

TO: SCHOOLS FORUM
DATE: 21 JUNE 2018

**SCHOOL LOAN SCHEME:
RESPONDING TO GOVERNMENT POLICY CHANGE
Director of Children, Young People and Learning**

1 PURPOSE OF REPORT

- 1.1 The purpose of this report is to provide feed back to the Schools Forum on the outcomes to the recent consultation with schools on proposals to replace the existing Bracknell Forest school loan scheme with an equivalent licensed deficit arrangement. The consultation was required to reflect changes to the current permitted criteria for agreeing loans recently made by the Department for Education (DfE) and to consider ways of increasing the capacity available to the council to support schools with medium term cash flow shortages.

2 EXECUTIVE SUMMARY

- 2.1 The need to review and update the BF loan scheme has been know to Forum members for some time. The outcome from the consultation with BF schools on changes proposed from the council showed widespread support to replace the existing loan scheme with a similar licensed deficit arrangement and to also include the surplus balance on the unallocated balance in the overall Schools Budget when calculating the total amount of funds that are available to support schools with medium term cash flow shortages. The council supports these views and has proposed a way of increasing further the amount of funds available to support schools seeking a licensed deficit from that included on the consultation document.
- 2.2 However, the DfE funding framework increases the risk of non-repayment of licensed deficits where a school converts to an academy following intervention from the DfE. There was a small majority of responses from schools (54%) supporting any written-off amount – of which there have been none to date – being charged to the general balances of the Schools Budget rather than falling onto the council to fund. The council supports the majority view of schools and proposes that the Forum agrees any amounts needing to be written off are financed from within the general balances of the Schools Budget.
- 2.3 The changes set out in this report will not apply to existing loan agreements, and should schools in receipt of a current loan convert to an academy, they will remain liable to repay any outstanding balance.

3 RECOMMENDATIONS

- 3.1 **To AGREE that in accordance with the majority views of schools as expressed through responses to the financial consultation, the recommendations for change proposed to the Scheme for Financing Schools, as set out in paragraphs 6.7 to 6.14 are adopted.**

4 REASONS FOR RECOMMENDATIONS

- 4.1 It is appropriate for the Schools Forum to be aware of, and where relevant, comment on these financial matters.

5 ALTERNATIVE OPTIONS CONSIDERED

- 5.1 None.

6 SUPPORTING INFORMATION

Background

- 6.1 Members of the Forum will be aware that two issues need to be dealt with in respect of the provisions available to the council to support maintained schools with medium term cash flow shortages, typically through a loan, as follows:
1. The DfE have changed the criteria for which loans can be granted to schools, increasing risk of financial losses to the council and / or the Schools Budget, and
 2. The amount of funding available to support loan applications is reducing at the same time as applications are increasing, placing a risk on the ability to adequately support all requests from schools that could otherwise require the need to make immediate and significant cost reductions.
- Note: the loan scheme is not available to academy schools.
- 6.2 The main impact of the change in DfE criteria for the award of loan is that schools converting to an academy as a result of intervention and underperforming schools which the Secretary of State judges are not strong enough to become an academy without a strong sponsor will no longer need to repay loans unless they are for the purchase of significant one-off capital assets. Any accumulated deficit at the point of transfer will fall onto local authorities (LAs) to finance or the general contingency in their Schools Budget if the relevant local policy permits such expenditure, which is the case in BF.
- 6.3 In terms of securing sufficient funds to meet demand from schools to cover short term cash flow shortages, this is currently capped at 40% of the aggregate surplus balance held by schools. Based on current requests for support from schools as 2018-19 budget plans are being considered, it is unlikely that all applications for support can be met.
- 6.4 At its last meeting, the Forum agreed that a consultation be undertaken with maintained schools only, to gather views on the available options to amend arrangements. The consultation document is attached as Appendix 1. Any agreed changes would then need to be incorporated into the BF Scheme for Financing Schools which is the legally binding framework that maintained schools and the council need to operate within. The Schools Forum retains responsibility to amend the Scheme, subject to certain requirements of the DfE, subsequent to a consultation on any proposed changes with all schools covered by the Scheme. The council can appeal any decision of the forum to the Secretary of State.

Outcomes from the financial consultation with schools

6.5 By the end of the consultation period, a response had been received from 13 out of 31 schools (42% response rate). A reply was received from 9 primary schools (35%), 2 secondary schools (67%), and both Kennel Lane Special School and College Hall Pupil Referral Unit. This is a relatively low response rate to financial consultations.

6.6 The questions are set out below and responses summarised. Recommendations for change, where relevant, have also been added in boxes. A summary of replies to each question can be found at Appendix 2, with restricted Appendix 3 listing the comments received from 4 schools, together with a response from the council.

6.7 **Question 1**

Provided a robust repayment plan is in place, do you agree that the council should support schools in their management of short term funding shortfalls through a licensed deficit arrangement?

All 13 schools that responded to the consultation supported the introduction of a licensed deficit scheme.

The Forum is recommended to agree that a licensed deficit scheme is introduced.

6.8 There are three elements to Question 2 which consider the statutory guidance issued by the DfE which limits the schemes availability to support schools with medium term cash flow shortages and increases risk of repayment default and how such instances should be financed, if they occur.

6.9 **Question 2 a**

Do you agree that the potential licensed deficit scheme outlined at Annex D [of the consultation document] should be made available to schools that are unable to balance their day to day spending requirements?

