

## Appendix A – Revisions to Herefordshire’s Scheme for Financing Schools

Scheme publication date: January 2026

Consultation period: 1 – 19 December 2025

### Changes to the guidance directed by the DfE

#### **Borrowing by Schools (3.6) (response: 7 Agree, 0 Disagree)**

Removal of the following wording: *Similarly, governing bodies and headteachers may not borrow money from external sources for any official purpose whatsoever, except with the permission of the Secretary of State.*

Replaced with the following: *Similarly, governing bodies and headteachers may not enter into any borrowing arrangements, including finance leases, hire purchase or other leasing deals, without specific and written permission of the Secretary of State. The introduction of IFRS16 for local authorities from 1 April 2024 ends the distinction between operating and finance leases at maintained schools for accounting purposes. Under the Education Act 2002, all leases will be classified as borrowing and will require the Secretary of State for Education’s consent.*

*The Secretary of State has however agreed to provide blanket consent to a range of the most common leasing activities, as set out in the IFRS16 Maintained Schools Finance Lease Class Consent 2024. Leases not included in this Order will still require the written consent of the Secretary of State, and it remains the general position that schools will only be granted permission for borrowing in exceptional circumstances. From time to time, however the Secretary of State may introduce limited schemes in order to meet broader policy objectives.*

### Local proposed changes to the scheme

#### **Revision of the Scheme (1.4) (response: 7 Agree, 0 Disagree)**

Additional wording included: *Where the Schools Forum does not approve them or approves them subject to modifications which are not acceptable to the authority, the authority may apply to the Secretary of State for approval. It is also possible for the Secretary of State to make directed revisions to schemes after consultation. Such revisions become part of the scheme from the date of the direction.*

#### **Controls on Surplus Balances (4.2) (response: 6 Agree, 1 Disagree)**

Additional wording to add the ability to reprofile surplus balances if no longer applicable: *Where schools have allocated prior year surplus balances to fund capital projects (CFR reference B01), which have not yet commenced, and the school has a licensed deficit and has submitted a deficit recovery plan. It is permitted for schools, with the agreement of the Director of Education, Skills and Learning, on behalf of the Director of Children’s Services, and the Council’s Chief Financial Officer, to request to reprofile these balances to support the school in returning to a surplus position.*

#### **Planning for Deficit Budgets (4.5) (response: 4 Agree, 3 Disagree)**

Removal of the following wording: *Schools may only plan for deficit budgets under certain circumstances determined by the Authority (see also 4.9).*

Additional wording included: *No school may plan for a deficit budget. However, in exceptional circumstances Governors may apply to the Council where they anticipate their budget will be in deficit for the following year as a result of specific objectives, such as where settlement*



*agreements or tribunals are anticipated. However, no commitments of such a nature may be entered into without the prior approval of the Council's Chief Financial Officer.*

*If a schools year end position is, despite warning and without prior negotiations with the Council, persistently and/or unreasonably in excess of the budget share such action may be considered by the Council as grounds for the withdrawal of the delegated budget from the Governing Body. (Please see section 2.15 Notice of Financial Concern).*

*Schools must submit a recovery plan to the local authority when their revenue deficit rises above 5% at 31 March of any year.*

#### **Licenced Deficits and Recovery Plans (4.9) (response: 5 Agree, 2 Disagree)**

Change to provide clarity of arrangements and reflect a more prudent approach to planned deficits, therefore the whole section to be removed and replaced with the following:

- a) *A school may plan for a deficit budget only via the Council's Licensed Deficit scheme, whereby a school may borrow against the collective surplus of balances held by the Council on behalf of schools, in order to set a balanced budget.*
- b) *The following conditions will apply:*
  - i. *The maximum length of a loan will be 3 years.*
  - ii. *The maximum amount borrowed will normally be 5% of the school's budget share unless a greater amount is agreed by the Director of Education, Skills and Learning, on behalf of the Director of Children's Services, and the Council's Chief Financial Officer.*
  - iii. *No more than 20% of the collective surplus of school balances will normally be available for loan, unless a greater proportion is agreed by the Director of Education, Skills and Learning, on behalf of the Director of Children's Services, and the Council's Chief Financial Officer.*
- c) *Schools with external bank accounts seeking licensed deficits would need to provide the Council's Chief Financial Officer with a copy of reconciled bank statements demonstrating the school's current financial position.*
- d) *A school wishing to borrow under this scheme must submit a detailed application in the form required by the Council, stating clearly how the deficit has arisen, what action is being taken to reduce the deficit and how the school will be able to set a balanced budget by the end of the loan term.*
- e) *Interest may be payable on the outstanding balance in accordance Council's General Fund Borrowing rate prevailing at the time.*
- f) *The Council will deduct repayments at source from a school's budget annually.*
- g) *All licensed deficits will be agreed by the Director of Education, Skills and Learning, on behalf of the Director of Children's Services, and the Council's Chief Financial Officer.*
- h) *It is expected that other than in exceptional circumstances applications for licensed deficits will be received in the appropriate format by 1 May of the year for which the licensed deficit is requested. In circumstances where a school requires a budget share advance in order not to be overdrawn at their bank, this should be treated as a cash advance and not a loan. This will have no effect on the school's budget and outturn statements.*
- i) *Schools must submit a recovery plan to the Council when their revenue deficit rises above 5% at 31 March of any year. The 5% deficit threshold will apply when deficits are measured as at 31 March 2026.*



