

**Bristol Schools Forum**  
**Revision to Financial Regulations for Schools**  
**with Delegated Budget**

<b>Date of meeting:</b>	13 <sup>th</sup> January 2022
<b>Time of meeting:</b>	5.00pm
<b>Venue:</b>	Virtual meeting

## **1 Purpose of report**

- 1.1 This report presents the draft revision to the Financial Regulations for Schools with Delegated Budget (The Regs) for views and comment.
- 1.2 Maintained School members to note that this will take effect from 1<sup>st</sup> April 2022.

## **2 Recommendation**

### **2.1 Schools Forum is invited to:**

- a) **Express their views and comment on the document**
- b) **Due to the size of The Regs, comments are welcomed after the meeting up to the end of working day on 27<sup>th</sup> January 2022**
- c) **(Maintained school members to) note that The Regs will take effect from 01/04/2022**

## **3 Background**

- 3.1 The Schools Forum noted, and maintained schools' representatives approved, the revision to the Scheme for Financing Schools (The Scheme) at its meeting on the 30<sup>th</sup> November 2021.
- 3.2 It was agreed at the meeting that the revision to The Regs, be synchronised to also take effect from 1<sup>st</sup> April 2022.
- 3.3 The current Regs was last updated in 2015.
- 3.4 The Scheme sets out the framework for the financial relationship between the LA and the maintained schools which it funds. The Scheme contains requirements relating to financial management and associated issues, which are binding on both the LA and on schools.
- 3.5 The Scheme is a national document and fairly similar from one LA to another. Its contents are within boundaries stipulated by the DfE and there is minimal opportunity to clarify this financial relationship. The Regs further clarified the scheme, and its aimed at providing financial management tools as well as improving practices in maintained schools.

## **4 Revision to The Regs**

- 4.1 The draft regs is substantially bigger than the previous one (102 pages compared to 30).
- 4.2 Whilst some areas within the Regs have been re-clarified, others have been substantially re-written. Some of the areas that have been substantially re-written includes:

- i. 4.6 – Irregularities
  - ii. 5.1 – Revenue Budget Preparation
  - iii. 5.2 – Revision of the Revenue Budget
  - iv. 5.3 – Revenue Budget Monitoring
  - v. 6 – Capital Budget (Expenditure)
  - vi. 7 – Purchasing and Contracts
  - vii. 8 – Leasing Arrangements
  - viii. 9 – Employment Status
  - ix. 18.2.4 – Input Tax, and
  - x. 18.2.6 – Output Tax
- 4.3 The changes of note (significant) are attached to this report as Appendix A.
- 4.4 In addition, there are 10 Annexures which are new to the draft Regs. These covers issues that schools should consider in fulfilling the requirement of the Regs. Some of these includes, sample procedures that schools can adapt and adopt; flow chart to clarify the difference between revenue and capital expenditure etc. Substantial part of the draft Regs is made up of these annexures (over 60 pages) and covers the following:
- A. Functions Which Could Be Delegated by the Full Governing Body
  - B. Financial Control Procedures
  - C. Model Internal Financial Procedures Manual
  - D. Keeping a Register of Business/financial interests
  - E. Code of Conduct for School Governors, Headteacher and Other Staff in Respect of Commercial Practices, Gifts and Hospitality
  - F. Sample Budget Report - Budget by Ledger Level
  - G. Sample Quarterly Financial Summary
  - H. Sample Quarterly Budget (Financial) Monitor
  - I. Flow chart and tables to help explain the nature of Capital Expenditure
  - J. Finance and Operating Leases explained
- 4.5 As stated earlier, the draft Regs is a large document and is appended (Appendix B) separately to this report.
- 4.6 Once finalised, the draft Regs will be published and make directly available to all schools with LA delegated budget.
- 4.7 The Regs (as with other Council's documents) will be reviewed as regularly as required, and at least once every 3 years. Other critical points at which review will be required may include when the main Council's financial regulation is reviewed, when there is significant revision to The Scheme (both directed and discretionary), when there are significant changes to accounting standards and practices and when Government regulations, laws and pronouncement dictates.
- 4.8 The Regs is mainly applicable to schools with delegated budget but comments are welcomed from all forum members up to the close of play on 27<sup>th</sup> January 2022. Such comments should be forwarded to the Clerk.

## Appendix A – Changes to The Regs

- 1.2.2 This regulation applies to all school staff and governors and activities involving school staff in their role as a member of staff (i.e., operation of the school's voluntary fund) and it is the responsibility of the governing body to ensure that they are followed and that all staff in the school are adequately trained to undertake their responsibilities.
- 1.2.4 Throughout this Financial Regulation use of the word "schools" refers collectively to Governing Bodies, individual governors, the Headteacher and other staff employed at the school. However, in certain cases, the Financial Regulations apply specifically to the Governing Body or the Headteacher.
- 1.2.5 The Chief Finance Officer (referred to in document as CFO) welcomes feedback on the operation of Financial Regulations to ensure they remain relevant and effective. Initially the Finance Manager (Children's and Education) should be contacted if you have comments on the application or operation of this Regulation.
- 1.3.1 ....apply differently from those Schools in the LA pooled banking arrangement. Some of these includes (but not limited to) ....., who is responsible for the day-to-day management.
- 2.1 Section 1.6 of the *Scheme for Financing Schools* allows Governors to delegate their powers to the Headteacher, who is responsible for the day-to-day management of the school. Similarly, authority may also be delegated to a committee of the Governing Body (which it has created), such as a finance committee, which may meet more frequently than the full Governing Body and therefore be in a position to respond more quickly to issues which arise in the financial management of the school. The Governing Body can delegate authority to carry out these and, other tasks, but cannot delegate the responsibility. The Governing Body remains ultimately accountable. Where such delegation is made it is important that all parties are aware of the extent of their delegated powers, which should be clearly set out and minuted at a meeting of the full Governing Body. Whilst not a comprehensive list, some examples of functions which could be delegated by the full Governing Body, either to the Headteacher or to a committee of the Governing Body, are set out in ***Annexure A – Functions which could be Delegated by the Full Governing Body.***
- 2.2 The full extent of any such delegations should be formally agreed and minuted at a meeting of the full Governing Body and included in the school's Financial Regulations, as detailed in the school's own Internal Control and Management Document. The school's Financial Regulations shall be reviewed annually at the start of the financial year and formally minuted at a meeting of the full Governing Body. ***Annexure B – Financial Control Procedures*** highlights certain objectives that should be reviewed as part of the school's financial control procedures.