Responses from 12 schools (92%) supported the proposed licensed deficit scheme with 1 (8%) against. No comment was provided from the school not supporting the terms if the proposed licensed deficit scheme.

The Forum is recommended to agree that the licensed deficit scheme set out in Annex D of the consultation document is introduced.

6.10 **Question 2 b**

Do you agree that the potential loan scheme outlined at Annex E [of the consultation document] be made available to schools that are seeking an advance on future budget allocations to purchase a capital asset or undertake an invest to save scheme?

All 13 schools that responded to the consultation supported the availability of a loan scheme to purchase capital assets.

The Forum is recommended to agree that the loan scheme set out in Annex E of the consultation document is introduced.

6.11 **Question 2 c**
Do you agree that should any licenced deficit remain following a school conversion to an academy that it is financed from within the centrally managed Schools Budget?

There was a divided opinion on this question with responses from 7 schools (54%) agreeing that any deficits needing to be written off to fall on the Schools Budget, with 6 (46%) preferring the loss is met by the council.

In the current financial situation, it is unlikely that the Executive Member for Children, Young People and Learning, who has responsibility for agreeing licensed deficits that are supported by the Schools Forum would be prepared to underwrite any repayment defaults on the basis that schools are directly funded through a grant from the DfE – the Dedicated Schools Grant - and should be collectively responsible for any financial consequences arising from over spendings on individual school budgets. The Forum has previously agreed that such expenditure can be charged to the general contingency in the Schools Budget although there has never been the need to finance any write-offs.

The Forum is recommended to agree that should any licenced deficit remain following a school conversion to an academy that it is financed from within the centrally managed Schools Budget.

6.12 There are two elements to Question 3 which consider whether there should be an increase in the capacity available to grant financial support to schools and how that could be achieved.

6.13 **Question 3 a**
In terms of seeking to increase the capacity to grant financial support to schools, do you think the cap on the proportion of borrowing to aggregate surplus balances should be below the current cap of 40%, remain at 40% or be increased to be above 40%?

There was a divided opinion on this question also, with responses from 7 schools (54%) seeking to maintain the cap at the current 40% with 6 (46%) preferring a higher cap. No schools supported reducing the cap to be below 40%.

6.14 **Question 3b**
Do you agree that the unallocated balance held centrally in the Schools Budget should be included in the amount of funds available to grant financial support to schools? NB the current £2m balance would provide a further £800,000 lending power.

Responses from 11 schools (85%) supported including funds held in the unallocated balance in the Schools Budget to grant financial support to schools with 2 (15%) against.

The Borough Treasurer has also given the issues set out in questions 3a and 3b careful consideration as the council wants to support schools facing medium term cash flow difficulties, to allow them the opportunity to make considered decisions that reflect the medium term financial position of a school rather than have to take immediate actions where this would likely have an unacceptable impact on pupil

attainment. The existing loan scheme has demonstrated the value of this approach to many schools, provided there are sufficient safeguards in place in terms of there being realistic plans in place to recover any agreed licensed deficits whilst also being aware that repayment defaults could still occur if a school converts to academy status as a result of intervention by the DfE.

The proposal from the Borough Treasurer is to use all of the aggregate of surplus balances held in the Schools Budget to support a licensed deficit scheme rather than just the aggregate of surplus balances held by schools. This would encompass all Reserves and Balances and not just the Schools Budget General Balance as proposed in the consultation document.

This funding has been accumulated from the Dedicated Schools Grant income and is ring-fenced to support schools and pupils, not council services. Based on balances held at 31 March 2018, and reported on a separate agenda item of tonight's meeting, this would provide £5.818m of funding to support temporary, agreed school over spendings, rather than the £1.363m if school balances only are used. A 40% cap on the maximum amount of over spends that could be agreed would then be £2.327m rather than £0.545m. This higher figure would be more than sufficient to meet current demand for financial support from schools.

For this proposal to be implemented, the Schools Forum would also need to agree that any necessarily written-off deficits are financed from the balances in the Schools Budget and not the council, as proposed above in paragraph 6.11.

The Forum is recommended to agree that advances through the licensed deficit and loan schemes in aggregate are capped at 40% of overall balances held in the Schools Budget i.e. those held by schools and also those managed by the council on behalf of schools.

- 6.15 The consultation document attached at Appendix 1 also highlights in paragraph 31 that updates are also required to other parts of the Scheme for Financing Schools, to reflect changes being made by the DfE to the statutory guidance to mirror changes in the Schools and Early Years Finance (England) Regulations 2018 i.e. these are the Regulations that relate to the funding framework for schools which the guidance is issued to support. These updates also need to be written into the BF Scheme and do not require a decision from the Forum.

Next steps

- 6.16 The decisions taken at tonight's meeting will be used to update the BF Scheme for Financing Schools. These decisions will also influence future discussions with schools seeking support for medium term cash flow shortages of which a report will be presented to the next meeting of the Forum for consideration.

7 ADVICE RECEIVED FROM STATUTORY AND OTHER OFFICERS

Borough Solicitor

- 7.1 The relevant legal provisions have been considered within the main body of the report.

Borough Treasurer

- 7.2 The proposals set out in the supporting information present a suitable scheme of financial support to schools facing short to medium term cash flow difficulties. Should any school deficits need to be written off, they would need to be financed from within the balances held in the Schools Budget Reserves.

Equalities Impact Assessment

- 7.3 There are no specific impacts arising from this report.

Strategic Risk Management Issues

- 7.4 The main strategic risk relates to being able to produce short term financial support packages to schools with an acceptable risk that repayment of any deficit will be made.

