity concerned through the vehicle of a limited company formed for the purpose, or by obtained indemnity insurance for risks associated with the project in question.

The Authority may require any Governing Body which exercises this power, may be required to submit a financial statement every six months.

The school must have regard to guidance issued by the Secretary of State in the exercise of this power.

The powers contained in the schools' own instruments of government, if any, and

The LA's scheme for Financing Schools made under s.48 of the Schools 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.

Failure to follow such controls or to act against the Authority's wishes, may result in the suspension of the school's delegated budget.

13.2 - Audit and accounting arrangements

Financial information relating to any arrangements made under this power must be included in the CFR returns to the LA.

Governing Bodies are required to grant access to the school's records in connexion with the exercise of the community facilities power, in order to facilitate internal and external audit of such income and expenditure.

Schools must ensure that any funding agreement with other persons in pursuant of the community facilities powers contain adequate provision for access by the Authority to the records and other property of those persons held in respect of the

activity, whether held in school or on other premises, in order for the Authority to satisfy itself as the propriety of expenditure on the facilities in question.

13.3 - Income and surpluses

All net income derived from the community facilities may be retained by the school except where otherwise agreed with a funding provider, whether that is the LA or some other person.

Surpluses should be carried forward in separate accounts unless the Authority has given specific provision to transfer the surplus to the schools budget share balances. If the school is a community or community special school, and the Authority ceases to maintain the school, any accumulated retained income obtained from the exercise of community facility powers, reverts to the Authority unless otherwise agreed with a funding provider.

13.4 - Health and safety matters

Health and safety regulations contained elsewhere in the scheme extend to cover the community facility power.

The Governing body is responsible for the costs of securing Criminal Records Bureau (CRB) clearance for all adults involved in the community activities.

13.5 - Insurance

The Governing Body is responsible for ensuring adequate insurance arrangements are in place to cover community use. The cost of such insurance must not be funded from the school's delegated budget share.

The LA may undertake its own assessment of the insurance arrangements in respect of community facilities and if found to be inadequate may make its own arrangements and charge the resultant cost to the school.

13.6 - Taxation

Schools should seek advice of the LA and the local VAT office on issues relating to the imposition of VAT on expenditure in connection with community facilities, including the use of the local authority VAT reclaim facility.

If any member of the staff employed by the school or the LA in connection with a community facility at the school is paid from funds held in the schools own bank account, the school is likely to be liable for income tax and national insurance payments.

Schools should seek advice from the LA in relation to the Construction Industry Scheme where this is relevant to the exercise of the community facilities power.

13.7 - Banking

Schools must retain separate bank accounts in respect of income and expenditure in relation to community facilities. The provisions relating to the banks that may be used, signing of cheques, the titles of bank accounts, the contents of bank account mandates, and similar matters are set out in Section 3.

13.8 - Borrowing

Schools may not borrow money in relation to the community facility without the written consent of the Secretary of State.

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

ANNEX A

LIST OF SCHOOLS TO WHICH THIS SCHEME APPLIES

Nursery Schools

Golborne
Chelsea Open Air
Maxilla
St Anne's

Primary Schools

Ashburnham
Avondale Park
Barlby
Bevington
Bousfield
Christ Church CE
Colville
Fox
Holy Trinity CE
Marlborough
Middle Row
Oratory RC
Oxford Gardens
Our Lady of Victories RC
Park Walk
St Barnabas & St Philip's CE
St Charles' RC
St Clement and St James CE
St Cuthbert with St Matthias CE
St Francis of Assisi RC
St Joseph's RC
St Mary's RC
St Mary Abbots CE
St Thomas' CE
Servite RC
Thomas Jones

Secondary Schools

Cardinal Vaughan Memorial
Holland Park
St Thomas More
Sion Manning

Special Schools

Parkwood Hall
Chelsea Community Hospital School

ANNEX B

CAPITAL EXPENDITURE DEFINITION

The full accounting or formal definition is set out in the SORP 2011-12.

	MUST CAPITALISE (ENHANCEMENT/ADDITION)	MUST NOT CAPITALISE (REVENUE)
ALL CAPITAL ASSETS	Cost > £10,000* Life > 1 year	Cost < £10,000* Life < 1 year
LAND	Acquisition for cash Acquisition under a finance lease Reclamation Enhancement** Laying Out Directly attributable labour costs*** Other Directly attributable costs****	Administration and general overhead costs (e.g. refreshments, telephones, room hire) Cost incurred prior to intention to acquire (e.g. option appraisals, feasibility studies not contributing to scope of asset acquired)
ROADS, BUILDINGS AND OTHER STRUCTURES	Acquisition for cash Acquisition under a finance lease Construction Enhancement** Replacement Directly attributable labour costs*** Other Directly attributable costs**** Separately depreciated component of asset (replacement or restoration)	Administration and general overhead costs (e.g. refreshments, telephones, room hire) Expenditure to maintain asset to previous standard Feasibility works and option appraisals that do not directly create an asset
PLANT, MACHINERY, APPARATUS, VEHICLES	Acquisition for cash Acquisition under a finance lease Installation Replacement Directly attributable costs****	
SOFTWARE	Purchased software licences Internally developed software only where there is a readily ascertainable market value (unlikely)	Internally developed software where there is <u>not</u> a readily ascertainable market value (likely)

**The de minimis of £10,000 applies to individual items (e.g. purchase of 10 items at £999 must be charged to revenue).*

***Enhancement means to substantially lengthen the useful life of the asset or substantially increase the market value of the asset (e.g. improvement works and structural repairs).*

****Directly attributable labour costs but only to the extent that they are directly attributable to bringing the asset into working condition (e.g. project management costs).*

*****Directly attributable costs include stamp duty, import duty, non-refundable purchase taxes, site preparation and clearance, delivery and handling costs, installation costs, professional fees.*

ANNEX C

INTEREST CLAWBACK PROVISIONS

Interest charges

In instances where it is necessary to charge schools for the loss of interest to the Council e.g. where the monthly invoice for payroll costs remains unpaid beyond an agreed date, the interest charge will be based on the following calculation:

Bank rate * sum outstanding * days outstanding

The Council may also recover its administrative costs in dealing with persistent late payment.

ANNEX D

RESPONSIBILITY FOR REDUNDANCY AND EARLY RETIREMENT COSTS

Where maintained schools in the Royal Borough make staff members redundant , the LA shall reimburse the school for the cost of these redundancies up to a maximum of the statutory redundancy rate (currently £380 per week), provided that the following criteria have been met:

- i) That the school has followed the LAs procedures or other appropriate and proper procedure in handling their redundancies;
- ii) That they notify the Director of Children's Service of their intention to make staff redundant in advance;
- iii) That the school has not acted against advice that they have received from the LA;
- iv) That the costs do not exceed the Council's current redundancy scheme.

In cases where new early retirements or redundancies have resulted in revenue savings to the DSG expenditure which is greater than or equal to the costs incurred, then the LA will seek to meet the cost from the central part of the Schools Budget subject to agreement by the Schools Forum.

Costs incurred by the local education authority (LEA) 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.

Costs incurred by the LEA 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.

ANNEX E

FINANCIAL PROCEDURE RULES and APPLICATION FOR SCHOOLS WITH DELEGATED BUDGETS

INTRODUCTION

Purpose

The Council's Financial Procedure Rules sets out the financial governance arrangements for the Council, setting the control framework for five key areas of activity:

- Financial Planning
- Financial Management
- Risk Management and Control of Resources
- Systems and Procedures
- Partnerships and external arrangements.

<http://www.rbkc.gov.uk/councilanddemocracy/howthecouncilworks/theconstitution/constitutiontableofcontents.aspx>

OVERALL FINANCIAL AND RESOURCE RESPONSIBILITIES

Introduction

1.01 The Town Clerk and Executive Director of Finance has a duty to ensure that high financial standards are maintained throughout the Royal Borough. Part of the way this is managed is through this set of Financial Procedure Rules within the framework of the Constitution.

1.02 The rules make references to specific officers' responsibilities for ensuring sound financial procedures. Group Finance Managers have principal functional responsibility for finance to ensure compliance with professional standards and objectivity of advice on financial matters. These officers are acting under delegated powers from the Town Clerk and Executive Director of Finance. More detailed guidance on the extent of delegation of financial responsibility, and any specific limitations imposed, may be issued from time to time.

1.03 These rules set down the standards that the Council requires from all officers and agents of the Council and cover the main areas of:

- Financial Planning
- Financial Management
- Risk Management and Control of Resources
- Systems and Procedures
- Partnerships and external arrangements.

1.04 All officers are required to work within these rules, in conjunction with the other requirements of the constitution; any exceptions are clearly set out. These rules are reviewed each year and updated as necessary. Officers should ensure they work from the up-to-date copy. Detailed supplementary guidance on some of the areas covered by these rules is published on the intranet (see Appendix to these Rules) and must also be followed.

1.05 Separate regulations for schools are contained in the Scheme for Financing Schools.

APPLICATION FOR SCHOOLS WITH DELEGATED BUDGETS

Schools are required to comply with the Council's Financial Procedure Rules. Schools are exercising the delegated responsibilities from the Executive Director of Finance, the Group Finance Manager and the Executive Director of Children's Services. The paragraph numbering below refers to the specific reference in the financial procedure rule. The application for schools is directly below in bold and italics.

Statutory Responsibility

1.06 The Town Clerk and Executive Director of Finance has statutory duties in relation to the financial administration and stewardship of the authority. These statutory responsibilities cannot be overridden.

Other Specific Responsibilities

1.10. The Financial Procedure Rules also place specific responsibilities on other individual officers. They include the following:

- (a) Executive Directors are responsible for the overall financial management within their Department and for ensuring that all staff under their responsibility are aware of the existence and content of the Council's Financial Procedure Rules and that they comply with them. They can delegate these responsibilities to other managers through a written scheme of delegation that sets out the extent and any limitations on areas delegated.
- (b) Line managers are responsible for the day-to-day financial operation of their team and need to ensure that the Financial Procedure Rules are being adhered to.
- (c) Group Finance Managers are responsible for promoting high financial standards including interpreting financial rules and advising accordingly. Group Finance Managers are also responsible for monitoring the overall financial state of their business group and advising their Cabinet Member on proposals that have a financial impact.

