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# Scheme for Financing Schools



Council of the  
ISLES OF SCILLY

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Finance & Resources

Approved by Dept for Education 17<sup>th</sup>  
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## **SECTION 1: INTRODUCTION**

### **1.1 THE FUNDING FRAMEWORK**

- 1.1.1 The funding framework which replaces Local Management of Schools is based on the legislative provisions in sections 45 - 53 of the School Standards and Framework Act 1998 (SSAF Act 1998).
- 1.1.2 Under this legislation, local authorities determine for themselves the size of their Schools Budget and their Non-Schools Education 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 is all expenditure, direct and indirect, on an Authority's maintained schools. Local authorities may retain central funding for purposes defined in regulations made by the Secretary of State under s45A of the Act. The amounts to be retained centrally are decided by the Authority concerned, subject to any limits or conditions (including gaining the approval of the Secretary of State in certain circumstances) prescribed by the Secretary of State. The balance of the Schools Budget left after deduction of centrally retained funds is termed the Individual Schools Budget (ISB). Expenditure items in the Non-Schools Education Budget must be retained centrally (although earmarked allocations may be made to schools).
- 1.1.3 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 s51 of the Act. The financial controls within which delegation works are set out in a Scheme made by the authority in accordance with s48 of the Act and approved by the Secretary of State.
- 1.1.4 Subject to provisions of the Scheme, governing bodies of schools may spend budget shares for the purposes of their school. They may also spend budget shares on any additional purposes prescribed by the Secretary of State in regulations made under s50. (Section 50 has been amended to provide that amounts spent by a governing body on providing community facilities or services under section 27 of the Education Act 2002 are treated as if they were amounts spent for the purposes of the school (s50(3A) of the Act.)
- 1.1.5 An authority may suspend a school's right to a delegated budget if the provisions of the School Financing Scheme (or rules applied by the Scheme) have been substantially or persistently breached, or if the budget share has not been managed satisfactorily. A school's right to a delegated budget share may also be suspended for other reasons (s17 of the SSAF Act 1998).
- 1.1.6 Each authority is obliged to publish each year a statement setting out details of its planned Schools Budget and other expenditure on children's services, showing the amounts to be centrally retained and funding delegated to schools. After each financial year, the authority must publish a statement showing outturn expenditure at both central level and for each school, and the balances held in respect of each school.
- 1.1.7 The detailed publication requirements for financial statements and for Schemes are

set out in regulations, but each Local Authority must publish on its website a copy of the Scheme and any amendment, and each year's budget and outturn statements so far as they relate to that school or central expenditure. The Local Authority must also provide hard copies to any school without internet access.

- 1.1.8 The regulations also require the authority to publish their Scheme and any amendments to it on a website accessible to the general public.

## **1.2 THE ROLE OF THE SCHEME**

- 1.2.1 The Scheme sets out the financial relationship between the Council of the Isles of Scilly and The Five Islands School that it funds. The requirements of the Scheme are binding on both the authority and the school and are set out in the following sections:

- 1.2.2 Section 48 of the SSAF Act 1998 requires that the authority shall prepare a Scheme in accordance with the provisions of that Section, Schedule 14 of the Act and the relevant regulations.

- 1.2.3 The Scheme sets out the requirements on schools in some detail. However, some areas of the Scheme require further guidance which will be published separately. The more detailed guidance should be compatible with the Scheme. In the event that this guidance is in any respect incompatible with the Scheme, the requirements of the Scheme will override the guidance.

## **1.3 THE APPLICATION OF THE SCHEME TO THE AUTHORITY AND MAINTAINED SCHOOLS**

- 1.3.1 The Scheme covers all community, nursery, special, voluntary, foundation (including Trust Schools), community special or foundation special schools and pupil referral units (PRUs) maintained by the authority.

- 1.3.2 A list of schools maintained by the authority is attached at [Annex A](#).

## **1.4 PUBLICATION OF THE SCHEME**

- 1.4.1 A copy of the scheme will be available on the Council of the Isles of Scilly website and a hard copy will be available on request and without charge. Revisions should be published by the date the revisions come into force.

## **1.5 REVISION OF THE SCHEME**

- 1.5.1 Any proposed revisions to the scheme will be presented to the Children and Young People's Committee for approval following consultation with The Five Islands School. It will require approval by the Secretary of State.

## **1.6 DELEGATION OF POWERS TO THE HEADTEACHER**

- 1.6.1 The governing body is required to consider to what extent it wishes to delegate its powers to the headteacher.

- 1.6.2 Under guidance issued with the Education (School Government) (Terms of Reference) (England) Regulations 2000 the governing body's, or a committee of the governing body's, major responsibilities are to:

- Consider the annual budget plan proposed by the headteacher and to amend the budget plan where appropriate;
- Approve the first formal annual budget plan;
- Spend the delegated budget;
- Decide how to spend the grant paid to the Council of the Isles of Scilly where the Council has delegated such decisions to the governing body;
- Decide whether and to what extent to delegate their powers to spend the delegated budget and any grants, to the headteacher.

1.6.3 Under guidance issued with the Education (School Government) (Terms of Reference) (England) Regulations 2000 the headteacher's major responsibilities are to:

- Prepare and submit to the governing body (or committee of) an annual budget plan in accordance with the Council of the Isles of Scilly's Scheme for Financing Schools.

1.6.4 In addition, governing bodies ought to consider the following key areas of headship when determining their delegation to headteachers:

- The strategic direction and development of the school
- The teaching and learning in the school
- Leading and managing staff to secure improvement
- The efficient and effective deployment of staff and resources
- Accountability to governors and others such as parents, pupils, staff and the local community.

1.6.5 In determining the delegation to headteachers, the governing body must record in the minutes the extent of delegation and any subsequent revisions.

1.6.6 Such decisions relate to the general responsibility of the governing body for the conduct of the school made under section 38 and Schedule 11 of SSAF Act 1998.

## **1.7 MAINTENANCE OF SCHOOLS \***

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

\*Maintenance of schools in this context relates to the finance and administrative areas of schools and not to physical works to school buildings.

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## **SECTION 2: FINANCIAL CONTROLS**

### **2.1 APPLICATION OF FINANCIAL CONTROLS TO SCHOOLS**

#### **GENERAL**

- 2.1.1 Section 50 (3) of the SSAF Act 1998 provides that the governing body of a school, which has a delegated budget, shall be entitled to spend any sum made available to them in respect of the school's budget share for any financial year, as they think fit for the purposes of the school.
- 2.1.2 The Five Islands School is required to abide in the management of its delegated budgets by the Authority's requirements on the financial controls and monitoring, not only those in the scheme but also those requirements to be contained in more detailed publications referred to in the scheme. Any subsidiary rules must be compatible with the scheme, but in the event of any inconsistency the provisions of the scheme will prevail.