8 CONSULTATION

Principal Groups Consulted

- 8.1 CYPL Departmental Management Team, all schools in the borough.

Method of Consultation

- 8.2 Formal consultation, written reports and presentations.

Representations Received

- 8.3 Those from CYPL Departmental Management Team and schools have been incorporated into this report.

Background Papers

None.

Contact for further information

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(01344 354054)

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THE BRACKNELL FOREST SCHEME FOR FINANCING SCHOOLS

**A consultation on potential changes to the
school loan scheme.**

8 MAY 2018 to 25 MAY 2018

Introduction

1. The purpose of this consultation is to gather views on how the school loan scheme should be updated to ensure compliance with revised statutory requirements. This follows a recent directive from the Department for Education (DfE) for all Local Authorities (LAs) to make changes. An alternative to a loan scheme is being considered – a licensed deficit arrangement – that offers most of the features currently available but increases the risk of repayment default should a school convert to academy status.
2. Loans have been used successfully for a number of years in BF to help schools manage short term recurrent funding shortfalls in a measured way and as such represent an important part of the financial framework. However, the capacity to grant financial support to schools is reaching its limit and new arrangements need to be considered. Therefore, the council is supportive of an appropriate scheme, provided it contains suitable safeguards.
3. The DfE has also set out a small number of other minor changes to the school funding framework that need to be reflected in local arrangements.
4. Views are being sought from **maintained primary, secondary and special schools and College Hall Pupil Referral Unit** in advance of the BF Schools Forum meeting of 21 June 2018 where a decision is expected to be taken in respect of any agreed changes.

Responses

5. Responses should be made through this document, and you are asked to return your signed, scanned reply, **by Friday 25th May 2018** to:

education.finance@bracknell-forest.gov.uk

or by post to:

Education Finance, Bracknell Forest Council
Time Square, Bracknell, RG12 1JD

Please complete the following details before making your reply. If this is a joint response, for example from the head teacher and chair of governors, please included details from both parties, including signatures.

| | | | | |
|------------------------|-----|--------|-----|--|
| School: | | | | |
| Name of respondent(s): | (1) | | (2) | |
| Position: | (1) | | (2) | |
| Signature: | (1) | | (2) | |
| Telephone: | | Email: | | |

Please indicate your preference by 'clicking' in the relevant box for each question. Unless otherwise stated, only one preference should be recorded for each question.

Who should respond to this consultation?

6. The Chair of governors of maintained schools only (including Special Schools and Pupil Referral Units), in consultation with the headteacher and other governors.

Queries

7. If you have any queries on this consultation, please contact:

Paul Clark, Finance Business Partner - CYPL
Telephone 01344 354054

Email: paul.clark@bracknell-forest.gov.uk

The Scheme for Financing Schools (the “Scheme”)

8. Each LA is required to publish a Scheme. It is an important document that sets out the financial relationship between the LA and the maintained schools which it funds. It is a legally binding document on both the LA and schools relating to financial management and associated issues. Academy schools are not bound by the Scheme.
9. The DfE issues statutory guidance to LAs in respect of the areas that must be covered within Schemes. Parts of Schemes must be in accordance with “directed scheme revisions” and are mandatory, sometimes to the precise wording that must be used. For other elements of schemes, there is discretion to make amendments to best reflect local circumstances. The statutory power to update discretionary parts of Schemes rests with maintained school representatives on the Schools Forum¹, but changes can only be made after a consultation with all governing bodies and head teachers.
10. The current BF Scheme and can be found at:

<http://schools.bracknell-forest.gov.uk/sites/default/files/assets/scheme-for-financing-schools-2017.pdf>

Why are changes being proposed?

11. The DfE are changing the way school loans operate and have now issued a directed Scheme revision with prescribed text to limit the use of loan schemes to only “assist schools in spreading the cost over more than one year of large one-off individual items of a capital nature... Loans will not be used as a means of funding a deficit that has arisen because a school’s recurrent costs exceed its current income”.

The full text from the directed revision can be seen at Annex A.

12. The change is being made as the DfE are concerned that LAs are operating loan schemes as a mechanism of avoiding needing to fund deficit balances when a school converts to an academy. The current DfE guidance states that loan liabilities will normally transfer to academies on conversion, and the DfE is concerned that this may be a way around the requirement that deficits of schools that are underperforming or subject to intervention and which become sponsored academies revert to the local authority.
13. A number of other changes are also required to Schemes to update existing text to reflect recent changes to DfE Schools and Early Years Finance (England) Regulations 2018. There are no significant impacts from these changes which are set out below in more detail in paragraph 32.

When will the changes take effect?

14. The changes came into effect on 22 March 2018. There is no impact on loans agreed up to this date which will continue unchanged to their end date. Should any school with an existing loan convert to an academy before the end date, there will still be a requirement to fully repay any outstanding balance. This change will only affect any loans agreed as part of the 2018-19 financial year budget setting process and beyond.

¹ Each LA is required to create a Schools Forum to represent Education providers and partners. The membership of the BF Forum has been drawn from head teachers, including academies, governors and representatives of the teacher associations, diocesan boards, Early Years providers, the 14-19 Partnership and an Independent lay person.

15. Clearly, by removing the certainty of repayment of advances should a school convert to an academy increases financial risks to the Schools Budget should LAs want to support schools with short to medium term funding shortfalls. This is further complicated as the key financial risk arises around underperforming schools with deficits that convert to an academy. As school performance levels can change significantly during the period of agreed financial support, the level of risk on each application of support is never clear.