The responsibilities are specifically delegated to the Governing Body. However, the Governing Body may choose to delegate some of these powers to identified employees of the school, such as the Headteacher. Where this course of action is taken, the minutes of the relevant Governing Body meeting (s) must:

- a) State clearly that this decision had been taken.***
- b) Clearly state what responsibilities have been delegated and to whom.***
- c) State any financial limits imposed on the delegation.***
- d) Confirm that the person to whom responsibility has been delegated is fully aware of the decisions taken.***

The Headteacher is responsible for day-to-day financial operation and direction of resources.

Individuals' Responsibilities

1.11 Everyone should be familiar with these rules and must clearly understand those that affect their work area. If an officer is unclear about some aspect of these rules they should seek advice before acting. This may be from their line manager, their Group Finance team or the Head of Internal Audit and Risk Management.

1.12 Failure to comply with Financial Procedure Rules and associated guidance may, in certain circumstances, lead to employees being charged with serious or gross misconduct and dealt with in accordance with the Council's disciplinary procedures.

1.13 These rules are not a substitute for individuals' common sense and judgment. All officers must exhibit the highest standards of probity when they deal with the Royal Borough's finances. All officers must be aware of and adhere to the rules within the Royal Borough's 'Code of Conduct for Employees'. These set out the standards that are expected from employees.

1.14 All officers have a duty to act if they believe there is a possibility of fraud, corruption or poor value-for-money taking place or that the rules are being breached. In such cases they must inform their line manager, unless the latter is involved, the Group Finance Manager and the Head of Internal Audit and Risk Management.

Emergencies and Breaches

1.15 Very rarely officers are faced with an emergency and may need to act swiftly. It is recognised that in these circumstances officers need to use their best judgement, balancing the need of the service, severity of emergency, and the financial consequences of their actions. Wherever possible, officers should seek clearance from a Executive Director before proceeding.

1.16 Officers must secure retrospective approval for their actions. They must contact their Executive Director who will be responsible for co-ordinating such authorisation.

For the avoidance of doubt these regulations apply to Governors, the Headteacher, employees and agents dealing with Schools Finances.

2. FINANCIAL PLANNING

Budgeting

2.04 Group Finance Managers and Executive Directors are responsible for drafting annual revenue budgets and financial plans in accordance with these guidelines and associated instructions, involving budget managers in the budget setting process.

The Executive Director of Family and Children's Services is responsible for determining the overall budget relating to schools and the individual school budgets in accordance with the Schools Standards and Framework Act 1998,

subsequent DFE Schools Finance Regulations and Circulars and the LA's scheme of delegation.

The individual school delegated budgets will comprise the allocations under the Schools Funding Formula, Early Years Single Funding Formula and specific grant allocations. These are agreed by Schools Forum and final budgets are issued to schools by 31st March.

2.05 Comprehensive budget plans should be based on realistic projections about:

- a) pay and inflation
- b) business and activity levels
- c) known service and capital development plans
- d) savings plans
- e) risk assessments and contingency plans
- f) other internal plans such as human resources and IT

Schools Budget Plans should be based on their overall resources and their realistic projections and are required to be agreed by Governing Bodies (or Finance Committees where delegated) and returned to the LA's schools finance team by 31st May.

Budget Amendment

2.18 Approved revenue budgets may be amended during a financial year.

Schools initial budget allocations may be varied during the year. Governing Bodies must ensure that there are appropriate procedures within the school to ensure these are properly approved.

3. FINANCIAL MANAGEMENT

Budget monitoring and control

3.04 Executive Directors are responsible for controlling revenue and capital income and expenditure within their area and ensuring that adequate arrangements are in place for the effective monitoring of budget performance, taking account of financial and service activity / performance level information available. They are responsible for reporting on budget monitoring and variances within their own area, in a format and frequency determined by the Town Clerk and Executive Director of Finance. They must also take any action necessary to avoid exceeding their budget allocation and draw attention to any problems.

Governing Bodies have a responsibility to ensure that adequate arrangements are in place for effective monitoring of their budgets. Where this responsibility is delegated to members of the school staff, the Governing Body must define and formally record the extent and nature of this delegation and ensure that the relevant officers are aware of their responsibilities.

Commitments to revenue expenditure in future financial years to be met from anticipated underspending in the current year shall not be entered into by the Governing Body without the approval of Family and Children's Services Finance Section.

The Governing Body shall ensure that the overall net expenditure in the current year is not in excess of the schools budget allocation, without seeking prior written approval from the Executive Director of Family and Children's Services.

**For this purpose the school's budget allocation is:
 The sum delegated for the current financial year
 Balances brought forward from the previous year surplus/minus
 Any supplementary budgets notified by Family and Children's Services Finance.**

Financial implications

The Governing Body is responsible for ensuring the school's budget is spent on the purposes of the school.

The Governing Body is responsible for all the financial implications arising from decisions on:

The overall management of the school

Determination of the use of the school's budget allocation

Staffing levels

Appointments

Costs of dismissal where the Authority has good reason for deducting the whole or part of the costs.

Decisions to use an accounting system other than that supplied by the LA

Decisions to appoint an external contractor, other than the one appointed by the Council, to operate its payroll function.

Decisions to appoint external contractors to provide for financial or other professional support.

Virements

3.14 Virements are subject to the following limits which apply cumulatively to individual budget heads approved by the Council:

Category	Limit (£)
Group Finance Manager approval	0-49,999
Group Finance Manager approval subject to reporting to the relevant Cabinet Member (and indicating if the change is ongoing)	50,000-99,999
Key decision by relevant Cabinet Member in conjunction with Cabinet Member for Finance and Information Systems	100,000-249,999
Full Cabinet approval	250,000+

There is no limit to the sums that can be vired between different allocations (unless within a specific grant allocation), but Governing Bodies may wish to set a limit over which such decisions are referred to the Governing Body.

Accounting Records and Returns

3.17 Executive Directors are responsible for:

- a) consulting with the Town Clerk and Executive Director of Finance on the accounting procedures and records to be utilised within their Department.
- b) ensuring the proper retention of accounting records in accordance with the requirements established by the Town Clerk and Executive Director of Finance.
- c) ensuring that all claims for funds including grants are made by the due date.
- d) maintaining adequate records to provide a management trail leading from the source of income/expenditure through to the accounting statements.
- e) providing information required for, or to ensure completion of, all statutory and other financial returns by the due dates.
- f) complying with any compliance testing which the Town Clerk and Executive Director of Finance requires in relation to their accounts.
- g) operating control accounts as agreed by the Town Clerk and Executive Director of Finance ensuring that these are regularly reconciled, and cleared as part of the regular monitoring procedures.

Accounting Policies and Statement of Accounts

3.19 Executive Directors are responsible for complying with accounting guidance, providing the Town Clerk and Executive Director of Finance with the information needed to produce the annual accounts, together with supporting documentation and good working papers, in accordance with the annual timetable.

Governing Bodies are responsible for ensuring that financial information provided by their school to be included in the Council's accounts is accurate and follows proper accounting practices.

3.20 Executive Directors are responsible for ensuring that appropriate knowledgeable and skilled staff are available to respond to external audit requirements on a timely basis.

4 RISK MANAGEMENT AND CONTROL OF RESOURCES

Risk Management and Insurance

4.02 Executive Directors are responsible for:

- a) identification and management of risk within their service, and having in place monitoring processes for reviewing regularly the effectiveness of risk management strategies,
- b) contributing to management of corporate risk,
- c) ensuring that they are aware of the extent of insurance cover as set out in the Risk Management and Insurance Handbook and complying with procedures agreed regarding the instigation, renewal, maintenance and amendment of the authority's insurance arrangements,

- d) informing the Insurance and Risk Manager of any changes in assets that impact on insurance arrangements,
- e) informing the Risk and Insurance Manager of any loss or damage to property, whether insured or not, and providing details of all claims made or incidents that may give rise to a claim against the Council.

Governing Bodies are responsible for identifying and controlling hazards and containment of losses (including injury to employees or the public as well as damage to property). They are also responsible for implementing the proposals set by the Risk Management Group.

Where the responsibility for insurance is delegated, Governing Bodies may chose to buy insurance from any provider, including the Council's own insurance section.

They must ensure that cover purchased is both sufficient and effective.

Governing Bodies must ensure that procedures are in place to ensure all new risks or additions / deletions of assets within the school are notified to their insurer.

Governing Bodies must notify their chosen insurer in writing of any loss or damage to property or goods, whether insured or not. If the loss has arisen as a result of theft then the school must notify the Police and the Council's internal audit section.

Where the responsibility for insurance is not delegated, Governing Bodies must notify the Council's Risk and Insurance Manager to any changes in risk or assets and any losses arising from theft. The Police must also be notified of losses arising from theft.

Governing Bodies must inform the Risk and Insurance Manager of any claims or incidents that may give rise to a claim against the LA or the Council.

Internal Control

4.04 Executive Directors are responsible for:

- a) establishing sound arrangements for planning, appraising, authorising, monitoring and controlling their operations in order to achieve continuous improvement, economy, efficiency and effectiveness and for achieving their financial performance targets,
- b) promoting compliance with Council Policy, Standing Orders, Financial Procedure Rules, Codes of Conduct and any statutory requirements,
- c) promoting an overall effective internal control system. Managerial Control Systems (including appropriate organisation structures, personnel arrangements and supervision, as well as Financial and Operational Control Systems and procedures, including physical safeguards of assets, segregation of duties, authorisation and approval procedures and information systems) should be documented and regularly reviewed.

d) providing assurances for the annual Governance Statement, that financial and operational control processes are in place to enable Business Groups to achieve their objectives and manage significant risks.

Internal Audit

4.07 Executive Directors are responsible for:

- a) notifying the Head of Audit and Risk Management immediately of any suspected fraud, theft, irregularity or improper use of or misappropriation of the authority's property or resources. Pending investigation and reporting, all necessary steps should be taken, in consultation with the Head of Audit and Risk Management, to prevent further loss and to secure records and documentation against removal or alteration
- b) ensuring that internal and external audit are given access at all reasonable times to premises, personnel, documents and assets that the auditors consider necessary for the purposes of their work
- c) ensuring that all records and systems are up to date and available for inspection
- d) ensuring that audit recommendations are responded to effectively in accordance with relevant timescales.