### **2.2 PROVISION OF FINANCIAL INFORMATION AND REPORTS**

- 2.2.1 The Five Islands School will be required to provide the Authority with details of estimated and actual expenditure on a regular basis in a format that will be determined by the Authority. This requirement, again, will vary depending whether or not the school has a bank account.
- 2.2.2 The detailed requirements are included in a separate document titled Core/Statutory Financial Support to The Five Islands School. (It is attached for ease of reference at the end of this Scheme).

### **2.3 PAYMENT OF SALARIES AND BILLS**

- 2.3.1 Payment of salaries and bills has been delegated, which allows schools to purchase these services elsewhere. If services are bought back from the Authority then schools will be issued with a separate document setting out the procedures to enable the prompt and accurate payment of salaries and bills.

### **2.4 CONTROL OF ASSETS**

- 2.4.1 The Five Islands School must maintain an inventory of its moveable non-capital assets in accordance with arrangements determined by the authority. However, The Five Islands School is free to determine its own arrangements for assets worth less than £1,000 and a register must be kept in some form. The Five Islands School must arrange for inventories to be checked annually with the physical assets. The governing body and the authority must be informed of surpluses or deficiencies revealed at these checks.
- 2.4.2 The disposal of such assets shall follow the Council's Financial Regulations (see [Annex C](#)) but be approved by the Governing Body.

### **2.5 ACCOUNTING POLICIES (Including year end procedures)**

- 2.5.1 The Five Islands School must abide by the Authority's accounting policies and year-end procedures. These will follow the general patterns of the Council's Financial Regulations.



## **2.6 WRITING OFF OF DEBTS**

- 2.6.1 The governing body may write off debts up to a value of £500 in accordance with the procedures laid down by the governing body. Any debt in excess of £500 shall only be written off in accordance with the procedures specified in the Council's Financial Regulations (<http://www.scilly.gov.uk/policydocs/>).

## **2.7 BASIS OF ACCOUNTING**

- 2.7.1 The accounts of the authority are on the basis of accruals, therefore when The Five Islands School submit its final accounts at the end of the year the return must be on this basis, in the format required by the authority.
- 2.7.2 How The Five Islands School organise their accounts internally will be up to the governing body.

## **2.8 SUBMISSION OF BUDGET PLANS**

- 2.8.1 The Five Islands School is required to submit their budget plan approved by the full governing body (or a committee of) by 31<sup>st</sup> May of each year in a format to be determined by the authority which will, as far as possible, take into account Consistent Financial Reporting. In submitting their budget plan, the governing body should also include their assumptions underpinning their budget plan.
- 2.8.2 The governing body should review the plan at least once every three months and if necessary submit this revised plan to the authority.
- 2.8.3 The authority will provide to the governing body the same relevant data in order for the governing body to plan its budget annually. Such information could cover pay inflation rates for both teaching and non-teaching staff, price inflation, budget assumptions in the authority's budget, and policy decisions of the council that affect schools budgets. At the beginning of the financial year, the authority will notify the The Five Islands School at what time during the year financial information will be available.
- 2.8.4 The Five Islands School in determining its budgets should take into full account the estimated deficits/surpluses at the previous 31 March in their budget plan.
- 2.8.5 The Five Islands School's formal annual budget plan must be approved by the governing body or a committee of the governing body.

## **2.9 SUBMISSION OF FINANCIAL FORECAST**

- 2.9.1 In certain circumstances the Authority may require The Five Islands School to submit a financial forecast for multi years e.g. if in a deficit budget situation.

## **2.10 EFFICIENCY AND VALUE FOR MONEY**

- 2.10.1 The Five Islands School must seek to achieve efficiencies and value for money, to optimise the use of their resources and to invest in teaching and learning, taking into account the Authority's purchasing, tendering and contracting requirements.
- 2.10.2 It is for heads and governors to determine at school level how to secure better value

for money.

## **2.11 VIREMENT**

2.11.1 The full governing body has the power to transfer funds between budget heads in the expenditure of their budget shares. This is known as virement.

2.11.2 When considering such virements, the governing body should take into account the effects in subsequent years and ensure that the virement will not lead to the The Five Islands School ending up in an overall deficit.

## **2.12 AUDIT (General)**

2.12.1 A programme of internal audit involving the examination of all of The Five Islands School records will be undertaken in accordance with a programme prepared by the Council of the Isles of Scilly.

2.12.2 The Five Islands School will also be subject to external audit in a regime determined by the Audit Commission as part of the Audit Commission's external audit of the authority.

2.12.3 The Five Islands School is required to cooperate with auditors and to provide access to it's records to both external and internal auditors. The Authority's audit regime may include sample visits to the school by auditors.

## **2.13 SEPARATE EXTERNAL AUDITS**

2.13.1 The governing body of The Five Islands School can use the school's budget share to obtain an external audit examination of its accounts. This is separate from any Council of the Isles of Scilly external audit process.

## **2.14 AUDIT OF VOLUNTARY AND PRIVATE FUNDS**

2.14.1 If The Five Islands School has private or voluntary funds or trading organisations, it must provide annual audit certificates to the authority in respect of these funds.

2.14.2 The purpose of this requirement is to ensure that public funds are not being misused.

2.14.3 It is up to those who make funds available to determine the audit regime taking account of any Charity Commission requirements or other legal requirements.

2.14.4 The Consistent Financial Reporting framework requires that private funds under the control of the governing body be included, apart from those funds that are not used for the benefit of students learning or the school during the year.

2.14.5 Where a school refuses to provide an audit certificate action can be taken on the basis that there is a breach of the scheme.

## **2.15 REGISTER OF BUSINESS INTERESTS**

2.15.1 The governing body of The Five Islands School must establish a register which lists for:

- each member of the governing body,
- headteacher,

- senior staff (eg Senior Management Team) and
- any staff involved in making decisions with regard to finance (eg deciding which service/goods provider to use),

any business interests they or any member of their immediate family has; 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 Authority.

“Immediate family” should be taken to include: parents; siblings; children (including step children); partners (and their children) and aunts & uncles. If in doubt it is better to declare the interest, for example if a second cousin is quoting for a building contract, this should be declared.

## **2.16 PURCHASING, TENDERING AND CONTRACTING REQUIREMENTS**

2.16.1 The Five Islands School must abide by the Authority’s Financial Regulations and Standing Orders in purchasing, tendering and contracting matters. This should include a requirement to assess in advance, where relevant, the health and safety competence of contractors, taking account of the council's policies and procedures see [Annex C](#).