Options available to LAs to provide financial support to schools

16. Statutory DfE Scheme guidance allows LAs to support maintained schools in managing a short term planned over spending either through a licensed deficit agreement, which in essence allows a school to over spend the budget allocation for an agreed period up to a maximum amount, or a school loan scheme, where schools are advanced an agreed amount of additional funding from future budget allocations with an associated repayment schedule. The loan advance and repayment amounts are included within a school's funding allocation which means their accounts are not reported as over spent. Schools in BF have previously supported a loan scheme as opposed to a licensed deficit. The statutory Scheme guidance attaches the same outline conditions that must be applied to both of these options.
17. In essence, both facilities are a means of covering a short to medium term cash flow shortage at a school as spend needs to exceed income before either measures are put in place to reduce expenditure, there will be an increase in income as a result of a known rise in pupil numbers, or a combination of both. Any over spend is fully repaid by the end of the agreement. There is no permanent, additional funding to schools through these arrangements.
18. As set out above, the key difference between a licensed deficit arrangement and a loan scheme is that if a school converts to an academy, under a loan scheme, any outstanding balance must normally be repaid, whereas under a licensed deficit it does not.

Annex B sets the statutory guidance produced by the DfE relating to licensed deficits and loan schemes.

19. Any deficit remaining following a school's conversion to an academy will fall onto the LA to finance or the general contingency in their Schools Budget if the relevant local policy permits such expenditure. The BF Schools Forum has agreed such expenditure can be charged to the general contingency in the Schools Budget and it is likely that this agreement will need to remain in place for the council to continue to support schools facing short to medium term cash flow difficulties.

Loan scheme - issues for BF

20. Loans have been used successfully for a number of years in BF to help schools manage short term recurrent funding shortfalls in a measured way that prevents the need to immediately take more drastic budget management action. This minimises disruption in school organisation which could otherwise adversely impact on the attainment of pupils. Therefore, the council is supportive of an appropriate scheme, provided it contains suitable safeguards.

21. The key features of the loan scheme are:

- Governors need to be able to demonstrate ability to repay
- Loans are generally granted for a maximum of 3 years
- The value of loans should ordinarily be between 5% and 15% of the annual school budget
- Loans are generally granted on an interest free basis
- Total loan advances cannot exceed 40% of the aggregate surplus balances held by all schools
- Governors must agree in writing to fully repay any outstanding balance should the school convert to an academy.

Annex C sets out the full terms and conditions relating to the BF school loan scheme.

22. As the BF loan scheme is primarily used as a means of funding a deficit that has arisen because a school's recurrent costs exceed its current income – only one loan has been granted to facilitate a capital purchase – changes are required if the council is to continue to be able to facilitate financial support to schools with recurrent budget deficits within the new requirements of the DfE.

23. The council is considering amending the current loan scheme so that it is only available for capital purchases (including invest to save schemes) and to replicate the current terms and conditions provided through the existing loan scheme into a licensed deficit arrangement with two exceptions:

- i. as DfE rules on treatment of balances when schools convert to an academy will in future disregard loan arrangements relating to covering shortfalls on recurrent expenditure shortfalls, this condition will need to be removed from a Licensed deficit arrangement.
- ii. Licensed deficit arrangements will not be made available for capital purchases / invest to save schemes. These will be offered through a revised loan scheme that will only be available for capital purchases, thereby ensuring full repayment should a school convert to an academy.

Views from schools are now being sought.

24. As set out above, there is a difference in accounting treatment between a licensed deficit and a loan scheme. A licensed deficit agreement, in essence allows a school to over spend the budget allocation for an agreed period up to a maximum amount. A loan results in a budget advance at an agreed amount with an associated repayment schedule. The loan advance and repayment amounts are included within a school's funding allocation which means their accounts are not reported as over spent.

Annex D sets out the potential terms and conditions for a BF licensed deficit arrangement for schools.

Annex E sets out the potential revised terms and conditions for a BF loan arrangement for schools.

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| Question 1: Response requested from: | Maintained primary, secondary and special schools and PRUs |
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1. Provided a robust repayment plan is in place, do you agree that the council should support schools in their management of short term funding shortfalls through a licensed deficit arrangement?

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| Yes | |
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| No | |
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2. Taking account of the statutory guidance issued by the DfE, and the need to minimise financial risks through non-repayment, do you agree that:

a. The potential licensed deficit scheme outlined at Annex D should be made available to schools that are unable to balance their day to day spending requirements?

b. The potential loan scheme outlined at Annex E be made available to schools that are seeking an advance on future budget allocations to purchase a capital asset or undertake an invest to save scheme?

c. Should any licenced deficit remain following a school conversion to an academy that it is financed from within the centrally managed Schools Budget?

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| Yes | |
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| No | |
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Do you have any comments on the potential terms and conditions for the licensed deficit arrangement or loan scheme?

