

SCHEDULE 3

Regulation 5

CLASSES OR DESCRIPTIONS OF PLANNED EXPENDITURE WHICH MAY BE DEDUCTED FROM THE SCHOOLS BUDGET OF A LOCAL EDUCATION AUTHORITY

Expenditure of a class or description referred to in this Schedule includes expenditure on associated administrative costs and overheads.

Expenditure to support grants

1.—(1) Expenditure (other than expenditure incurred in connection with any other paragraph of this Schedule or any paragraph of Schedule 1) which the authority is obliged to incur as a condition of a specific grant paid to the authority and which is taken into account in determining the amount of such specific grant.

(2) Any amount which the authority is obliged to make available as a condition of grant paid under section 14 of the 2002 Act or under section 484 of the 1996 Act and which is taken into account in determining the amount of such grant, decisions regarding the expenditure of which are delegated to the governing body of a maintained school.

Excellence in Cities

2. Expenditure pursuant to a partnership agreement (under the Excellence in Cities and Excellence Clusters programmes) made between the authority, the Secretary of State and one or more of the authority's schools.

Performance Reward Grant

3. Expenditure, not falling within any other paragraph of this Schedule or any paragraph of Schedule 1, which the authority propose to meet from grant made under section 31 of the Local Government Act 2003 to reward local authorities for improvements in local services.

Special educational provision

4. Subject to paragraphs 5 and 6, expenditure in making the provision specified in a pupil's statement of special educational needs except where the pupil is—

- (a) a registered pupil at a special school maintained by the authority; or
- (b) a registered pupil at a primary or secondary school maintained by the authority who occupies one of a number of places at that school which are recognised by the authority as being reserved for children with special educational needs.

5. Where a pupil falls within paragraph 4(a) or (b) and the cost of the provision specified in the pupil's statement of special educational needs is significantly greater than that for the generality of pupils at the special school, or occupying the places at the primary or secondary school in question, the amount by which the expenditure incurred in making the provision specified in his statement of special educational needs is greater than that incurred in making provision for a pupil who falls within such generality of pupils.

6. Expenditure in making the provision specified in a pupil's statement of special educational needs where the pupil falls within paragraph 4(b) but the places which are recognised by the authority as being reserved for children with special educational needs are for such pupils with visual, hearing, speech or language impairments or other communication disorder.

7. Expenditure in respect of specialist support provided to assist the governing bodies of schools in meeting the particular needs of pupils with statements of special educational needs or who

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are within the scope of School Action Plus as described in the Code of Practice⁽¹⁾ issued under section 313 of the 1996 Act (being expenditure that it would be inappropriate to expect to be met from the school's budget share).

8. Expenditure for purposes connected with the encouragement of—

- (a) collaboration between special schools and primary and secondary schools to enable children with special educational needs to engage in activities at primary and secondary schools;
- (b) the education of children with special educational needs at primary and secondary schools; and
- (c) the engagement of children with special educational needs at primary and secondary schools in activities at the school with children who do not have special educational needs (being expenditure that it would be inappropriate to expect to be met from the school's budget share).

9. Expenditure in relation to education otherwise than at school under section 19 of the 1996 Act or in relation to a pupil referral unit as defined in that section.

10. Expenditure (other than expenditure incurred under Schedule 1 or any other paragraph of this Schedule) incurred on services required to implement a plan setting out the arrangements made, or proposed to be made, by the authority in connection with the education of children with behavioural difficulties under section 527A of the 1996 Act and on other activities for the purpose of avoiding the exclusion of pupils from schools.

11. Expenditure on the payment of fees in respect of pupils with special educational needs—

- (a) at independent schools or at special schools which are not maintained by a local education authority under section 348 of the 1996 Act; or
- (b) at an institution outside England and Wales under section 320 of the 1996 Act.

12. Expenditure on payments to another local education authority pursuant to section 493 or 494 of the 1996 Act or section 207 of the 2002 Act (recoupment between authorities).