**Charging for School Activities (5.7) (response: 7 Agree, 0 Disagree)**

Add wording to clarify which services schools can charge for: *Schools should have regard to Section 449-462 of the Education Act 1996. This sets out the law on charging for school activities. It covers items such as residential visits, music tuition, transport and voluntary contributions.*

**Income Tax and National Insurance (7.2) (response: 7 Agree, 0 Disagree)**

Additional wording to clarify how payments to non-employees should be made: *Schools cannot make payments to individuals (non-employees) without considering their income tax status; there is a statutory duty to ensure PAYE is operated where applicable. Non compliance will result in the school being liable to penalties imposed by HM Revenue and Customs. If any member of staff employed by the school or LA in connection with extended services facilities at the school is paid from funds held in a schools own bank account, the school is likely to be held liable for payment of income tax and National Insurance, in line with H M Revenue and Customs rules, just as for any other employee. Schools must be proactive in determining the employment status of any person engaged to supply goods or services to the school. The (CEST) tool is available at <https://www.gov.uk/guidance/check-employment-status-for-tax>*

**Liability of Governors (11.2) (response: 7 Agree, 0 Disagree)**

Additional wording to clarify “good faith” context regarding personal liability: *In this context “good faith” refers to contracts entered into honestly and with no ulterior motive: an example of behaviour which is not in good faith is the carrying out of fraudulent acts.*

**Insurance Cover (Section 10) (response: 6 Agree, 1 Disagree)**

The whole section to be removed and replaced with the following to reflect the introduction of the Risk Protection Arrangement (RPA):

**10.1 Insurance Cover**

- a) *Since April 2020, the Department for Education’s Risk Protection Arrangement (RPA) has been the principal insurance mechanism for maintained schools and academies. The RPA provides cover broadly equivalent to traditional insurance and includes property damage, employer’s and public liability, legal expenses and other standard protections.*
- b) *The Council no longer provides a collective insurance scheme for schools. However, the following minimum standards are retained for reference where a school is not eligible for, or has opted out of, the RPA, and instead maintains commercial insurance.*
- c) *Such schools must provide annual evidence of cover (e.g. policy schedule or certificate of insurance) to confirm that their arrangements meet or exceed the following minimum levels:*
  - *Employer’s Liability: £25 million*
  - *Public Liability: £25 million (including volunteers and governors)*
  - *Libel/Slander: £1 million*
  - *Personal Accident: Death benefit at 5 x annual salary (minimum £35,000), scaled for injury; governors up to £50,000; volunteers up to £10,000*
  - *Fidelity Guarantee: Cover for school and PTA funds against employee fraud or dishonesty*
  - *Property: Reinstatement basis for insured perils*
  - *Engineering: Damage to plant, machinery, or sudden/unforeseen failure*
  - *Cash: Sums insured as appropriate to cash holdings*

*Schools may also purchase additional coverage where necessary according to their specific risks.*



## **10.2 Additional Cover**

- a) *The RPA does not include insurance for Motor Vehicles. Schools that operate minibuses or other vehicles must arrange separate comprehensive motor cover through a commercial insurer or broker.*
- b) *Optional cover (for schools not in the RPA or with additional needs):*
  - *Loss of Revenue/Hirings: Loss of income following insured damage*
  - *School Journey/Travel Cover: For pupils and accompanying staff on school trips*
  - *Personal Accident (Pupils): During school or offsite activities*
  - *Balance of Risks: For buildings/contents not covered by RPA (if opted out)*

## **10.3 Administration and Evidence of Cover**

- a) *Schools participating in the RPA are not required to submit evidence to the Council, as membership is confirmed via the DfE.*
- b) *Schools outside of the RPA must provide copies of insurance schedules and certificates annually, no later than 1 February prior to renewal.*
- c) *The Council will maintain oversight only to ensure that such schools meet the required minimum standards of cover.*