25. In addition to needing to make changes to comply with new statutory scheme guidance from the DfE, the on-going challenging financial environment has resulted in a simultaneous reduction in the amount of aggregate surplus school balances available to finance support and an increased number of schools facing financial difficulties and therefore seeking financial assistance.
26. To ensure sufficient funds are available to support schools through circumstances that can change significantly through the year, as set out above in paragraph 21, total support cannot exceed 40% of the aggregate surplus balances held by all schools. Provided all repayments due in 2018 are fully repaid, outstanding support will amount to £437,000 which equates to 32% of aggregate surpluses, which means there is capacity to grant new support in 2018-19 of up to £108,000.
27. Based on initial discussion with schools seeking new or amended financial support arrangements in 2018-19, this is considered insufficient to meet demand.
28. In order to increase the amount of funds available to support schools experiencing short to medium term cash flow shortages, the council is considering 2 measures where views from schools are being sought:
 - i. Increase the 40% cap on advances compared to the aggregate of surplus balances held by schools, and
 - ii. Including the unallocated balance held centrally in the Schools Budget to the aggregate surpluses held by schools. There is a surplus balance of approximately £2m held in respect of accumulated under spendings on budget areas which the council retains financial responsibility, most significantly relating to high needs pupils and early years settings. It is ordinarily held as a contingency should any unexpected in-year cost pressures arise – there was a £1.2m over spend on high needs pupils in 2014-15 - and also as a provision for future cost increases, most notably the diseconomy costs that will need to be paid to support new schools.
29. In terms of the 40% cap on advances compared to the aggregate of surplus balances held by schools, the DfE does not specify an amount that must be included, rather that the scheme must detail the maximum proportion that will be permitted. A review of loan arrangements at other LAs shows that a range of different capping limits have been set, ranging from 20% to 50%. Based on the current aggregate surplus balances held by schools i.e. excluding the balance held centrally in the Schools Budget, each 10% that is used to support schools with financial difficulties equates to £136,000. With school balances likely to continue to fall, this amount will also reduce.
30. For the approximate £2m unallocated balance held centrally in the Schools Budget, using this would significantly increase the capacity to grant financial support to schools, where the terms and condition of the schemes are met. A 40% cap on support to schools equates to £800,000 of lending power.

Question 2: Response requested from:

Primary, secondary, special schools and PRU

3. In terms of seeking to increase the capacity to grant financial support to schools:

- a. With each 10% of aggregate surplus school balances currently equating to £136,000 worth of borrowing powers, do you think the cap on the proportion of borrowing to aggregate surplus balances should:

Amount of cap:

Please place a
X in one box

Be below the current 40%

Remain at the current 40%

Be increased from the current 40%

- b. Do you agree that the unallocated balance held centrally in the Schools Budget should be included in the amount of funds available to grant financial support to schools? NB the current £2m balance would provide a further £800,000 lending power.

Yes

No

Do you have any comments on the areas that could increase the capacity to grant financial support to schools?

Other changes to the scheme

31. Updates have been made by the DfE to the statutory guidance to mirror changes in the Schools and Early Years Finance (England) Regulations 2018 i.e. these are the Regulations that relate to the funding framework for schools which the guidance is issued to support.
 - i. Paragraph 4.8 has been updated to reflect changes on balances of closing schools, as detailed under Regulation 25 (9).
 - a. 4.8 Where in the funding period, a school has been established or is subject to a prescribed alteration as a result of the closure of a school, a local authority may add an amount to the budget share of the new or enlarged school to reflect all or part of the unspent budget share (including any surplus carried over from previous funding periods) of the closing school for the funding period in which it closes.
 - ii. Paragraph 11.16: Responsibility for redundancy and early retirement costs has been updated to reflect changes under Schedule 2 Part 7, of the Finance Regulations. This details how a local authority can retain a central budget within the schools budget to fund the costs of new early retirements or redundancies by a deduction from maintained school budgets (excluding nursery schools) only, where the relevant maintained school members of the schools forum agree.
 - iii. Within paragraph 6.2.xvii, 'statement of SEN' has been replaced with 'Education Health and Care Plan (EHCP)'.

These updates need to be incorporated into the BF Scheme.

Next steps

32. A briefing on this consultation will be provided at the 10 May 2018 Bursar Support Session where there will be an opportunity to raise questions or seek clarifications. The PowerPoint briefing used will also be emailed to head teachers and chairs of governors.
33. The Borough Treasurer will review responses from schools to this consultation to inform any changes that are considered necessary to the financial support arrangements for schools and will aim to ensure sufficient capacity exists to manage anticipated demand for loans whilst at the same time ensuring financial risks associated with non-repayments are reasonable.
34. The Schools Forum will consider the final proposals from the council at its next meeting on 21 June 2018 and any changes will be applied to financial support arrangements granted to schools from that point.

Thank you for taking the time to respond to this consultation.

Responses to this consultation will be summarised, reported to the 21 June 2018 Schools Forum and posted on the Council's public website.

Signed, scanned electronic replies should be emailed to education.finance@bracknell-forest.gov.uk

Written responses should be sent to Education Finance, Bracknell Forest Council, Time Square, Bracknell, RG12 1JD.

The closing date for responses is Friday 25th May, 2018.

Directed Scheme Revision 2018

The Secretary of State may by a direction revise the whole or any part of the scheme as from such date as may be specified in the direction. In order to make a directed revision to schemes, the Secretary of State is required, by provisions in the School Standards and Framework Act 1998, to consult the relevant local authorities and other interested parties. Following consultation, the Secretary of State directs that from 22 March 2018 the text below shall be incorporated into the schemes of all local authorities in England:

Loans will only be used to assist schools in spreading the cost over more than one year of large one-off individual items of a capital nature that have a benefit to the school lasting more than one financial or academic year. Loans will not be used as a means of funding a deficit that has arisen because a school's recurrent costs exceed its current income. If loans are made to fund a deficit and a school subsequently converts to academy status, the Secretary of State will consider using the power under paragraph 13(4)(d) of Schedule 1 to the Academies Act 2010 to make a direction to the effect that such a loan does not transfer, either in full or part, to the new Academy school.

