
STATUTORY INSTRUMENTS

2015 No. 2033

**The School and Early Years Finance
(England) Regulations 2015**

PART 3

Determination of Budget Shares etc

CHAPTER 1

Requirements, and Factors and Criteria Taken into Account

Special arrangements for pupils in maintained nursery schools and nursery classes and for children receiving relevant early years provision, exempt early years provision and community early years provision

16.—(1) Subject to paragraphs (5) and (6), in determining—

- (a) budget shares for nursery schools maintained by it;
- (b) amounts to be allocated in respect of nursery classes in schools maintained by it;
- (c) amounts to be allocated to relevant early years providers in its area;
- (d) amounts to be allocated to exempt early years providers in its area; and
- (e) amounts to be allocated in respect of community early years provision in schools maintained by it,

a local authority must take into account in its formula the predicted total number of hours of attendance of pupils or children, basing the calculation on the most recent data available about the actual numbers of pupils or children.

(2) When further information about hours of attendance becomes available a local authority must—

- (a) review the budget share for each maintained nursery school, the amount allocated in respect of each nursery class and the amount allocated in respect of community early years provision; and
- (b) redetermine that budget share or amount allocated, as the case may be.

(3) When carrying out a review and redetermination under paragraph (2) the local authority must—

- (a) in the case where the local authority decides to fund only prescribed early years provision, take into account—
 - (i) the predicted total number of hours of attendance of pupils in the nursery school or nursery class, and of children being provided community early years provision, who will receive prescribed early years provision during the period (basing the calculation on the actual hours of such attendance in each of at least three sample weeks); or
 - (ii) the actual total number of hours of such attendance for the period;

- (b) in the case where the local authority decides to fund early years provision in excess of that which is prescribed, take into account—
- (i) the predicted total number of hours of attendance of pupils in the nursery school or nursery class, and of children being provided community early years provision, who will receive early years provision during the period (basing the calculation on the actual hours of such attendance in each of at least three sample weeks); or
 - (ii) the actual total number of hours of such attendance for the period.
- (4) When further information about hours of attendance becomes available, a local authority must—
- (a) review the amount allocated to each relevant early years provider and exempt early years provider; and
 - (b) redetermine the amount allocated.
- (5) When carrying out a review and redetermination under paragraph (4) the local authority must take into account—
- (a) the predicted total number of hours of attendance of children who will receive prescribed early years provision from the relevant early years provider, or exempt early years provision from the exempt early years provider, as the case may be, during the period (basing the calculation on the actual hours of such attendance in each of at least three sample weeks); or
 - (b) the actual total numbers of hours of such attendance for the period.
- (6) Within 28 days of making any redetermination under paragraph (2) or (4), the local authority must give notice of the redetermination and the date on which it will be implemented to the governing body of the school, the relevant early years provider, or the exempt early years provider concerned.
- (7) When making determinations under this regulation, a local authority may weight the predicted total number of hours of attendance of pupils or children, according to the special educational needs of any such pupils or children.
- (8) When determining—
- (a) budget shares for nursery schools maintained by it;
 - (b) amounts to be allocated in respect of nursery classes in schools maintained by it;
 - (c) amounts to be allocated to relevant early years providers in its area;
 - (d) amounts to be allocated to exempt early years providers in its area;
 - (e) amounts to be allocated in respect of community early years provision in schools maintained by it,
- a local authority may take into account in its formula the number of places it wishes to fund in the school, class or provider (instead of the predicted total number of hours of attendance), where the authority has reserved those places for children with special educational needs or children in need.
- (9) In paragraph (8) “children in need” means children in respect of whom the local authority in whose area they reside must provide a range of services appropriate to their needs under section 17 of the 1989 Act.
- (10) A local authority must include in the amount to be allocated to each early years provider in its area which has one or more children eligible for the early years pupil premium an amount equivalent to 53 pence per eligible child for each hour of early years provision that the child receives, up to a maximum of 570 hours.
- (11) A child is eligible for early years pupil premium if the child—
- (a) is three or four years old;

- (b) receives at least one hour of prescribed early years provision; and
- (c) either—
 - (i) the child’s parents are receiving one or more of the benefits in paragraph (12), or
 - (ii) the child has previously been looked after by the local authority and is no longer so looked after as a result of the making of an order in paragraph (13).

(12) The benefits are—

- (a) universal credit;
- (b) income support;
- (c) income-based jobseekers’ allowance;
- (d) income-related employment and support allowance;
- (e) support under Part VI of the Immigration and Asylum Act 1999;
- (f) the guaranteed element of state pension credit;
- (g) child tax credit (where the recipient is not also entitled to working tax credit and has an annual gross income of no more than £16,190), and
- (h) working tax credit run-on.

(13) The orders are—

- (a) an adoption order within the meaning given by section 46(1) of the Adoption and Children Act 2002⁽¹⁾;
- (b) a special guardianship order within the meaning given by section 14A(1) of the 1989 Act⁽²⁾; and
- (c) a child arrangements order within the meaning given by section 8(1) of the 1989 Act⁽³⁾ which consists of, or includes, arrangements relating to either or both of the following—
 - (i) with whom the child is to live;
 - (ii) when the child is to live with any person.

(14) A local authority must include in the amount to be allocated for relevant early years provision or community early years provision in its area an amount of £302.10 (equivalent to 53 pence multiplied by 570) for each looked after child aged three or four years old in the local authority’s area.

(15) The allocation referred to in paragraph (14) must be managed by the local authority’s designated virtual school head for the benefit of the educational needs of the relevant looked after children as described in their personal education plans (that is, plans relating to the children’s education and training, including as far as is relevant and reasonably practicable the information in paragraph 2 of Schedule 1 to the Care Planning, Placement and Case Review (England) Regulations 2010⁽⁴⁾).

(16) In paragraph (15), “virtual school head” means a person appointed by a local authority under section 22(3B) of the 1989 Act⁽⁵⁾ for the purpose of discharging the local authority’s duty set out in section 22(3A) of that Act (duty to promote the educational achievement of children looked after by the authority).

(1) 2002 c.38.

(2) Section 14A was inserted by section 115(1) of the Adoption and Children Act 2002.

(3) Section 8(1) was amended by section 12 of the 2014 Act.

(4) S.I. 2010/959.

(5) Section 22(3A) was inserted by section 52 of the Children Act 2004 (c. 31); section 22(3B) was inserted by section 99 of the 2014 Act.