



# **Scheme for Financing Schools**

**July 2014**

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## 1. INTRODUCTION

### 1.1 The Funding Framework

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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) [School Standards and Framework Act 1998](#)

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

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

Subject to provisions of the scheme, governing bodies of schools may spend budget shares for the purposes of their school. They may also spend budget

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shares on any additional purposes prescribed by the Secretary of State in regulations made under section.50 of the SSAF Act 1998)<sup>1</sup>.

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. There is a right of appeal of the Secretary of State. A school's right to a delegated budget share may also be suspended for other reasons (schedule 17 of the SSAF Act 1998)

An 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 the funding delegated to schools. After each financial year the Authority must publish a statement showing out-turn expenditure at both central level and for each school, and the balances held in respect of each school.

The detailed publication requirements for financial statements are set out in regulations, but each school must receive a copy of each year's budget and out-turn statements so far as they relate to that school or central expenditure.

Regulations also require a Local Authority to publish their scheme and any amendments to it on a website which is accessible to the general public. Any revised version must be published by the date that the revisions come into effect, together with a statement that the revised scheme comes into effect on that date.

## **1.2 Role of the Scheme**

The scheme will govern the financial relationship between the Authority and its maintained schools from 16<sup>th</sup> July 2014. It defines the requirements relating to financial management and associated issues under which both parties are bound.

### **1.2.1 Application of the scheme to the Authority and maintained schools**

This scheme will apply to all of the community, nursery, voluntary, foundation, community special or foundation special schools and pupil referral units (PRUs)

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<sup>1</sup> Section 50 has been amended to provide that amounts spent by the 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 (section 50 (3A) of the SSAF Act)



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maintained by the Authority as listed in Annex 1. This scheme does not apply to Academy schools.

### **1.3 Publication of the scheme**

The Scheme for Financing Schools and any subsequent amendments will be published on the Authority's website and internal network where it is accessible to all school staff and governors. [\[Financial Rules 1- 4\]](#) and [\[Financial Rules 5-7\]](#)

### **1.4 Revision of the Scheme**

The Authority will consult with all maintained schools in respect of any proposed revisions to the Scheme for Financing Schools prior to submission to the Schools Forum for approval by members of the Forum representing maintained schools. Where the Schools Forum does not approve the revisions, or only approves them subject to modifications considered unacceptable by Portsmouth City Council, Portsmouth City Council may apply to the Secretary of State for approval.

### **1.5 Delegation of powers to the head teacher**

The governing body of each school shall consider the extent to which it wishes to delegate financial powers to the head teacher and to record its decision annually (and any revisions) in the minutes of the governing body. The governing body must decide upon an appropriate delegation level, however the Authority recommends a level of up to £1,000 for nursery, primary and special schools and up to £5,000 for secondary schools.

Each school is required to submit an annual budget plan, which has been approved by the full governing body, by 31 May each year. For schools using the corporate EBS financial system, the budget is deemed to be submitted when it has been loaded onto the system. Schools not using the corporate system are required to send a signed copy of the approved budget to the Finance Manager for Education and Children's Services by the due date.

### **1.6 Maintenance of Schools**

Portsmouth City Council is responsible for maintaining the schools covered by the scheme, and this includes the duty of defraying all the expenses of maintaining them (except in the case of a voluntary school where some expenses are, by statute, payable by the governing body). Part of the way an Authority

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maintains its schools is through the funding system put in place under sections 45 to 53 of the SSAF Act 1998.

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## **2. FINANCIAL CONTROLS**

### **2.1 General Procedures**

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

Schools are required to abide by the provisions contained within the City Council's Financial Rules and Standing Orders, which have been sent separately to all schools. The Rules are also available on the City Council's website at: [Contract Procedure Rules](#), summary of the main points is given below:

- a) To protect its interest and that of the governing body the City Council's Standing Orders, amended as appropriate, will be applied to schools with delegated budgets.

Local management has been recognised in the Standing Orders on contracts by the following:

- Reference to Strategic Director or Head of Service shall include a Head of a school with delegated budgets under an approved Local management scheme;
  - Reference to committee shall include the governing body of a school;
  - The head/governing body of a school can receive and accept tenders.
- b) If a governing body of a school with a delegated budget enters into a contract, it does so on behalf of the City Council.

It is recommended that governing bodies formally adopt the Financial Rules and minute the decision.

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

Schools not using the corporate accounting system are required to provide the Authority with details of anticipated and actual expenditure in an agreed format at least once every 3 months. Portsmouth City Council will interrogate financial records as appropriate for those schools using the corporate accounting system.

Under s.151 of the Local Government Act 1972 the Authority's Chief Financial Officer (Section 151 Officer) is responsible for the maintenance of proper

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accounting records. The Section 151 Officer therefore must approve the use of the accounting system used by schools.

At present only one accounting system has been approved for schools namely ORACLE E-business suite (EBS).

Any school wishing to operate an alternative accounting system should first seek approval from the Section 151 Officer who must be satisfied that the accounting system is sufficient to meet their statutory responsibilities.

Schools are required to keep the accounting system up to date. As a basic rule transactions should be recorded on a weekly basis as a minimum.

Schools are required to abide by the accounting policies and year-end procedures prescribed by the City Council in order that the accounts can be prepared in accordance with the CIPFA Code of Practice on Local Authority Accounting in Great Britain.

### 2.1.3 Payment of salaries; payment of bills

See paragraphs 2.1.3.1 – 2.1.3.6

#### 2.1.3.1 Personnel Management

All schools have been issued with a Portsmouth City Council personnel manual, which has been endorsed by professional associations and trade unions representing staff in schools. The manual provides information on all the major issues within the employment process. There are also supplementary appendices in these sections specifying model processes, which will enable balanced and reasonable employment decisions to be taken on a variety of subjects. Some of these relate to specific categories of staff in schools although generic procedures are included wherever this is appropriate.

Under Local Management, the governors will have responsibility to determine the stance they will take on various employment matters; adherence to the provisions of the manual (and adoption of the model processes) will mitigate the possibility of individual or collective difficulties arising. It must be emphasised that, whilst it is legitimate to “dip into” specific parts of the manual to establish the proper stance to be adopted in a particular situation, the manual is attempting to highlight the importance of the ongoing, continuous approach towards the appointment and development of staff. In this context, issues like induction, appraisal, training and communication become a natural and obvious part of the process of employing people.

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#### 2.1.3.2 Payment of Salaries and Wages

Schools are required to make sufficient arrangements to account properly and remunerate accurately all employed and self-employed staff in so far as they are contracted to that school.

Schools should also ensure that arrangements are in place for the timely completion of all employee related statutory returns (tax or otherwise) for all employed or self-employed staff in so far as they relate to that school.

Portsmouth City Council has the right to recover from school budget shares any penalties or fines imposed due to a schools failure to make proper arrangements or negligence (see paragraph 6.2).

#### 2.1.3.3 Purchasing Matters

Schools are free to choose their suppliers, but may find it advantageous to use the arrangements made by a Local Authority for purchases from store, call-off contracts and general supplies contracts. These contracts enjoy advantageous prices due to the substantial volume of business.

Schools should seek to ensure that all payments in so far as they relate to that school are made according to statutory regulations and/or the terms and conditions of any contractual agreements entered into so as not to incur the school or Authority any penalty costs (legal or otherwise).

The Authority will have the right to charge a schools budget share with any costs incurred as a result of a school's failure to meet its contractual or legal obligations in respect of payments.

#### 2.1.3.4 Control of assets

Each school must maintain an inventory, which as a basic minimum includes all items with a value of over £200 or which are deemed portable and attractive. The information required of inventory items over £1,000 should be consistent with the requirements of Portsmouth City Council's Financial Rules and should be kept up to date. A copy of the up to date inventory should be kept off site.

All disposals of inventory items must be authorised in writing by the head teacher or governing body and should include the reason for their disposal.

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The inventory should be checked annually against the physical items held and discrepancies investigated and reported to the governing body.

School equipment may only be loaned to staff or pupils with the permission of the head teacher. A register of all loaned equipment should be maintained.

A model inventory log sheet is provided at Annex 4.

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

Schools are required to abide by all procedures issued by Portsmouth City Council for this.

#### 2.1.3.6 Writing off of debts

Governing bodies may approve the write off of debts up to £100; above this sum the school must request the approval of the Section 151 Officer.