Statutory DfE Guidance relating to licensed deficits and loan schemes (prior to 22 March 2018)

4.9 Licensed deficits

An authority may include in its scheme provision for an arrangement whereby schools are allowed to plan for a deficit budget. Such an arrangement is normally funded by the collective surplus of school balances held by the authority on behalf of schools (although it is open to an authority with no such surplus to make alternative arrangements if it can do so within the relevant local authority finance legislation). Although such a provision may refer to other guidance on the operation of the deficit arrangement, the scheme itself should specify the following:

- the maximum length over which schools may repay the deficit (i.e. reach at least a zero balance), with appropriate mechanism to ensure that the deficits are not simply extended indefinitely. The maximum length allowed should not exceed three years
- the purposes for which the deficit arrangement may be agreed
- the maximum size of the deficits which may be agreed (this may be by reference to the size of the budget share or in cash terms or some combination)
- the maximum proportion of the collective balances held by the authority which will be used to back the arrangement
- the role of the Director of Children's Services and the Chief Finance Officer of the Authority in agreeing any arrangements for individual schools

It is open to a LA to extend such an arrangement by inviting schools holding balances in external bank accounts to use some or all of those balances to back the arrangement. If so the scheme should make clear the basis on which this would occur.

Balances held by a school in an external bank account remain the property of the authority (if made available by the authority initially) and therefore may legally be taken into account by the authority in assessing the total level of licensed deficit which it might wish to make to schools. However, the Secretary of State believes that it is right that schools be asked to give a view as to whether the authority should take them into account in this way, and that this provides assurance for the authority as well as schools.

Under a licensed deficit scheme the only effect on budget and out-turn statements is that in the latter, the balance goes into deficit because expenditure is at a higher level than the budget share, but this deficit reduces to zero by the end of the repayment period because the school has to constrain its expenditure to effect the repayment. No 'payment' to the school is recorded.

4.10 Loan schemes

It is open to an authority to include in its scheme a form of loan arrangement for schools that does not operate by way of a licensed deficit, but rather by way of actual payments to schools or expenditure by the authority in respect of a particular school on condition that a corresponding sum is repaid from the budget share. If so, the same parameters for the arrangement should appear in the scheme as listed at 4.9 above for licensed deficits.

Again, an authority may wish to invite schools with balances in external accounts to use some or all of those balances to back a loan scheme, and the scheme should make clear on what basis this would occur.

If there is a loan scheme on this basis the authority must show in its budget statements the amount centrally retained for what would be a devolved payment to schools, and the payment should appear in the out-turn statements..

Extract from the BF Scheme for Financing Schools: Loan arrangements

4.9 Loan arrangements

In exceptional circumstances, in agreement with the Schools Forum and Executive Member for Children, Young People and Learning, the authority will permit schools to receive a loan in advance of future budget allocations. The funding of such agreements would be through the collective surplus of school balances held by the authority on behalf of schools, and will be considered on an individual basis. General features of the scheme are detailed below:

Circumstances in which a loans may be agreed:

1. if in the opinion of the Director of Children Young People and Learning a school could not otherwise achieve its improvement targets (there will still be a requirement of the governing body to demonstrate repayment),
2. if in the opinion of the Director of Children Young People and Learning and Borough Treasurer a school could not reasonably be expected to effect immediately the savings required as a result of a significant reduction in pupil numbers (there will still be a requirement of the governing body to demonstrate repayment),
3. where major capital projects which would otherwise result in the project not being undertaken (there will be a requirement of the governing body to demonstrate repayment),
4. to finance invest to save schemes e.g. energy efficiency investments which result in net annual savings after making the required loan repayments.

Outline features of the scheme.

- the maximum length over which schools may repay the loan is 3 years (i.e. reach at least a zero balance), where the loan is granted under 1 and 2 above, with longer periods available for items 3 and 4., which will be determined on a case by case basis, linked to the expected useful life of the asset and the ability of individual schools to repay any loan.
- arrangement for a loan will only be agreed where the governing body produces a plan which demonstrates to the satisfaction of the Director of Children Young People and Learning and Borough Treasurer the savings or additional income required to repay the deficit within an agreed timescale,
- arrangement for a loan will only be agreed where the governing body agrees in writing that should the school convert to an academy, that the liability to fully repay any outstanding balance in accordance with the agreed loan schedule will be incorporated into the transfer arrangements to become the obligation of the new Academy body.

In general the minimum size of loans which may be agreed will be the lesser of the following:

| | |
|-------------------|---------|
| Primary schools | £10,000 |
| Special schools | £20,000 |
| Secondary schools | £30,000 |

OR

For all types of school, 5% of the size of the budget share as determined by the authority.

In general the maximum size of loans which may be agreed will be the greater of the following:

| | |
|-------------------|----------|
| Primary schools | £50,000 |
| Special schools | £150,000 |
| Secondary schools | £250,000 |

OR

For all types of school, 15% of the size of the budget share as determined by the authority.

- interest will be charged at 1% above the Council's cost of borrowing on the date on which the loan is advanced unless the authority agrees for it to be waived. The requirement to pay interest will be assessed on the merits of each individual application, and in general, loans under categories 1 and 2 above will not attract interest with loans under categories 3 and 4 likely to attract interest.