Preventing fraud and corruption

4.10 Executive Directors are responsible for ensuring compliance with the Anti-Fraud and Anti-Corruption Strategy and with systems of internal control.

Assets

4.12 Executive Directors must inform the Town Clerk and Executive Director of Finance if they propose to enter into any finance lease agreement.

4.13 Executive Directors must ensure that assets, and records relating to these, are properly maintained and securely held.

Governing Bodies are responsible for all assets and equipment under their control. Advice should be sought from the relevant insurer, Internal Audit section and the Physical Resources team of the LA on security issues.

Governing Bodies must maintain an inventory of all equipment/assets with a sale value of over £250. Governing Bodies may wish to set a lower value to ensure greater control over such assets.

Governing Bodies should designate a responsible person for maintaining the asset register and should ensure that procedures are in place to notify the identified person with acquisitions / disposals of assets.

Assets sold must be disposed of at the best price available.

4.14 Executive Directors must ensure that contingency plans for the security of assets and continuity of service, in the event of disaster or system failure, are in place.

4.15 The Director for Property must maintain a register of land and properties held by the Council.

Governing Bodies are responsible for the school building, the surrounding grounds and all the property within the school. Any changes to this register must be notified to the Executive Director of Finance, Executive Director of Family and Children's Services and the relevant insurer.

Where the premises are owned by the LA then the Governing Body shall seek consent of the LA to the proposed works.

4.18 Executive Directors must obtain the prior agreement of the Director for Corporate Property for all transactions involving property acquisition or disposal or which involve the Council in taking or granting a lease in excess of 6 months. They must also inform the Risk and Insurance Manager for insurance purposes.

Governors may not enter into any agreement connected with the buying or seeking or granting of interests in land or buildings which are the property of the Council without first seeking the approval of the LA.

Asset Disposal

4.19 The Director for Corporate Property is responsible for issuing guidelines representing best practice for the disposal of property assets.

Governing Bodies must not dispose of land or property without permission of the Executive Director of Family and Children's Services.

4.20 Executive Directors are responsible for complying with issued guidelines in respect of all assets regarding health and safety. Executive Directors are responsible for planning and meeting the cost of dilapidations connected with their occupation of property.

Asset Performance

4.23 Executive Directors are responsible for monitoring and reviewing asset performance in accordance with the Asset Management Plan.

Information Systems and Technology

4.24 Executive Directors must obtain the prior agreement of the Town Clerk and Executive Director of Finance for all transactions involving the acquisition or disposal of IT systems and equipment. Purchase of IT equipment through the Information Systems Division (ISD) is deemed to satisfy the requirement for prior agreement.

4.25 Executive Directors are responsible for procuring and maintaining IS / IT assets in accordance with the Council's IT strategy and operational guidelines.

Inventories

4.26 Executive Directors are responsible for maintaining and reviewing annually inventories of furniture, fittings, equipment, IT, plant and machinery in their Department in accordance with guidelines issued by the Clerk and Executive Director of Finance.

A check of assets against the register should be carried out at least once per year. A copy of the inventory should be sent to the relevant insurer at least once per year.

Stocks of goods and materials

4.27 Executive Directors are responsible for:

- a) ensuring that stocks of goods and materials are held at a level appropriate to the business needs of the Council, and that stock levels are checked regularly.
- b) ensuring that adequate arrangements are in place for their care and custody.
- c) writing off the value of obsolete stock in their Departments in accordance with the write off limits for debts (see paragraph 5.04).

Intellectual Property

4.28 The Director of Legal Services is responsible for developing and disseminating best practice regarding the treatment of intellectual property.

4.29 Executive Directors are responsible for:

- a) developing controls to ensure that staff do not carry out private work in council time and that staff are aware that anything they create during the course of their employment, whether written or otherwise, belongs to the Council.
- b) complying with copyright, designs and patent legislation and, in particular, to ensure that:
 - I) only software legally acquired and installed by the authority is used on its computers,
 - II) staff are aware of legislative provisions, and
 - III) in developing systems, due regard is given to the issue of intellectual property rights.

Treasury Management

4.30 The Town Clerk and Executive Director of Finance is responsible for:

- a) making all decisions on borrowing, investment or financing (including finance leasing) in accordance with the approved Treasury Management Strategy and Investment Strategy;
- b) ensuring that all borrowing and all investments of money are made in the name of the authority or in the name of an approved nominee.

Under no circumstances are Governing Bodies allowed to enter into loan arrangements with any institution other than the Council.

Trust Funds and funds held for third parties

4.33 Executive Directors are responsible for arranging for all Trust Funds to be held, wherever possible, in the name of the authority and ensuring that Trust Funds are operated within any relevant legislation and the specific requirements for each Trust.

Funds that are not the property of the Council or the Governing Body shall be deposited in a bank account separate from those provided for official purposes. The account shall be in the name of the school or establishment concerned. Such funds shall be the subject of such audit as the Executive Director of Finance considers necessary to satisfy the Council's interests are adequately protected.

4.35 Executive Directors are responsible for operating bank accounts opened with the approval of the Town Clerk and Executive Director of Finance in accordance with issued guidelines.

Approval of investments of surplus balances with any institution other than the Council, or a deposit account of the approved bankers, must be approved by the Executive Director of Finance.

All arrangements for the opening and closing of bank / building society accounts and for the banking and withdrawal of money shall be made with the approval of the Executive Director of Finance. The Director of Finance and the Head of Finance (FCS) must be signatories to the bank account. These LA signatories will only be used in emergency circumstances (e.g. after issue of notice of concern) or where a school's delegated budget has been withdrawn.

Cheques must be signed by a minimum of two people whose names must appear on the bank mandate. Blank cheques must not be pre-signed.

The Governing Body shall be responsible for the proper custody of unused cheques which should at all times be kept in a secure location with restricted access.

The Governing Body shall be responsible for recording of all payments from and deposits to the bank account(s) and shall obtain statements from the bank monthly, reconciling the final balance on the statement with the established records.

Under no circumstances shall private cheques, money or postal orders be cashed through the school accounts or voluntary fund save for exceptional circumstances and only then with prior approval of the Executive Director of Finance.

Under no circumstances shall money, private cheques etc, belonging to the Council or governing body be paid into a private bank account.

Imprest Accounts

4.37 Executive Directors are responsible for the secure operation and monthly reconciliation of approved cash imprest accounts in accordance with procedures issued by the Town Clerk and Executive Director of Finance.

The Governing Body shall reimburse authorised employees for payment of expenses as deemed appropriate and in accordance with guidelines issued by Education Finance section.

Where the Governing Body deem it appropriate and it is within the guidelines to hold a petty cash float, advances to the petty cash float shall be made from the school's disbursement account.

Governing Bodies must determine the arrangements within the school for petty cash. Detailed procedures must be set down as to who is responsible for any petty cash float, and the arrangements for the operation and security of that float.

Payments from the petty cash imprest shall be limited to those of an urgent nature and must not exceed £100 for primary special and nursery schools or £200 for secondary schools.

Each school employee authorised to hold an imprest account shall be responsible for ensuring that:

Proper vouchers and /or receipts are obtained for all petty cash disbursements made;

- ***Cash is kept in a secure place, with access limited to staff authorised by the Governing Body.***
- ***Cash, receipts and vouchers are reconciled to the records kept of advances to and payments from imprest.***
- ***Expenditure is coded appropriately on the school's financial system, according to budget provision made by the Governing Body.***

In no circumstances shall personal cheques be cashed through the petty cash imprest.

In no circumstances shall the imprest account be used to pay school staff for additional duties or for paying self-employed people.

As an alternative to operating an imprest, the Governing Body may elect to draw cash for the total value of the petty cash claims outstanding for a week, or reimburse the expenses by cheque.

Purchase Cards

4.38 Purchase Cards are a relevant method of payment for purchases below £500 where appropriate, rather than the use of cash imprests, reimbursement of expenses incurred by employees, or the payment of invoices from suppliers.

4.40 Executive Directors are responsible for ensuring the correct use of Purchase Cards in accordance with the procedures and guidelines issued by the Executive Director for Finance.

These procedures apply to Schools using the Council's Financial system.

Staffing Costs

4.42 Executive Directors are responsible for the management of staffing budgets by:

- a) adjusting the staffing numbers to that which can be funded within the approved budget provision,
- b) the proper use of appointment procedures,
- c) monitoring staff activity to ensure adequate control over such costs as sickness, overtime, training, temporary and agency staff,

- d) ensuring that the staffing budget is not exceeded unless the necessary additional ongoing funding is available and the agreement of the relevant Cabinet Member and Cabinet Member for Finance and Information Systems is obtained as required,
- e) ensuring compliance with taxation and contract requirements for contractors and employees. Remuneration of employees must be paid through the authorised payroll system.

5. SYSTEMS AND PROCEDURES

Income

5.04 The approval limits for writing off irrecoverable debts is as follows:

Amounts to be written off	Approval by
Up to £249	Executive Director (or their authorised representative)
£250 to £999	Executive Director (or their authorised representative) subject to the agreement of the Group Finance Manager to this higher limit.
£1,000 to £9,999	Executive Director, and Group Finance Manager (or their authorised representatives).
£10,000 to £99,999	Executive Director, Group Finance Manager and the Director of Legal Services (or their authorised representatives).
£100,00 to £249,999	The relevant Cabinet Member and the Cabinet Member for Finance and Information Systems.
£250,000 or more	Full Cabinet.

If all appropriate attempts to recover income due have been made and have proved unsuccessful, then the debt should be written off.

Any approval to writing off of debts by the Governing Body must be reported at least once per term to the Education Finance Section.

Debt write-offs of up to £250 may be authorised by the Headteacher. Advice must be sought from Family and Children's Services Finance if the debt exceeds £250, although Governing Bodies may wish to seek advice for smaller amounts. Write-offs between £251-999 may be made after approval by the Family and Children's Services Group Finance Manager. Write-offs between £1,000 and £9,999 require approval by the Executive Director of Family Services and the Group Finance Manager. Any debt over £9,999 may be authorised only after referring the debt to the Director of Legal Services.