### 2.2 Basis of accounting

Schools are responsible for ensuring that all income is accounted for properly and in accordance with Portsmouth City Council Financial Rules. Schools must also ensure that VAT is charged at the correct rate where applicable. The City Council has established administrative procedures for the collection of income, which are set out in the Financial Rules.

### 2.3 Submission of budget plans

Schools are required to submit a budget plan to the Local Authority (or post it on ORACLE) by 31 May each year. Schools must take account of estimated balances as at 31 March of that year in formulating a budget plan.

In addition schools must submit a summary of:

- the objectives that the budget plan is intended to deliver;
- the assumptions which underpin its calculation;
- how spending by the school will meet the principles of Value for Money

All schools are required to have their 3-year budget plan approved by the full governing body and evidenced as such in the minutes of that meeting. Similarly

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any revisions to the budget plan must be approved and recorded in the minutes by the full governing body.

All schools are required to review their budget plans at least half way through the financial year (each October) and make revisions as necessary. All revised budget plans should be either submitted to the Authority or posted on ORACLE, by 30<sup>th</sup> November each year, after approval by the full governing body.

Profiled budget monitoring reports (including committed expenditure) should be provided to the finance committee of the governing body for review at each meeting. For schools using ORACLE, the BB501 or BB502 are the recommended reports for the finance committee.

#### 2.3.1 Submission of financial forecasts

Schools are required to submit a financial forecast to the Authority by 31<sup>st</sup> May each year, covering the full multi-year period for which schools have been notified of budget shares beyond the current financial year. The Authority may use the information provided as evidence to support Portsmouth City Council's assessment of Schools Financial Value Standards and to support the balance control mechanism. In order to reduce the burden on schools, it is recommended that a signed version of the 5-year budget plan produced by the school's financial modelling software is submitted.

### 2.4 Efficiency and Value for Money

Schools 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.

It is for heads and governors to determine at school level how to secure better value for money.

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

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## **2.5 Virement**

Schools are free to vire monies between budget headings, as they deem necessary in pursuit of their objectives.

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Governing bodies should agree the virement and expenditure limits for head teachers above which the governing body or finance sub-committee must give approval. These virement limits should be formally recorded in the minutes of the governing body' meeting when they are approved.

*(Virement: a measure of flexibility that allows budget-holding managers to reflect budget variances within a year)*

## **2.6 Audit: General**

Schools will be subject to the internal audit regime as determined by the City Council and the external audit regime as determined by the Audit Commission. Schools must provide access to all records as required and otherwise co-operate with the appointed auditors.

Specific guidance relating to the Authority's audit requirements is contained in the Financial Rules issued to all schools separately.

Schools can expect reasonable notice of any forthcoming audit unless that audit is required as a result of an irregularity financial or otherwise.

## **2.7 Separate external audits**

Governing bodies may spend funds from their budget share to obtain external audit certification of their accounts if they wish, but this will in no way exempt them from the audit provisions contained within the City Council's financial regulations.

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

Schools are required to provide evidence of independent examination and an audit certificate in respect of any voluntary and private funds and of the accounts of any trading organisations controlled by the school to both Portsmouth City Council and the Governing Body. The accounts should be submitted within three months of the appropriate year end of the fund. Any school refusing to provide audit certificates to the authority as required by the scheme is in breach of the scheme and the authority can take action on that basis.



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## **2.9 Register of business interests**

The governing body of each school must maintain a current register which lists for each member of the governing body, the Head teacher and any member of staff with financial responsibilities, any business interests, they or any member of their immediate family have. This register should be updated regularly and the entries should be thoroughly reviewed annually. The register should be available for inspection by governors, staff and parents and the Authority.

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

Schools must abide by the Authority's regulations with regard to purchasing, tendering and contracting matters unless these regulations would require schools:

- To seek Local Authority officer countersignature for any contract for goods or services for a value below £60,000 in any one year;
- To select supplies only from an approved list;
- To do anything incompatible with any provision of the scheme, or any statutory provision or any European Union Procurement Directive;
- To seek fewer than three tenders in respect of any contract with a value exceeding £10,000 in any one year;

Schools are required to assess in advance, where relevant, the health and safety competence of contractors, taking into account Portsmouth City Council's policies and procedures.

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

Schools retain the right to opt out of Portsmouth City Council arranged contracts except where they have specifically agreed to remain bound by the contract for its entire term.

Schools wishing to opt out of a Portsmouth City Council arranged contract must notify Portsmouth City Council no later than nine months before the contract is due to expire.

Governing bodies are empowered under paragraph 3 of schedule 10 to the School Standards and Framework Act 1998 to enter into contracts; however in

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most cases they do so, on behalf of Portsmouth City Council. There are a few exceptions where contracts may be made solely on behalf of the governing body, for example, contracts made by aided or foundation schools for the employment of staff.

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## **2.12 Central funds and earmarking**

Portsmouth City Council may allocate additional sums to schools from central funds. Any such allocations will be separate from the school's budget share and subject to specific conditions detailing the purposes for which they can be used.

Any funding from centrally retained budgets will be subject to conditions setting out the purpose for which the funds may be used; while these conditions may not preclude virement (except where the funding is supported by a specific grant which the Authority itself is not permitted to vire), this should not be carried to the point of assimilating the allocations into the schools budget share.

Portsmouth City Council reserves the right to request that earmarked funds must be returned to the City Council if they are not spent within any period stipulated by Portsmouth City Council over which schools are allowed to use the funding.

Portsmouth City Council will not make any deduction, in respect of interest costs to Portsmouth City Council, from payment to schools of devolved specific or special grant.

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

Subject to any provisions of this scheme and to regulations made by the Secretary of State, governing bodies are required to spend budget shares only and directly on the purposes of the school. By virtue of section 50(3A) (which came into force on 1st 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.

Under section 50(3)(b) the Secretary of State may prescribe additional purposes for which expenditure of the budget share may occur. For example the School Budget Shares (Prescribed Purposes)(England) Regulations 2002 (SI 2002/378), which have been amended by the School Budget Shares (Prescribed Purposes) (England ) (Amendment) Regulations 2010 (SI2010/190) which allow schools to spend their budgets on pupils who are on the roll of other maintained schools and academies.

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

School governing bodies may use part of their budget share to meet the cost of capital expenditure on the school premises. Schools are expected to inform Portsmouth City Council of any intended capital expenditure. If Portsmouth City Council owns the school premises, the governing body should seek the consent of Portsmouth City Council prior to the commencement of any works. If the proposed expenditure is expected to exceed £20,000 then the governing body should take into account any advice from Portsmouth City Council as to the merits of the proposed expenditure.

Governing bodies of community or voluntary controlled schools must seek the consent of Portsmouth City Council to any proposed work, which will only be withheld on health and safety grounds.

## **2.15 Notice of concern**

The Authority may issue a notice of concern to the governing body of any school it maintains where, in the opinion of the Section 151 Officer 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 Portsmouth City Council or the school.

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

These may include:

- Insisting that relevant staff undertake appropriate training to address any identified weaknesses in the financial management of the school.
- Insisting that an appropriately trained / qualified person chairs the finance committee of the governing body.
- Placing more stringent restrictions or conditions on the day to day financial management of a school than the scheme requires for all schools – such as the provision of monthly accounts to Portsmouth City Council.
- Insisting on regular financial monitoring meetings at the school attended by Local Authority officers.
- Requiring a governing body to buy into Portsmouth City Council's financial management systems.
- Imposing restrictions or limitations on the manner in which a school manages extended school activity funded from within its delegated budget share – for

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example by requiring a school to submit income projections and / or financial monitoring reports on such activities.

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

Where a governing body has complied with the requirements of a notice of concern Portsmouth City Council will write to the governing body withdrawing the notice of concern.

## **2.16 Schools Financial Value Standard**

All Local Authority maintained schools (including nursery schools and Pupil Referral Units (PRUs) that have a delegated budget) must demonstrate compliance with the Schools Financial Value Standard (SFVS) and complete the assessment form on an annual basis. It is for the school to determine at what time in the year they wish to complete the form.

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.**

All maintained schools with a delegated budget must submit the form to Portsmouth City Council by 31<sup>st</sup> March 2014 and annually thereafter.