- 2.8 Schools are encouraged to maintain their own internal financial procedures manual. A model of such manual is included as, **Annexure C – Sample School Financial Procedure Manual**, below.
- 3.8 Further details on business/financial interest is provided in **Annexure D - Keeping a Register of Business/financial interests** below.
- 3.9 Schools should ensure that all staff receive a Code of Conduct which clearly sets out the **standards of behaviour expected of them**. A sample code of conduct document (which schools can adapt/adopt is provided at **Annexure E - Code of Conduct for School Governors, Headteacher and Other Staff in Respect of Commercial Practices, Gifts and Hospitality** below.
- 4.2.1 The Internal Audit of the City Council is empowered to:
- c. Require and be provided access to all correspondence, documents, books and other records of any employee of the Schools/ City Council or Governing Body and appertaining in any way to the activities of the School/Governing Body/City Council.
- 4.5 The Governing Body must undertake periodic review (at least annually) of their financial procedures and controls. It is the responsibility of the Governing Body and school management to ensure that internal controls are adequate and effective, and to take action to secure this on an ongoing basis.

#### **4.6 Irregularities**

- 4.6.1 All monies and assets associated with a school are public property and provided for the education of the pupils. They are not provided for the benefit of governors, Headteachers or staff personally. Individuals either working for, or associated with, the school have a duty to report any irregularities or suspected irregularities.
- 4.6.2 The Internal Audit Service and Finance Manager (Education and Children's) [also known as FM (E&C)] shall be notified immediately by school governors, Headteachers or other staff, as appropriate, of all financial irregularities or suspected irregularities, or any circumstances which may suggest the possibility of irregularities in the exercise of any of the school's financial functions (e.g. Cash, stores, property and computer held data). Upon notification, the LA team must consult with those officers detailed in the local authority's Anti-Fraud and Corruption Strategy on any such notification.
- 4.6.3 The Governing Body and Headteacher, in consultation with the FM (E&C), shall take appropriate action<sup>1</sup> to prevent further loss and to secure records and documentation against removal or alteration.
- 4.6.4 The CFO and the FM (E&C) shall determine the scope and cost implications of any internal enquiries or investigations.

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<sup>1</sup> This should happen after the FM (E&C) has consulted with those officers detailed in the Anti-Fraud and Corruption Strategy.

- 4.6.5 The FM (E&C) must consult with those officers detailed in the local authority's Anti-Fraud and Corruption Strategy in deciding whether any matter under investigation should be referred to the police. Appropriate recovery action should be taken on such matters.
- 4.6.6 Each school Governing Body and Headteacher shall take steps to minimise the risks of financial irregularities occurring.
- 4.6.7 Those involved in conducting or assisting in irregularities should have regard to the provisions of the Code of Conduct for Employees, Standing Orders, and the Anti-fraud and Corruption Policy, as well as Financial Regulations. Also, the Governing Body and Headteacher should adhere to the provisions of the particular legislation and corporate policy regarding the 'Public Disclosure Act 1998<sup>2</sup>'.

## 5.1 Revenue Budget Preparation

- 5.1.1 The school's revenue budget, prepared in conjunction with both the school development and asset management plans, provides details of how the schools delegated budget and other devolved resources and any transfers to/from balances from previous years<sup>3</sup> are to be spent. The revenue budget shows an analysis of the annual income and expenditure thereby reflecting financial implications of the school's policies and provides a framework within which those who are responsible at the school for making payments should operate. It also provides the CFO and the FM (E&C) with the information they need to carry out their respective statutory responsibilities. These Financial Regulations seek to provide a framework for the preparation and notification of the revenue budget. A sample detailed budget (showing 5 years information) is shown in **Annexure F**. Alongside this a sample summary budget (to accompany the detailed budget) is shown at **Annexure G**.
- 5.1.2 Upon notification by the local authority of the Individual Schools Budget (ISB) the Headteacher shall prepare a revenue budget at outturn prices for the relevant years. Planning for the use of resources should support the achievement not only school's objectives but also those relating to national and local priorities.
- 5.1.3 The school's revenue budget shall be prepared using the format prescribed by the local authority (see **Annexures F and G** for sample). Once approved by the Governing Body, the budget must be submitted in the required form to the CFO (through the TwS – Schools Finance team), signed by the Chair of Governors no later than 31<sup>st</sup> of May each year.
- 5.1.4 It is a matter for each Governing Body to decide upon the procedure for preparing and agreeing the annual revenue budget, but it should be prepared in conjunction with the school's development/improvement and asset management plans.