Debts that have been raised in error may be cancelled by the Governing Body or their authorised representative.

5.05 Executive Directors are responsible for:

- a) ensuring that the Council's corporate financial systems are used for collection of income except where specialist systems are used with the agreement with the Town Clerk and Executive Director of Finance,
- b) ensuring compliance with the agreed debt management policy of the Council,
- c) ensuring that invoices are accurate, raised promptly, recovery action is swift and any disputes are resolved in a timely manner,
- d) the write-off of irrecoverable debts in their Departments in accordance with the limits in 5.04,
- e) ensuring that the agreed charging policy is implemented and consistently applied in respect of each relevant activity and service,
- f) separating, as far as is practicable, the responsibility for identifying amounts due and the responsibility for collection,
- g) ensuring official receipts are issued and maintaining any other documentation for income collection purposes,
- h) holding securely receipts, tickets and other records of income,
- i) ensuring that income from debit or credit cards is processed in accordance with Payment Card Industry Data Security Standards,
- j) ensuring the security of cash handling.

Governing Bodies are responsible for setting any charges relating to the hire of school premises / property or for the sales of any goods (other than the price to be charged for a school meal). The level of charges should be reviewed regularly.

Governing Bodies are responsible for establishing appropriate and secure arrangements for collecting and accounting for income due to the school. Additional controls must be in place if the income is in the form of cash.

The arrangements must provide that:

- ***Persons authorised by the Governing Body to collect income must be properly trained in the correct procedures.***
- ***There is sufficient separation of duties between the person who submits the invoice and the person who collects the money.***
- ***A receipt is given for all sums of £10 or above. Governing Bodies may wish to impose a lower level at which receipts are issued.***
- ***Proper records of income are kept.***
- ***All money received is banked as soon as possible.***
- ***VAT is properly accounted for.***
- ***Income due is regularly monitored.***
- ***Shortfalls in income are identified early and appropriate action taken.***

Ordering and Paying for Works, Goods and Services

5.06 The Town Clerk and Executive Director of Finance is responsible for:

- a) ensuring that the authority's financial systems and procedures for ordering and paying for works, goods and services are sound and properly administered,
- b) agreeing, in consultation with Executive Directors where appropriate, any changes to existing financial systems and approving any new systems before they are introduced,
- c) agreeing the form of official orders and associated terms and conditions

- d) making payments from the Authority's funds on a Executive Director's authorisation that the expenditure has been duly incurred in accordance with Financial Procedure Rules,
- e) defining the requirements for the checking and certification of invoices prior to payment to confirm that the goods have been ordered and received, the invoice is in order and is certified for payment by the nominated budget manager,
- f) setting and reviewing a minimum value for invoices, below which payment will be made on certification that goods or services have been received and that the invoice is in order but not requiring the additional certification of the budget manager,
- g) making payments, whether or not provision exists within the estimates, where the payment is specifically required by statute or is made under a Court Order,
- h) making payments to contractors on the certificate of the appropriate Executive Director, which must include details of the value of work, retention money, amounts previously certified and amounts now certified.

Governing bodies are responsible for orders issued by their school. This responsibility includes identifying employees who can raise and authorise orders and what limits should be placed on this delegated power.

Orders should be raised through the school's accounting system to ensure good budgetary control.

Oral orders are not acceptable except in emergencies and even then must be confirmed in writing as soon as possible.

Every employee who is authorised to raise an order is responsible for ensuring that the order complies with the "Contract Regulations" regarding tenders and quotations and is expected to ensure that every effort has been made to secure the best terms for the school.

Legal advice should be taken before accepting any unusual terms and conditions as part of an order.

5.07 Executive Directors are responsible for:

- a) ensuring that the Council's corporate financial systems are used for payment for work, goods and services except where specialist systems are used in agreement with the Town Clerk and Executive Director of Finance,
- b) ensuring that verbal orders for works, goods or services are only placed exceptionally and are confirmed with an official written order,
- c) Ensuring that purchase orders are used for all purchases of £5,000 or more unless a specific exemption has been granted by the Head of Financial Services,
- d) ensuring that orders are only used for goods and services provided to their Departments and not to obtain goods or services for an individual's private use,
- e) ensuring that only those staff authorised by the Executive Director sign orders or authorise invoices for payment and maintaining an up-to-date list of such authorised staff, identifying in each case the limits of their authority,
- f) ensuring that goods and services are checked on receipt to verify that they are in accordance with the order. This check should, where possible, be carried out by a different person from the person who authorised the order. Employees must not

authorise payments to themselves, to anyone to whom they are related, or with whom they have a close personal or domestic relationship outside work,

g) ensuring that payment is not made unless a proper VAT invoice has been received, checked, coded and certified for payment,

h) ensuring that payments are not made in advance of goods being supplied, work done or services rendered to the Council except with the approval of the Town Clerk and Executive Director of Finance,

i) ensuring that all undisputed invoices are settled within agreed terms or 30 days from receipt of the invoice in accordance with the Best Value Prompt Payment of Invoices Performance Indicator,

j) ensuring that the Department obtains value for money from purchases by taking appropriate steps to obtain competitive prices for goods and services of the appropriate quality, and in line with the principles contained in the Authority's Procurement Procedure Rules,

k) utilising the purchasing procedures outlined in the Authority's Procurement Procedure Rules.

Governing Bodies are responsible for ensuring that:

- ***Employees who can process/certify payments have been properly identified.***
- ***Only officers authorised by them can make or certify payments.***
- ***The identified officers are properly trained and adequate written instructions are available.***
- ***There are effective controls in place ensuring the separation of duties between the placement and authorisation of orders, and processing a payment voucher and certifying the payment / signing the cheque.***
- ***Employees are not allowed to process or certify payments to themselves or another employee who is a relative.***

Payments can be made through the Council's on line system (for schools on the Council's financial system) or via the schools own approved accounting system.

Payment should only be made against a valid invoice. Faxed copies, photocopies, incomplete or manually amended invoices are not acceptable and must be returned to the supplier for a replacement.

Payments should not normally be made in advance of the receipt of the goods or services. Any Governing Body wishing to do this should seek the advice of the Education Finance section.

Care must be taken to ensure that the correct invoice number is recorded when a payment is made. This will provide a check to avoid duplicate payments.

The identified employee who certifies the payment must make adequate checks to ensure that:

- ***The goods and services have been received and are satisfactory.***
- ***There is sufficient budget to cover the expenditure.***
- ***The prices, arithmetic and cost allocations are correct.***
- ***VAT is correctly identified.***

Valid payments must be processed promptly and paid in time to take account of early settlement discounts. Invoices should be paid in accordance with the suppliers' terms of business or, in the absence of such terms, within 30 days from the invoice date. In exceptional circumstances, earlier payment may be effected where there are valid reasons to do so.

The Governing Body shall when required after 31st March in each year forward to the Education Finance Section a schedule of all outstanding creditors at that date and when payments are subsequently made, shall identify them as payments in relation to creditors outstanding from the previous year.

Payments to employees and members

5.12 Executive Directors are responsible for:

- a) ensuring that all appointments are made in accordance with the Council's procedures, approved establishments, grades and scales of pay,
- b) notifying the Director of Human Resources and General Services of any changes in employees' circumstances which would affect their payments or deductions,
- c) authorising honoraria and acting up allowances up to the limit set by the Director of Human Resources and General Services,
- d) ensuring that all claims based pay, allowances or other sums paid to employees are properly authorised and submitted in time to meet established deadlines,
- e) ensuring that adequate budget provision exists for:
 - all employee appointments,
 - all permanent and temporary variations relating to employee appointments,
 - all engagements of self-employed persons.

Employees can claim reimbursement of costs they incur on school / council business providing they seek prior approval to incurring the expenditure.

All claims must be supported by appropriate receipts / proof of purchase and authorised by the employee's line manager or other identified person.

Car mileage claims and subsistence claims must not be paid by cheque or through the petty cash system but must be processed through the payroll.

Any claims must be in accordance with the policy set by the Executive Director of Finance and the Director of Personnel.

Expense claims must be submitted within 3 months of the incurring of the expenditure.

Employees who deliberately claim expenses to which they are not entitled may be guilty of gross misconduct and may be dismissed.

Governing Bodies are responsible for ensuring appropriate systems are in place so that staff pay and deductions are made accurately and promptly, and that statutory records are properly maintained.

Governing Bodies can elect to use the Council's payroll contractor or may choose to find an appropriate contractor of their own. Governing Bodies who chose to use an external contractor will be required to provide information to the LA to enable it to carry out its statutory functions in relation to pension administration, tax and National Insurance and general employment law.

Governing Bodies are responsible for notifying the relevant contractor of any changes in employee's circumstances that would affect their pay and / or deductions.

Where employees submit time sheets they must accurately record the number of hours worked. The prime records must be checked and certified by an appropriate person before being passed to the payroll contractor in time for him to meet established deadlines.

The Executive Director of Finance is responsible for the calculation of pension and retirement / redundancy benefits as well as making arrangements for their payment.

Taxation

5.15 Executive Directors are responsible for implementing proper processes to comply with tax legislation, in accordance with any advice given.

Data

5.18 Executive Directors are responsible for nominating data owners, for compliance with legislation and guidance, for security, controlled access and integrity of data and data transfer and for notifying breaches.

Governing Bodies are responsible for ensuring that adequate arrangements are in place for:

- ***Back up of computer data held in the school, including all financial records.***
- ***Security of Personnel data, and***
- ***Registration of their systems with the Data Protection Registrar.***

All employees must keep passwords for computer systems secret. Employees who misuse computer systems may be guilty of gross misconduct.