## **2.17 Fraud**

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

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

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

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

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#### **3.1 Frequency of instalments**

Budget shares will be made available to the governing bodies of Portsmouth City Council's maintained schools by 1<sup>st</sup> April each year. Where schools are converting to academy status part way through a year they will receive a proportion of the budget share based on the number of months they are maintained

Schools have the right to opt for instalments of their total budget share to be paid into their own local bank account. Any requests to pay the budget share in to the schools local bank account should be made at least three months prior to the start of the relevant financial year. The local bank account should be held with an approved banking institution as agreed with the Finance Manager for Technical and Financial Planning. Such payments will be paid by bank transfer, on a monthly basis on the first banking day of each month. The proportion of budget share payable at each instalment is detailed in paragraph 3.2.

If a school uses Portsmouth City Council Payroll Services then budget share instalments will be made to their local bank account excluding estimated pay costs. Schools using alternative payroll services will be paid instalments of total budget share (i.e. including estimated pay costs).

The estimated pay costs excluded from the schools budget share instalment will be calculated based on the previous months actual salary payments (i.e. April's instalment would exclude the actual salary costs for March)

Top up payments for pupils with high needs will be paid termly in advance, based on the schools budget share and adjusted for actual pupils in the following term, in line with the budget share guidance **INSERT LINK TO GUIDANCE** except at year end where the adjustment will be made as part of the closedown process.

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### 3.2 Proportion of budget share payable at each instalment

Payments of budget share will be made on the following basis:

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	Schools using PCC payroll services	Schools using other payroll services
First banking day of	Proportion of budget share (excluding estimated pay costs)	Proportion of budget share (including estimated pay costs)
April	12%	12%
May	8%	8%
June	8%	8%
July	8%	8%
August	8%	8%
September	8%	8%
October	8%	8%
November	8%	8%
December	8%	8%
January	8%	8%
February	8%	8%
March	8%	8%

### 3.3 Interest clawback

Portsmouth City Council will deduct from budget share instalments paid into school bank accounts, an amount equal to the estimated interest lost by Portsmouth City Council in making the budget shares available in advance.

This interest clawback will be calculated in accordance with the formula detailed in Annex 2.

#### 3.3.1 Interest on late budget share payments

Portsmouth City Council will add interest to late payments of budget share instalments, where such late payment is the result of a City Council error. The interest rate used will be that used for clawback calculations described above.

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

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

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

All schools have the right to have their own external bank account which is in the name of the school and into which their budget share instalments can be paid. Schools without an external bank account which have a deficit balance will lose that right until the deficit is cleared.

The Section 151 Officer is required to approve all banking arrangements for City Council establishments, including schools.

Governors will be required to follow the City Council's guidance relating to tenders for banking services when letting banking contracts.

Any school, which operates an imprest account, must reconcile and close that account prior to starting use of its own local bank account. New bank account arrangements may only be made with effect from the beginning of each financial year.

Any school wishing to have its own bank account for the first time must give Portsmouth City Council at least three months' notice. If a new account is opened, Portsmouth City Council will at the request of the school transfer immediately to the account an amount agreed by both the school and the City Council, as the estimated surplus balance held by Portsmouth City Council in respect of the school's budget share, on the basis that there is a subsequent correction when accounts for the year are closed.

Schools are not compelled to have their own bank account and may if they wish continue with current banking arrangements. The decision to opt out of the City Council's banking arrangements lies with the governing body and their decision should be recorded in the minutes of the meeting.

Schools must only have one current account and may have up to two official deposit accounts. School current accounts must have a chequebook and direct debiting facilities. Schools must set up a direct debit mandate to enable the Authority to charge for items paid for on their behalf. Schools cannot stop the direct debit.

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Schools will retain all interest earned on invested balances and will bear the cost of all bank charges arising from their local arrangements.

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Schools are not permitted to overdraw their bank accounts.

The Authority may make a deduction from the budget share of a school operating its own bank account, to recompense for the loss of interest incurred because funds are forwarded earlier than payments would normally be made.

### 3.5.1 Restrictions on accounts

The Finance Manager for Technical and Financial Planning is able to advise schools on the banking institutions at which accounts may be held. Schools wishing to use any other banking institution should seek approval from the Section 151 Officer prior to opening an account. Schools having bank accounts with other banks prior to 1<sup>st</sup> April 2001 will be allowed to retain those accounts.

This scheme allows schools to have accounts for budget share purposes, which are in the name of the school rather than Portsmouth City Council. However, if a school has such an account, the scheme will require that the account mandate should provide that Portsmouth City Council is the owner of the funds in the account; that it is entitled to receive statements; and that it can take control of the account if the school's right to a delegated budget is suspended by Portsmouth City Council.

## 3.6 Borrowing by schools

School governing bodies may only borrow external monies with the written permission of the Secretary of State.

External borrowing is defined as-

- Loans from lenders (other than the City Council)
- Overdraft arrangements
- Finance leases and hire purchase contracts
- Credit cards (not purchasing cards)

Schools should consult the Finance Manager for Education and Children's Services for an opinion on the nature of any lease before entering into an agreement.



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Voluntary aided schools may take out a loan from the Diocesan Authority to pay for capital works only with prior consent of the Section 151 Officer. Loan repayments for approved loans may be charged against the delegated budget share.

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

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

Schools can carry forward from year to year any under spent portion of their budget share.

### **4.2 Controls on surplus balances**

As schools are moving towards greater autonomy and should not be constrained from making early efficiencies and to support medium term budgeting in a tighter financial climate, the balance control (clawback) mechanism for excessive balances continues to be withdrawn.

Schools will be deemed to have excessive balances, when Primary and Special Schools have uncommitted balances in excess of 8% and Secondary Schools 5% of their budget shares..

The control framework for monitoring school balances and their intended use requires that:

- a. Schools will continue to be asked to provide a breakdown of their year-end balances between committed and uncommitted, as well as an analysis of the intended use of any committed balances. The Education and Children's Finance team will continue to co-ordinate the process.
- b. A School Balances report will be presented to both the Cabinet member for Children's and Education and Schools Forum, following the completion of the year-end closedown process. This report will provide an analysis of the balances by school and schools with significant balances may be highlighted specifically within the report.
- c. Those schools identified as potentially breaching the balance thresholds, will be asked to provide further evidence of the planned use of their balances. The information will be reported back to Elected Members, the Schools Forum and the Education Department.
- d. The Education Department will consider this information as part of its school performance and improvement service provision, school challenge and specific reviews.

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In determining whether school balances are committed, schools are only permitted to assign as committed, items listed in Annex 6.

School Forum may revisit the balance control (clawback) mechanism and the above control framework from time to time and where they believe significant and excessive balances have accumulated.

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

The following interest rates will be paid on surplus balances:

- |                   |   |  |
|-------------------|---|--|
| Primary schools   | - | base rate less 0.5% divided by 2 on first £20,000, 0.1% on remainder |
| Secondary schools | - | base rate less 0.5%  |

Interest is payable semi-annually and interest earned during the first six months of the year is added to balances to accrue interest during the final half year.

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

Schools will carry forward from year to year any over-spending of their budget shares.

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

Schools may not set a deficit budget or plan to go into deficit without first discussing this with the City Council. The Director of Children's Services and the Section 151 Officer would expect to agree with the school a plan of action, which will reduce the deficit and return to a breakeven position over a reasonable period which would not exceed three years. This process is regarded as an important management discipline, so as to support the school in managing its own affairs.

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

No interest will be charged (or paid) by Portsmouth City Council in respect of a deficit balance.

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

The Authority cannot write off the deficit balance of any school. Portsmouth City Council will require any maintained school, which has a deficit balance at 31<sup>st</sup> March to prepare and agree with the Authority a schedule of repayment for that deficit.

The maximum length of time allowed for repayment should not exceed 3 years except where a longer term has already been agreed.

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

The final balance of a closing school reverts to Portsmouth City Council and cannot be transferred to any other school\_except;

that a surplus transfers to an academy where a school converts to academy status under section 4(1)(a) of the Academies Act 2010 and academy conversions (Transfer of school surpluses) regulations 2013.

#### **4.9 Licensed deficits**

See paragraph 4.5 above.

#### **4.10 Loan schemes**

Following the decision at Schools Forum on 25th September 2013, this scheme has now closed to new applicants.

