

July 2018

Consultation on Amendment to the Authority's Scheme for Financing Schools and Revision / Re-Issue of the Authority's Financial Regulations for Maintained Schools and Schools Contract Standing Orders

1) Introduction

- 1.1 This consultation sets out the Authority's proposals to revise and re-issue the Authority's Financing Regulations for Maintained Schools (FRfMS) and Schools Contract Standing Orders (SCSOs). As a number of the matters set out in the FRfMS and SCSOs come under the Authority's Scheme for Financing Schools (the 'Scheme'), the Authority is required to consult with maintained schools on subsequent necessary amendments to the Scheme. The Authority has taken the opportunity also to propose some additional smaller changes to the Scheme.
- 1.2 The Schools Finance Regulations permit the Local Authority to amend the provisions within the Scheme, subject to the approval of the Schools Forum. Provision 1.4 within the current Scheme states that, "Any proposed revisions to the Scheme will be the subject of consultation with schools maintained by the Local Authority, before the proposed revisions are submitted to the Schools Forum for their approval." Where the Schools Forum does not approve the Local Authority's proposals for amendment, the Local Authority has the right of appeal to the Secretary of State, who will make a final judgement.
- 1.3 The Schools Forum approved consulting with maintained schools on the proposed changes to the Scheme at its meeting on 11 July 2018. The outcomes of this consultation will be presented to the Schools Forum on 19 September. The FRfMS and SCSOs will then be presented to the Authority's Governance and Audit Committee for final decision / approval. It is anticipated that the 3 revised documents, if approved without the requirement for further consultation, will come into effect on 1 October 2018. This implementation date will change should further consultation be required.
- 1.4 The Scheme, the FRfMS and the SCSOs are documents, which overlap. To briefly explain their individual purposes:
- 1.4.1 The Scheme for Financing Schools is the over-arching statutory document, which sets out the framework for the operation of the delegation by the Local Authority of financial responsibilities to the governing bodies of schools maintained by the Local Authority. All local authorities are required to have a Scheme. The document sets out at a relatively high level the roles and responsibilities of governing bodies and the Local Authority and the powers that the Local Authority has in the management of its schools' finances. The Department for Education (DfE) provides a template on which local authorities are required to base their Schemes. This template includes certain provisions that all local authorities must write into their Schemes. Additional guidance from the DfE explains to local authorities about the flexibility they have to amend or add provisions according to local circumstances and policies. The Scheme also signposts where schools can find additional guidance and the detail of the Authority's working protocols e.g. for the control of surplus balances and the management of deficit budgets.
- 1.4.2 The Financial Regulations for Maintained Schools is the Authority's document, which sets out in more detail than in the Scheme respective responsibilities and powers in the management / delegation of financial responsibilities to maintained schools in Bradford. This document sets out the 'musts'. It forms the basis of the Authority's Guide to Financial Procedures, which is a bigger document that provides further guidance and advice to maintained schools in their financial management. Once the amendment of the FRfMS has been approved the Guide will be updated and re-published.
- 1.4.3 Schools Contract Standing Orders is the document, which sets out in more detail the requirements placed on maintained schools by the Local Authority in their procurement of contracts, goods and services. Currently, the SCSOs are incorporated into the FRfMS. The Authority now proposes, in the interests of clarity and accessibility, to establish a separate SCSOs document.

1.5 Responses to this consultation should be submitted on the form provided. Please return all responses to Andrew Redding, either electronically to andrew.redding@bradford.gov.uk or by post to School Funding Team, Britannia House, Hall Ings, Bradford, BD1 1HX. Please contact Andrew Redding on 02174 432678 with any queries. The closing date for responses to this consultation is **Monday 17 September 2017**.