6 EXTERNAL ARRANGEMENTS

Working in Partnership

6.04 Executive Directors are responsible for ensuring that:

a) pre-partnership appraisals are completed before entering into partnerships, in accordance with the guidance on the development and evaluation of partnerships issued by the Director for Strategy and Service Improvement,

- b) partnerships are governed in accordance with the guidance issued by the Director for Strategy and Service Improvement, which covers risk management,
- c) collective decisions taken by partnerships are approved by the Council in accordance with its scheme of delegation and key decision threshold,
- d) the accounting and financial arrangements for partnerships satisfy the Council's requirements and allow for any required audit of the partnerships affairs,
- e) partnerships are reviewed at least once every three years in accordance with the guidance issued by the Director for Strategy and Service Improvement.

External funding

6.05 Executive Directors are responsible for ensuring that:

- a) funds are acquired only to meet policy priorities,
- b) any match funding requirements can be accommodated within the budget,
- c) there is a planned exit strategy to deal with the cessation of external funding in the future,
- d) projects progress in accordance with the agreed grant conditions,
- e) all expenditure is properly incurred and recorded,
- f) all claims for external funds are made by the due date,
- g) any audit requirements are met.

Trading Companies

Establishing a Trading Company

6.07 Executive Directors are responsible for:

- a) preparing a detailed business case and business plan for the establishment of any trading organisation in accordance with relevant legislation and following best practice. The business plan must include full financial projections for the profit and loss account, balance sheet, cash flow statement. The business case must address the risks to the Council of establishing a trading company,
- b) ensuring that proposals for trading activities are not ultra vires and have Cabinet approval before the company is established or any contract with a third-party to establish a trading company is entered in to,
- c) ensuring that they have acquired the necessary expertise to establish the trading company and that its establishment does not adversely impact on the services provided for the Council,
- d) determining the appropriate form of company that should be established and that as appropriate, the articles of association of the trading company and any shareholders' agreement ensure that the Council can exert the appropriate degree of control over the trading company as shareholder,
- e) ensuring that the trading company is not subsidised by the Council and that all services, officer time and other support provided to the company is charged to the company in accordance with the CIPFA Best Value Accounting Code of Practice,
- f) any contract drawn up between the trading company and the Council addresses risks to the Council,
- g) seeking and acting upon appropriate financial, legal and taxation advice in establishing a trading company.

Overseeing a Trading Company - Directorships

6.08 The Council may or may not choose to appoint representatives to the board of directors of the trading company. A Director's principal duty, under the relevant

legislation e.g. the Companies Act 1985 (as amended 1989), is to the company and potential for conflicts of interest and therefore make themselves familiar with the applicable Code of Conduct / Standing Orders when discharging their various duties in relation therefore Members and officers who sit on a board of directors must be aware of the to the trading company.

List of Financial Guidance Procedure Notes

For schools using the Council's Financial system there are supplementary financial guidance procedure notes on the Council's Intranet system:

Located on the intranet at

Being a manager > Role and responsibility > Financial management

No.	Subject
01	Retention of Financial Documents
02	Budget Carry Forward Approvals
03	Virement Approval
04	Inventory Maintenance
05	Disposal of Assets
06	Purchase and Disposal of IT equipment
07	Employee Expense Claims
08	Oral Orders
09	Advance Payments
10	Petty Cash Arrangements
11	Sundry Debt Collection Procedures
12	Sundry Debt Collection – Write-off and cancellation
13	Appointment of Consultants
14	Tendering or Quotations
15	Guidance on New Business Opportunities
16	Congestion Charge Claims
17	Partnership Framework Guidance
18	VAT Guidance
19	Sub-contractors tax guidance
20	Purchase Card Guidance and procedures (NEW)
21	Discretionary charging advice

ANNEX F

CONTRACT REGULATIONS FOR SCHOOLS WITH DELEGATED BUDGETS

1. Introduction

1.01 The Council's procurement framework consists of a number of controls, as follows:

(a) Contract Regulations – these are set out at:

<http://www.rbkc.gov.uk/councilanddemocracy/howthecouncilworks/theconstitution/constitutiontableofcontents.aspx>

(b) Advice from legal, financial and other appropriate technical officers,

(c) The Procurement Code of Practice (KC Net Procurement Guide),

(d) The Corporate Procurement Strategy,

(e) The Council's Corporate Policies.

1.02 The procurement framework is designed to ensure that Council contracts are let lawfully and achieve the best value-for-money available.

1.03 The Council and its officers must follow the rules contained in these Contract Regulations. Reference should be made to the Procurement Code of Practice for more detailed procurement procedures.

APPLICATION FOR SCHOOLS WITH DELEGATED BUDGETS

Schools are required to comply with the Council's Contract Regulations. Schools are exercising the delegated responsibilities from the Executive Director of Finance, the Group Finance Manager and the Executive Director of Children's Services. The paragraph numbering below refers to the specific reference in the contract regulations. The application for schools is directly below in bold and italics.

2. Purpose of and Compliance with Contract Regulations

2.01 These Contract Regulations contain the Council's minimum requirements for purchasing works, supplies and or services (including the appointment of consultants) and must be complied with at all times. All officers responsible for letting contracts of this type are required by the Council to work within these Regulations.

All Governors and employees of the school are required to work to these rules (exceptions are clearly set out below at 2.07) and should ensure that any contracts that it, or its authorised representative, makes on behalf of the school comply with these rules.

Governing Bodies should ensure that the latest copy of the regulations are available to all employees.

If a Governing Body chooses to delegate any responsibilities to school employees, the minutes of the relevant Governing Body meetings must record:

- ***That this decision had been taken***

- **Clearly state what responsibilities have been delegated and to whom**
- **State any financial limits imposed on the delegation**
- **Confirm that the person to who responsibility has been delegated is fully aware of the decisions taken.**

2.02 These Regulations are not a substitute for an individual's common sense and judgement. All employees must employ the highest standards of integrity when they deal with the Council's affairs.

All Governing Bodies or their authorised representatives must exhibit the highest standards of probity when dealing with school affairs.

Sources of advice and training on this subject can be obtained through the Family and Children's Contracts Section, the Procurement Code of Practice, and from the Director of Law and Admin. Where a Governing Body proposes a course of action contrary to the advice given within the Contract Regulations it must secure advance authorisation from the Director of Law and Admin and Group Finance Manager.

2.03 Oral contracts are generally not acceptable - all contracts must conform to any minimum standards laid down by the Director of Legal Services.

2.04 Compliance

(a) Every contract made by, or on behalf of, the Council must also comply with the EU Public Contract Regulations (2006) as amended by the Remedies Directive (2009); the Treaty on the Functioning of Europe (TFEU 2009); all other relevant EU and domestic primary and delegated legislation or legally binding guidance; the Council's Constitution and these Regulations. Failure in this area could render a competitive tendering process invalid and possibly open the Council to legal challenge and a contract to be declared ineffective.

(b) Contracts must be let on the basis of acceptable service delivery standards, continuous improvement clauses and incentives, and, where relevant, promote the Council's Corporate Policies and best practice principles, in particular those relating to sustainability and the environment; health and safety; equalities and diversity; business continuity and collaboration and partnership including shared services.

(c) Contracts may be let on the basis of lowest price or the most economically advantageous offer to the Council. More detailed guidance on the contract award criteria can be found in the Procurement Code of Practice.

2.05 Employee Conduct and Corruption

(a) The Council regards any corrupt practices as completely incompatible with its public service role. All staff must comply with the rules within the 'Code of Conduct for Employees' dealing with the declaration of personal interests and the prevention of bribery.

All Governing Bodies must maintain a register of business interests covering themselves and school employees.

(b) If an allegation is made it is for the employee to demonstrate that any rewards have not been corruptly obtained. The Council may cancel any contract, which it

finds has been corruptly let, and may seek to recover losses arising from that cancellation from the contractor.

(c) Every person associated with the Council, including employees, consultants, agents and contractors performing functions on behalf of the Council, is required to ensure that no inducement or reward is offered, promised or provided to gain personal, commercial, regulatory or contractual advantage in the performance of those functions.

(d) Every person who lets, manages or supervises a contract shall act in accordance with the highest standards of propriety and proper practice and ensure that proportionate measures are taken in respect of persons connected with the contract to mitigate identified bribery risks. Such measures shall include keeping adequate records, monitoring and reviewing contracts, facilitating the reporting, investigation and prosecution of criminal offences.

All Governing Bodies and school employees must be aware that it is a serious criminal offence for them to receive or give any gift, loan, fee, reward or advantage for doing or not doing anything, or showing favour or disfavour to any person in their official capacity.

If any allegation is made, it is for the Governing Body to demonstrate that any such rewards have not been corruptly obtained. The Governing Body will be responsible for any losses arising from a contract that has been obtained corruptly or in which the contract regulations have not been adhered to.

2.06 Environment

(a) When purchasing or procuring works, supplies and or services officers shall have regard and where relevant adhere to the Council's Sustainable Procurement Guidelines as well as the Environmental Strategy, whatever the value of the purchase.

(b) The Cabinet Member for Civil Society shall be authorised to make directions regarding the mandatory use of green criteria for specific types of purchase. A direction given under this Regulation shall be in the form of a key decision report and shall identify the green criteria to be applied and the types of purchase to which the direction applies.

(c) A direction given under this Regulation shall be followed unless an exemption is granted by the relevant Cabinet Member or the Cabinet Member for Civil Society withdraws the direction.

(d) Whilst the Cabinet Member for Civil Society shall be authorised under this Regulation to make directions regarding the mandatory use of green criteria for specific types of purchase, that does not absolve officers from considering environmental impacts throughout the procurement cycle.

2.07 Exemptions / Waivers of Contract Regulations

Neither tenders nor quotations need be obtained:

(a) for dealing with an unforeseen emergency and where immediate action is necessary to comply with the statutory obligations of the Council;

(b) for the purchase or supply of goods, services or works of a unique character or where there is evidence that there is only one provider due to the nature of the market;

- (c) for the purchase or supply of goods, services or works and following advertisement where it is not possible to secure competition;
- (d) for hiring of performance artists;
- (e) for engagement of legal Counsel;
- (f) for engagement of external legal advisers and experts where urgent advice and assistance or representation is required and the requirement for appointment is unforeseen; and
- (g) where the circumstances of the proposed contract are covered by legislative exemptions.