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## **5. INCOME**

### **5.1 Income from lettings**

Schools will retain all income from the letting of school buildings and schools may use income from other lettings to subsidise lettings to community or voluntary groups provided there is no net cost to the schools budget share and the governing body is satisfied that this will not interfere to a significant extent with the performance of any duties imposed on them by the education acts, including the requirement to conduct the school with a view to promoting high standards of educational achievement.

Schools must however take account of directions issued by Portsmouth City Council as to the use of school premises and ensure that the City Council's procedures with regards to insurance are followed. A model hire agreement is attached at Annex 5.

Income from lettings should not be paid into voluntary or private funds held by the school.

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

Schools will retain income from fees and charges except where a service is provided by Portsmouth City Council from centrally retained funds. Schools must however take account of Portsmouth City Council's policy on charging for services, which is detailed in Annex 3.

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

Schools will retain all income from fund raising-activities.

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

School governing bodies have the right to dispose of materials or equipment purchased from their delegated budget and will retain income from the proceeds of such sales. In the case of assets purchased from non-delegated funds Portsmouth City Council will decide whether a school should retain the proceeds of sale.

Schools are reminded that inventory records should be amended to take account of all disposals.

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

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

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

### **6.1 General provision**

Portsmouth City Council may de-delegate funding for permitted services, without the express permission of the governing body, provided this has been approved by the appropriate phase representative of the Schools Forum.

Otherwise a schools budget share can only be charged by Portsmouth City Council without the consent of the governing body under the circumstances listed in 6.2. Portsmouth City Council will inform the school of its intention to charge and will also notify the school when it has been done.

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

Disputes should be directed to the Finance Manager for Education and Children's Services in the first instance, should agreement not be reached schools may escalate the dispute to the Section 151 Officer.

Portsmouth City Council must charge the salaries of school based staff to the budget share of a school at actual cost.

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

- 6.2.1 Where premature retirement costs have been incurred without the prior written agreement of Portsmouth City Council to bear such costs (the amount chargeable being only the excess over any amount agreed by Portsmouth City Council);
- 6.2.2 Other expenditure incurred to secure resignations where the school had not followed Portsmouth City Council advice;
- 6.2.3 Awards by courts and industrial tribunals or out of court settlements against Portsmouth City Council arising from action or inaction by the governing body contrary to Portsmouth City Council's advice;

Awards against the governing body, where the City Council has joined with the governing body in the action and has expenditure as a result of the governing body not taking Portsmouth City Council's advice, the charging of the budget share with the authority expenditure protects the authority's position.

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- 6.2.4 Expenditure by Portsmouth City Council in carrying out health and safety work or capital expenditure for which Portsmouth City Council is liable where funds have been delegated to the governing body for such work, but the governing body has failed to carry out the required work;
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- 6.2.5 Expenditure by Portsmouth City Council incurred in making good defects in building work funded by capital spending from budget shares, where the premises are owned by Portsmouth City Council or the school has voluntary controlled status;
- 6.2.6 Expenditure incurred by Portsmouth City Council in insuring its own interests in a school where funding has been delegated but the school has failed to demonstrate that it has arranged cover at least as good as that which would be arranged by Portsmouth City Council;
- 6.2.7 Recovery of monies due from a school for services provided to the school, where a dispute over the monies due has been referred to a disputes procedure set out in a service level agreement, and the result is that monies are owed by the school to Portsmouth City Council;
- 6.2.8 Recoveries of penalties imposed on Portsmouth City Council by the, the Contributions agency, HMRC, Teachers Pensions, the Environment Agency or other regulatory authorities as a result of school negligence;
- 6.2.9 Correction of City Council errors in calculating charges to a budget share;
- 6.2.10 Additional transport costs incurred by Portsmouth City Council arising from decisions by the governing body on the length of the school day, and failure to notify Portsmouth City Council of non-pupil days resulting in unnecessary transport costs;
- 6.2.11 Legal costs which are incurred by Portsmouth City Council because the governing body did not accept the advice of Portsmouth City Council;
- 6.2.12 Costs of necessary health and safety training for staff employed by Portsmouth City Council, where funding for training had been delegated but the training not carried out;
- 6.2.13 Compensation paid to a lender where a school enters into a contract for borrowing beyond its legal powers, and the contract is of no effect;
- 6.2.14 Cost of work done in respect of teacher pension remittance and records for schools using non-Portsmouth City Council payroll contractors, the charge to be



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the minimum needed to meet the cost of the Authority's compliance with its statutory obligations;

- 6.2.15 Costs incurred by Portsmouth City Council in securing provision specified in a statement of Special Educational Needs (SEN)/Education Health and Care Plan (EHCP) where the governing body of a school fails to secure such provision despite the delegation of funds in respect of low cost high incidence special educational needs and / or specific funding for a pupil with high needs;
- 6.2.16 Costs incurred by Portsmouth City Council due to submission by the school of incorrect data
- 6.2.17 Recovery of amounts spent from specific grants on ineligible purposes;
- 6.2.18 Costs incurred by Portsmouth City Council as a result of the governing body being in breach of the terms of a contract;
- 6.2.19 Costs incurred by the Authority or another school as a result of a school withdrawing from a cluster arrangement, for example where this has funded staff providing services across the cluster.

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## **7. TAXATION**

### **7.1 Value Added Tax**

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Schools should follow Portsmouth City Council's procedures for accounting for Value Added Tax (VAT) (as detailed in the Financial Rules) to enable the Authority to claim back VAT paid on expenditure relating to non-business activity.

The VAT reclaimed which relates to schools expenditure from their budget shares will be passed back to the school.

School governors should be aware of the requirements relating to VAT registration of unofficial funds and ensure they register if appropriate.

Governors of voluntary aided schools should check their VAT status with the City Council Bank and Tax Accountant when carrying out their statutory responsibilities to maintain the external fabric of the buildings.

Further guidance and advice on matters concerning VAT can be obtained from Portsmouth City Council's Bank and Tax Accountant and the intranet via: <https://www.portsmouth.gov.uk/intranet/finance/accountancy/vat.aspx>

### **7.2 CIS (Construction Industry Scheme)**

Schools are required to abide by procedures issued by Portsmouth City Council in connection with CIS. Further information can be found on the Intranet via <https://www.portsmouth.gov.uk/intranet/documents-internal/fin-sch-cisinformationforschools.pdf>

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

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

Portsmouth City Council will determine the basis on which services from centrally retained funds will be provided to schools. In doing so Portsmouth City Council will not discriminate between categories of school except where funding has been delegated to some schools only or such discrimination is justified by differences in statutory duties. (These services include Premature Retirement Compensation [PRC] and redundancy payments but exclude centrally funded premises and liability insurance).

### **8.2 Provision of services bought back from Portsmouth City Council using delegated budgets**

Any arrangement with a school to buy services or facilities from Portsmouth City Council is subject to a maximum term of three years from the date of agreement. Any subsequent agreement relating to the same services is limited to a period of five years. Where a contract is for the supply of catering services, the maximum initial term is five years, with a maximum extension term of seven years.

Services will be priced to generate income, which will at least cover the costs of providing these services.

#### **8.2.1 Packaging**

Services for which funding has been delegated and which are offered for buy-back by schools will be offered in a way which does not restrict school's freedom of choice among the services available. The Authority may however package related items where separation is impractical or uneconomic to Portsmouth City Council.

### **8.3 Service Level Agreements [SLA]**

If services or facilities are provided under a service level agreement, the terms of that agreement will be reviewed at least every three years.

Schools may buy services for a shorter term than the contract period by giving notice as set out in the SLA documentation. Services may also be bought on an ad-hoc basis, however these may be charged at a higher rate than longer-term contracts.

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## **8.4 Teachers' pensions**

In order to ensure the performance of the duty on the Authority to supply Teachers' Pensions with information under the Teachers' Pensions Regulations 1997, the following conditions are imposed on the Authority and governing bodies of all maintained schools covered by this scheme in relation to their budget shares.

The conditions only apply to governing bodies of maintained schools that have not entered into an arrangement with the Authority to provide payroll services.

A governing body of any maintained school, whether or not the employer of the teachers at such a school, which has entered into any arrangement or agreement with any 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 Additional Voluntary Contributions (AVCs) are passed to the Authority within the time limit specified in the AVC scheme. The governing body shall meet any consequential costs from the school's budget share.

A governing body 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.