Access to education

13. Expenditure on the administration of the system of admissions of pupils to schools (including expenditure incurred in carrying out consultations under section 89(2) of the 1998 Act and in establishing, maintaining and consulting representative bodies for the purposes of admissions) and in relation to appeals, provided that, except where the governing body have agreed with the authority that this proviso should not apply to them or where the authority are satisfied that factors or criteria in their formula already make suitable provision, the authority shall—

- (a) allocate to each governing body who are an admission authority, as defined in section 88(1) of the 1998 Act, an amount determined by the authority as that reasonably required by the governing body to meet expenditure incurred in connection with the system of admissions of pupils to the school and any appeals, taking into account any factors or criteria in their formula which relate to such arrangements, and
- (b) allow the governing body to determine how such amount should be spent for that purpose.

14. Expenditure incurred in connection with the authority's functions under section 85A of the 1998 Act (the establishment and maintenance of, and consultation with, admission forums).

15. Expenditure on milk, meals and other refreshment pursuant to section 512, 512ZA, 512ZB or 513 of the 1996 Act falling within the following categories—

(1) The Special Educational Needs Code of Practice (ISBN 1 84185 5294).

- (a) expenditure in respect of meals at any primary or special school which is not a former grant-maintained or grant-maintained special school, unless the governing body have elected to receive funding for meals as part of their school's budget share;
- (b) expenditure in respect of meals at any former grant-maintained primary or special school where the governing body have elected not to receive funding for meals as part of their school's budget share;
- (c) expenditure in respect of milk at any school which is not a former grant-maintained or grant-maintained special school;
- (d) expenditure in respect of milk at any former grant-maintained or grant-maintained special school where the provision of that milk attracts a subsidy from the European Union; and
- (e) expenditure in respect of milk or meals at any pupil referral unit or any maintained nursery school.

16. Expenditure on the repair and maintenance of a school kitchen where expenditure on meals in relation to the school concerned is deducted from the authority's schools budget pursuant to paragraph 15.

17. Expenditure on determining the eligibility of a pupil for free school meals.

18. Expenditure pursuant to section 18 of the 1996 Act in making any grant or other payment in respect of fees or expenses (of whatever nature) which are payable in connection with the attendance of pupils at a school which is not maintained by any local education authority.

Staff

19. Expenditure in making payments to, or in providing a temporary replacement for, a woman on maternity leave or to a person on adoption leave.

20. Expenditure in making payments to, or in providing a temporary replacement for, persons—

- (a) carrying out trade union duties or undergoing training under section 168 of the Trade Union and Labour Relations (Consolidation) Act 1992⁽²⁾;
- (b) taking part in trade union activities under section 170 of the Trade Union and Labour Relations (Consolidation) Act 1992;
- (c) performing public duties under section 50 of the Employment Rights Act 1996⁽³⁾;
- (d) undertaking jury service;
- (e) who are safety representatives under the Safety Representatives and Safety Committee Regulations 1977⁽⁴⁾;
- (f) who are representatives of employee safety under the Health and Safety (Consultation with Employees) Regulations 1996⁽⁵⁾;
- (g) who are employee representatives for the purposes of Chapter II of Part IV of the Trade Union and Labour Relations (Consolidation) Act 1992 as defined in section 196 of that Act or regulations 10 and 11 of the Transfer of Undertakings (Protection of Employment) Regulations 1981 as defined in regulation 11A of those Regulations⁽⁶⁾;
- (h) taking time off for ante-natal care under section 55 of the Employment Rights Act 1996;

(2) 1992 c. 52.

(3) 1996 c. 18.

(4) S.I. 1977/500, amended by S.I. 1996/1513 and 1999/860.

(5) S.I. 1996/1513.

(6) S.I. 1981/1794; regulation 11A was inserted by S.I. 1995/2587 and amended by S.I. 1999/1925.