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<sup>2</sup> [Public Interest Disclosure Act 1998 \(legislation.gov.uk\)](http://legislation.gov.uk)

<sup>3</sup> The annual budget plan will include projected financial commitments for the two subsequent years.

- 5.1.5 Each annual revenue budget should be prepared so as to break even or show a balance and should take account of any reserves (previous year balances). Schools are not permitted to budget for a deficit. However, where this appears to be unavoidable the Governing Body shall submit its case (prior to the submission of the governor approved budget) to the FM (E&C), who shall determine the matter in consultation with CFO and Director of Education and Skills.
- 5.1.6 The revenue budget must be realistic and achievable. In this respect the TwS – Schools Finance team, Education Finance Service in conjunction with appropriate colleagues within Education & Skills Division will check to see that this is so. Where the revenue budget as submitted does not meet this requirement, it will be returned to the school within the local authority's budget approval process timeframe together with a preliminary statement of discrepancies. The Governing Body will be required to reconsider the budget and resubmit within a specified timeframe<sup>4</sup>.
- 5.1.7 Any balances set aside in the revenue budget should have regard to the school's development and asset management plans and any specific balances guidance issued by the local authority<sup>5</sup>.
- 5.1.8 As soon as any significant changes to the revenue budget have been agreed by the school's Governing Body, those changes must notify the FM (E&C) through the TwS Schools Finance team, giving details of costings.
- 5.1.9 Governing Bodies will supply the CFO and the FM (E&C) with such information as is required to fulfil their statutory duties and responsibilities.

## **5.2 Revision of the Revenue Budget**

- 5.2.1 Once the school's revenue budget has been approved by the Governing Body and submitted to the local authority, it is often the case that the Governing Body will need to make changes to the plan during the financial year. The process of transferring budget provision between budget headings is known as virement. It is important that each school has in place a formal arrangement for approval of any revision of the Revenue Budget, which should be incorporated in the schools own Financial Regulations. Such approval, up to a specified limit, may be delegated to a Headteacher or to a committee of the Governing Body. It is the responsibility of the Governing Body to authorise such variations (virements) to their Revenue Budget. As soon as any revisions to the revenue budget have been agreed and those changes significantly affect the school budget, the Governing Body shall notify<sup>6</sup> the local authority in the usual format, giving details of costings. The

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<sup>4</sup> [Timeframe will be limited and Governors responsible for reconvening budget approval meeting](#)

<sup>5</sup> [And DfE where appropriate](#)

<sup>6</sup> It is not necessary to resubmit the entire budget plan and the notification is generally processed through the school's TwS finance contact.

school will then amend its accounting system to reflect the latest position. Budget changes in excess of £5,000 or more are considered significant

- 5.2.2 The Governing Body is empowered to vire between the various headings of income and expenditure within the delegated budget<sup>7</sup>. However, transferring Capital Budget to Revenue is not allowed.
- 5.2.3 Where authority to vire has been formally delegated to the Headteacher or to a committee of the Governing Body, details of each virement must be reported to the next full Governing Body for approval. This includes virements both to and from the school's accumulated carry forward<sup>8</sup>.
- 5.2.4. The Governing Body shall ensure that virement is undertaken as necessary to maintain the accuracy of budget monitoring. The school's accounting system will be amended to reflect the latest position. Significant change is taken to mean in excess of £5,000 where the school overall annual budget is less than £1m and £10,000 above £1m.

### 5.3 Revenue Budget Monitoring

- 5.3.1 Regular monitoring of income and expenditure against the agreed budget is central to effective school financial management. It allows Governors, the Headteacher and staff to maintain financial control by continually reviewing the school's financial position and taking remedial action where necessary. Effective financial management will ensure the school's development/improvement plan objectives are being met and financial resources are effectively deployed against these local, regional and national objectives (raising attainment and narrowing the educational gap).
- 5.3.2 Schools must monitor income and expenditure against their delegated budget. The Headteacher is to monitor the budget on a monthly basis, throughout the year. This function cannot be delegated to finance staff or an external bursar service.
- 5.3.3 Budget monitoring reports should be prepared and presented periodically, at least six times a year<sup>9</sup>, to the full Governing Body for review as contained in section 2.2.1 of the *Scheme for Financing Schools*. Governors may request more frequent reports, and these must also be presented to appropriate committees.
- 5.3.5 Each school's Governing Body may determine the form and contents of financial reports (see **Annexures G and H** for sample monitor), but the following basic information should be considered as the minimum for inclusion:
- a) The original and any revised budget
  - b) Current actual income and expenditure plus commitments

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<sup>7</sup> Exceptions being those involving ring-fenced allocations, i.e. Rates.

<sup>8</sup> Exceptions are specific ring-fenced allocations

<sup>9</sup> As stated in requirement in DfE SFVS guidance issued April 2019

- c) An estimate of income and expenditure to the year end
- d) A total projecting year end position for both income and expenditure
- e) A comparison of the latest (a) and (d) figures
- f) Explanations for significant variances
- g) Reports should cover the total revenue budget and capital budget of the school
- h) An estimate of the in-year balance
- i) The balances brought forward from previous years and to be carried forward to next including (h) above
- j) Any explanation as to future use of any balances held or what steps are to be taken to bring any overspends back into balance

5.3.6 Where schools hold monies on behalf of others (for example, partnership, and other specifically identified income stream, other than the Dedicated Schools Grant) a separate report is to be provided for these monies using the reporting approach outlined above. This report is to be presented to both the school's governing body and the party or parties for whom the school is holding the monies.