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## **9. PRIVATE FINANCE INITIATIVE [PFI] CLAUSES**

The Authority reserves the right to require a school to make such payments from its delegated budget as required under the conditions of a Private Finance Initiative (PFI) / Public Private Partnership (PPP) scheme which has been entered into with the knowledge of the governing body.

Where the PFI / PPP scheme relates to the establishment of a new school and the contracts are signed prior to the formal establishment of the governing body, then the Authority will retain the right to levy charges against the schools delegated budget in respect of that contract.

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## **10. INSURANCE**

### **10.1 Insurance Cover**

Specific guidance has been issued on the administration of insurance in a separate handbook available on Portsmouth City Council's Intranet: [Insurance Handbook](#).

Details of the legal protection for governors, both individually and collectively, in carrying out their approved duties are set out below, together with details of other cover in respect of property, employees, voluntary helpers and pupils. For the sake of brevity no mention has been made of the detailed claims procedures to be followed for individual claims under the various categories, it being the responsibility of the school or Portsmouth City Council to process such claims. Details of the claims procedures can be found in the Insurance Fund Management Policy via the intranet: [Insurance Fund Management Policy](#) Terms and conditions for each policy may also apply and schools should check the new one to ensure that they comply.

The City Council's overall insurance programme is focused on the need to insure catastrophic risk exposure through external underwriters and to manage losses, which are predictable and routine through internal funding.

The general principle is that the first £500 of each and every claim is borne by the service (in this case the school) and the next £49,500 of each and every claim is internally funded. External insurers will underwrite only claims in excess of £50,000.

The above principles apply with any exceptions set out in the notes below.

### **10.2 School Governors - Officials Indemnity and Liability Cover**

School governors are covered under the following headings in the course of their approved duties.

#### **(a) Breach of professional duty by reason of negligent error**

A breach of professional duty by reason of negligent error occurring and committed in good faith would be covered by the City Council's Officials' Indemnity policy, is subject to £50,000 excess for which, the school is responsible for the first £500 with the balance of £49,500 being met from the City Council's internal funds

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**(b) Claims arising out of any dishonest or fraudulent act or omission on the part of a Governor or employee**

Claims in respect of any dishonest act of any governor or employee handling City Council monies are covered by the City Council's Fidelity Guarantee Policy in respect of all City funds. The City Council's external insurance cover is subject to £50,000 excess for which the school is responsible for the first £500 with the balance of £49,500 being met from the City Council's internal funds. Cover includes a school's share under formula funding and also funds from private funding (e.g. PTA contributions) after they have been paid into the school account. Although Schools would be able to recover monies so misappropriated, the individual(s) concerned would still be responsible for meeting any claims made by the City's insurers under the insurers rights of subrogation i.e. insurers rights to recover amounts paid to the insured.

**(c) Liability at Law for Libel and Slander**

Such liability is covered by the City Council through external insurers subject to £50,000 excess for which the school is responsible for the first £500 with the balance of £49,500 being met from the City Council's internal funds.

**(d) Legal Fees**

The City Council may pay legal assistance for governors taken to court for any reason connected with their responsibility as governors.

**(e) Third Party Claims - Claims for Personal Injury or Loss to/of Property**

Governors and staff, including volunteers, are indemnified against any third party claims arising from accidents, involving personal injury on or off the premises, for damage to, or loss of property for which the City Council has a legal liability, providing the governor or member of staff is acting within the scope of their duties, or employment respectively. The City Council will cover this risk by purchasing external insurance with a limit of £50m, which is subject to £50,000 excess for which the school is responsible for the first £500 with the balance of £49,500 being met from the City Council's internal funds. Any injured party must prove negligence on behalf of the Authority, its servants or agents (including governors under delegated arrangement) before any damages can be paid.

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Claims arising from the use of a private motor vehicle, even though used on the business of the Authority, are not covered and so proper insurance must be held by the owner/user of the vehicle.

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All claims arising from (a) to (e) above are dealt with by the Insurance Team and must be forwarded as soon as possible after receipt. Claims should merely be acknowledged and on no account should liability ever be admitted either orally or in writing. Further details of claims procedures are included in the Portsmouth City Council Insurance Handbook, which is available on PCC's Intranet: [Insurance Handbook](#)

### **10.3 Buildings**

All City Council owned education buildings are externally insured by the Council and subject to £100,000 excess for which the school is responsible for the first £500 with the balance of £99,500 being met from the City Council's internal funds. Where damage is caused by a third party e.g. motor vehicle, the Insurance & Risk Officer will seek to recover the City Council's costs from the third party concerned. Any damages received will first clear any amount paid by the City Council. If all losses are recovered the excess paid by the school will be repaid.

### **10.4 Property and Equipment**

#### **(a) City Council Owned Contents and Equipment**

City Council owned education contents are externally covered subject to £100,000 excess for which the school is responsible for the first £500 with the balance being met from the City Council's internal funds and external insurers.

Computers will be covered for accidental damage or loss subject to £500 excess to be met from school funds. The City Council's internal funds or external insurers will meet claims in excess of £500.

All claims will be settled on a 'new for old' basis.

#### **(b) Equipment Hired or Loaned**

Equipment hired or loaned to schools is only covered by the Council arranged insurance if it is included on the school's inventory. Schools should check that hired or loaned equipment not recorded on the inventory has appropriate insurance cover provided by the owners, or failing this, the



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school should arrange insurance cover for the equipment concerned (whether it will be used on or off the school premises) through the Insurance Officer.

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### **(c) Equipment Owned by Staff / Pupils**

Equipment or property at schools which is owned by staff, pupils and voluntary helpers is not covered by any form of City Council insurance cover for theft, damage or other loss and such persons are advised to consider making their own insurance arrangements to cover this area of risk.

Property belonging to pupils is not covered and claims will only be paid where there has been some negligence on the part of the Council, its servants or agents

## **10.5 Employees and Others**

### **(a) Personal Accident Cover**

The Council operates a scheme of personal accident cover with certain benefits payable to employees (or in the event of death to the dependants of any employee of the City Council) in respect of death or injury sustained by accident or assault whilst on duty and whilst acting within the scope of their employment. The scheme is also extended to apply to all youth trainees, community programme workers, trainees and volunteers carrying out the functions of the Council with the approval of a duly authorised officer. Details of the scheme are held by Portsmouth City Council and on Intranet. No excess will be deducted from the settlement paid to employees but the first £500 will be payable by the school.

### **(b) Indemnity against Acts of Negligence**

The City Council indemnifies all employees and voluntary helpers against claims arising from negligent acts carried out whilst acting within the scope of their employment.

### **(c) Student Teachers - Personal Accident/Indemnity against negligence**

The City Council includes student teachers in the personal accident cover scheme for employees and others as detailed in 10.5(a) above. Similarly, student teachers are indemnified against acts of negligence as detailed in paragraph 10.5(b) above.

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#### **(d) Home Visits by Teachers**

Teachers undertaking home visits to pupils are covered by the City Council's provision for personal accident and indemnity against acts of negligence as detailed in paragraphs 10.5(a) and 10.5(b) above, subject to each visit having been agreed by their senior teacher or head teacher.

### **10.6 Community Use of School Premises**

Users of schools for community purposes, whether using the premises during the day or the evening, are covered by the City Council in relation to any accidents occurring through any defect in the premises or equipment or any negligent act of any employee or approved voluntary helper, acting within the scope of their employment. Activities undertaken as part of a formal letting are generally covered by external insurance, the premium for which is recovered through the overall letting charge. It is important that a lettings form is completed in every case whether or not it is a "free" or subsidised letting.

### **10.7 Events Involving Hazardous Displays**

Where school events are planned involving potentially hazardous displays, such as parachute drops, helicopters, hot air balloons, motorcycle displays etc., the minimum public liability indemnity cover required from any third party giving the display is £5 million in respect of each and every occurrence. Full risk assessment must be carried out. The Insurance Officer can be contacted for advice/assistance.

### **10.8 School and Unofficial Funds**

#### **(a) Official/Unofficial School Funds**

Official and unofficial school funds, cash or negotiables are covered subject to £500 excess.

### **10.9 Pupils and Students - Indemnity/Insurance**

#### **(a) School Activities**

Whilst pupils or students are at school or engaged in approved activities off the premises, they are covered by the Council's public liability

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arrangements in respect of any negligent acts committed by employees or volunteers.