2.16.2 In following these regulations The Five Islands School:

- must not do anything incompatible with the provisions of this Scheme, or any statutory provision, or any EU Procurement Directive;
- does not have to seek a council officer's counter signature for any contracts for goods or services for a value below £60,000 in any one year;
- must not be required to select suppliers only from an approved list;
- must seek at least three tenders in respect of any contract with a value exceeding £10,000 in any one year;
- must seek at least three quotes in respect of any supply of an individual item estimated to cost £4,000 or more.

## **2.17 APPLICATION OF CONTRACTS TO THE FIVE ISLANDS SCHOOL**

2.17.1 The Five Islands School is able to opt out of council arranged contracts.

2.17.2 This right does not extend to centrally funded contracts.

2.17.3 Although governing bodies are empowered under paragraph 3 of Schedule 1 to the Education Act 2002 to enter into contracts, in most cases they do so on behalf of the council as maintainer of the school and the owner of the funds in the budget share.

2.17.4 Where a governing body has clear statutory obligations it is free to enter into contracts solely on behalf of the governing body, for example contracts made by aided or foundation schools in respect of the employment of staff.

## **2.18 CENTRAL FUNDS AND EARMARKING**

- 2.18.1 From time to time, the Council of the Isles of Scilly will make sums available to The Five Islands School from central funds, in the form of allocations which are additional to and separate from the schools' budget shares.
- 2.18.2 When such allocations are made by the Council of the Isles of Scilly there will be a set of conditions attached to each allocation setting out the purpose or purposes for which the funds may be used. The conditions may permit virement between earmarked grants (except where the funding is supported by grant which the council itself is not permitted to vire) but these allocations cannot be assimilated into the schools' budget share.
- 2.18.3 Any earmarked funding from centrally retained funds must only be spent on the purpose for which it is given and cannot be vired into the school's budget share. This could cover such items as SEN or other initiatives funded from the central expenditure of a local authority's school budget or other local authority budget.
- 2.18.4 Accounting arrangements will have to be in place in order for The Five Islands School to demonstrate that the requirement has been complied with.
- 2.18.5 Any unspent earmarked funding at the end of a financial year or within the period which The Five Islands School is allowed to use the funding, if different to a financial year, must be returned to Council of the Isles of Scilly at the end of that financial year.
- 2.18.6 Foregone interest will not be clawed back on sums advanced in respect of devolved specific or special grants.

## **2.19 SPENDING FOR THE PURPOSES OF THE FIVE ISLANDS SCHOOL**

- 2.19.1 Section 50 (3) of the SSAF Act 1998 allows governing bodies to spend budget shares for the purposes of the school subject to any provisions of this Scheme. By virtue of section 50 (3A), (which came into force on 1<sup>st</sup> April 2011) amounts spent by governing bodies on community facilities or services under section 27 of the Education Act 2002 will be treated as if spent for any purposes of the school. The Secretary of State may prescribe additional purposes for which expenditure of the budget share may occur.
- 2.19.2 The Secretary of State has prescribed an additional purpose for which expenditure of the budget share may occur and schools are able to spend their own delegated budget share on educational services in respect of pupils registered in another maintained school (eg outreach) and on community facilities or services.

## **2.20 CAPITAL SPENDING FROM BUDGET SHARES**

- 2.20.1 Governing bodies are permitted to use their budget share to meet the cost of capital expenditure on school premises. This includes expenditure by the governing body of a voluntary aided school on work which is their responsibility under paragraph 3 of Schedule 3 of the SSAF Act 1998.
- 2.20.2 Any capital spending proposed by the governing body of The Five Islands School from their budget share shall be notified to Council of the Isles of Scilly.

2.20.3 If the governing body decides to spend more than £15,000 on capital expenditure from its budget share in any one year, it must take into account any advice from the Director of Children's Services as to the merits of such expenditure.

2.20.4 If the premises are owned by Council of the Isles of Scilly, or The Five Islands School has voluntary controlled status, then the governing body should seek consent from the council to the proposed works. Consent will only be withheld on health and safety grounds.

## 2.21 SCHOOLS FINANCIAL VALUE STANDARD (SFVS)

2.21.1 The Five Islands School must demonstrate compliance with the Schools Financial Value Standard (SFVS) and complete the assessment form on an annual basis. It is for the school to determine at what time in the year they wish to complete the form.

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

2.21.3 Maintained schools that did not achieve the Financial Management Standard in Schools (FMSiS) must submit the form to the local authority before 31 March 2012, and annually thereafter (not applicable to The Five Islands School).

2.21.4 All other maintained schools with a delegated budget must submit the form to the local authority before 31 March 2013 and annually thereafter.

## 2.22 NOTICE OF CONCERN

2.22.1 The Council of the Isles of Scilly may issue a notice of concern to the governing body of The Five Islands School, where, in the opinion of the Director of Finance and Resources and the Director of Children's Services, the school has failed to comply with any provisions of the Scheme, or where actions need to be taken to safeguard the financial position of the Council of the Isles of Scilly or The Five Islands School.

2.22.2 In issuing the notice of concern it will include the reasons and evidence for doing so. The notice will place on the governing body of The Five Islands School, restrictions and limitations in relation to the management of funds delegated to it which may include:

- Regular financial monitoring meetings attended by Council of the Isles of Scilly Officers.
- The provision of monthly reports by The Five Islands School to the authority including budget and cash flow forecasts where a school has retained its bank account for all funding operated through official funds.
- A requirement for the relevant staff and governors within The Five Islands School to undertake appropriate training to address identified weaknesses in the financial management of the school.
- The imposition of an appropriately trained person to chair the finance

committee of the governing body.

- The suspension of The Five Islands School's local bank account (where applicable).

2.22.3 The notice of concern will set out the timescale by which the requirements must be complied with, in order for the notice to be withdrawn.

2.22.4 Once the governing body of The Five Islands School has complied with the requirements of the notice of concern, and provided supporting evidence, it will be withdrawn at once.

2.22.5 The notice will also include the actions that the authority will take where the governing body of The Five Islands School does not comply with the notice.

2.22.6 This provision in the Scheme does not replace the withdrawal of financial delegation where it is appropriate to take such action.

2.22.7 For solving any dispute arising between the Authority and The Five Islands School, the matter should be raised in writing to the Director of Children's Services. If it is still not possible to resolve, the matter can be referred to an independent panel as agreed.

## **2.23 FRAUD**

2.23.1 The Five Islands School must have a robust system of controls to safeguard themselves against fraudulent or improper use of public money and assets.

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

### **SECTION 3: CASH INSTALMENTS OF BUDGET SHARE AND BANKING ARRANGEMENTS**

The Council of the Isles of Scilly has adopted the CIPFA Code of Practice for Treasury Management in Local Authorities.