The Governing Body is not required to seek tenders or quotations:

- ***for dealing with an unforeseen emergency and where immediate action is necessary to comply with the statutory obligations of the Council and school***
- ***for the purchase or supply of goods, services or works of a unique character or where there is evidence that there is only one provider due to the nature of the market***
- ***If Governors wish to claim exemption from seeking quotations or tenders under these regulations they must seek guidance from the Head of Finance.***

2.08 In other cases exemptions from tendering or any other rule in these Regulations can only be made in the following circumstances:

- (a) where a specific exemption is authorised by the relevant Cabinet Member;
- (b) where a specific exemption has been authorised by an Officer of the Council under delegated powers;
- (c) a block exemption is authorised in accordance with these Regulations.

2.09 Requests for an exemption under regulations 2.8(a) and 2.8(b) must provide sufficient evidence to allow the decision to be made.

2.10 No exemption under paragraphs 2.7 and 2.8 can override the Council's obligations under Regulation 2.04(a).

2.11 Corporate Contracts, Framework Agreements or other Consortium Agreements

Public sector consortia-led framework agreements, Council corporate contracts and contracts let by other public sector bodies, for the undertaking of works and for the purchase of supplies and services may offer best value to the Council and should be used where practicable. Where such opportunities exist, the relevant Cabinet Member or Director (exercising delegated powers under paragraph 2.19) should be satisfied that the requirements of paragraph 2.04(a) of the Regulations have been met and that the particular contract advertisement and contract terms contain adequate provision for participation by the Council and, in the case of Council corporate contracts, allow participation by the Business Group or department of the Council. Regard should be had to any guidance on purchasing through consortia published by the Council's Head of Strategic Procurement.

When utilising a public sector framework set up under the Public Contracts Regulations 2006 with more than one supplier, a director may obtain either:

- (a) a quotation from one supplier appearing on such list by applying the terms laid down in the framework; or
- (b) where not all the terms of the proposed contract are laid down in the framework agreement by re-opening the competition between all of the operators which are parties to the framework agreement who are capable of performing the proposed contract

When utilising a multi-party public sector framework set up prior to the coming into force of or not regulated by the Public Contracts Regulations 2006 a director must where practicable follow the rules contained in paragraph 2.19 when obtaining quotations.

2.13 ICT Contracts

The Council must ensure that it obtains best value from its ICT investment. It also needs to ensure that relevant ICT standards are applied and followed and that existing and new applications are fully utilised by all relevant departments to enable tri-Borough working. For this to occur all ICT procurement must be authorised by the Council's Head of Information Services before a tender process is initiated. This applies to the purchase of all software and non-standard hardware. Standard hardware will continue to be purchased centrally.

2.14 Schools Contracts

The Council delegates funds to schools. The Council's scheme for financing schools contains the rules for procurement, tendering and contracts for schools. Contracts over £100,000 let by schools spending budgets delegated to them under the scheme for financing schools shall also be sealed by the Council or contain rights in favour of the Council under the Contracts (Rights of Third Parties) Act 1999. Where practicable, third party rights clauses shall be included in other school contracts in which the Council has a legal interest.

Governing Bodies are empowered under paragraph 3 of Schedule 10 of the School Standards and Framework Act 1998, to enter into contracts. In most cases the school will do so on behalf of the Council as maintainer if the school and owner of the funds in the budget share. Some contracts, however, may be made solely on behalf of the Governing Body where it has clear statutory obligations, for example, contracts made by aided or foundation schools for the employment of staff.

The Authority is committed to open competition in its contracting arrangements.

All contracts entered into must specify as a minimum:

- ***The work, materials, matters or things to be furnished, had or done - the specification.***
- ***The price to be paid with a statement of discounts or other deductions.***
- ***The time or times within which the contract is to be performed.***
- ***The stipulation that professional advisors and consultants shall comply with these financial regulations.***
- ***The procedures that must be followed if any errors or mistakes are identified in the tender during the tender evaluation process.***

- ***The Authority's Standard Conditions of Contract or other Conditions of Contract approved by the Director of Law and Admin. All conditions of contract must include provision to ensure that the successful contractor has in place appropriate Health and Safety Policies and Practices.***

2.16 For Contracts of £100,000 or more

(a) Unless specific executive approval has already been obtained these Contracts shall only proceed to advertisement (or other method of letting the contract authorised by these Regulations) with the prior written authorisation of a Director. The Director will need to receive a report containing an officer's 'recommendation to proceed to competition' before that written authorisation can be given. In all cases the Director shall have consulted with the Cabinet Member / full Cabinet prior to giving such authorisation. When preparing that report the lead officer should refer to the checklist for Procurement Review Stage 1.

(b) These contracts shall require a key decision of the relevant Cabinet Member / Full Cabinet before the contract can be awarded. The Cabinet Member / Full Cabinet will need to receive a report containing an officer's 'recommendation to award the contract' before that written authorisation can be given. When preparing that report the lead officer should refer to the checklist for Procurement Review Stage 2.

(c) After these contracts are let, an annual review of performance may be undertaken and reported to the relevant director responsible for the Council function or service. When preparing that report the lead officer should refer to the checklist for Procurement Review Stage 3.

(d) Checklists for Procurement Reviews Stages 1-3 are contained in paragraphs 3-6 of these Regulations (pages 229-232). These checklists and the Procurement Code of Practice may be updated from time to time by the Head of Strategic Procurement in consultation with the Director of Legal Services and the Executive Director for Finance, Information Systems and Property.

(e) The letting of contracts by the Council on behalf of partnerships are key decisions except where such expenditure is wholly or substantially funded from a source other than the Council's General Fund and prior permission has been given by a key decision of the Cabinet Member / Cabinet to such arrangements and provided it can be demonstrated that:

(i) an appropriate partnership structure is established and sufficient evidence is provided that purchasing will be undertaken in accordance with best Council practice, the law and the competition rules contained in these Regulations;

(ii) those persons charged with making decisions and or recommendations on behalf of the partnership have clear roles and responsibilities within the partnership structure.

(f) Contracts over £100,000 shall normally be sealed by the Council in the Legal Services Directorate.

2.17 For over £500,000

(a) All procurement projects should conform to PRINCE2 project management principles including the completion and upkeep of risk logs and project highlight reports.

(b) A Project Board should be established for all major projects:

(i) Terms of reference, membership, roles and responsibilities should be clearly stated;

- (ii) Meetings should be attended by key officers who have a direct responsibility for delivering the project;
- (iii) All meetings should include a detailed budget forecast for the duration of the project;
- (iv) Project slippage should be escalated to the Project Board at an early stage and include detail of the risks involved, mitigation thereof and overall impact on the timeline;
- (v) Minutes of meetings should be formally recorded and actions allocated to specific project team members along with target completion dates;
- (vi) The decision-making responsibilities and accountabilities should be clearly stated and reviewed on a regular basis;
- (c) All projects should ensure effective risk management arrangements are in place (financial and technical).
- (d) The Council's Standing orders and Financial Procedures should be complied with and full disclosure made to members and Executive Directors on recommendations for appointment of consultants and contractors;
- (e) Financial and technical vetting of main contractors should be undertaken prior to making a decision to award a contract;
- (f) A contract management regime should be agreed prior to award of contract and involve frequent quality audits throughout the life of the contract;
- (g) Authorisation of expenditure should not be the responsibility of a temporary member of staff;
- (h) Director approval must be obtained before appointing contractors or consultants outside the main appointed contractors.

2.18 Packaging Contracts

- (a) The Council's contract procedures are designed to be fair, open and transparent. All Council officers responsible for or involved in letting contracts are expected to seek best value-for-money and to behave in a demonstrably fair and even-handed manner, whatever the contract value.
- (b) Contracts must be packaged appropriately, in accordance with EU procurement rules and follow all standard procedures contained in the Procurement Code of Practice taking into account the principles contained in the Corporate Procurement Strategy. They should never be packaged in order to avoid particular contract limits or to reduce the potential for fair and open competition. Officers shall explore alternative contract packaging options to existing arrangements, as this may be a means of delivering best value for money.
- (c) The financial threshold applies to the estimated contract sum or contract value (net of VAT) over the lifetime of the contract.

Schools have the right to opt out of Council arranged contracts.

When choosing not to participate in Council arranged contract, Governing Bodies are expected to seek best value for money and to behave in a demonstrably fair and even handed manner-whatever the contract sum.

Contracts must be packaged appropriately. They should never be packaged in order to avoid particular contract limits or to reduce the potential for open competition.

Where references are made to contract sums in these regulations, this should be taken to mean the amount the school buys from one supplier by reference to:

- ***The estimated annual spend for works or supply of goods or services.***
- ***The total contract sum over the period of the contract where the agreements are for more than one year.***

The estimated contract sum or contract value for contracts which do not indicate a total price is as follows:

(a) For fixed term service and supply contracts of up to 48 months, the aggregate value of the payments.

(b) In the case of service or supply contracts, of over 48 months or of uncertain duration, it is the amounts payable in respect of each month multiplied by 48.

(c) Directors or their nominees are responsible for estimating and recording the total value of the proposed contract.

Schools with delegated budgets may choose to undertake their own purchasing arrangements for which the Council is ultimately liable. DfE circular 2/94 provides that each school is a discrete operating unit for the purposes of compliance with EU rules. Schools need to be responsive to their responsibility and the responsibility of the LA to comply with European procurement rules.

The philosophy behind the European Procurement Rules is that all contracts with a value above specific thresholds which are funded either directly or indirectly by public monies should be exposed to competition through the European Community so as to give equal opportunities to tender to domestic and foreign organisations.

Strict rules governing how contracts above a certain threshold (currently £156,442, with effect from 1/1/12 £173,934, for service contracts) should be let and managed have been laid down. All contracts made by or on behalf of the school must comply with the European Directives, relevant UK regulations and the advice and guidance provided by The Royal Borough of Kensington and Chelsea.

Failure to follow correct procedures could render contracts invalid and / or open to challenge by other contractors.