5.3.7 Budget monitoring is to be carried out monthly at all levels and should include all devolved budget cost centres. Expenditure on individual initiatives is to be tracked to enable the school to assess cost and effectiveness against the criteria set out in the school's development/improvement plan and conditions associated with any specific funding.

5.3.8 It is important when considering actions to tackle any significant variances that these are not just concentrated on overspends. Underspends must also be considered as it is important to deploy all available resources to meet the School Development Plan and other externally set priorities.

5.3.9 In accordance with Section 2.2.2 of the Scheme for Financing Schools, schools using RM Accounts managed by TwS team must submit quarterly budget monitor (forecast outturn) in a format and timescale prescribed by the LA (see samples at **Annexures G and H**). The dates for submission will be provided by the TwS Schools Finance Team.

5.3.14 In accordance with Sections 2.2.2 and 2.20 of the scheme for financing schools, the LA will issue separate instruction for schools in financial difficulty which it has issued Notice of Concerns or have withdrawn financial delegation.

## 6. CAPITAL BUDGET (EXPENDITURE)

- 6.3 Revenue expenditure is expenditure incurred for the purpose of the organisation's daily activity, services or to maintain fixed assets. For example, employees pay, travel expenses and IT consumables are all deemed to be revenue expenditure.
- 6.4 The common definition of capital expenditure therefore is  
**“Capital expenditure is expenditure that results in the acquisition or construction of a fixed asset (land, building, vehicle, equipment) or enhancement of an existing fixed asset.”**
- 6.5 Determining the acquisition or construction of a new asset is relatively straight forward and as such the greatest difficulty is often associated with identifying expenditure that can be said to enhance an existing asset.
- 6.6 To be an enhancement, the work undertaken must either:
- a. **Lengthen substantially the useful life of the asset** – beyond the current assessment of the useful life of the asset. For example, the assessment would usually assume that a property would always have an effective paint coverage and therefore painting would only ensure that the property remained useful for the period originally anticipated. In contrast, the assessment might assume that the property will continue to have a flat roof in good repair. Its subsequent replacement with a pitched roof will be more effective at protecting the building from degradation by the elements and should result in a more optimistic assessment of the prospective useful life.
  - b. **Increase substantially the market value of the asset** – if the asset were valued after the works substantially higher than prior to the works.
  - c. **Increase substantially the extent to which the asset can or will be used for the purpose of or in conjunction with the functions of the School** – for example extending a building to provide a wider service or making a building fit for a purpose that it would not otherwise be fit for.
- 6.7 Some other issues to bear in mind are:
- a. Expenditure on loans and grants to other parties for capital purposes or expenditure to enhance an asset owned by a third party can also be capital.
  - b. For reasons of materiality and consistency with other capital controls, de minimis levels are applied, below which expenditure is treated as revenue. These de minimis levels are set at £2,000. This level should be applied at scheme/project level rather than on an invoice-by-invoice basis.
  - c. If treated singly, an asset may fall below the capitalisation threshold. Several small value assets of a similar nature may be purchased at once, for example as part of the same project. If so, it is the value of the purchase of all the assets that determines whether expenditure falls above or below this threshold. For example, a new chair costing £300, would be revenue expenditure; whereas a programme of replacing all the chairs in a particular building would be capital expenditure. The question of grouping typically applies to the purchase of information technology, other equipment or office furniture.
  - d. The purchase or creation of a capital asset might require a department to undertake other expenditure necessary to procure and commission

the asset. Such internal costs will include employees' salaries and expenses arising directly from the construction and acquisition of the specific fixed asset. These costs, and only those costs attributable to bringing the asset into working condition, should be recorded as capital expenditure.

- e. Costs incurred in the early stages of a project to acquire or create a capital asset should only be recorded as capital if at the time they are incurred there is a clearly defined project, the costs are separately identifiable, and it is reasonably certain that the project will be completed and will result in an asset that will eventually be brought into use.
  - f. Capital expenditure includes any architects or surveyors' fees where that are an integral part of, and specific to, the acquisition or the construction of a building. This also applies to consultancy costs in procuring other capital assets.
  - g. Expenditure on consultancy to help decide whether a capital acquisition or project should go ahead is revenue expenditure.
  - h. ICT – Purchase of new computer equipment, associated infrastructure and software may be treated as a capital cost. Software licences may be charged only if it is a permanent licence. The Local Government Act 2003 allows computer software to be capitalised only where the use of the software is granted for a period of at least 1 year. Annual licences or subscription charges are not allowed and must be treated as revenue expenditure.
  - i. Maintenance contracts associated with new hardware/software acquisitions can only be capitalised for the first year of the project, where the costs are deemed to be inclusive of the capital scheme. The cost associated with ongoing maintenance or support contracts after the first year should be met from revenue expenditure.
- 6.8 The flow chart at **Annexure F** may be helpful in confirming the nature of expenditure – capital or revenue.
- 6.9 Schools should endeavour to refresh their asset management plan on a regular basis. This should help plan their capital expenditure in coming years. Schools should also consider utilising current and future Devolved Capital Fund to meet planned capital expenditure.
- 6.10 Schools inform the LA of any proposals to finance capital works from their delegated funds. This information is required to ensure that the expenditure is properly identified in the LAs accounts.
- 6.11 If schools are allocated funds by the LA for capital expenditure, the Governing Body shall submit the details required, to allow the LA to monitor the capital programme, containing:
- a. The latest estimation of costs and phasing of expenditure;
  - b. Explanations of variations in total forecast cost above or below the approved cost and revisions to phasing of expenditure over each financial year;
  - c. Proposals for containing any additional costs within the resources available.
- 6.12 Certain leasing arrangements are defined as capital expenditure. (See section 8).