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

#### **3.1 FREQUENCY OF CASH INSTALMENTS**

3.1.1 In accordance with section 47 of the SSAF Act 1998 and the regulations thereunder, The Five Islands School will be notified of its annual budget share by the 31 March of each year.

3.1.2 As The Five Islands School maintains its own bank accounts, it will receive budget share instalments on a monthly basis. Top up payments for pupils with high needs should be made on a monthly basis unless alternative arrangements have been agreed with the provider.

#### **3.2 PROPORTION OF BUDGET SHARE PAYABLE AT EACH CASH INSTALMENT**

3.2.1 The amount of each budget share instalment will be 1/12<sup>th</sup> of the annual budget share. Payment of the budget share into The Five Islands School's bank account will be made on the 18<sup>th</sup> day of each month (or nearest working day), beginning on the 18<sup>th</sup> April.

#### **3.3 INTEREST PAYMENTS**

3.3.1 The Council of the Isles of Scilly will not deduct any interest clawback from the budget share instalments for The Five Islands School, in reference to the monthly cash instalments made to the school's bank account.

3.3.2 The Authority will add interest to late payments of budget share instalments, where such late payment is the result of LA error. The interest rate used must be that used for clawback calculations or if no such clawback mechanism is in place, at least the current Bank of England base rate.

#### **3.4 CASH INSTALMENTS OF BUDGET SHARES FOR CLOSING SCHOOLS**

3.4.1 Where schools are due to close, for which approval for discontinuation has been secured, budget shares will be on a monthly basis net of estimated pay costs.

#### **3.5 BANK AND BUILDING SOCIETY ACCOUNTS**

3.5.1 The Five Islands School is permitted to have external bank accounts into which their budget share cash instalments (as determined by this Scheme) are paid.

3.5.2 Where The Five Islands School holds such accounts, it shall be allowed to retain all interest earned on those accounts.

3.5.3 If The Five Islands School has a deficit balance, and does not have an external bank account, it will not be allowed to open a bank account until that deficit is cleared.

### **3.6 RESTRICTIONS ON ACCOUNTS**

3.6.1 The Council of the Isles of Scilly approved list of Banks and Building Societies is as follows:

- Barclays Bank
- Girobank
- Lloyds TSB.

This list represents all banks and building societies on the islands.

The account mandate must provide that the Council of the Isles of Scilly 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 Five Islands School's right to a delegated budget is suspended by the Authority.

3.6.2 The Five Islands School is allowed to have the bank account in its name.

### **3.7 BORROWING BY SCHOOLS**

3.7.1 Governing bodies may only borrow money with the written permission of the Secretary of State.

3.7.2 This does not apply to trustees and foundations, whose borrowing, as private bodies, makes no impact on government accounts. These debts may not be serviced directly from the delegated budgets, but schools are free to agree a charge for a service which the trustees or foundation are able to provide as a consequence of their own borrowing.

3.7.3 This provision does not apply to the **deficit** loan scheme that may be run by Council of the Isles of Scilly (see Section 4.9).

3.7.4 The use of procurement cards is encouraged as these can lead to a reduction in transaction costs and enable schools to benefit from significant discounts.



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

**4.1 THE RIGHT TO CARRY FORWARD SURPLUS BALANCES**

4.1.1 The Five Islands School is permitted to carry forward from one financial year to the next financial year any surplus budget over expenditure for the year plus/minus any balance brought forward from the previous year.

**4.2 THE CONTROL OF SURPLUS BALANCES**

4.2.1 Surplus balances held by The Five Islands School as permitted under this Scheme are subject to the following restriction:

a) The governing body is required to report the value of surplus balances (revenue and capital) to the LA by 31<sup>st</sup> May each year.

4.2.2 If the school uses the LA bank account, then interest is payable to the school on the surplus balance, at the same rate as the LA receives.

4.2.3 Balances held in relation to a school's exercise of powers under section 27 of the Education Act 2002 (community facilities) will not be taken into account unless added to the budget share surplus by The Five Islands School as permitted by Council of the Isles of Scilly.

**4.3 OBLIGATION TO CARRY FORWARD DEFICIT BALANCES**

4.3.1 If The Five Islands School has a deficit at the end of a financial year, it will have this deficit carried forward as the first charge from the following year's budget share.

**4.4 PLANNING FOR DEFICIT BUDGETS**

4.4.1 The Five Islands School will not be permitted to plan for a deficit unless it has a deficit agreement with the authority.

4.4.2 The Council of the Isles of Scilly will consider the withdrawal of delegated powers from The Five Islands School's governing body where the deficit in any year exceeds 15% of the delegated budget share.

**4.5 CHARGING OF INTEREST ON DEFICIT BALANCES**

4.5.1 If The Five Islands School is in deficit, the school will be charged interest at a rate equivalent to the Three Month LIBOR Rate on the notional advance needed to eliminate to zero the school's deficit balance.

**4.6 WRITING OFF OF DEFICITS**

4.6.1 The Council of the Isles of Scilly is not permitted to write off the deficit balance of any school.

#### **4.7 BALANCES OF CLOSING AND REORGANISED SCHOOLS**

4.7.1 Where a school closes, any balance (whether surplus or deficit) reverts to the Council of the Isles of Scilly, except that a surplus balance will transfer to an academy when a school converts to academy status under section 4(1)(a) of the Academies Act 2010.

4.7.2 Where a school is established as a result of the closure of another school an amount will be added to, or deducted from the budget share of the school to reflect the entire unspent or overspent budget share of the closing school for the funding period in which it closes. Where the budget share of the closing school(s) is in deficit any amount deducted will not exceed the budget share allocation to the new school in the opening financial year. Closing schools should have regard to their financial position and give due consideration to any material spending decisions. The budget share allocation to the new school only relates to funding delegated up to the point of opening.

#### **4.8 DEFICIT AGREEMENTS**

4.8.1 The Five Islands School cannot plan for a deficit (see Section 4.4). Should this situation occur the authority would make arrangements with the governing body to plan for the deficit to be repaid, known as a "deficit agreement".

4.8.2 In making such arrangements the following will apply:

- The maximum length over which a school may repay the deficit or clear to zero is three financial years;
- The maximum size of deficit that can be agreed is 5% of the school's budget share.
- All agreements and any renegotiation of agreements must be approved by the Director of Children's Services and the Director of Finance and Resources.

4.8.3 Schools who maintain a local bank account and have a deficit agreement with the council will be required to cease the operation of their local accounts until the deficit has been repaid (unless a Deficit Loan Agreement is in place).