2) Summary of Proposed Amendments

2.1 The proposed amendments to the 3 documents are put forward with the aims of:

- 2.1.1 Ensuring that our provisions remain accurate and refer correctly to legislation and officer posts / committee structures within the Authority.
- 2.1.2 Incorporating recent changes in requirements, including changes in legislation, since the provisions were last updated.
- 2.1.3 Responding to feedback from the Authority's Internal Audit Team on areas of weakness found in school's financial accounting and also where our current provisions would benefit from greater clarity or amendment.
- 2.1.4 More clearly setting out for schools their responsibilities in the procurement of contracts, goods and services.
- 2.1.5 More clearly signposting for schools the Authority's working protocols and additional guidance.
- 2.1.6 Expressing more clearly (but not materially altering) existing requirements placed on schools in areas where the Authority holds concern about compliance, and
- 2.1.7 Establishing new or firmer provisions (and materially altering requirements placed on schools) in areas where the Authority holds concern about compliance.

2.2 There are 3 appendices attached to this consultation introduction, which are the proposed amended documents. A summary of the proposed changes in each is given below. Please note that proposed amendments to the Scheme are highlighted in yellow within appendix 3. Due to the number of technical amendments within the FRfMS, and the establishment of a new separate SCsOs document, it is not possible (and not user friendly) to highlight the changes within these 2 documents. Please refer to the summaries below. You are encouraged to read these 2 documents in their entirety as they are relatively short.

2.3 Financial Regulations for Maintained Schools – Appendix 1

- 2.3.1 The document has been amended throughout to update references to legislation and adjusted references to Authority policies and Authority director / officer job, team and committee titles. Regulations have been re-numbered and merged in places to incorporate additions and deletions. Reference to all out of date requirements, such the requirement for an annual Best Value Statement, have been removed. References to the 'Education Client' have also been removed as this is no longer relevant.
- 2.3.2 The following provisions have been added i.e. these are not present in the current document and they add to the requirements placed on schools in their financial management:
 - 2.3.2.1 Regulation 25 – Prevention of money laundering.
 - 2.3.2.2 Regulation 26 – Value Added Tax (VAT).
 - 2.3.2.3 Regulation 27 – School Companies.
 - 2.3.2.4 Regulation 28 – Partnerships and Joint Ventures.

2.3.2.5 Regulation 29 – Proposals to Transfer Services to an External Provider.

2.3.3 The following provisions are already contained within the current document in some form, but have either been materially amended i.e. they add to or alter the requirements placed on schools, or have been substantially re-written to improve clarity:

2.3.3.1 Regulation 1 – Application. Paragraph 1.4 (clarification that the Governing Body can delegate some but not all powers to the Headteacher). Paragraph 1.7 (added that exceptions to the FRfMS must be reported to the Governance and Audit Committee annually).

2.3.3.2 Regulation 2 – Financial Controls and Procedures. Paragraph 2.1 (added that school staff must comply with the Governing Body's accounting and financial systems).

2.3.3.3 Regulation 4 – Provision of Financial Information and Reports. Paragraph 4.4 (added that Governing Bodies must comply with the Schools Financial Value Standard). Paragraph 4.5 (added that Governing Bodies must comply with additional reporting requirements set by the DfE).

2.3.3.4 Regulation 5 – School Staff Remuneration. Paragraph 5.1 (added the requirement for all payments to workers to comply with IR35 regulations).

2.3.3.5 Regulation 6 – Cash, Banking and Investments. Paragraph 6.1 (amended simply to match the existing provisions of the Scheme for Financing Schools, which control school banking and investment arrangements). Paragraph 6.2 (added simply to reflect the requirement to report banking arrangements that are already set out in the Authority's annual financial year-end guidance).

2.3.3.6 Regulation 7 – Borrowing Arrangements. All paragraphs have been amended to provide more clarity on the definition of leases and hire purchase agreements. Paragraph 7.5 (added the requirement that schools obtain legal advice before entering into leases to ensure they do not enter inadvertently into finance leases).

2.3.3.7 Regulation 9 – Expenditure Requirements. Paragraph 9.4 (amended to clarify the Headteacher's responsibility to report concerns to the S151 Officer (which is the Council's Chief Financial Officer)).