## **7. PURCHASING AND CONTRACTS**

- 7.1.1 Whenever a school decides to make a purchase, it is technically entering into a contract. There is a general requirement to test the market for purchases of more significant value to ensure that the most economical price is paid, that fair competition occurs, to protect public funds and to protect Governors and staff from unfair accusations of malpractice. Schools may purchase from any supplier, but they must ensure that they obtain value for money.
- 7.1.2 When making any decisions, schools should take account, wider social, economic and environmental impacts, in-line with the Council's Social Value policy and One City Climate & Ecological Emergency strategies.
- 7.1.3 When procuring, this means considering the positive and negative social, economic and environmental impacts there could be when deciding what goods, services or works are wanted and which supplier should be chosen to deliver them. Examples of benefits that this approach can bring include:
- a) More local employment (e.g. asking local suppliers to quote who would use local people to deliver the contract)
  - b) Pupils with greater career aspirations (e.g. for larger contracts, suppliers might be asked to engage in learning about related topics or careers)
  - c) Reductions in carbon emissions (e.g. through choice of products with a smaller carbon footprint, or through reduced travel miles)
  - d) Stronger community groups (e.g. by asking suppliers to donate their expertise to support a local community group as part of delivering larger contracts)
- 7.1.4 This should be done in a proportionate way and in-line with the council's procurement rules.
- 7.1.5 In this section, tender means a formal written offer, in a form common to all tenderers, submitted following the issue of a detailed description or specification of the works, goods or services required. Quotation means a written statement in any form based on a description of the works, good or services required.
- 7.1.6 If works are being arranged on the school's behalf by other sections or departments of the City Council, their execution will be governed by the City Council's Procurement Rules and Financial Regulations.
- 7.1.7 External consultants or advisors employed by the school to administer and supervise the provision of goods, works or services are required as part of their terms of engagement to apply these rules as if they are a permanently appointed employee.
- 7.1.8 The appointment of consultants and advisors is subject to the requirements to obtain quotations or tenders as required by these regulations.

7.1.9 These procedures equally apply to a school letting a Concession contract. A Concession Contract refers to any arrangement under which the school grants rights to another organisation (the Concessionaire) that typically allow the Concessionaire to make money. Concession contracts sometimes result in income for the school but do not have to.

## 7.2 Procurement Policy

### 7.2.1 Values and Thresholds

7.2.2 The procurement procedure that must be followed is determined by the total value of the proposed contract. The City Council Procurement rule<sup>10</sup> is a good guide to all matters relating to buying by all council services including Schools.

7.2.3 The value of the proposed contract should be determined as follows:

- a. The value for a proposed Contract must be a genuine pre-estimate and must be based on the total aggregated value over the life of the Contract, including any provision for extension(s), expenses, installation costs and delivery charges.
- b. Where there is a requirement for similar Supplies, Services and / or Works, this spend should be aggregated to ensure compliance with public procurement law. There shall be no disaggregation of requirements in order to avoid the thresholds.
- c. All values should be calculated excluding VAT or any trade-in allowance
- d. For concession contracts, the financial value should be calculated based on the concessionaire's expected total turnover (excluding VAT) generated over the duration of the contract, in relation to the works and services that are the subject of the concession. It may be difficult to accurately forecast the value of a concession: the value should therefore be the most accurate estimate possible and clearly documented.

7.2.4 If there is any doubt about the contract value and this may have a significant impact (e.g., the total contract value may exceed a threshold requiring a more formal competition), advice should be sought from an individual or organisation with significant up-to-date knowledge of public procurement law and processes, for example Trading with Schools.

### 7.2.5 Thresholds

7.2.6 Thresholds set out in this policy or in public procurement law may depend on the type of service being purchased. Categories are as defined in public procurement law, but broadly "Works" refers to construction and "Services and Supplies" cover most other goods and services a school may purchase.

7.2.7 The procurement procedure that must be followed depends on the contract value, summarised as follows:

Total Contract Value	Default minimum procurement procedure	Alternative options
£0- £5,000	<ul style="list-style-type: none"> <li>• Obtain at least one quotation (preferably written)</li> </ul>	<ul style="list-style-type: none"> <li>• Any procurement procedure applicable for higher values</li> <li>• Existing contracts or frameworks compliantly procured by another public sector body and open to being used by the school</li> </ul>

<sup>10</sup> [Procurement rules for Bristol City Council](#)

£5,001-£25,000	<ul style="list-style-type: none"> <li>• Invite at least three competitive written quotations</li> </ul>	<ul style="list-style-type: none"> <li>• Any procurement procedure applicable for higher values</li> <li>• Existing contracts or frameworks compliantly procured by another public sector body and open to being used by the school</li> </ul>
Over £25k up to £250k (Works only) or up to relevant public procurement threshold (Services, Supplies, Concessions or Light Touch Regime)	<ul style="list-style-type: none"> <li>• Formal Request for tender</li> </ul>	<ul style="list-style-type: none"> <li>• Any procurement procedure applicable for higher values</li> <li>• Existing contracts or frameworks compliantly procured by another public sector body and open to being used by the school</li> </ul>
Over £250k (Works) or over relevant public procurement threshold (Services, Supplies, Concessions or Light Touch Regime)	<ul style="list-style-type: none"> <li>• Procedure as set out in public procurement law</li> </ul>	<ul style="list-style-type: none"> <li>• Any procurement procedure applicable for higher values</li> <li>• Existing contracts or frameworks compliantly procured by another public sector body and open to being used by the school</li> </ul>

### 7.2.8 At least one Quotation (Up to £5k)

- Obtain at least one Quotation (written wherever possible), with a preference for local smaller suppliers where possible.
- Headteachers have a responsibility to ensure that arrangements are in place so that the school protects its interests and obtains value for money.

