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STATUTORY INSTRUMENTS

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**2011 No. 371**

**The School Finance (England) Regulations 2011**

**PART 2**

Action to be Taken by a Local Authority

**CHAPTER 1**

Appropriation of the Non-Schools Education Budget

**The Non-Schools Education Budget**

**3.** The following classes or descriptions of local authority expenditure are prescribed for the purposes of section 45A(1) of the 1998 Act and the determination of a local authority's non-schools education budget, subject to the exceptions in regulation 6—

- (a) those specified in Schedule 1; and
- (b) any expenditure which falls outside the classes or descriptions of expenditure specified in regulation 5 and Schedule 2 (the schools budget).

**CHAPTER 2**

Determination of Schools Budgets, Individual Schools Budgets, and Budget Shares

**Initial determination of a local authority's schools budget**

- 4.** A local authority must not later than 31st March 2011—
- (a) make an initial determination of their schools budget; and
  - (b) give notice of that determination to the governing bodies of the schools they maintain.

**The schools budget**

**5.—(1)** The classes or descriptions of local authority expenditure specified in sub-paragraphs (a) to (d) and Schedule 2 are prescribed for the purposes of section 45A(2) of the 1998 Act and the determination of a local authority's schools budget, subject to paragraph (2) and the exceptions in regulation 6—

- (a) expenditure on the provision and maintenance of maintained schools and on the education of pupils registered at maintained schools;
- (b) expenditure on the education of pupils at independent schools, non-maintained special schools, pupil referral units, at home or in hospital, and on any other arrangements for the provision of primary and secondary education for pupils otherwise than at schools maintained by a local authority;
- (c) all other expenditure incurred in connection with the authority's functions in relation to the provision of primary and secondary education, in so far as that expenditure does not fall within sub-paragraph (a) or (b); and

- (d) expenditure on early years provision, in so far as that expenditure does not fall within subparagraph (a), (b) or (c).

(2) Where a local authority operates a combined service for the benefit of pupils referred to in paragraph (1), expenditure referred to in paragraph 37(c) of Schedule 2 is only expenditure prescribed for the purposes of section 45A(2) of the 1998 Act and the determination of a local authority's schools budget where that expenditure is incurred in providing an educational benefit to those pupils.

### **Exceptions**

6. A local authority's non-schools education budget or schools budget must not include the following classes or descriptions of expenditure—

- (a) capital expenditure, other than—
  - (i) CERA,
  - (ii) capital expenditure appropriated to the schools budget for the purpose of funding pay arrears due to staff whose salaries are met from the schools budget;
- (b) expenditure on capital financing, other than expenditure incurred—
  - (i) on prudential borrowing,
  - (ii) for the purpose of meeting the costs of financing the payment of pay arrears referred to in paragraph (a)(ii); and
- (c) expenditure for the purposes of section 26 of the Road Traffic Regulation Act 1984<sup>(1)</sup> (arrangements for patrolling school crossings).

### **Determination of the individual schools budget for the funding period and limit on increase in central expenditure**

7.—(1) Subject to paragraphs (2) to (4), not later than 31st March 2011, a local authority must deduct from their schools budget such of the classes or descriptions of planned expenditure set out in Schedule 2 (“the central expenditure”) as they propose to deduct, in order to determine their individual schools budget.

- (2) In deducting the central expenditure under paragraph (1), a local authority must ensure that—
  - (a) where the authority's schools budget increases from the previous funding period to the funding period, the percentage of any increase in the central expenditure does not exceed the percentage of the increase in the schools budget,
  - (b) where the authority's schools budget decreases from the previous funding period to the funding period, the central expenditure decreases and that the percentage of the decrease is not less than the percentage of the decrease in the schools budget,

unless they obtain authorisation to exceed these limits from their schools forum under regulation 13(1)(a) or the Secretary of State under regulation 13(3).

(3) In deducting the central expenditure referred to in paragraph 37 of Schedule 2, a local authority must not exceed the limit referred to in that paragraph, unless they obtain authorisation to do so from their schools forum under regulation 13(1)(c) or the Secretary of State under regulation 13(3).

(4) Where a local authority carries forward a deficit in the central expenditure from the previous funding period to the funding period, which reduces the amount of the schools budget available,

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(1) 1984 c.27. Section 26 was amended by section 8 of, and Schedule 5 to, the Local Government Act 1985 (c.51), sections 288 and 423 of, and Schedule 34 to, the Greater London Authority Act 1999 (c.29) and sections 270 and 274 of, and Schedule 31 to, the Transport Act 2000 (c.38).

the funding of this deficit from the schools budget must be authorised by their schools forum under regulation 13(1)(d) or the Secretary of State under regulation 13(3).

(5) References to planned expenditure in this regulation are references to that expenditure net of—

- (a) all related specific grants;
- (b) all related fees, charges and income; and
- (c) any funding received from the Secretary of State in respect of PFI scheme unitary payments.

(6) For the purposes of this regulation, a local authority must adjust the schools budget for the previous funding period to include any mainstreamed grant.

### **Consultation**

**8.—**(1) A local authority may make changes to the formulae they have used in the financial years beginning 1st April 2008, 1st April 2009 and 1st April 2010.

(2) Subject to paragraph (3), a local authority must consult their schools forum about any proposed changes under paragraph (1), in relation to the factors and criteria taken into account, and the methods, principles and rules adopted.

(3) Paragraph (2) does not apply to changes made relating to matters referred to in regulation 20 (sixth form funding) or 23 (excluded pupils).