#### **4.9 DEFICIT LOAN AGREEMENTS**

4.9.1 Where a school wishes to maintain their local bank account a school may apply to the authority for a loan.

4.9.2 Where a loan is agreed a payment to a school will be made on the condition that a corresponding sum plus interest is repaid from the budget share within the period of the loan. The repayment of the loan must be the first call on any available resources from the school's budget share.

4.9.3 In making such an agreement the following will apply:

- The value of the loan must not exceed the estimated value of the deficit at the end of the financial year which the loan is agreed;
- The maximum length over which schools may repay the loan is three financial years;

- A loan will only be agreed when short term corrective action would disrupt pupils' education and where the criteria for a deficit agreement cannot be met or where a school wishes to maintain their local bank account;
- The maximum size of loan that can be agreed is 15% of the school's budget share;
- All loan agreements and renegotiations of loan agreements must be approved by the Director of Children's Services and the Director of Finance and Resources.

4.9.4 All loans will be subject to interest as stated in paragraph 4.5 above.

## **SECTION 5: INCOME**

### **5.1 INCOME FROM LETTINGS**

- 5.1.1 The Five Islands School will be allowed to retain income from the lettings of school premises subject to any alternative provisions arising from any joint use or PFI agreements.
- 5.1.2 The Five Islands School is allowed to cross-subsidise lettings for community and voluntary use with income from other lettings, provided there is no net cost to the budget share.
- 5.1.3 In letting school premises, Governing Bodies should have regard to the use of premises as permitted under the SSAF Act 1998 for various categories of schools.

### **5.2 INCOME FROM FEES AND CHARGES**

- 5.2.1 The Five Islands School is allowed to retain income from fees and charges except where a service is provided by the centrally retained funds.
- 5.2.2 The Five Islands School, in setting it's fees and charges, should have regard to any policy statements on charging produced by the Council of the Isles of Scilly.

### **5.3 INCOME FROM FUND-RAISING ACTIVITIES**

- 5.3.1 The Five Islands School is allowed to retain income from fund-raising activities.

### **5.4 INCOME FROM THE SALE OF ASSETS**

- 5.4.1 The Five Islands School is allowed to retain the proceeds from the sale of assets, except where the asset was purchased from non-delegated funds. It will be for the Council of the Isles of Scilly to decide whether the school can retain income from the sale of assets purchased from non-delegated funds.
- 5.4.2 The Five Islands School is not allowed to retain income from the sale of assets concerning land or buildings that form part of the school premises and are owned by the Council of the Isles of Scilly.

### **5.5 ADMINISTRATIVE PROCEDURES FOR THE COLLECTION OF INCOME**

- 5.5.1 Any income received by The Five Islands School will be subject to normal VAT regulations.

### **5.6 PURPOSES FOR WHICH INCOME MAY BE USED**

- 5.6.1 Any income from the sale of assets purchased with delegated funds may only be spent for the purposes of The Five Islands School.

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

### **6.1 GENERAL PROVISION**

- 6.1.1 The Council of the Isles of Scilly can charge the budget share of The Five Islands School, without the consent of the governing body, in circumstances permitted by the Scheme as set out in Section 6.2.
- 6.1.2 The Council of the Isles of Scilly will consult The Five Islands School as to the intention to so charge, and notify the school when it has been done. Salaries of school-based staff will be charged to school budget shares at actual cost (if the authority is providing this service).

### **6.2 CIRCUMSTANCES IN WHICH CHARGES MAY BE MADE**

- 6.2.1 Where premature retirement costs have been incurred without prior written agreement of the Council of the Isles of Scilly to bear such costs (the amount chargeable being only the excess over any amount agreed by the Council). See [Annex B](#).
- 6.2.2 Other expenditure incurred to secure resignations where The Five Islands School has not followed advice from the Council of the Isles of Scilly. See [Annex B](#).
- 6.2.3 Awards by courts and industrial tribunals against the Council of the Isles of Scilly or out of court settlements arising from action or inaction by the governing body contrary to advice from the Council of the Isles of Scilly.
- 6.2.4 Expenditure by the Council of the Isles of Scilly in carrying out health and safety work or capital expenditure for which the Council of the Isles of Scilly is liable where funds have been delegated to the governing body for such work, but the governing body has failed to carry out the work.
- 6.2.5 Expenditure incurred by the Council of the Isles of Scilly in making good defects in building work funded by capital spending from budget shares, where premises are owned by the Council of the Isles of Scilly or the school has voluntary controlled status.
- 6.2.6 Expenditure incurred by the Council of the Isles of Scilly in insuring its own interests in The Five Islands School where funding has been delegated but the school has failed to demonstrate that it has arranged cover at least as good as that which would be arranged by the Council of the Isles of Scilly.
- 6.2.7 Recovery of monies due from The Five Islands School for services provided to the school, where a dispute over monies due has been referred to a disputes procedure set out in a service level agreement (or an arbitration panel to be agreed between The Five Islands School and the Council of the Isles of Scilly, for charges not generated through a service level agreement), and monies are owed by the school to the Council of the Isles of Scilly.
- 6.2.8 Recovery of penalties imposed on the Council of the Isles of Scilly by the Contributions Agency, HM Revenue & Customs, Teachers Pensions, the Environment Agency or other regulatory authorities as a result of school negligence.

- 6.2.9 Correction of the Council of the Isles of Scilly errors in calculating charges to a budget share.
- 6.2.10 Additional transport costs incurred by the Council of the Isles of Scilly arising from decisions by the governing body on the length of the school day, and failure to notify the Council of the Isles of Scilly of non-pupil days resulting in unnecessary transport costs etc.
- 6.2.11 Legal costs which are incurred by the Council of the Isles of Scilly because the governing body did not accept the advice of the Council (see Section 11).
- 6.2.12 Costs of necessary health and safety training for staff employed by the Council of the Isles of Scilly, where funding for training had been delegated but the necessary training not carried out.
- 6.2.13 Compensation paid to a lender where a school enters into a contract for borrowing beyond its legal powers, and the contract is of no effect.
- 6.2.14 The cost of work done in respect of teachers pension remittance and records for The Five Islands School who are using non Council of the Isles of Scilly payroll contractors. The cost will reflect the minimum needed to meet the full costs incurred by the Council of the Isles of Scilly in complying with statutory obligations.
- 6.2.15 Costs incurred by the Council of the Isles of Scilly in securing provision specified in a statement of SEN where the governing body of The Five Islands School fails to secure such provision despite the delegation of funds in respect of low cost high incidence SEN and/or specific funding for a pupil with High Needs.
- 6.2.16 Costs incurred by the Council of the Isles of Scilly due to submission by The Five Islands School of incorrect data.
- 6.2.17 Recovery of amounts spent by The Five Islands School from specific grants or supported borrowing on ineligible purposes.
- 6.2.18 Costs incurred by the Council of the Isles of Scilly as a result of the governing body being in breach of the terms of a contract.