### 7.2.9 Invite three competitive Quotations (£5k-£25k)

- Governing Bodies must seek at least three competitive written Quotations, inviting local smaller suppliers to quote wherever possible.
- Every invitation to quote must state that the Governing Body is not obliged to accept the lowest price.
- If the Governing Body does not accept the lowest price or determines to disqualify an applicant for reason of previous performance, the details and reasons must be recorded and approved in the minutes of the Governing Body.

### 7.2.10 Formal Request for tender (£25k - £250k or public procurement threshold)

- A formal Invitation To Tender (ITT) document must be issued by advertisement/list to at least three suppliers. The ITT must set out the specification, submission format, deadlines and the criteria and method by which tender submissions will be scored and a winner determined. The scoring and moderation process must be undertaken in a fair and auditable way in order to demonstrate that all bidders have been treated equally.
- Every invitation to quote must state that the Governing Body is not obliged to accept the lowest price.
- Procurement procedures must be run by an individual or organisation with significant up-to-date knowledge of public procurement law and processes, for example Trading with Schools.

### **7.2.11 Procedure as set out in public procurement law (above public procurement threshold)**

- Procedures must be run in-line with relevant public procurement law.
- Running a procurement process of this value incorrectly can open public bodies to legal challenge. Therefore, Procurement procedures must be run by an individual or organisation with significant up-to-date knowledge of public procurement law and processes, for example Trading with Schools.

### **7.2.12 Contracts or frameworks compliantly procured by another public sector body**

- Some public bodies such as the Council (e.g., Trading with Schools) or central government (e.g., Crown Commercial Service) run competitive processes to put compliant contracts or frameworks in place that they make available for other public bodies such as schools to use. If used correctly, this can reduce the time, effort and legal risks involved in a school running their own compliant procurement process, particularly at higher values.
- Schools interested in this route must satisfy themselves that a competition was run originally that was compliant with public procurement law, that the school is eligible to use the framework or contract, and that it represents value for money.

## **7.3 Transparency and Advertising**

7.3.1 Purchases made in the name of the Council are subject to the [Local Government transparency code](#) which means that schools must publish basic details of contracts worth over £5k.

7.3.2 The details of contracts worth over £25k must also be published on Contracts Finder

7.3.3 Above the public procurement law thresholds, it is critical that opportunities are advertised and opened to competition in line with the procedures set out in law

## **7.4 Waiver**

7.4.1 The Governing Body can waive the above requirements for competition in one of the following exceptional circumstances

- a. The contract is urgently required, and delay would cause loss, injury or damage
- b. The contract is of such a special nature that no advantage would be gained by inviting competitive tenders or
- c. There is no effective competition because payment is fixed under statutory authority or the item is a patented or proprietary article or is available from only one source.

7.4.2 The Governing Body must record in its minutes prior approval to waive the normal policy

7.4.3 For contracts above the thresholds set out in public procurement law, legal advice must be sought by the Governing Body before making this decision.

## **7.5 Documentation**

- 7.5.1 Guidance on the terms and conditions to use should be sought from the BCC Legal Department or from TWS Procurement and Contracts. Except where contracts are the responsibility of the Governing Body of Voluntary Aided Schools, Governing Bodies entering into contracts must do so on behalf of, and in the name of the City Council.
- 7.5.2 Contract should be signed in line with the authorisation levels operated by the school.

## **7.6 Orders for Work, Goods and Services**

- 7.6.1 Official orders must be issued to suppliers, which must identify that the order has been issued by 'Bristol City Council', except where:
- a. Formal agreements have been executed.
  - b. A statutory duty exists e.g., water and sewerage rates.
  - c. Purchases have been made from imprest accounts.
  - d. Written Variation Orders relating to a formal contract have been issued.

For the purposes of commitment accounting, schools may find it convenient to prepare an order in all cases but retain the supplier's copy with internal copies on file where despatch of the order would be inappropriate.

- 7.6.2 Headteachers will be responsible for ensuring that the issue of orders is properly controlled, and each order is properly authorised. Under no circumstances should the usernames and passwords associated with access to the finance systems be used by any member of staff other than the employee the username and password were first assigned to.
- 7.6.3 When deciding who is to authorise orders schools should take the following into account:
- a. The status of the employee within the school's management structure and the school's internal financial procedures.
  - b. The principle of separation of duties requires that an employee authorised to enter orders onto the system must not be able to authorise said order. Ideally where possible the schools should also have segregation of duties between the authorisation of orders and also certification of invoices for payment. However, in some schools, the number of employees of sufficient status is limited which means that a strict separation based on authorisation is not possible. In this event, it is permissible for an individual to be given dual authority on the understanding that, in normal circumstances, the individual will be responsible for only one of the functions and will not authorise an invoice for payment arising from an order they have authorised except in extreme emergency.
  - c. Under no circumstances should an employee be able to both enter and authorise any purchase invoices.
  - d. Employees must only use the user identification and password they have been set up with on the finance system. Sharing user id's and passwords is a disciplinary offence.
  - e. When authorising an order, employees must ensure that the purchase relates to the school and that there is provision for the expenditure in the budget.

