



Department
for Education

Changes to the criteria for agreeing loan schemes

Government consultation

Launch date 24 March 2017

Respond by 21 April 2017

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Introduction

The Department for Education is seeking views on a proposed directed revision to section 4.10 (Loan Schemes) of the [Scheme for financing schools](#) guidance. Local authorities are required to publish schemes for financing schools setting out the financial relationship between them and the schools they maintain. The scheme for financing schools guidance lists the provisions that a local authority's scheme must, should or may include. We are also proposing to make a related revision to section 8.1 of the [Treatment of surplus and deficit balances when maintained schools become academies](#) guidance note for schools and local authorities.

Who this is for

- Chief finance officers and finance officers at local authorities
- Governors and school leaders, particularly of maintained schools which are planning to convert to academies
- Chairs and clerks of schools forums
- Diocesan representatives
- Other interested parties

Issue date

The consultation was issued on 24 March 2017.

Enquiries

If your enquiry is related to the policy content of the consultation you can contact the team via email:

loanschemes.consultation@education.gov.uk

If your enquiry is related to the DfE e-consultation website or the consultation process in general, you can contact the DfE Ministerial and Public Communications Division by email: Consultations.Coordinator@education.gov.uk or by telephone: 0370 000 2288 or via the [DfE Contact us page](#).

Additional copies

Additional copies are available electronically and can be downloaded from [GOV.UK DfE consultations](#).

The response

The results of the consultation and the Department's response will be [published on GOV.UK](#) in spring 2017.

About this consultation

This consultation document makes two proposals:

- Clarifying the purpose of loan schemes and distinguishing them from licensed deficits via a directed revision to the scheme for financing schools guidance.
- Making a related change to the treatment of loans when a maintained school converts to academy status.

Respond online

To help us analyse the responses please use the online system wherever possible. Visit www.education.gov.uk/consultations to submit your response.

Other ways to respond

If for exceptional reasons, you are unable to use the online system, for example because you use specialist accessibility software that is not compatible with the system, you may download a word document version of the form and email it or post it.

By email

- loanschemes.consultation@education.gov.uk

By post **AMSG:**

Funding Division
Level 4
Department for Education
Great Smith Street
London
SW1P 3BT

Deadline

The consultation closes on 21 April 2017.

Proposal 1 - Criteria for agreeing loan schemes

Background

Local authorities are required to have a [scheme for financing schools](#), setting out the financial relationship they have with their maintained schools. We publish statutory guidance setting out the detail of what schemes must, should or may contain. This includes provision for authorities to operate an internal loan scheme (section 4.10). Its original purpose was to allow internal arrangements within the authority that would enable schools to spread the cost of large one-off items of expenditure, particularly capital items, over more than one year to make these more affordable. It was not intended as a means to support schools in general financial difficulty, which is covered separately under section 4.9 of the guidance.

Proposal and rationale

We are aware that some authorities are now using or considering using, loans in place of licensed deficits. As our guidance states that loan liabilities will normally transfer to academies on conversion, this may be a way round the requirement that deficits of schools which become sponsored academies revert to the local authority.

We are therefore proposing a directed revision to the scheme guidance to clarify the purpose of loan schemes and distinguish them from licensed deficits. The guidance would state that new loans must only be approved to assist schools in spreading the cost over more than one year of large one-off individual items of capital expenditure. These must also have a benefit to the school lasting more than one financial or academic year.

The current guidance for schemes for financing schools states:

4.10 Loan schemes

It is open to an authority to include in its scheme a form of loan arrangement for schools which 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 loans 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.

We propose making a directed revision to local authorities' schemes, inserting the new wording:

“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.”

Other wording on loan schemes may vary from scheme to scheme, but the overall effect of the new wording is illustrated below.

4.10 Loan schemes

It is open to an authority to include in its scheme a form of loan arrangement for schools which 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 must appear in the scheme as listed at 4.9 above for licensed deficits. **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 capital¹ 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.**

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.

¹ The Prudential Code provides a professional code of practice to support local authorities in taking their decisions. The Prudential Code does not itself define capital expenditure. There are in fact three routes by which expenditure can qualify as capital under the framework:

1. The expenditure results in the acquisition of, or the construction of, or the addition of subsequent costs to noncurrent assets (tangible and intangible) in accordance with 'proper practices' Section 16 of the Local Government Act.
2. The expenditure meets one of the definitions specified in regulations made under the Act.
3. The Secretary of State makes a direction that the expenditure can be treated as capital expenditure.

Proposal 2 – Treatment of loans when maintained schools become academies

Background

We have published [guidance on the treatment of surpluses and deficits](#) when a maintained school becomes an academy. The guidance includes our expectation that an academy will continue to repay loans made by the local authority to its predecessor maintained school under an internal scheme. Paragraph 8.1 of the guidance states:

“The Department would expect that the liability to repay a loan made by the LA to a maintained school (which is technically an advance of funding from the LA) would normally transfer to the academy, which would continue repayments from its revenue budget on the previously agreed schedule, unless the LA and school agree to liquidate the loan and pay it off at the point of transfer. The transfer of responsibility for the loan should be reflected in a legal agreement between the LA and the AT, either by amending the Commercial Transfer Agreement (CTA) or in a separate agreement. Any current loan repayments a maintained school has to make will need to be checked for their affordability alongside the repayment of any deficit at the point of conversion. The Department will not recognise as a loan any arrangement that is agreed between the LA and a maintained school after the governing body or IEB has made an application to become a sponsored academy or after the school becomes eligible for intervention by the SoS, unless the AT sponsoring the academy has agreed to take on the liability.”

Proposal and rationale

In line with the proposed directed scheme revision in Proposal 1, we intend to add wording on the treatment of loans in paragraph 8.1 of the [Treatment of surplus and deficit balances when maintained schools become academies](#) guidance.

We propose adding to paragraph 8.1:

“The Department will not recognise as a loan any sum that has been provided in order to fund a deficit that has arisen because a school’s recurrent costs exceed its current income.”

Consultation questions

Proposal 1 – Do you agree with the proposal to issue a directed revision to clarify the purpose of loan schemes?

Proposal 2 – Do you agree with the proposal to amend the guidance on the treatment of surpluses and deficits when a maintained school becomes an academy?



Department
for Education

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