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- (i) undertaking duties as members of the reserve forces as defined in section 1(2) of the Reserve Forces Act 1996⁽⁷⁾;
- (j) suspended from working at a school;
- (k) who are members of the General Teaching Council for England or a committee thereof; or
- (l) who are appointed learning representatives of trade unions, in order for them to analyse training requirements or to provide or promote training opportunities, and to carry out consultative or preparatory work in connection with such functions.

21. Expenditure on Advanced Skills Teachers undertaking outreach work in schools other than that in which they are normally based.

22. Expenditure in making payments to, or in providing a temporary replacement for, a person who is seconded on a full-time basis for a period of three months or more other than to a local education authority or the governing body of a school.

23. Expenditure in making payments to, or in providing a temporary replacement for, persons who have been continuously absent from work because of illness for 21 days or more.

24. Expenditure, not falling within Schedule 1, in relation to the recruitment, training, continuing professional development, performance management and personnel management of staff who are funded by expenditure not met from schools' budget shares.

Other expenditure

25. Expenditure in connection with the provision of nursery education except where such provision is made at a maintained school, unless that school is a maintained nursery school which will cease to be maintained on or before 31st August 2004.

26. Expenditure on insurance in respect of liability arising in connection with schools and school premises except to the extent that governing bodies have elected to receive funding for insurance as part of their schools' budget shares.

27. Expenditure on services to schools provided by museums and galleries.

28. Expenditure on library services for primary and special schools, other than for schools which received funding for library services as part of their budget shares for the financial year beginning on 1st April 1999 to the extent that their governing bodies have elected to receive funding for those same library services as part of their schools' budget shares for the financial year beginning on 1st April 2004, and provided that the authority—

- (a) notify the governing body of each school, which does not receive funding for library services in its budget share, of the share of the amount retained by the authority in respect of library services which is attributable to that school; and
- (b) allow the governing body to determine whether expenditure retained by the authority in respect of their school is to be spent by the authority in providing library services to the school themselves or in procuring that library services are provided to the school by another local authority.

29. Expenditure on licence fees or subscriptions paid on behalf of schools.

30. Expenditure incurred in connection with the authority's functions under section 47A⁽⁸⁾ of the 1998 Act (the establishment and maintenance of, and consultation with, schools forums).

31. Expenditure without which the education of pupils at a school would be seriously prejudiced and which because of either—

(7) 1996 c. 14.

(8) Section 47A was inserted by section 43 of the 2002 Act.

- (a) its size and unexpectedness; or
- (b) its size and unavailability,

it would not be reasonable to expect the governing body to meet from the school's budget share.

32.—(1) Expenditure on allocations to the governing body of a school in financial difficulty provided that the authority —

- (a) consult the schools forum on their arrangements for the implementation of such support;
- (b) make allocations to schools which are either:
 - (i) expected to have a revenue deficit by 31st March 2005 or 31st March 2006 without such support; or
 - (ii) are otherwise in financial difficulty in the years beginning 1st April 2003 or 1st April 2004

provided that no allocations are made under (ii) unless the LEA believes that it has taken reasonable steps to allocate funds under (i) to the extent required;

- (c) make provision to monitor the use of the increase and the governing body's progress towards a balanced budget; and
- (d) distribute to schools the unallocated balance of any such retained amount on the basis of pupil numbers in accordance the arrangements put in place under regulation 8(1) or (3) of the Financing of Maintained School (England) Regulations 2003⁽⁹⁾.

(2) For the purposes of paragraph (1), a school is in financial difficulty if, in the opinion of the authority, cost pressures at the school for the year in question have resulted or will result in higher expenditure than the resources otherwise available to the governing body.

33. Expenditure on increases to a school's budget share to which the school is entitled by virtue of the authority's formula or the determination (or redetermination) of budget shares in accordance with the approval of the Secretary of State or expenditure on the correction of errors.

34. Expenditure for purposes not falling within any other paragraph of this Schedule, provided that the expenditure does not amount in total to more than 0.1 per cent of the authority's schools budget.

35. CERA incurred for purposes not falling within any other paragraph of this Schedule or Schedule 1.

⁽⁹⁾ SI 2003/453.