### **Formulae for determination of budget shares etc**

**9.—**(1) A local authority must, before the beginning of the funding period and after consulting their schools forum about the matter, decide upon the formula which they will use to determine and redetermine the budget shares for schools maintained by them (other than nursery schools).

(2) Subject to paragraph (3), a local authority must use the formula determined under paragraph (1) in all determinations and redeterminations of school budget shares in respect of the funding period.

(3) A local authority must, before the beginning of the funding period and after consulting their schools forum about the matter, decide upon the formula they will use to determine and redetermine—

- (a) the budget shares for nursery schools maintained by them;
- (b) the amounts to be allocated in respect of nursery classes in schools maintained by them;
- (c) the amounts to be allocated to relevant early years providers in their area.

(4) A local authority may not make changes to their formulae after the funding period has commenced.

### **Determination of allocation of budget shares etc for the funding period**

**10.—**(1) Not later than 31st March 2011, a local authority must determine—

- (a) the budget share for each of the schools maintained by them (other than nursery schools), using the formula referred to in regulation 9(1); and
- (b) the budget share for each of the nursery schools maintained by them, the amount to be allocated in respect of each nursery class in schools maintained by them and the amount to be allocated to each relevant early years provider in their area, using the formula referred to in regulation 9(3),

in accordance with Part 3 of these Regulations.

(2) Not later than 31st March 2011, a local authority must give notice of each budget share or amount determined under paragraph (1) to the governing body of the school or the relevant early years provider concerned.

### **Delegated budgets for new schools**

**11.**—(1) A new school must have a delegated budget from the appropriate date.

(2) Subject to paragraphs (3) and (6), the appropriate date is either—

- (a) the date which is fifteen calendar months before the opening date of the new school; or
- (b) the date upon which a temporary governing body is constituted for that school,

whichever is the later.

(3) On the application of a local authority, their schools forum may—

- (a) vary the appropriate date to a date proposed by the authority;
- (b) vary the appropriate date to a different date; or
- (c) refuse to vary the appropriate date.

(4) Where—

- (a) a schools forum—
  - (i) vary the appropriate date to a different date, or
  - (ii) refuse to vary the appropriate date; or
- (b) a local authority are not required to establish a schools forum for their area<sup>(2)</sup>,

the authority may make an application to the Secretary of State for variation of the appropriate date.

(5) On the application of a local authority, the Secretary of State may—

- (a) vary the appropriate date to a date proposed by the authority;
- (b) vary the appropriate date to a different date.; or
- (c) refuse to vary the appropriate date.

(6) A local authority must determine the amount of a new school's delegated budget for the period from the appropriate date to the opening date as an amount which is sufficient to fund the appointment of staff and to enable the purchase of any goods and services necessary in order to admit pupils.

(7) After the opening date, a school's delegated budget must be determined in accordance with the local authority's formula.

## **CHAPTER 3**

### **Redetermination of Schools Budgets, Individual Schools Budgets and Schools' Budget Shares**

#### **Redetermination of schools budgets and individual schools budgets**

**12.**—(1) Subject to paragraph (2), a local authority may redetermine their schools budget and individual schools budget at any time before or during the funding period.

(2) In making any redetermination under paragraph (1), a local authority—

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(2) Section 47A(2) of the 1998 Act provides that the requirement in section 47A(1) of that Act to establish a schools forum for their area does not apply to the Common Council of the City of London or the Council of the Isles of Scilly.

- (a) may only reduce the amount of their schools budget where they receive an amount of Dedicated Schools Grant which is lower than the amount on which they based their determination under regulation 7;
  - (b) must not reduce their individual schools budget by making further deductions of central expenditure from their schools budget unless they obtain authorisation to do so from their schools forum under regulation 13(1)(b) or the Secretary of State under regulation 13(3);
  - (c) must comply with the limits referred to in paragraph 37 of Schedule 2 and imposed by regulation 7(2) unless they obtain authorisation to vary those limits from their schools forum under regulation 13(1)(c) or the Secretary of State under regulation 13(3).
- (3) Before the beginning of the funding period, a local authority must advise schools of any circumstances they are aware of which make it likely that a redetermination will be made in respect of the funding period, and the nature of any redetermination likely to be made in particular circumstances.
- (4) Where a local authority makes a redetermination under paragraph (1), they must give notice of that redetermination to the governing bodies of the schools maintained by them within 28 days of making the redetermination.

## CHAPTER 4

### Further Deductions and Variations to Limits Authorised by Schools Forums or the Secretary of State

#### **Applications to the schools forum and the Secretary of State**

**13.**—(1) Subject to paragraph (2), on the application of a local authority, their schools forum may authorise—

- (a) the making of further deductions from their schools budget of any central expenditure under regulation 7(1), in excess of the limit imposed by regulation 7(2);
- (b) the reduction of their individual schools budget by making further deductions of central expenditure from their schools budget under regulation 12(1), pursuant to regulation 12(2)(b);
- (c) the varying of any limit referred to in paragraph 37 of Schedule 2; or
- (d) the funding of any deficit in their central expenditure from the schools budget under regulation 7(4).

(2) Where—

- (a) a schools forum does not authorise any of the matters referred to in paragraph (1); or
- (b) a local authority are not required to establish a schools forum for their area,

the authority may make an application to the Secretary of State for such authorisation.

(3) On the application of a local authority under paragraph (2), the Secretary of State may authorise the matters referred to in paragraph (1).