## **SECTION 7: TAXATION**

### **7.1 VALUE ADDED TAX**

- 7.1.1 The Five Islands School is required to submit to the authority each month such details of VAT incurred by the school as the authority needs in order to complete its monthly VAT return to HM Revenue & Customs. The Five Islands School is required to submit this information in accordance with an agreed format and timing. VAT expenditure incurred by the school which is reclaimed by the authority will be passed back to The Five Islands School.
- 7.1.2 Any amounts reclaimed by the authority on behalf of The Five Islands School will be passed back to The Five Islands School.

### **7.2 CONSTRUCTION INDUSTRY SCHEME (CIS)**

- 7.2.1 The Five Islands School must abide by the procedures issued by Council of the Isles of Scilly in connection with CIS. These procedures will be issued separately as necessary.

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

### **8.1 PROVISION OF SERVICES FROM CENTRALLY RETAINED BUDGETS**

- 8.1.1 Where services are provided to The Five Islands School from funds held centrally by the authority, it will be for the Council of the Isles of Scilly to determine the basis of provision of these services. This encompasses existing payments in respect of premature retirement costs and redundancy payments. See [Annex B](#).
- 8.1.2 In the provision of services to The Five Islands School from centrally retained funds, the authority will not discriminate in its provision on the basis of category of school except where funding has been delegated to some schools only, or where such discrimination is justified by differences in statutory duties.

### **8.2 TIMESCALES FOR THE PROVISION OF SERVICES BOUGHT BACK FROM THE AUTHORITY USING ITS DELEGATED BUDGETS**

- 8.2.1 Any arrangement between the Council of the Isles of Scilly and The Five Islands School will be limited to a maximum of three years from the date of the agreement, and to periods not exceeding five years for any subsequent agreement relating to the same service. These dates are extended from five years to seven years respectively for contracts for the supply of catering services.
- 8.2.3 Services that are offered to The Five Islands School will be at prices that are not less than the cost of the provision of these services to the school.

### **8.3 PACKAGING OF SERVICES**

- 8.3.1 Any service which the authority offers on a buy-back basis will be offered in a way that does not unreasonably restrict The Five Islands School in its freedom of choice among services available. Any service offered will be on an individual service basis as well as in packages of services.

### **8.4 SERVICE LEVEL AGREEMENTS**

- 8.4.1 If services or facilities are provided under a service level agreement, whether free or a buy-back service, the terms of any such agreement will be reviewed at least every three years if the agreement lasts longer than that. The service level agreement will be available to The Five Islands School at least a month before the agreements become effective.
- 8.4.2 Where services are provided by Council of the Isles of Scilly then these services will not be subject to an extended agreement.
- 8.4.3 Where premises and liability insurance are arranged centrally on behalf of The Five Islands School these conditions do not apply in respect of insurance as the limitations envisaged may be impracticable for insurance purposes.

### **8.5 TEACHERS PENSIONS AGENCY**

- 8.5.1 In order to ensure that the performance of the duty on the authority to supply Teachers Pensions with information under the Teachers' Pensions Regulations 1997, the following conditions are imposed on the Council of the Isles of Scilly and governing body of The Five Islands School covered by this Scheme in relation to their budget shares.



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

**SECTION 9: PRIVATE FINANCE INITIATIVE (PFI)/**

**PRIVATE PUBLIC PARTNERSHIPS (PPP)**

**9.1 PFI/PPP**

- 9.1.1 The authority shall have the power to issue regulations from time to time relating to PFI/PPP projects. Amongst other issues these may deal with the reaching of agreements with the governing bodies of schools as to the basis of charges relating to such schemes; and the treatment of monies withheld from contractors due to poor performance.
- 9.1.2 The authority is empowered to charge to the school's budget share, amounts agreed under a PFI/PPP agreement entered into by the governing body of a school.
- 9.1.3 In the absence of an agreement on charging the school for PFI service provision, the authority may, at its discretion, charge the school's delegated budget to reflect changes to service provision under a PFI arrangement. In this event there is a right to appeal: the matter should be raised in writing to the Director of Children's Services. If it is still not possible to resolve, the matter can be referred to an independent panel as agreed.

## **SECTION 10: INSURANCE**

### **10.1 INSURANCE COVER**

- 10.1.1 The Five Islands School may opt to have the funds for insurance delegated and arrange for its own insurance. In that event, the Council of the Isles of Scilly will require the school to demonstrate that the cover relevant to the authority's insurable interests, under a policy arranged by the governing body, is at least as good as the relevant minimum cover arranged by the authority, whether the insurance premiums are paid for from central funds or from contributions from the school's delegated funds (see section 6.2.6).
- 10.1.2 In arranging insurance cover for The Five Islands School, the Council of the Isles of Scilly will have regard to actual risks that might reasonably be expected to arise at The Five Islands School, rather than applying an arbitrary minimum level.

## **SECTION 11: MISCELLANEOUS**

### **11.1 RIGHT OF ACCESS TO INFORMATION**

11.1.1 The governing body of The Five Islands School is required to supply the authority with financial and other information to enable the Authority to satisfy itself as to the school's management of its delegated budget share, or the use of any central expenditure by the authority on the school (eg capital funds).

### **11.2 LIABILITY OF GOVERNORS**

11.2.1 As the governing body is a corporate body, and by virtue of the terms of section 50(7) of the SSAF Act 1998, governors of maintained schools will not incur personal liability in the exercise of their power to spend the delegated budget share, provided they act in good faith.

### **11.3 GOVERNORS' EXPENSES**

11.3.1 Where a school is yet to receive a delegated budget but has a governing body in place, the Council of the Isles of Scilly will delegate to the governing body funds to meet governors' expenses.

11.3.2 Under section 50(5) of the SSAF Act 1998, only allowances specified in regulations made under section 19 of the Education Act 2002 may be paid to governors from a school's budget share. Schools are not permitted to make any other payments.

11.3.3 Schools will not be permitted to duplicate payments made by the Secretary of State to additional governors appointed by him/her to schools under special measures.

### **11.4 RESPONSIBILITY FOR LEGAL COSTS**

11.4.1 Legal costs incurred by the governing body in respect of legal actions and/or including costs awarded against the council may be charged to the school's budget share unless the governing body acts in accordance with the advice of the authority.

11.4.2 Where there is a conflict of interest between the authority and the governing body, the governing body should obtain independent legal advice.

