

18. School Premises and Capital Investment

School land and buildings are important public assets. Governors have a range of legal and other responsibilities, depending on the category of school, for:

- capital investment;
- building projects; and
- maintaining buildings and land.

VA There are particular provisions which apply to investment at voluntary aided (VA) schools as a consequence of the Education Act 1944, as subsequently amended. These are discussed separately below.

Land and Buildings

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F 1. Community school buildings and land are owned by the local authority (LA). The land at foundation schools is owned by the governing body or trustees. In the case of VA schools, the school buildings and land are usually owned by trustees, although the LA will often own the playing field land.

Capital Funding – 21st Century Schools and Education programme

2. Within the Welsh Government's (WG) 'Programme for Government' a commitment has been given to deliver schools fit for the 21st Century.

3. A process of transitional funding was implemented in 2009-10 to prepare the system for an all-Wales programme of investment. The 21st Century Schools and Education Programme was officially launched in March 2010 and will enable the WG, in partnership with the Welsh Local Government Association (WLGA), to help LAs to improve the schools estate in Wales.

4. The 21st Century Schools and Education Programme represents a significant change from a funding process that was largely allocated on an annual basis (formula) with limited consideration of investment need. The period of transition is in its final phase with the new programme to commence officially in 2014-15 financial year.

5. The Department for Education and Skills now operates a single capital budget and deploys capital monies on a strategic and prioritised basis. There are no allocations made on a formulaic basis, the exception being repair and maintenance funding for the VA schools sector.

6. In addition LAs have their own general capital fund which is unencumbered (not ear-marked for specific purposes) which is provided through the Local Government Revenue Settlement. LAs can also use funding from other sources, including capital receipts and prudential borrowing, to maintain and invest in their buildings and assets.

7. LAs are required to submit proposals in line with the HM Treasury 5 Case Business Model. All LA Strategic Outline Programmes (SOP) for investment in respect of the 21st century schools programme were approved in November 2011 and all major capital works in relation to maintained school buildings will be determined by the individual LA in line with their SOP. If a governing body of a maintained school has concerns regarding the condition or otherwise of their school, they should contact their LA for advice and guidance.

8. Funding for day to day repair and maintenance issues in community maintained schools is provided through the schools delegated budget.

Arrangements for Funding Premises Related Work at Voluntary Aided Schools

9. The VA Schools Capital Grant Programme provides financial assistance for the establishment and capital maintenance of such schools in partnership with the school governors and the LAs. NB all major VA capital projects to include new build and significant refurbishments form an integral part of the 21st Century Schools programme and these projects will be delivered in partnership with the respective LA.

10. Responsibility for the provision, repair and maintenance of a VA School is shared between the school governors and the LA. The Governors are responsible for the external fabric of the school. The LA is responsible for the repair and maintenance and for the initial provision of the kitchen, dining hall, medical inspection room, caretaker's house and playing fields. Under paragraph 5 of Schedule 3 of the School Standards and Framework Act 1998, the WG has the power to grant aid up to 85% of the costs of the governors approved expenditure, with the governors themselves required to meet the remaining 15%.

Proceeds from Sale of Assets: Voluntary Aided Schools

VA 11. The arrangements for dealing with sale proceeds released as a result of a building project funded by capital grant are set out in the Education (Grants in respect of Voluntary Aided Schools) Regulations 1999.

VA 12. The above Regulations determine the grant paid for certain types of expenditure, and in particular provide for the net proceeds of sale to be taken into account in determining the grant to be paid to a governing body where that is expected to become available to it. This policy applies in all cases where proceeds accrue, or are expected to become available, to the trustees, governing body or promoters.

Value Added Tax (VAT)

VA 13. The WG cannot give guidance on matters relating to liability for value added tax (VAT) on investment or building projects. In all cases advice should be sought from HM Revenue & Customs.

Education (School Premises) Regulations

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14. LAs must ensure that maintained schools in Wales comply with the Education (School Premises) Regulations 1999. The current regulations, which came into force on 1 February 1999, set minimum standards for the premises of all existing and new schools maintained by an LA in Wales that is, to community, community special, foundation, foundation special and voluntary schools.

15. Minimum areas of team game playing fields must be provided in schools with pupils over the age of eight years. This applies to all maintained schools, including special schools, with pupils over the age of eight years but does not apply to pupil referral units. It should be borne in mind that the minimum requirements for the provision of team game playing fields are just that – the minimum requirement. They are not a target to which existing team game playing fields should be reduced.

16. Team game playing fields are defined as “playing fields which, having regard to their configuration, are suitable for the playing of team games and which are laid out for that purpose”. They may include hard games courts, tennis courts, grass and all-weather artificial pitches. Playgrounds may also be considered to be team game playing fields, provided that they are set out for team games, that is:

- netball;
- basketball;
- tennis;
- five-a-side soccer;
- hockey;
- volleyball;
- rounders; or
- other team games normally played on marked out pitches or courts.

17. Playgrounds or other play areas that include play equipment do not count as team game playing fields. Team game playing fields need not be grass. However, the grassed part of any team game playing fields must be capable of sustaining the playing of team games by pupils at each school for seven hours per week per school during term time. Rotation to allow grass to recover may mean that the markings of team game pitches require adjustment from time to time.

18. The responsibility for ensuring that a school complies with the minimum statutory team game requirement rests with the school’s maintaining LA. In cases where the minimum standards cannot be met, the maintaining LA will need to make an application to the Welsh Ministers to relax the statutory requirement.

Planning to Increase Access to Schools for Disabled Pupils

19. Part 6 of, and Schedule 10 to, the Equality Act 2010 (formerly this duty was set out in Part 4 of the Disability Act 1995) contains a number of duties on LAs and school governing bodies in relation to accessibility for disabled pupils. LAs must have an accessibility strategy which will set out over a period how it will:

- increase the extent to which disabled pupils can participate in the school's curriculum;
- improve the physical environment of the school for the purpose of increasing the extent to which disabled pupils are able to take advantage of education and benefits, facilities or services provided or offered by the schools; and
- improve the delivery to disabled pupils of information which is readily accessible to non-disabled pupils

LAs and school governing bodies must also have an accessibility plan setting out how over a period it will achieve the same objects.

The above duties came into force in October 2010.

Useful Resources for Further Information

The Law

The Education Act 2002

The Education and Inspections Act 2006

The School Standards and Framework Act 1998 – Schedules 3, 6, 8 and Schedule 22

The Education (School Premises) Regulations 1999: SI 1999/0002

The Equality Act 2010

Guidance

Capital Funding and 21st Century Schools and Education guidance on WG website, Voluntary Aided Schools Capital Grant Programme – A Guide for Governors

Disability Discrimination Act – Planning to Increase Access to Schools for Disabled Pupils Circular 15/2004

Wales Office Circular 15/99 – The 1999 School Premises Regulations

Her Majesty's Revenue & Customs (HMRC): www.hmrc.gov.uk

The HMRC VAT National Advice Service handles general telephone enquiries on 0845 010 9000. Written queries can be sent to:

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