2.3.3.8 Regulation 12 – Income Arrangements. Paragraphs have been updated to better cover the issues that the Governing Body must consider in the provision of external services and the requirements of such contracts to be in writing. Paragraph 12.5 (added a provision regarding credit notes). Paragraph 12.6 (amended the provision on the authorisation of debt write-off).

2.3.3.9 Regulations 13 - Review of Fees, Charges, Remissions and Use of Premises (amended to be clearer about the requirement for annual review).

2.3.3.10 Regulations 15 & 16 – Management of Assets. Paragraph 15.2 (added a reference to attractive and portable items). Paragraph 16.1 (added the requirement to arrange the safekeeping of private property).

2.3.3.11 Regulation 17 – Private Funds and Community Facilities (removed the requirement to have funds relating to community facilities held separately, reflecting the already adjusted DfE directed provisions of the Scheme for Financing Schools).

2.3.3.12 Regulation 18 – Information Management (added reference to the SIRO and the IAO).

2.3.3.13 Regulation 19 – Contracting Arrangements (Schools Contract Standing Orders has become a separate document so this provision now refers only to this document. The numerous individual provisions on SCSOs in the current FRfMS have been deleted).

2.3.3.14 Regulation 23 – Public Accountability Requirements. Paragraph 23.5 (amended to reflect current DfE requirements for the registration of interests and the publication of these). Paragraph 23.6 (added the requirement for the reporting of the suspicion of or known financial irregularity or loss to the Authority's Corporate Fraud Unit).

2.4 Schools Contract Standing Orders – Appendix 2

- 2.4.1 The Schools Contract Standing Orders were previously included within the Financial Regulations for Maintained Schools. The Authority proposes now to separate these into a separate document.
- 2.4.2 The proposed re-issued version of the SCSOs, at Appendix 2, includes a substantial amount of non-material technical change, in particular to update references to legislation and Authority committees but also to improve clarity. The proposed SCSOs have been written in a format that is more in line with the Standing Orders used by the Authority.
- 2.4.3 The most significant amendment that is proposed is to increase the threshold above which 4 written quotations are required to be sought; from £4,000 to £10,000 (paragraph 6). This is proposed with specific reference to feedback from Internal Audit around enforcement and compliance, recognising that the current £4,000 threshold has not been uplifted for some time. Under the proposals, schools would be required to seek 4 written quotations where goods and services have a value between £10,000 and £75,000. Schools must still be able to demonstrate best value for money on purchases below £10,000 and this may include still seeking written quotations.
- 2.4.4 The proposed re-draft of the SCSOs removes all references to selective tendering, or an expectation regarding the use of Council approved supplier lists, as this is no longer permitted.
- 2.4.5 The proposed re-draft also is written to encourage schools to use the Authority's existing contract templates (for specifying contract conditions; paragraph 17) and to emphasise the requirements placed on schools to comply with IR 35 Regulations where contracts include payments for professional services (paragraph 16).