2.19 Financial Thresholds and Best Practice

Total Value	Award Procedure	Advertising	Shortlisting	Documentation / Audit Requirement	Member Involvement
Up to £5,000	One written quotation	No advertisement	n/a	Retain evidence of quote.	Award decision delegated to relevant Director. Directors should compile and maintain a scheme of delegation specific to their area of responsibility identifying staff who may approve orders or contracts up to specific values.
£5,000 to £99,999	Three written quotations	No advertisement but for contracts over £10,000 place the opportunity on the Council's Buyer Profile, supply2.gov.uk and any other reasonable publicity	n/a	Invitations to quote and quotations received. Keep a written record of any exemptions and reasons for it of the reason if the lowest price is not accepted of award criteria other than price of communications with the successful contractor. Follow audit guidance on retention and destruction of documents. Spot checks will be undertaken to validate documentation and compliance.	Award decision delegated to relevant Director. Directors should compile and maintain a scheme of delegation specific to their area of responsibility identifying staff who may approve orders or contracts up to specific values.
£100,000 to £156,442 (w.i.f.	Four written quotations received	Public advertisement and publication of a notice on	Director	As above in £5,000 to £99,999.	Contract award is a Key Decision.

1/1/12 = £173,934)		the Council's Buyer Profile or invitation from a select list where so authorised under these Regulations.			
£156,442 (w.i.f. 1/1/12 = £173,934) - £499,999	<p>Invitation to tender by advertisement to at least 5 organisations.</p> <p>EU Procedures must be followed where EU Rules apply. Consult the Procurement Code of Practice.</p>	Public advertisement and publication of a notice on the Council's Buyer Profile or invitation from a select list where so authorised under these Regulations.	Director in consultation with Cabinet Member	<p>Follow pre-purchase / advertising checklists (Para 3). Keep written record including:</p> <ul style="list-style-type: none"> • The method for obtaining bids • Any contract award decision and the reason for it • Any exemption together with the reason for it; • The award criteria (including those other than price) and the evaluation of tenders against the criteria; • Tender documents sent to and received from candidates • Pre-market tender research • Clarification and post-tender negotiation (to include minutes of meetings) • The contract documents • Post-contract evaluation and monitoring • Communications with candidates and with the successful contractor throughout the period of the contract. <p>Follow Council policy on retention and</p>	Contract award is a Key Decision.

				destruction of documents. Spot checks will be undertaken to validate documentation and compliance.	
Above £500,000	EU Procedures must be followed where EU Rules apply. Consult the Procurement Code of Practice. Consult Head of Strategic Procurement/Legal Services/Group Finance Manager	See above for contracts above £156,442 Major contracts may require Cabinet Member/Cabinet approval to advertise	Major contracts may require Cabinet Member involvement in shortlisting	As per contracts of £156,442 and above (w.i.f. 1/1/12 = £173,934).	Contract Award is a Key Decision. Major and sensitive contracts may require substantial Member involvement from the earliest stages and a Cabinet decision.

EU limits: Works contracts £3,927,260 (w.i.f. 1/1/12 £4,348,350)

Supplies contracts £156,442 (w.i.f. 1/1/12 £173,934)

Service contracts £156,442 (w.i.f. 1/1/12 £173,934)

Contracts of £100,000 and above will normally require a key decision and be sealed by Legal Services.

Publication of electronic notices including OJEU, must be completed using the templates published on the Council's Buyer Profile.

A quotation exercise involves obtaining competitive quotes from a number of contractors evidenced in writing, but it is simpler to administer. However the following rules must apply:

<i>Contract sum</i>	<i>Minimum number of Quotations required</i>	<i>Acceptance Procedures</i>
<i>Below 5,000</i>	<i>One written quotation required.</i>	<i>Governors must make best efforts to secure probity and value for money</i>
<i>£5,000-£99,999</i>	<i>Three written quotations required.</i>	<i>Governors must make best efforts to secure probity and value for money</i>
<i>£100,000 & above see 2.19</i>	<i>Four (or EU or 5) written quotations required.</i>	<i>Governors must make best efforts to secure probity and value for money</i>

Invitations: Quotations shall be invited in the case of all contracts likely to have a value of £100,000 or more (or at the lower limit set by Governing Body) Governors are responsible for ensuring that invitations to tender are publicised appropriately:

- A minimum of four suitable quotations (5 tenders if EU) are invited to bid.***
- There are appropriate security measures in place, to prevent contractors interested in submitting bids from finding out details of tenders already received.***

2.20 Council Approved Lists

(a) Contractors may be selected from approved lists for works, and the supply of goods and services. For building and construction contracts, the Council has approved Construction line as a method of sourcing suitable organisations to be invited to tender but it should not be relied upon as the main source of such information. Construction line contains the names and addresses of all contractors who meet Construction Line's approved list criteria and includes the nature and value of contracts for which contractors listed may be used and is publicly advertised periodically.

(b) The criteria for admission to and suspension from an approved list shall be specified in writing by the relevant Director in conjunction with the Town Clerk and Executive Director of Finance and the Director of Legal Services. The criteria shall relate to economic and financial standing, technical ability and capacity, insurance arrangements, quality systems, health and safety record (where relevant) and environmental record.

(c) Approved lists may not be compiled without public advertisement inviting applications for inclusion on the list.

(d) The existence of an approved list still requires the need for a formal competition (tender).

- (e) Contractors on approved lists must be chosen to tender in strict rotation except for particular contracts where another method is justifiable on legal, financial and value-for-money grounds and the reasons recorded.
- (f) Approved lists must normally be re-advertised at least every four years (copies of the advertisement being sent to each person on the list) and be available for public inspection.
- (g) Where EU Regulations require contracts of a value above a specified threshold to be advertised in OJEU, contractors on Construction line or other approved list may be targeted by their attention being drawn to the notice.
- (h) Contracts in this category which are above the EU threshold will normally be let as framework agreements in accordance with EU rules.

Governing Bodies are advised to select contractors from the Royal Borough's Selected List of Contractors. For voluntary aided schools, the diocese may provide an 'approved list of contractors'. Contractors on this the Royal Borough's list have been assessed as being technically and managerially competent as well as being financially sound. The list is updated on a rolling review over three years. EU regulations mean that it is not always sufficient to select potential tenderers from the approved list. But contractors on the list may be targeted by their attention being drawn to appropriate advertisements / notices.

Where no suitable contractors have been included on the Royal Borough's selected list of contractors, the Governing Body shall take all reasonable steps to ensure that all potential contractors are financially stable and technically and managerially competent and comply with all EU legislation, prior to tenders being accepted.

Governing bodies using companies which are not on the Royal Borough's approved list of contractors will need to recognise that these companies' performance will not have been subject to the scrutiny of the Council in terms of their financial viability and technical capability and, in consequence, there may be an increased risk of financial loss for which the Governing Body would be responsible.

2.21 Financial Appraisals

- (a) Directors are responsible for ensuring a contractor's financial viability. Directors letting contracts with an estimated value exceeding the key decision threshold (£100,000) or setting up an approved list must undertake a financial appraisal in accordance with any recommendations of the Town Clerk and Executive Director of Finance. Directors shall keep a written record of the tenderer's financial viability.
- (b) A more detailed appraisal of a prospective tenderer's financial position may be necessary, subject to the complexity, value and risk of a contract and the amount of time that has elapsed since the tenderer submitted its most recent audited accounts to Companies House.
- (c) When Cabinet Member approval is required in order to accept a contractual offer, directors must report the results of the financial viability assessment to the Cabinet Member.
- (d) Where financial appraisal results recommend a particular contract financial limit, this may not be exceeded without prior approval of the relevant Group Finance Manager.

Governing Bodies are responsible for ensuring that any contractors or consultants engaged by them are financially and managerially sound.

2.22 Delivery of Tenders

(a) Tenders must be returned in a plain envelope and clearly identify the title or name of the contract as stated in the **School's** Invitation to Tender, along with contract number(s) issued and the final date and time for submission.

(b) The envelope should bear no distinguishing marks, including the identity of the tenderer and / or its agents and must be delivered to **The School**.

(d) Tenders submitted bearing the identity of the tenderer and / or its agents should not be accepted.

(e) Tenders, which are received after the specified time and date, will not normally be considered. The only exception is where a tender is received after the specified time but prior to opening of the other tenders. These tenders may be considered if, the tenderer can prove they posted it at least two days before the deadline or where there are other exceptional circumstances.

(f) On collection Directors are responsible for the security and safekeeping of tenders until opening.

Delivery and Opening of Tenders: Each invitation to tender shall state that tenders will only be received in a plain sealed envelope which shall bear the word "Tender for..." followed by the subject to which it relates, but shall not bear any name or mark indicating the sender. Such envelopes should be retained in the custody of the Head Teacher until the time appointed for opening. Tenders shall be opened and initialled one at a time and only in the presence of the Chairman of the Governing Body and the Head Teacher or other designated member of staff. Tenders received after the time and date specified in the invitation to tender but prior to the opening of tenders and which provide evidence of proof of posting at least 2 days prior to the stipulated time and date for opening may be considered.

2.23 Opening of Tenders

(a) Except where the estimated value of the contract is below £1,000,000, tenders can only be opened and initialled by:

1. A Cabinet Member and
2. An Executive Director or a designated deputy

in the presence of the Executive Director for Finance, Information Systems and Property (or nominated representative) or the Director of Strategy and Service Improvement (or nominated representative) who has not been involved in the tender invitation.

(b) Where the estimated value of the contract is below £1,000,000, tenders may be opened by a director (or nominee) accompanied by the Town Clerk and Executive Director of Finance (or nominated representative) who has not been involved in the tender invitation.

(c) At the discretion of the relevant Director, requests for quotations and invitations to tender may be either issued and/or received by electronic means. In circumstances where the Director elects to either issue and / or receive tenders by electronic means the following conditions shall apply:

1. each tender to contain all the information necessary for its evaluation;

2. the confidentiality of tenders to be maintained pending their evaluation; and
3. tenders to be opened only after the time limit for their submission has expired.

The Director shall ensure that evidence that the transmission was successfully completed is obtained and recorded.

Electronic tenders shall be kept in a secure folder under the control of the relevant Director or with prior agreement and facilities being made available by the Head of Information Systems and the Town Clerk and Executive Director of Finance.

2.24 Award and Sealing of Contracts

(a) The invitation to tender shall indicate the procedures that must be followed if any errors, omissions or mistakes are identified in a tender during the tender evaluation process and the procedure for late tenders (see 2.22(e) above). The procedures outlined in the tender documentation must be followed in all cases.