7.6.4 In emergency, a verbal order may be approved by an employee who can authorise an order. However, this practice should be kept to a minimum and an order should be placed on the system, authorised and despatched either the same or next working day. Where suppliers require payment with an order, schools can draw a cheque in advance and collect the invoice when goods are supplied.

## **7.7 Land, Buildings and Leases/Tenancies/Licences**

7.7.1 Schools are not empowered to enter into any contract for the sale of any land or interest in land, or for the granting or taking of any lease, tenancy or license on respect of land or building which is owned by the LA.

7.7.2 Schools may purchase additional land and erect buildings, grant leases, tenancies or licenses in respect of that land or buildings and sell that land. Schools are requested to consult the LA if they are proposing to take such action.

7.7.3 If a school proposes to lease land the Finance and Legal Services of the Council's Resources Directorate must be consulted. Leases of land for periods of ten years or more are not permitted because the ongoing liability will affect the capital funds available to the LA.

## **8. LEASING ARRANGEMENTS**

8.1 Leasing is a convenient means of acquiring the use of assets and spreading the cost over their life in return for a charge which includes the cost of the finance. There are two types of lease, finance leases and operating leases. It is important to understand the implications of entering into leases so you may wish to consult with TwS or BCC Corporate Finance before you enter into any leasing arrangement.

8.2 Finance leases are deemed to be "credit arrangements" and as such fall within the scope of controls over credit, whereas operating leases are exempted from being credit arrangements.

8.3 Schools may only enter into OPERATING leases. Under the School Standards and Framework Act 1998, Schedule 10 Part 3, schools are only permitted to borrow with the written permission of the Secretary of State. Finance leases are borrowing. It is therefore illegal for schools to enter a Finance Lease without written permission of the Secretary of State. Whilst it is possible to apply to the DfE for such permission, advice is that such permission is very unlikely to be given. Schools therefore need to take extra care in selecting a lease.

8.4 It is the responsibility of the Headteacher, to ensure that all new leases are sent to the correct TwS/Finance contact to be evaluated. You must not enter a lease until you have confirmation that the lease is an operating lease and not a finance lease. In addition, you must complete the annual year-end lease return requested by Finance. Leases can sometimes be hidden within other contracts. If you enter into a contract that involves the use of an asset you must inform and consult TwS/BCC Finance. Further information regarding how to distinguish the difference between a finance and an operating lease are contained in **Annexure J**. Advice on the determination of leases as either 'finance' or 'operating' may be obtained from TwS/LA corporate finance team.

8.5 Schools should note that instalments of leases MUST NOT be paid from Devolved Formula Capital grant under the terms of the grant.

- 8.6 Schools should also be aware that the LA corporately has significant buying power and that this is reflected in the arrangements that it can make with finance houses. It is likely that the costs incurred on a corporately negotiated leasing contract will be significantly less than any terms on offer to an individual school. Therefore, before entering into leasing agreements schools are strongly advised to seek the advice of the LA/TwS Procurement Team to ensure that the terms of the lease are reasonable and that the equipment (e.g. photocopier) cannot be leased more cheaply through the central arrangements.
- 8.7 Although schools may enter into operating leases for equipment, they need to take into account the recurring commitments in future years. It is suggested that the approval of the Governing Body should be obtained before any operating lease is entered into and that the aggregate commitment of all operating leases is reported to the Governing Body when approval is being sought to any new operating lease.

## 9. EMPLOYMENT STATUS

- 9.1 Please note that from 6th April 2017, the revised Intermediaries Legislation (known as **IR35**) requires Bristol City Council to check the employment tax status of individuals who receive payment via their Personal Service Company. This includes scenarios where the Personal Service Company receives their payment via an agency. The changes are detailed in a [technical note](#) published by HMRC.
- 9.2 It is the responsibility of schools to determine the employment status of all individuals working for them, i.e. whether for tax purposes they must be treated as employees. It is important to get the employment status correct because it affects the way Payroll Tax and Employers' National Insurance contributions are calculated and whether or not the school has to operate PAYE on the earnings (pay through Payroll).
- 9.3 Employment status is not a matter of choice. Even if the individual claims to be self-employed, and provides a self-employed reference, HM Revenue & Customs (HMRC) may treat / consider them otherwise as each potential employment requires separate consideration and evaluation. If for tax purposes an individual is deemed by HMRC to be an employee, employers' National Insurance and Payroll Taxes become due and failure to correctly pass these to HMRC leaves the school liable to penalty at up to 70% of the amount unpaid.
- 9.3 To ensure that schools correctly evaluate the employment status of an individual, they should follow the following procedure each time a payment is to be made to that individual for a new service:
- d. Use the HMRCs check employment status for tax service at <http://www.hmrc.gov.uk/calcs/esi.htm>. This is an online interactive tool that asks a series of questions about the working relationship between the school, as potential employer, and the individual. Copies must be kept of the full output, not just the summary, to evidence the details entered to produce the result; or
  - e. Contact the HMRC Status Customer Service Team by phone at 0300 052 7450 or 0300 123 2326.
- 9.4 Please note the following guidance carefully:

- If any teaching is taking place of school pupils during the normal school day (including lunchtimes) payments must always be made through payroll;
- Employment status can still be an issue for those individuals who might fall under the Construction Industry Scheme Taxes (Section 18.3). To avoid this complication schools should never provide tools and equipment;
- Any person engaged who can be genuinely treated as self-employed must go through a risk assessment process to determine at what level they must hold their own public liability insurance as self-employed individuals are not covered by Bristol City Council insurance arrangements;
- Under **NO** circumstances should any payment be made to any individual through Petty Cash or Request for Payment (Accounts Payable);
- VAT registration is not indicative that an individual is not an employee;

9.5 An individual is likely (but not always) to be employed by the school if most of the following apply. However, it is always recommended in the first instance checking the [HMRCs check employment status for tax service](#):

- The school instructs the individual, as well as how, where and when to do it;
- The individual has to do their work themselves;
- The school can move the individual from task to task;
- The individual is contracted to work a set number of hours;
- The individual receives a regular wage or salary, even if no work is available;
- The individual is paid overtime pay or bonus payments;
- The individual manages any school employees.