### **11.5 HEALTH AND SAFETY**

11.5.1 In expending the school's budget share, the governing body should have due regard to duties placed on the authority in relation to health and safety, and therefore follow or exceed systems and procedures as laid out within the Authority's Health and Safety Policy and procedures. Also to comply with the Authority's policy on the legal requirement to undertake mandatory health and safety training. This is an essential element to consider and comply with in the management of the budget share.

### **11.6 RIGHT OF ATTENDANCE FOR CHIEF FINANCE OFFICER OR HIS/HER NOMINEE**

11.6.1 The Section 151 Officer of the authority, or any officer nominated by the Section 151 Officer, is permitted to attend the meetings of The Five Islands School's governing body for any agenda items that are relevant to the exercise of his/her responsibilities.

The Director of Finance & Resources' attendance should normally be limited to issues of probity or overall financial management; such attendance should not be regarded as routine. The Director of Finance & Resources will be circulated with agendas at the same time as the governors. The authority will give prior notice of such attendance unless it is impracticable to do so.

## **11.7 DELEGATION TO NEW SCHOOLS**

11.7.1 Before a governing body has a delegated budget the authority may permit the governing body to take such decisions as to the spending of funds from the schools budget as the authority considers appropriate.

## **11.8 SPECIAL EDUCATIONAL NEEDS**

11.8.1 The Five Islands School must use its best endeavours in spending its budget share to secure appropriate provision to meet its pupils' special educational needs. This is to ensure that schools fulfil their statutory duties, especially where SEN is involved. It makes it possible for the Council of the Isles of Scilly to suspend delegation where a situation is serious enough to warrant it.

## **11.9 INTEREST ON LATE PAYMENTS**

11.9.1 If The Five Islands School processes the payment of external invoices late, it may be charged interest for late payment by the suppliers.

## **11.10 WHISTLEBLOWING**

11.10.1 Any person working at The Five Islands School or any school governor, who wishes to complain about financial management or financial propriety at the school, should, in the first instance, put the complaint in writing addressed to the Director of Finance & Resources of the Authority, with a copy to the Internal Auditor of the Council. The Director of Finance & Resources, in conjunction with the Internal Auditor, will investigate the reason for the complaint, and if found to be justified, will take appropriate action.

11.10.2 The complainant must be prepared to sign the letter of complaint, and give evidence personally to the investigative team or body as appropriate. However, the identity of the complainant, if requested, will not be revealed unless, and until, criminal action is taken against any offender.

## **11.11 CHILD PROTECTION**

11.11.1 The Five Islands School is required to release staff to attend child protection case conferences, and other related events, at its own cost.

## **11.12 REDUNDANCY / EARLY RETIREMENT COSTS**

11.12.1 The 2002 Education Act sets out how premature retirement and redundancy costs should normally be funded. If the authority proposes to depart from this, then the scheme should contain a provision setting out the circumstances in which exceptions will be made. Further guidance is provided at [Annex B](#).

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

### **12.1 RESPONSIBILITY FOR REPAIRS AND MAINTENANCE**

- 12.1.1 The authority has set a "de minimus" level of £6,000 in respect of what is regarded as capital expenditure i.e. all expenditure up to the value of £6,000 is regarded as revenue, hence the The Five Islands School's responsibility to fund from its school budget share.
- 12.1.2 No funds are retained centrally for repairs and maintenance, these have been delegated to The Five Islands School as part of it's school budget share.

### **12.2 RESPONSIBILITY FOR CAPITAL EXPENDITURE**

- 12.2.1 Items of expenditure over the de minimus level may be funded from capital grants or supported borrowing, if they are allowable under the various scheme criteria.
- 12.2.2 Devolved capital funding (known as Devolved Capital Formula) is delegated to the The Five Islands School.
- 12.2.3 Other capital grants and supported borrowing, and the work they fund remain the responsibility of the Authority, for example Basic Needs. It is agreed on an annual basis how to allocate this funding at Children & Young People's Committee; it is usual that most funding (other than Basic Needs) is paid to the The Five Islands School for an agreed work programme which is operated by the school.

## **SECTION 13: POWER TO PROVIDE COMMUNITY FACILITIES**

### **13.1 INTRODUCTION**

- 13.1.1 Schools that choose to exercise the power conferred by s.27(1) of the Education Act 2002 to provide community facilities will be subject to a range of controls. Firstly, regulations made under s.28(2), if made, can specify activities which may not be undertaken at all under the main enabling power. Secondly, the school is obliged to consult its local authority and have regard to advice from the authority. Thirdly, the Secretary of State issues guidance to governing bodies about a range of issues connected with exercise of the power, and a school must have regard to that.
- 13.1.2 However, under s.28(1), the main limitations and restrictions on the power will be those contained in schools' own instruments of government and in this Scheme, made under section 48 of the School Standards and Framework Act 1998. Paragraph 2 of Schedule 3 to the Education Act 2002 extends the coverage of Schemes to the powers of governing bodies to provide community facilities.
- 13.1.3 Schools are therefore subject to prohibitions, restrictions and limitations in the Scheme for Financing Schools.
- 13.1.4 This Section of the Scheme does not extend to joint use agreements, transfer of control agreements or agreements between the authority and schools to secure the provision of adult and community learning.

### **13.2 CONSULTATION WITH THE LOCAL AUTHORITY – FINANCIAL ASPECTS**

- 13.2.1 Section 28(4) of the Education Act 2002 requires that before exercising the community facilities power, the governing body of The Five Islands School must consult the Council of the Isles of Scilly and have regard to advice given to them.
- 13.2.2 If The Five Islands School wishes to exercise this power it should seek advice from the Council of the Isles of Scilly by writing to the Director of Finance & Resources at least two terms before exercising such powers.
- 13.2.3 The Council of the Isles of Scilly will respond to The Five Islands School within six weeks of the school's request.
- 13.2.4 The Five Islands School is required to inform the Council of the Isles of Scilly of the action that it undertook after receiving the advice from the council.

### **13.3 FUNDING AGREEMENTS – LA POWERS**

- 13.3.1 The provision of community facilities in many schools may be dependent on the conclusion of a funding agreement with a third party which will either be supplying funding or supplying funding and taking part in the provision. A very wide range of bodies and organisations are potentially involved.
- 13.3.2 Any funding agreements with third parties (other than Council of the Isles of Scilly itself) should be submitted to the Council for comment and financial checks at least two terms before such agreements come into force.

- 13.3.3 If The Five Islands School has concluded, or is to conclude an agreement against the wishes of the Council of the Isles of Scilly, or has concluded an agreement without informing the Council, which in the view of the authority is seriously prejudicial to the interests of The Five Islands School or the Council, then this may constitute grounds for suspension of the right to a delegated budget.