**(b) Pupils and Students - School Journey Insurance Policy**

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The City Council maintains a “blanket” insurance policy to cover all members of a school party on visits both abroad and in this country in respect of medical expenses, personal accident benefits, loss of personal property and money and public liability (including member-to-member liability).

**(c) Work Experience and Participation**

The school is responsible for carrying out a risk assessment and checking that the host employer is suitably insured.

PCC insurance will apply only to liabilities arising from the school's placement on a contingency basis.

Pupils and students are covered against death or injury under the City Council's personal accident cover scheme for employees and others while on work experience (see also paragraph 10.5(a)).

**(d) Pupils and Students - Conveyance in Private Cars**

**(i) By Parents**

The Road Traffic Act makes it compulsory for car insurance to include third party liability for any passenger travelling in an insured car on a public road. Any pupil/student involved in an accident would therefore have a valid third party claim against the driver of a vehicle at fault. Parents who provide occasional transport for pupils/students on a voluntary basis (or for petrol costs only) may be covered within their existing overall “social domestic and pleasure” cover, but must inform their insurers of this activity.

**(ii) By Teachers**

Teachers undertaking the conveyance of pupils/students will generally do so as part of their professional duty. Most insurance cover extends to give “social, domestic and pleasure” cover only. If this activity is undertaken teachers must inform their insurance companies to ensure that they are covered for the transport of pupils/students.

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**(e) Pupils and Students - Conveyance in Private Hire Coaches**

All members of a school party travelling in a private hire coach being used for school or college purposes are automatically covered under the coach operator's passenger liability insurance (motor insurance). Schools are advised to check that any coach operator has a valid passenger liability insurance document.

**10.10 School Minibus**

The insurance of minibuses is the responsibility of each school. The City Council has arranged a "block" insurance policy as a means of obtaining the lowest possible premium for individual schools. Cover can be arranged through The Insurance Officer.

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## **11. MISCELLANEOUS**

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

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

### **11.2 Liability of governors**

The Education Act gives governors legal protection, both individually and collectively, from any personal liability for their decisions and actions undertaken in good faith. It also exempts governors from liability for negligent action directly attributable to the spending of the school's delegated budget, for example if a faulty piece of equipment were purchased resulting in personal injury. The Act does not cover any negligence by the governing body in the exercise of powers when not directly attributable to the spending of the school's delegated budget. However Local Authorities are required to arrange appropriate insurance to protect governing bodies from negligence claims resulting from non-spending decisions. Currently governors are indemnified against all claims for negligence under the City Council's insurance arrangements.

### **11.3 Governors' expenses**

Portsmouth City Council may delegate funds to the governing body of a school yet to receive a delegated budget to meet governor's expenses.

Under section 50(5) of the SSFA Act 1998, only allowances in respect of purposes specified in regulations issued under section 19 of the Education Act 2002 may be paid to governors from a school's delegated budget share. Schools are expressly forbidden from paying any other allowances.

Schools cannot pay governor's expenses which duplicate those paid by the Secretary of State to additional governors appointed by him for schools under special measures.

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## **11.4 Responsibility for legal costs**

Legal costs incurred by the governing body, (although the responsibility of Portsmouth City Council as part of the cost of maintaining the school unless they relate to the statutory responsibility of aided school governors for buildings) may be charged to the school's budget share unless the governing body acts in accordance with the advice of the Authority.

Where there is a conflict of interest between Portsmouth City Council and the governing body the school should contact the Section 151 Officer to seek guidance on how best to obtain legal advice.

## **11.5 Health and Safety**

Portsmouth City Council (or in the case of Aided schools, the governing body) will retain the primary responsibility as the employer of staff under the Health and Safety Act 1974. This responsibility extends both to pupils and students and to members of the public visiting schools and colleges.

Governing bodies are required in spending the school's budget share to have due regard to the City Council's Health and Safety Policy. Governing bodies will have direct responsibility for the following functions:

- (a) Formulating, disseminating and keeping under review a site specific health and safety management system in the context of Council policy;
- (b) The purchase and maintenance of equipment (including fire fighting equipment);
- (c) The maintenance and repair of premises where the Scheme indicates these to be the responsibility of the governing body;
- (d) Cleaning, both indoors and outdoors.

In fulfilling their health and safety functions governing bodies should have regard to guidance on health and safety matters from the City Council and should ensure that, if they choose to make use of contractors who are not on the Authority's approved list, those contractors conform to appropriate health and safety standards in the goods and / or services which they provide.

Where a governing body fails to comply with the Council's Health and Safety Policy, the Council will undertake the necessary work and reserves the right to

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charge the cost to the School's budget, except in circumstances where any failure to comply is directly attributable to inherited conditions.

#### **11.6 Right of attendance for Section 151 Officer [CFO]**

Governing bodies must permit the Section 151 Officer or any officer of the Authority nominated by the Section 151 Officer, to attend meetings of the governing body at which any agenda items are relevant to the exercise of his responsibilities.

#### **11.7 Special Educational Needs**

Schools must use their best endeavours in spending the budget share, to secure the special educational needs of their pupils.

#### **11.8 'Whistleblowing'**

The procedure to be followed by persons working at a school or school governors who wish to complain about financial management or financial property at the school is set out in Portsmouth City Council "Whistleblowing" policy document circulated to all schools. A copy of the document can be found on the intranet via: [Whistleblowing Policy](#)

#### **11.9 Child Protection**

Schools are expected from within their budget share to release staff to attend child protection case conferences and other related events.

#### **11.10 Redundancy and Early Retirement Costs**

The 2002 Education Act sets out how premature retirement and redundancy costs should normally be funded. In essence, premature retirement costs are charged to school delegated budget and redundancy costs fall to Portsmouth City Council.

Premature retirement costs may be charged to Portsmouth City Council, but only with the prior agreement of Portsmouth City Council.

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Redundancy costs may be charged to the school's delegated budget if there is "good reason" for it not being centrally funded.

Where staff are employed under the community facilities power, costs must be met by the school governing body and can be funded from the school's delegated budget.



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

### **12.1 Delegated funding**

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Portsmouth City Council will continue to delegate revenue funding to schools for routine maintenance, servicing and repairs.

In the case of any urgent unforeseen health & safety works (e.g. that could lead to a school closure), primary and special schools will be expected to fund a minimum of the first £5,000 and secondary schools the first £10,000. Any costs above the contribution amount may be funded from the Education Capital Contingency and the schools contribution will be subject to the methodology in place at that time as agreed by Schools Forum.

Any future programme of major capital works should be agreed at the annual Asset Management Plan (AMP) meeting and will be prioritised and put forward for funding through the annual capital bid process.

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## **13. COMMUNITY FACILITIES**

### **13.1 Introduction**

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Section 27 of the Education Act 2002 extends the power of governing bodies to provide community facilities on school sites for their pupils, families and local people, including the power to enter into arrangements with other providers, spend money and set charges for services such as healthcare, childcare and adult education. Governing bodies that choose to exercise the power conferred by s.27 of the Education Act 2002 to provide community facilities will be subject to a range of statutory controls:

- regulations made under s.27(1) can specify activities which may not be undertaken at all under the main enabling power,
- the governing body is obliged to consult its Local Education Authority (LA) and have regard to advice from the Authority (s.28(4a)),
- 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 (s.28(5)).

Alongside these, under s.28(1), the main limitations and restrictions on the power are those contained in schools' own instruments of government and in the Portsmouth Scheme for Financing Schools.

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

Schools should be aware that mismanagement of community facilities funds can be grounds for suspension of the right to a delegated budget.

### **13.2 Consultation with the Authority – financial aspects**

Section 28(4) of the Education Act 2002 requires that before exercising the community facilities power, governing bodies must consult Portsmouth City Council, and have regard to advice given to them by the City Council. Governing bodies seeking to exercise the community facilities power should contact the Head of Education and Strategic Commissioning. Any advice will be provided within a reasonable timescale.

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### 13.3 Funding agreements – Authority powers

The provision of community facilities 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 on the provision. A very wide range of bodies and organisations are potentially involved.

No such agreement may be entered into by the governing body without due consideration of the comments and advice of Portsmouth City Council.

Where a third party is to be involved in this way, the proposed agreement should be submitted to Portsmouth City Council for comment and advice prior to entering into any agreement. The City Council will provide such comments and advice within 6 weeks of receiving the appropriate information, and the governing body must take the comments into account when deciding whether or not to enter into the agreement.