9.6 If any of the following apply, the individual is likely (but not always) to be self employed. However, it is always recommended in the first instance checking the [HMRCs check employment status for tax service](#):

- The individual can hire someone else to do the work that they have been contracted to do or take on helpers at their own expense;
- The individual can decide where to provide their services, as well as when and how to do the work that they have been contracted to do;
- The individual is paid a fixed price, independent of how long the job takes;
- Even if none of these apply the individual is still likely to be self-employed if most of the following apply if:
  - The individual uses their own money to buy business assets, pay for running costs etc;
  - The individual is responsible for putting right any unsatisfactory work, at their own expense;
  - The individual provides the tools and equipment needed to do their work.

12.17 Schools managing their own cash (through imprest, payroll or full bank accounts) must complete monthly bank reconciliation. This should be retained

and kept at the school and be made available (upon request) to the LA Chief Finance Officer (or their representative).

13.5.2 Some of the items for sale may attract VAT, therefore schools are advised to contact BCC VAT team when they are planning to sell any surplus asset(s).

18.2.2 Schools are responsible for providing information to enable the LA to maintain proper VAT records and to ensure that returns are made to HMRC in accordance with the prescribed regulations. Further details about VAT are available in operational guidance issued by the LA and available through The Source as "VAT Guidance" (see extract from 18.2.4 below). HMRC have powers to impose penalties at up to 70% of VAT errors and interest where bodies do not properly account for VAT.

18.2.3 Schools who decide to make their own accounting arrangements cannot be separately registered for VAT. This means that:

- a. Information must be passed to the LA per the LA's accounting period end dates;
- b. Information must be submitted within two weeks of the period end date;
- c. Documentation must be in the format set by Bristol City Council's VAT Officer and all associated documents retained by the school for at least six years plus current year;
- d. VAT claims must be supported by copies of specified documents relevant to the period;
- e. The school's accounting system and probably feeder systems, e.g. creditors payments, debtors and payroll, may require approval by HMRC.

#### **18.2.4 Input Tax (VAT on expenditure)**

18.2.5 This relates to payments made. With the exception of off-street parking charges and reimbursement of telephone call costs, VAT can only be reclaimed, if the following conditions are satisfied:

- a. A full tax invoice is held, addressed to the school, which includes the date (tax point), the supplier's VAT registration number, the charge excluding VAT, the rate of VAT charged, the amount of VAT charged and the total; or
- b. A lesser detailed tax invoice is held for charges up to £250, addressed to the School, which includes the date (tax point), the supplier's VAT registration number, the rate of VAT charged and the total; or
- c. Where a petty cash purchase is for under £25, a receipt is held showing clearly the supplier's VAT Registration Number, the gross charge (i.e. including VAT), date and a sufficient description of the goods/services supplied to demonstrate that they are VATable; or
- d. If payment can only be made in advance of a tax invoice being received, a tax receipt is obtained from the supplier with a tax point in the same tax period as the payment is made, otherwise the input tax must be carried forward to the tax period shown on that receipt; or
- e. Fuel Receipts – see Payroll, section 11.6.6;
- f. The VAT is identified correctly in the payments system;
- g. The processing of VAT invoices is not unduly delayed.

### **18.2.6 Output Tax (VAT on income)**

18.2.7 This relates to income received. Schools must ensure that:

- a. Invoices issued are valid tax invoices in accordance with HMRCs regulations (See section 13.1.2);
- b. Invoices are raised promptly, preferably in advance of the goods and services being delivered. Where this is not possible, they should be raised as soon as possible after the goods or services were provided and no later than 30 days afterwards;
- c. Where schools provide VATable goods and services, an invoice clearly showing the value of such supply and the ensuing VAT should be raised. When such invoice(s) is/are paid, the actual receipt should be matched to the invoice.
- d. Sales are correctly analysed for VAT purposes. Particular care must be taken to correctly analyse where no VAT is charged, where charges are VAT-exempt, zero-rated and outside the scope of VAT (non-business).
- e. Money received in advance of sales VAT must be accounted for in the period the payment is received. If they fall in arrears then VAT for the meals sold in arrears must be accounted for in the period the meals are sold. This should be by way of a manual adjustment to your VAT return which you will then remove when accounting for the top up payment. For adult meals only, your customer should be advised that overpayment/Payment in advance is not permitted and any of the amount overpaid will be treated as a donation.
- f. For adult meal as an example, each meal sold must be accounted for with VAT at the appropriate rate at the point of supply. Income (cash) received in lieu of meals sold will be receipted against the invoice/s. The sale plus VAT should be deducted from the income (cash) received. If cash received is more than the value of sale plus VAT, there is an overpayment and where this is less, there is an underpayment.
- g. Schools keep records to monitor the underpayment (arrears) of Adult Meals sold, there should be no overpayments as they are posted to donations.

18.4.1 Please note that from 6th April 2017, the revised Intermediaries Legislation (known as IR35) requires Bristol City Council to check the employment tax status of individuals who receive payment via their Personal Service Company. See Section 9 for full information on Employment Status.