#### **13.4 OTHER PROHIBITIONS, RESTRICTIONS AND LIMITATIONS**

- 13.4.1 In submitting their proposals, The Five Islands School should provide the Council of the Isles of Scilly with a copy of the proposed business plan, setting out the full financial arrangements of the proposed community facility.
- 13.4.2 The Council of the Isles of Scilly is in the position of 'guarantor of last resort' for any community provision undertaken by the governing body of The Five Islands School and public money is at risk. If a proposal is likely to put at risk the financial interest of the authority, the governing body concerned will be asked to make arrangements by either carrying out the activity concerned as a limited company, or by obtaining indemnity insurance for risks associated with the project in question, as specified by the Council of the Isles of Scilly.
- 13.4.3 Schedule 3 of the Education Act 2002 inserts a new provision into Schedule 15 of SSAF 1998 to make the mismanagement of funds received for community facilities a basis for suspension of the right to delegation of the budget share.

#### **13.5 SUPPLY OF FINANCIAL INFORMATION**

- 13.5.1 If The Five Islands School exercises the community facilities power, it is required to provide the Council of the Isles of Scilly with a summary statement showing anticipated income and expenditure for the coming multi-year period as part of the annual budget submission required by the council by 31 May each year. The format of the statement should be in the same format as the Consistent Financial Reporting (CFR) Framework.
- 13.5.2 Schools who maintain a local bank account in connection with community facilities are also required to submit a cash flow forecast for the activity with their annual budget submission.
- 13.5.3 If the Council of the Isles of Scilly believes there to be cause for concern as to The Five Islands School's management of the financial consequences of the exercise of the community facilities power, the school will be required to supply a financial statement every three months, together with the submission of a recovery plan for the activity in question.

#### **13.6 AUDIT**

- 13.6.1 Where the governing body exercises the power of community facilities, The Five Islands School will allow access to school records connected with the exercise of this power, in order to facilitate internal and external audit of the relevant income and expenditure.
- 13.6.2 If the governing body of The Five Islands School enters into an arrangement with a third party pursuant to the exercise of the community facilities power, then such agreements should contain a provision allowing access by the Council of the Isles of Scilly to the records and other property of those persons held on school premises, or held elsewhere insofar as they relate to the activity in question, and in order for the Council of the Isles of Scilly to satisfy itself as to the propriety of expenditure on the facilities in question.



### **13.7 TREATMENT OF INCOME AND SURPLUSES**

- 13.7.1 All income that is derived from community facilities will be retained by The Five Islands School except where otherwise agreed with a third party, whether that be the LA or some other person.
- 13.7.2 The Five Islands School, in exercise of this power, is permitted to carry forward such retained income over from one financial year to the next as a separate community facilities surplus.
- 13.7.3 If the Council of the Isles of Scilly ceases to maintain a community school any accumulated retained income obtained from the exercise of community facilities power reverts to Council of the Isles of Scilly unless agreed with a funding provider, or if the school converted to an Academy.

### **13.8 HEALTH AND SAFETY MATTERS**

- 13.8.1 The health and safety provisions contained in the Scheme for Financing Schools also apply to those schools that exercise the power of community facilities.
- 13.8.2 The governing body of a school that exercises this power will be responsible for the costs of securing Criminal Records Bureau/Independent Safeguarding Authority clearance for all adults involved in community activities taking place during the school day. If a funding partner is involved, then the governing body will be free to pass on such costs as part of the agreement with the partner.

### **13.9 INSURANCE**

- 13.9.1 The governing body is responsible for making adequate arrangements for insurance against risks arising from the exercise of the community facilities power. In doing so, The Five Islands School should seek advice from the Council of the Isles of Scilly.
- 13.9.2 If the Council of the Isles of Scilly judges that the insurance arrangements are inadequate in respect of community facilities, the authority will undertake its own assessment. The Council of the Isles of Scilly will then make the arrangement itself and charge the resultant cost to the The Five Islands School.

### **13.10 TAXATION**

- 13.10.1 If The Five Islands School exercises this power should seek the advice of the Council of the Isles of Scilly and the local VAT Office on any issues relating to the possible imposition of Value Added Tax on expenditure in connection with community facilities, including the use of the local authority VAT reclaim facility.
- 13.10.2 If any member of staff employed by the school or council in connection with community facilities at the school is paid from funds held in the school's own bank account, the school is likely to be held liable for payment of Income Tax and National Insurance, in line with HM Revenues & Customs rules.
- 13.10.3 In exercising this power, The Five Islands School should follow the Council of the Isles of Scilly's advice in relation to the Construction Industry Scheme, where relevant to the exercise of the Community Facilities power.

**13.11 BANKING**

- 13.11.1 The Five Islands School in exercising its powers of community facilities is permitted to set up a bank account in order to account for all income and expenditure in connection with community facilities.
- 13.11.2 As The Five Islands School already has a bank account it still may require a separate account unless the school can demonstrate that it has adequate internal accounting controls to maintain separation of funds.
- 13.11.3 The Council of the Isles of Scilly approved list of Banks and Building Societies is set out in para 3.6 of the Scheme for Financing Schools.
- 13.11.4 Where The Five Islands School has bank accounts for community facilities it shall be allowed to retain all interest earned on these accounts.
- 13.11.5 If The Five Islands School has a bank account for community facilities, it should not allow that account to go overdrawn.
- 13.11.6 Schools may only borrow money (except from the LA) with the written consent of the Secretary of State for Education.

**Schedule of Schools**

LA No.

420 The Five Islands School  
Maintained School by the Authority – Voluntary Controlled

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

This guidance note summarises the position relating to the charging of voluntary early retirement and redundancy costs. It sets out what is specified in legislation and provides some examples of when it might be appropriate to charge an individual school's budget, the central Schools Budget or the local authority's non-schools budget.

Section 37 of the 2002 Education Act says:

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

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

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

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

### *Charge of dismissal/resignation costs to delegated school budget*

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

*Charge of premature retirement costs to local authority non-schools budget*

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

Costs of early retirements or redundancies can only be charged to the central part of the Schools Budget where the expenditure is to be incurred as a result of decisions made before 1<sup>st</sup> April 2013. Costs may not exceed the amount budgeted in the previous financial year.

It is important that the local authority discusses its policy with its School. Although each case should be considered on its merits, this should be within an agreed framework. It may be reasonable to share costs in some cases, and some authorities operate a panel to adjudicate on applications.

A de-delegated contingency could be provided, if the School agree where "a governing body has incurred expenditure which it would be unreasonable to expect them to meet from the school's budget share"

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

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

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

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

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

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

*each part of the payment or costs.*

**FINANCIAL REGULATIONS**

Please follow this link to the Financial Regulations, on the website of the Council of the Isles of Scilly: <http://www.scilly.gov.uk/policydocs/> .

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