Outline controls on loans

- the maximum proportion of the collective balances held by the authority which will be used to support the arrangement shall not exceed 40%,
- the Director of Children Young People and Learning and the Borough Treasurer of the authority will make recommendations to the Schools Forum and Executive Member for Children, Young People and Learning to agree any loans and the terms on which they are offered.

The authority may request those schools operating external bank accounts to allow some or all of those balances to support the above arrangements.

Potential terms and conditions of a BF school licenced deficit arrangement from June 2018

Words to be deleted from the existing loan scheme are struck through

New words are in *italic and shaded*

4.9 Loan *Licensed deficit* arrangements

In exceptional circumstances, in agreement with the Schools Forum and Executive Member for Children, Young People and Learning, the authority will permit schools to ~~receive a loan in advance of future budget allocations~~ *over spend their budget allocation through a licensed deficit arrangement*. The funding of such agreements would be through the collective surplus of school balances held by the authority on behalf of schools *and any unspent funding in the Schools Budget Unallocated Reserve²*, and will be considered on an individual basis. General features of the scheme are detailed below:

Circumstances in which a ~~loan~~ *licensed deficit arrangements* may be agreed:

1. if in the opinion of the Director of Children Young People and Learning a school could not otherwise achieve its improvement targets (there will still be a requirement of the governing body to demonstrate repayment),
2. if in the opinion of the Director of Children Young People and Learning and Borough Treasurer a school could not reasonably be expected to effect immediately the savings required as a result of a significant reduction in pupil numbers (there will still be a requirement of the governing body to demonstrate repayment),
3. ~~where major capital projects which would otherwise result in the project not being undertaken (there will be a requirement of the governing body to demonstrate repayment),~~
4. ~~to finance invest to save schemes e.g. energy efficiency investments which result in net annual savings after making the required loan repayments.~~

Outline features of the scheme.

- the maximum length over which schools may repay the loan *licensed deficit* is 3 years (i.e. reach at least a zero balance), ~~where the loan is granted under 1 and 2 above, with longer periods available for items 3 and 4, which will be determined on a case by case basis, linked to the expected useful life of the asset and the ability of individual schools to repay any loan.~~
- arrangement for a loan *licensed deficit* will only be agreed where the governing body produces a plan which demonstrates to the satisfaction of the Director of Children Young People and Learning and Borough Treasurer the savings or additional income required to repay the deficit within an agreed timescale,
- ~~arrangement for a loan will only be agreed where the governing body agrees in writing that should the school convert to an academy, that the liability to fully repay any outstanding balance in accordance with the agreed loan schedule will be incorporated into the transfer arrangements to become the obligation of the new Academy body.~~

² Inclusion of the unspent funding in the Schools Budget Unallocated Reserve is under consideration through this consultation

In general the minimum size of loans which may be agreed will be the lesser of the following:

| | |
|-------------------|---------|
| Primary schools | £10,000 |
| Special schools | £20,000 |
| Secondary schools | £30,000 |

OR

For all types of school, 5% of the size of the budget share as determined by the authority.

In general the maximum size of loans which may be agreed will be the greater of the following:

| | |
|-------------------|----------|
| Primary schools | £50,000 |
| Special schools | £150,000 |
| Secondary schools | £250,000 |

OR

For all types of school, 15% of the size of the budget share as determined by the authority.

- interest will be charged at 1% above the Council's cost of borrowing on the date on which the loan is advanced **licensed deficit is** agreed unless the authority agrees for it to be waived. The requirement to pay interest will be assessed on the merits of each individual application, and in general, ~~loans under categories 1 and 2 above will not attract interest with loans under categories 3 and 4 likely to attract interest.~~

Outline controls on ~~loans~~ **licensed deficits**

- the maximum proportion of the collective balances held by the authority **including any unspent funding in the Schools Budget Unallocated Reserve**³ which will be used to support the arrangement shall not exceed 40%⁴,
- the Director of Children Young People and Learning and the Borough Treasurer of the authority will make recommendations to the Schools Forum and Executive Member for Children, Young People and Learning to agree any ~~loans~~ **licensed deficits** and the terms on which they are offered.

The authority may request those schools operating external bank accounts to allow some or all of those balances to support the above arrangements.

³ Inclusion of the unspent funding in the Schools Budget Unallocated Reserve is under consideration through this consultation

⁴ 40% limit subject to change through this consultation.

Potential terms and conditions of a BF school loan arrangement from June 2018

Words to be deleted from the existing loan scheme are ~~struck through~~

New words are in *italic and shaded*

4.9 Loan arrangements

In exceptional circumstances, in agreement with the Schools Forum and Executive Member for Children, Young People and Learning, the authority will permit schools to receive a loan in advance of future budget allocations. The funding of such agreements would be through the collective surplus of school balances held by the authority on behalf of schools *and any unspent funding in the Schools Budget Unallocated Reserve*⁵, and will be considered on an individual basis. General features of the scheme are detailed below:

Circumstances in which a loans may be agreed:

- ~~1. if in the opinion of the Director of Children Young People and Learning a school could not otherwise achieve its improvement targets (there will still be a requirement of the governing body to demonstrate repayment),~~
- ~~2. if in the opinion of the Director of Children Young People and Learning and Borough Treasurer a school could not reasonably be expected to effect immediately the savings required as a result of a significant reduction in pupil numbers (there will still be a requirement of the governing body to demonstrate repayment),~~
3. where major capital projects which would otherwise result in the project not being undertaken (there will be a requirement of the governing body to demonstrate repayment),
4. to finance invest to save schemes e.g. energy efficiency investments which result in net annual savings after making the required loan repayments.