Should such an agreement be entered into without informing Portsmouth City Council, or against the wishes of Portsmouth City Council, and in which, in the view of the City Council, may be considered prejudicial to the interests of the school or the City Council, this may lead to the suspension of the right to a delegated budget for the school.

### 13.4 Other prohibitions, restrictions and limitations

Section 28 of the Education Act 2002 provides that the exercise of the community facilities power is subject to prohibitions, restrictions and limitations in the scheme for financing schools. The following restrictions apply for Portsmouth schools:

- As required by the Education Act 2002, **governing bodies will be responsible for meeting pension, redundancy or other employer-related costs for staff employed in community facilities**. Such costs may include continuous service accrued prior to employment for community purposes.
- Governing Bodies must ensure that they have in place adequate, appropriate and satisfactory arrangements to protect the financial interests of the community facility and Portsmouth City Council, as demonstrated through the establishment of a limited liability company or obtaining indemnity insurance to cover any significant financial risks.

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### **13.5 Supply of financial information**

Schools which exercise the community facilities power, and do not use the Portsmouth Oracle finance system, will provide the Authority every three months at times determined by the Authority, a summary statement, in a form determined by the Authority. This statement will show the income and expenditure for the school arising from the facilities in question for the previous six months and, on an estimated basis, for the next six months.

If the City Council considers there is cause for concern as to the school's financial management or financial consequences arising from the exercise of the community facilities power, these will be notified to the Chair of Governors. In such circumstances, financial statements may be required on a more frequent basis possibly supported by the submission of a recovery plan for the activity in question.

Financial information relating to community facilities will be included in returns made by schools under the Consistent Financial Reporting (CFR) Framework.

Schedule 15 of the Education Act 2002 provides that mismanagement of funds spent or received for community facilities is a basis for suspension of the right to delegation of the budget share.

### **13.6 Audit**

The school will provide access to all records connected with exercise of the community facilities power, in order to facilitate internal and external audit of relevant income and expenditure.

Any agreements with other parties must also contain adequate provision for access by the Authority to the records and other property of those persons which relate to the activity in question, in order for the Authority to satisfy itself as to the propriety of expenditure on the facilities in question.

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

Except where otherwise agreed with a funding provider, whether that be Portsmouth City Council or some other person, net surpluses can be retained and carried forward.

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### **13.8 Health and safety**

The scheme provisions related to Health and Safety [Section 11.5] also relates to any operations undertaken under the community facilities power.

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Any costs of securing Disclosure and Barring Service (DBS) clearance for persons involved in community activities taking place during school time will be met by the school, unless such costs can be passed on to a funding partner as part of any financial agreement.

### **13.9 Insurance**

It is the responsibility of the governing body to make adequate arrangements for insurance against risks arising from the exercise of the community facilities power, including financial loss, taking professional advice as necessary. Portsmouth City Council may undertake its own assessment of the insurance arrangements made by a school in respect of community facilities, and if it judges those arrangements to be inadequate, make arrangements itself and charge the resultant cost to the school.

### **13.10 Taxation**

Schools operating community facilities will be responsible for any charges levied by HM Revenue and Customs (HMRC) in respect of those facilities.

Schools should seek appropriate advice from Portsmouth City Council and the Local HMRC Office on any issues relating to the possible imposition of Value Added Tax on expenditure in connection with community facilities.

The school will be held liable for payment of income tax and National Insurance, in line with HMRC rules.

The school is required to follow any advice from the City Council given in relation to the Construction Industry Scheme as it relates to the community facility.

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### 13.11 Banking

The Section 151 Officer is required to approve all banking arrangements and Governors will be required to follow Portsmouth City Council's guidance in establishing any banking services.

If the school bank account is to be used the school should ensure adequate internal accounting controls exist to demonstrate separation of funds.

**Schools are reminded** that, in accordance with Section 3.6 of the Scheme for Financing Schools, **they must not borrow money** from sources other than Portsmouth City Council without the written consent of the Secretary of State.

## 14. Annex 1 – SCHEDULE OF PORTSMOUTH SCHOOLS

### NURSERY SCHOOLS

DfE no.	Name
1000	The Brambles

### PRIMARY SCHOOLS

DfE no.	Name	Special unit type	Places
2005	Arundel Court Primary		
2002	Charles Dickens Primary		
2653	College Park Infant		
2695	Copnor Infant		
2701	Copnor Junior		
3420	Corpus Christi RC Primary		
2689	Cottage Grove Primary		
2677	Court Lane Infant		
2644	Court Lane Junior		
2716	Craneswater Junior		
2665	Cumberland Infant		
2648	Devonshire Infant	Nurture & Assessment	12
2714	Fernhurst Junior		
2690	Gatcombe Park Primary		
2637	Goldsmith Infant		
2674	Highbury Primary		
2707	Isambard Brunel Junior		
2694	Langstone Infant		
2700	Langstone Junior		
2719	Manor Infant		
2673	Medina Primary		
2654	Meon Infant		
2715	Meon Junior		
2645	Meredith Infant		
2702	Milton Park Federated	Autistic Spectrum Conditions	14
2709	Moorings Way Infant		
2720	Newbridge Junior		
2658	Northern Parade Federated	Hearing Impaired	6
2697	Penhale Infant	Hearing Impaired	6
2765	Portsdown Primary	Nurture & Assessment	10
2679	Solent Infant		
2666	Solent Junior		
2680	Southsea Infant	Language Impaired	8
3422	St John's RC Primary		
3212	St Jude's CE Primary		
5207	St Paul's RC Primary		
3423	St Swithun's RC Primary		

<b>DfE no.</b>	<b>Name</b>	<b>Special unit type</b>	<b>Places</b>
2698	Stamshaw Infant		
2706	Stamshaw Junior		
3214	St George's Beneficial Primary		

2670	Westover Primary		
2699	Wimborne Infant		
2705	Wimborne Junior		

## **SECONDARY SCHOOLS**

<b>DfE no.</b>	<b>Name</b>	<b>special unit type</b>	<b>places</b>
5404	City of Portsmouth Boys'		
4302	King Richard		
4303	Mayfield		
4000	Miltoncross		
4283	Priory		
4301	Springfield		
5413	St Edmund's		

## **SPECIAL SCHOOLS**

<b>DfE no.</b>	<b>Name</b>	<b>special unit type</b>	<b>places</b>
7472	The Harbour		
7046	Redwood Park		
7750	Willows		



## 15. Annex 2 – INTEREST CLAWBACK FORMULA

Portsmouth City Council will calculate the interest clawback with reference to the bank of England Base Rate on the Census day immediately preceding the start of the financial year for which the budget share is being determined. For the purposes of interest clawback calculations it is assumed that staff are paid monthly on the last working day of each month and that all other expenditure is spread evenly throughout each month. Therefore the interest lost by Portsmouth City Council in paying budget shares into school bank accounts on the first day of each month is equivalent to the length of the month in days (normally 30 days) for pay costs and an average of the length of month in days (normally 15 days) for all other elements of budget share.

The interest clawback will be calculated according to one of the following formula.

### A. For schools using PCC Payroll Services

The interest clawback deduction included in the budget share payment of a school will be equal to -

$$(B-P) \times 15 \text{ DAYS} \times D\%$$

where

B is the total school budget share

P is the estimated total pay cost (the proxy used will be the total actual pay cost of the previous financial year)

D is daily rate of interest (i.e. if the Bank of England Base Rate on January Census day is 6% per annum then the daily interest (D) is 6% divided by 365 = 0.0164%).

For example - based on a 30 day month

If a school's total budget share is £1,000,000 of which £800,000 are actual pay costs for the previous financial year and the Bank of England Base Rate is 5.48%.

The daily interest rate would be 0.015%.

The interest clawback deduction from the school's budget share would be

$$(1,000,000 - 800,000) \times 15 \times 0.00015 = £450$$

## **B. For schools not using PCC Payroll Services**

The interest clawback deduction included in the budget share of a school will be equal to -

$$((B-P) \times 15 \text{ days} \times D\%) + (P \times 30 \text{ days} \times D\%)$$

where

B is the total school budget share

P is the estimated total pay cost (the proxy used will be the total actual pay cost of the previous financial year)

D is daily rate of interest (i.e. if the Bank of England Base Rate on January Census day is 6% per annum then the daily interest (D) is 6% divided by 365 = 0.0164%).