2.5 Scheme for Financing Schools – Appendix 3

- 2.5.1 The Scheme was most recently re-issued at 1 April 2018 to incorporate revisions directed by the Department for Education. The Authority took the opportunity to amend the document at this time to ensure that references to legislation and Authority officer / director titles remain accurate.
- 2.5.2 Amendments that are now proposed to the 1 April 2018 Scheme are highlighted in yellow in Appendix 3. A yellow highlight in the list of contents at the beginning of the document signposts that the provision is proposed to be amended. Where the proposed amendment represents a material change the provision the title of the paragraph and the change itself are highlighted in yellow. Where the adjustment is only technical or only for the purposes of clarity only the change itself is highlighted in yellow. However, the changes are also set out below.
- 2.5.3 The following Scheme provisions are proposed to be materially amended i.e. they add to or amend the requirements placed on schools, or advice to schools, in their financial management:
- 2.5.3.1 Provision 2.1.6: The value limit of debt write off is clarified to be £500 and the provision set in the Financial Regulations for Maintained Schools for the authorisation of the write off of a value greater than £500, by the Council's Chief Financial Officer, has been transferred into the Scheme.
- 2.5.3.2 Provisions 2.11 and 8.3: The Authority proposes to clarify that the notice period that schools should give in ceasing contracts or SLAs with the Authority should be 3 months where the contract does not specify. The date of 31 March for the establishment of SLAs for the next financial year / 31 August for the next academic year has also been clarified within the Scheme.
- 2.5.3.3 Provision 2.12: The Authority proposes an amendment to directly replicate the DfE's template to state that balances remaining from central earmarked funds specifically allocated to the school by the Authority *will* be recovered from schools rather than *may* be recovered.
- 2.5.3.4 Provision 3.5.1: The requirement for schools to have between 3 and 5 bank signatories has been copied across from the Guide to Financial Procedures to the Scheme, for the purposes of clarity. The Authority proposes to be clearer in the Scheme that only employees either of the school or the

Authority can be bank signatories. Governors, for example, that are not employees of the school or the Authority cannot be bank signatories.

- 2.5.3.5 Provision 4.10: The reference specifically to capital loans for solar panels has been removed. Although loans from the Authority for solar panels are still permitted, the Authority would now expect schools to use the Salix route.
- 2.5.3.6 Provision 10.4: A paragraph has been added to clarify the restrictions on the advice that the Authority's Legal Team can provide to schools, where there would be a conflict of interest, and on issues related to exclusions, admissions and SEND. This provision is proposed to be added into the Scheme following growing numbers of requests from schools for advice that the Legal Team are not in a position to provide.
- 2.5.4 The following provisions are proposed to be amended. However, these do not materially alter the requirements placed on schools, or the advice to schools:
- 2.5.4.1 Provision 1.2: This provision now references the separate Schools Contract Standing Orders document (as do provisions 2.1.1, 2.1.3, 2.4 and 2.10). Provision 1.2 has been amended also to add clearer signposting of additional existing governing protocols and the Financial Regulations for Maintained Schools, providing hyperlinks to webpages on Bradford Schools Online.
- 2.5.4.2 Provision 2.10: The provision in the current Scheme sets out a number of bullet points on contracting and purchasing requirements that are lifted directly from the DfE's Scheme template. On review, and responding to the feedback that these bullet points cause confusion, it is proposed to remove them. This in itself does not materially alter the requirements on schools or advice to schools; the bullet points set out only what the DfE says the Scheme cannot do in terms of placing requirements on schools. As our SCSOs (appendix 2) comply already, it is not necessary to state these 'do not's' within our Scheme and it is expected that this will help clarify the procurement requirements placed on schools.
- 2.5.4.3 Provision 4.9: The Scheme now has clearer signposting of the Authority's existing governing protocol for the management of deficit budgets and clarification (written into this protocol already) that deficits can only be authorised by the Council's Chief Financial Officer or his / her representative.

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School _____

Contact _____

1) Do you agree with the amendments proposed to the Financial Regulations for Maintained Schools?

Yes

No

If you do not agree with the amendments please specify below which of the amendments you do not agree with and why

Additional Comments

2) Do you agree with the amendments proposed to the Schools Contract Standing Orders?

Yes

No

If you do not agree with the amendments please specify below which of the amendments you do not agree with and why

Additional Comments

3) Do you agree with the amendments proposed to the Scheme for Financing Schools?

Yes

No

If you do not agree with the amendments please specify below which of the amendments you do not agree with and why

Additional Comments

Please return all responses to Andrew Redding, either electronically to andrew.redding@bradford.gov.uk or by post to School Funding Team, 1st Floor Britannia House, Hall Ings, Bradford, BD1 1HX. Please contact Andrew Redding on 02174 432678 with any queries.