(b) All tenders of £100,000 and above in value, and framework agreements from which the aggregate spend on call-offs over the lifetime of the framework is likely to exceed £100,000, must be submitted to the relevant Cabinet Member for approval (Regulation 2.15(b)) together with a written report and recommendation from the relevant director.

(c) Where the Cabinet Forward Plan prevents an urgent decision from being made by the Council to participate in a contract awarded on behalf of more than one public sector partner (consortia/shared service), or the outcome of a public sector e-Auction; the decision to award the contract should be delegated to the relevant Executive Director by prior agreement with the Cabinet Member.

(d) Contracts of £100,000 and above, and framework agreements from which the aggregate spend on call-offs over the lifetime of the framework is likely to exceed £100,000, shall be sealed or alternatively, with the prior approval of the Director of Legal Services, signed by a Director and another officer of the Council. Contracts under this amount may be sealed if the Director of Legal Services considers it necessary due to the complexity of the contract. Payments cannot be made until the contract is sealed (or otherwise properly executed) unless, in exceptional circumstances, Town Clerk and Executive Director of Finance agrees.

(e) All contracts of £100,000 and above shall be archived by the Director of Legal Services.

(f) For the purposes of this Regulation the word tender includes in its meaning quotations for contracts where the estimated value of the contract is £100,000 or more.

2.25 Tenders shall be accepted in writing except where an electronic means of acceptance of tenders is appropriate to the procurement in question and it can be reasonably demonstrated that contract acceptance by this method is the most effective means of seeking best value for money for the Council.

Acceptance of a Tender: The form of tender shall indicate the procedures that must be followed if any errors or omissions or mistakes are identified in a tender during the tender evaluation process. Such procedures must be followed in all cases. The Governing Body shall be authorised to accept tenders up to a value of £100,000. All letters purporting to accept tenders over £100,000 must be submitted to the Head of Finance for countersignature by the Executive Director of Family and Children's Services on behalf of the Royal Borough. The acceptance letter should be accompanied by a written report

containing recommendations from the Governing Body. Any contract for the supply of goods or services for the execution of works likely to exceed £100,000 in value shall be under the common seal of the Royal Borough of Kensington and Chelsea.

Contract Management Arrangements: Appropriate contract management arrangements must be put in place and appropriate deductions made for substandard performance in accordance with the conditions of the contract.

2.26 Sub-Contractors

(a) Directors can approve the appointment of sub-contractors provided that:

1. arrangements are in hand for properly letting the main contract;
2. competitive quotations or tenders have been obtained for the sub-contract, in line with Contract Regulations; and
3. sub-contractors or suppliers shall send with the tender an undertaking to work for the main contractor and indemnify them for the sub-contracted works or materials.
4. For contracts that fall within the provisions of the Construction Industry Scheme (CIS) operated by HM Revenues and Customs, evidence of a valid Construction Industry Scheme Registration Card or Document must be verified where applicable prior to letting the contract.

Use of Subcontractors: The appointment of sub contractors can only be approved by the Governing Body provided that arrangements are in hand for properly letting the main contract and competitive quotations or tenders have been obtained for the sub contractor in line with these and the Financial Regulations.

Payments: Details of all payments to and from contractors must be made only on receipt of an invoice and recorded in a contracts register.

2.27 Variations and Extensions of Contract

(a) Directors are responsible for making sure, where practicable, that all variations on contracts are costed and authorised in writing within 14 days of the issue of instructions. Where a consultant manages a contract, they must do likewise and must copy their analysis to the Director within a further seven days. Directors should inform consultants of this requirement in their contract of appointment.

(b) No variation may be made until approved by the relevant Cabinet Member if the effect of that variation taken on its own, or taken cumulatively with any preceding variations would:

(i) extend the contract period by 50 per cent or more than three months whichever is the greater;

(ii) add more than 20 per cent to the estimated value of the contract for contracts between £100,000 and £275,000; or

(iii) add more than 5 per cent to the estimated value of the contract for contracts exceeding £275,000; or

(iv) increase the estimated value from below £100,000 to £125,000 or more; or

(v) mean that the works, services or goods to be added to or deleted from the contract are substantially different in scope, save that in a case of urgency or unforeseen circumstances any such variations can be approved by a director subject to him or her reporting his or her actions to the relevant Cabinet Member.

(c) No variation may be authorised that contravenes Regulation 2.04(a).

(d) Where contractors claim for extra amounts, which were not clearly within the terms of the original contract as varied, and the estimated claim exceeds £25,000 payment must not be made until:

1. the matter has been referred to the group finance manager and the Director of Legal Services for approval; and
2. a recommendation has been made and agreed by the relevant Cabinet Member, where practicable.

Directors may settle such claims up to £25,000 in consultation their finance manager

(e) Subject to any statutory restrictions and satisfactory performance, a Director may (in consultation with a Cabinet Member) authorise an extension for a particular period of an existing contract provided for within the terms of the contract.

Contract Variations: All variations on contracts must be costed and authorised in writing within 14 days of the issue of instructions. If a consultant is appointed to manage the contract they must analyse the variations and costs to present to the Governing Body. The letter of appointment to the consultant must clearly identify this responsibility.

Where contractors claim for additional amounts which were not clearly within the terms of the original contract as varied, payment must not be made until advice has been obtained from the Director of Legal services or the Contracts Section and the Group Finance Manager.

2.28 Where a contract has previously been varied or extended, any reference to “the contract period” or “estimated value” in this regulation is a reference to the contract period or estimated value found in the original contract before any variation occurred.

3. Pre-Purchase Review

3.01 Purpose

(a) To provide a general framework for officer recommendations and member decisions in respect of Council functions currently being discharged either under contract, in house or by a combination of those two arrangements.

(b) The review will be applied where the value of the services or goods provided is likely to exceed the tendering limit as defined in contract regulations

3.02 Checklist for Review

(a) Undertake performance review of service and, if service is provided under specification, consider if the specification can be improved.

(b) Does the Council have the skills, expertise and / or means to deliver the service cost-effectively?

(c) Is market analysis required and if not why not?

(d) Are these specialist services and / or goods that can only be provided externally?

(e) Will an in-house bid or public sector comparator be needed to demonstrate value-for-money?

(f) Is external partnering necessary to obtain new skills?

(g) Are there any other service options, joint arrangements, pooled budgets, and / or lead commissioning?

(h) Risk analysis and TUPE / workforce matters.

(i) Sustainable development analysis.

(j) Rationale for contract extension:

1. Will costs of procurement be met through efficiency savings of new arrangement?

2. Check authority to proceed to competition checklist and / or take back in-house without competition.
3. Is outcome of review likely to result in a request for a key decision?

3.03 Legal

All Council functions are derived from domestic law and are additionally subject to all relevant EU law. As the above checklist may give rise to legal issues that go beyond the law relating to contracts e.g. they may encompass the way in which powers are exercised, specialist legal and other technical advice should be sought in appropriate cases.

4 Procurement Review Stage 1 (Minimum Requirements To Proceed)

4.01 Purpose

To ensure:

- (a) the robustness of procurement planning and adequacy of reasons for proceeding to competition; and
- (b) that contractual arrangements are under control and / or lawful.

4.02 Checklist

- (a) Rationale for preferred procurement solution or Pre-purchase Review results.
- (b) Funding (affordability and value-for-money) and estimated contract value.
- (c) Risk evaluation and/or identification of main risks (such as an assessment of whether a performance bond or parent company guarantee is required).
- (d) Meeting Council corporate goals e.g. sustainability, health and safety, equalities and diversity, business continuity and electronic service delivery.
- (e) Type of supplier (approved list, knowledge of existing and potential suppliers).
- (f) Procurement method i.e. EU, open, restricted, competitive dialogue or negotiated. Identify potential exemptions if any and regulation under which procurement will proceed.
- (g) Procurement timetable.
- (h) Results of Consultation of Stakeholders.
- (i) Project Team expertise, resources etc.
- (j) Service Review, specified outcomes, performance incentives, defaults, possible contract structure, continuous improvement.
- (k) Value-for-money and likely selection and award (evaluation) criteria.
- (l) Arrangements for public disclosure of information.
- (m) Anticipated transaction costs.
- (n) Director authority to proceed.
- (o) Contingency arrangements.
- (p) TUPE and workforce matters.
- (q) Consultation / Officer comment on robustness of any pre-tender estimate.

5 Procurement Review Stage 2 (Award Requirements)

5.01 Purpose:

- (a) statutory and procedural legal compliance throughout tender process;
- (b) competition exercise meets objectives outlined (Procurement Review 1);
- (c) Council's contracts contain acceptable service delivery standards, continuous improvement clauses and achieve best value-for-money available.

5.02 Checklist

- (a) Authority to proceed. Has this been obtained?
- (b) Results of bid evaluation and recommendations.
- (c) Final points on risk issues, risk transfer (including adequacy of contractors' insurances), risk share.
- (d) Contractors' undertakings have been obtained e.g. performance bond, parent company guarantee.
- (e) Stakeholder approvals.
- (f) Plans and procedures in place to deal with service change, performance and improvement.
- (g) Date of first review.
- (h) Implementation or acceptance strategy and / or draft exit plan.
- (i) Arrangements for public disclosure of information.
- (j) Completion requirements.
- (k) Final transaction costs (including comparison with pre-tender analysis in costs).
- (l) Key decision.
- (m) Information for contract award recommendation (EU report requirements).
- (n) TUPE and workforce matters.

6 Procurement Review Stage 3 (Review of operating phase)

6.01 Purpose:

To ensure contract development to maintain value-for-money and so forth.

6.02 Checklist

- (a) Have needs of users changed; is service operating to defined parameters?
- (b) Has contract documentation been delivered and kept up to date?
- (c) Are contractual relationships satisfactory?
- (d) Have the benefits described in stages 1 and 2 been realised?
- (e) Have all stakeholder issues been addressed?
- (f) Identify plans for continued contract management.
- (g) Monitoring costs.
- (h) Monitoring Best Value/workforce matters.
- (i) Annual monitoring of adequacy of contractors' insurances.