For example - based on a 30 day month

If a school's total budget share is £1,000,000 of which £800,000 are actual pay costs for the previous financial year and the Bank of England Base Rate is 5.48%.

The daily interest rate would be 0.015%.

The interest clawback deduction from the school's budget share would be:

$$((1,000,000 - 800,000) \times 15 \times 0.00015) + (800,000 \times 30 \times 0.00015) \\ = £4,050$$

## 16. Annex 3 – CHARGES FOR SCHOOL ACTIVITIES

Portsmouth's policy on charging pupils and remission was drawn up in accordance with the requirements of Chapter III of Part VI of the Education Act 1996. Details of the policy are set out below.

### 1 Instrumental Music Tuition

The Education Act does not permit charging for class music tuition, group musical activities within school hours or for any tuition, whether group or individual, which is part of a syllabus for a prescribed public examination. Charging is permitted for individual instrumental music tuition when not part of the syllabus for a prescribed public examination. Charges shall not be made for either small group or for individual music tuition by LA funded staff on Council premises within normal school hours. Governing bodies should not be allowed to charge for instrumental music tuition unless it is:

- a) Provided in addition to that which Portsmouth City Council has funded and
- b) Given to individual pupils outside normal school hours.

### 2 Board and Lodging

The Education Act permits charges to be made for board and lodging whether or not the activity takes place in school hours, even where the education activity is provided to fulfil the requirements of a syllabus for a prescribed public examination or for statutory duties relating to the National Curriculum.

Charges should not be made for board and lodging for field study necessary for examination courses, unless sufficient field study experience is provided locally and non-residentially, at the expense of the City Council, i.e. the Council opposes charging for necessary residential activities, but not where they were merely an alternative to freely provided Local activities. Section 457 of 1996 Act makes it clear that the charging and remissions policy adopted by a school governing body may be more or less generous than the policies of the City Council provided they meet the requirements of the Act. Governing bodies are advised therefore only to charge for board and lodging either:

- a) Where the course is not the only way of meeting external examination requirements; or
- b) If the course is the only way of meeting such requirements and the school's budget component for educational visits has already been spent or committed to such courses.

### 3 Remissions Policy

The Education Act 1996 requires the City Council or governing body to remit any board and lodging charges if the activity is deemed to take place in school hours or is to fulfil the syllabus requirements of a prescribed public examination or of statutory duties relating to the National Curriculum for pupils whose parents are in receipt of Income Support or Family Credit. The City Council would not discourage governing bodies from remitting board and lodging charges for pupils whose parents have low income but are not eligible for Income Support or Family Credit.

### 4 Public Examinations and Breakage's or Damage to School Premises and Equipment

Governing bodies are allowed to pass fees for prescribed public examinations on to parents when the pupil has not been prepared by the school or where the pupil fails without good reason to complete the examination requirements. Similarly, parents can be asked to pay for the cost of wilful damage to school property or the misuse or loss of books and equipment. However, a civil action to enforce payment would need to establish a contract between the Governing Body and the parents concerned to pay the costs in question. If the matter were to be considered by a Court, the school would have to demonstrate the existence of a valid contract. Head teachers are therefore advised to ensure that a specific statement of policy is included in the school brochure and that parents, for examination entries, should be expected to be given written acceptance of responsibility for the fee before the pupil is entered.

### 5 Voluntary Contributions

Voluntary contributions from parents should be seen as the normal method of funding activities, including educational visits, which are considered valuable and which the school is unable otherwise to fund.

### 6 "Third Party" Arrangements

Governing bodies are advised against the third party approach set out in paragraph 18 of Circular 2/89. They would be expected also to deny leave of absence to either pupils or staff to take part in educational visits organised by a third party and should inform parents or staff of the Council's advice against such arrangements and the reasons for that advice. If a governing body with delegated personnel powers uses those powers to approve leave of absence of a member of staff, the governing body should expect to give leave of absence without pay. The third party

will then need to enter into a separate contract with the member of staff and assume liability for any negligence.

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## 17. Annex 4 – INVENTORY SHEET

School: .....

Page Number: .....

<i>Item Description</i>	<i>Model and/or Serial No. (if applicable)</i>	<i>Order no. (or other source)</i>	<i>Date Received</i>	<i>Cost (£)</i>	<i>Location held / Person to whom issued</i>	<i>Dates of Physical Stock Checks and Initials</i>	<i>Date of Disposal and Authority</i>

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**RECORD OF EQUIPMENT ISSUE**


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*School:* .....

*Page Number:* .....

<i>Date of Issue</i>	<i>Details of Equipment Including Serial No</i>	<i>Reason for Issue</i>	<i>Signature of Recipient</i>	<i>Issue Approved by (signature)</i>	<i>Period of Issue</i>	<i>Equipment Returned (date)</i>	<i>Equipment Received by (signature)</i>

## DISPOSAL OF EQUIPMENT AND FURNITURE

School: .....

Page Number: .....

<i>Quantity</i>	<i>Description</i>	<i>Make and Serial Number</i>	<i>Date Supplied (if known)</i>	<i>Approx. Value (if known)</i>	<i>Recommended Method of Disposal</i>	<i>Approved Method of Disposal</i>

Disposal requested by Head teacher (Signature) .....

Date .....

Disposal authorised by Chair of Governors (Signature) .....

Date .....



**18. Annex 5 – HIRE OF SCHOOL FACILITIES**

**Name and Address of Applicant**

.....  
.....  
.....

**Telephone Number** .....

**If invoices are to be sent to another person please state the name and address**

.....  
.....  
.....

**Name of Club / Organisation**

.....

**Facilities Required**

.....  
.....

**Purpose of Hire**

.....  
.....

**Age Group of Members** .....

**Start Date** ..... **End Date** .....

**Start Time** ..... **End Time** .....

**Day/s required** .....

## Terms and Conditions

1. The use of the building is subject to Portsmouth City Council's public liability insurance. However, the school reserves the right to request proof of additional public liability insurance in respect of the groups activities whilst using school facilities.
2. The school has the right to cancel the hire should the facilities be required for a school function.
3. The school may make additional charges in respect of damage caused to the building/property of the school through negligence or wilful intent.
4. Payment for the letting is required on receipt of the invoice (issued monthly in advance).
5. The charges will be in accordance with those agreed by the governing body.
6. For lettings of sporting facilities VAT will be charged at the standard rate unless the following criteria are fulfilled:-
  - ▶ Single lets for a continuous period of over 24 hours to the same person.
  - ▶ A series of lets that cover 10 or more consecutive sessions.
  - ▶ Each session is for the same sport.
  - ▶ Each session is at the same premises.
  - ▶ Intervals between sessions are at least one day and not more than 14 days.
  - ▶ The series is paid for as a whole.
  - ▶ The let is to a school, club, association etc.
  - ▶ There is exclusive use by the lessee.

**Refunds are not given in the event of cancellation by the client.**

7. The applicant is over 18 years old.

I/We have read and accept the regulations relating to the hire, and agree to abide by the general terms and conditions communicated to me.

**Signed:**.....

**Name in Full:** .....

**For and on behalf of:** .....

**Date:**.....

**Office use only**

This section will be returned to you as soon as the booking has been authorised.

Name of applicant: .....

Address: .....

.....

.....

Facilities required: .....

.....

Date/s required: .....

Time/s required: .....

Charge to be made (per hour/session): .....

Authorised by name: .....

Position held: .....

Date authorised: .....

**19. Annex 6 – PERMITTED SPECIFIC PURPOSES FOR THE USE OF SURPLUS FUNDS**

- 
- Valid orders placed through the financial system, but for which the goods have not been received.
  - Funds held on behalf of other schools by fund holder schools (e.g. cluster funding).
  - Balances held for specific community projects e.g. nursery provision, children's' centres, extended services.
  - Contribution towards capital works with the school (where alternative capital resources have been exhausted). A clear statement of intent signed by the Chair of Governors (subject to clawback if not delivered in stated timescales - maximum 3 years).
  - Providing consistency in staffing levels where numbers on roll are predicted to fluctuate within the next year (note that a reasonable commitment would be £3,000 per pupil and forecast variations in pupil numbers should be given).
  - Unexpected funds received by the school near the year-end which will be utilised for a specific purpose in the following financial year.