Outline features of the scheme.

- *ordinarily*, the maximum length over which schools may repay the loan is 3 years (i.e. reach at least a zero balance), ~~where the loan is granted under 1 and 2 above, with~~ *however*, longer periods *are* available for ~~items 3 and 4., which will be determined on a~~ case by case basis, linked to the expected useful life of the asset and the ability of individual schools to repay any loan.
- arrangement for a loan will only be agreed where the governing body produces a plan which demonstrates to the satisfaction of the Director of Children Young People and Learning and Borough Treasurer the savings or additional income required to repay the deficit within an agreed timescale,
- arrangement for a loan will only be agreed where the governing body agrees in writing that should the school convert to an academy, that the liability to fully repay any outstanding balance in accordance with the agreed loan schedule will be incorporated into the transfer arrangements to become the obligation of the new Academy body.

⁵ Inclusion of the unspent funding in the Schools Budget Unallocated Reserve is under consideration through this consultation

In general the minimum size of loans which may be agreed will be the lesser of the following:

| | |
|-------------------|---------|
| Primary schools | £10,000 |
| Special schools | £20,000 |
| Secondary schools | £30,000 |

OR

For all types of school, 5% of the size of the budget share as determined by the authority.

In general the maximum size of loans which may be agreed will be the greater of the following:

| | |
|-------------------|----------|
| Primary schools | £50,000 |
| Special schools | £150,000 |
| Secondary schools | £250,000 |

OR

For all types of school, 15% of the size of the budget share as determined by the authority.

- interest will be charged at 1% above the Council's cost of borrowing on the date on which the loan is advanced unless the authority agrees for it to be waived. The requirement to pay interest will be assessed on the merits of each individual application, ~~and in general, loans under categories 1 and 2 above will not attract interest with loans under categories 3 and 4 likely to attract interest.~~

Outline controls on loans

- the maximum proportion of the collective balances held by the authority **including any unspent funding in the Schools Budget Unallocated Reserve⁶** which will be used to support the arrangement shall not exceed 40%⁷,
- the Director of Children Young People and Learning and the Borough Treasurer of the authority will make recommendations to the Schools Forum and Executive Member for Children, Young People and Learning to agree any loans and the terms on which they are offered.

The authority may request those schools operating external bank accounts to allow some or all of those balances to support the above arrangements.

⁶ Inclusion of the unspent funding in the Schools Budget Unallocated Reserve is under consideration through this consultation

⁷ 40% limit subject to change through this consultation.

| CONSULTATION WITH MAINTAINED SCHOOLS | | | | | | |
|---|--|----------------|------------------|----------------|--------------|----------|
| CONSULTATION WITH SCHOOLS: MAY 2018 | | TOTALS | | | TOTAL | % |
| | | PRIMARY | SECONDARY | SPECIAL | | |
| 1 | Provided a robust repayment plan is in place, do you agree that the council should support schools in their management of short term funding shortfalls through a licensed deficit arrangement? | | | | | |
| | Yes | 9 | 2 | 2 | 13 | 100% |
| | No | 0 | 0 | 0 | 0 | 0% |
| 2 | Taking account of the statutory guidance issued by the DfE, and the need to minimise financial risks through non-repayment, do you agree that: | | | | | |
| | a | | | | | |
| | The potential licensed deficit scheme outlined at Annex D should be made available to schools that are unable to balance their day to day spending requirements? | | | | | |
| | Yes | 8 | 2 | 2 | 12 | 92% |
| | No | 1 | 0 | 0 | 1 | 8% |
| b | The potential loan scheme outlined at Annex E be made available to schools that are seeking an advance on future budget allocations to purchase a capital asset or undertake an invest to save scheme? | | | | | |
| | Yes | 9 | 2 | 2 | 13 | 100% |
| | No | 0 | 0 | 0 | 0 | 0% |

CONSULTATION WITH MAINTAINED SCHOOLS

| CONSULTATION WITH SCHOOLS: MAY 2018 | | TOTALS | | | TOTAL | % |
|-------------------------------------|--|---------|-----------|---------|--------|-----|
| | | PRIMARY | SECONDARY | SPECIAL | | |
| c | Should any licenced deficit remain following a school conversion to an academy that it is financed from within the centrally managed Schools Budget? | | | | | |
| | Yes | 4 | 1 | 2 | 7 | 54% |
| | No | 5 | 1 | 0 | 6 | 46% |
| 3 | In terms of seeking to increase the capacity to grant financial support to schools: | | | | | |
| a | With each 10% of aggregate surplus school balances currently equating to £136,000 worth of borrowing powers, do you think the cap on the proportion of borrowing to aggregate surplus balances should be: | | | | | |
| | cap - be below the current 40% | 0 | 0 | 0 | 0 | 0% |
| | cap - remain at the current 40% | 7 | 0 | 0 | 7 | 54% |
| | cap - be increased from the current 40% | 2 | 2 | 2 | 6 | 46% |
| b | Do you agree that the unallocated balance held centrally in the Schools Budget should be included in the amount of funds available to grant financial support to schools? NB the current £2m balance would provide a further £800,000 lending power. | | | | | |
| | Yes | 7 | 2 | 2 | 11 | 85% |
| | No | 2 | 0 | 0 | 2 | 15% |
| | Maximum potential responses | 26 | 3 | 2 | 31 | |
| | Actual number of responses | 9 | 2 | 2 | 13 | |
| | Response rate | 34.62% | 66.67% | 100.00% | 41.94% | |

