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STATUTORY INSTRUMENTS

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**2024 No. 66**

**The School and Early Years Finance and Childcare  
(Provision of Information About Young Children)  
(Amendment) (England) Regulations 2024**

**PART 1**

**Introduction**

**Citation, commencement, extent, application and interpretation**

**1.—**(1) These Regulations may be cited as the School and Early Years Finance and Childcare (Provision of Information About Young Children) (Amendment) (England) Regulations 2024.

(2) These Regulations come into force on 13th February 2024, except sub-paragraphs (3)(a) and (b) of regulation 45, which come into force on 1st May 2024.

(3) These Regulations extend to England and Wales and apply in relation to England.

(4) In these Regulations—

“the 1989 Act” means the Children Act 1989<sup>(1)</sup>;

“the 1996 Act” means the Education Act 1996<sup>(2)</sup>;

“the 1998 Act” means the School Standards and Framework Act 1998;

“the 2002 Act” means the Education Act 2002;

“the 2003 Act” means the Local Government Act 2003<sup>(3)</sup>;

“the 2006 Act” means the Education and Inspections Act 2006<sup>(4)</sup>;

“the 2010 Act” means the Academies Act 2010<sup>(5)</sup>;

“the 2014 Act” means the Children and Families Act 2014<sup>(6)</sup>;

“the 2014 Regulations” means the Local Authority (Duty to Secure Early Years Provision Free of Charge) Regulations 2014<sup>(7)</sup>;

“the 2023 Regulations” means the School and Early Years Finance (England) Regulations 2023<sup>(8)</sup>;

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(1) 1989 c. 41.

(2) 1996 c. 56.

(3) 2003 c. 26.

(4) 2006 c. 40.

(5) 2010 c. 32.

(6) 2014 c. 6.

(7) S.I. 2014/2147, amended by S.I. 2016/887, 2018/146 and 383 and 2023/276.

(8) S.I. 2023/59.

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*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

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“the ACA” means the “area cost adjustment”, which is a multiplier applied to the funding factors specified in these Regulations to account for variations in labour market costs in different areas of England<sup>(9)</sup>;

“administrative costs and overheads” includes—

- (a) expenditure on legal services;
- (b) expenditure in relation to the investigation and resolution of complaints;
- (c) expenditure related to functions imposed by or under Chapter 4 of Part 2 of the 1998 Act (financing of maintained schools), the administration of grants to the authority (including preparation of applications) and, where it is the authority’s duty to do so, ensuring payments are made in respect of taxation, national insurance and superannuation contributions; and
- (d) expenditure on recruitment, training, continuing professional development, performance management and personnel management of staff who are funded by expenditure not met from schools’ budget shares and who are paid for services;

“capital expenditure” means expenditure of a local authority which falls to be capitalised in accordance with proper accounting practices, or expenditure treated as capital expenditure by virtue of any regulations or directions made under section 16 of the 2003 Act<sup>(10)</sup>;

“central expenditure” means, in respect of the funding period, the total amount deducted by a local authority from its schools budget in accordance with regulation 8 (determination of individual schools budget) or, in respect of the previous funding period, the total amount deducted by a local authority from its schools budget in accordance with regulation 8 of the 2023 Regulations;

“CERA” means capital expenditure which a local authority expects to charge to its revenue account within the meaning of section 22 of the 2003 Act<sup>(11)</sup>;

“community early years provision” means funded early years provision provided by the governing body of a maintained school under section 27(1) of the 2002 Act (power of governing body to provide community facilities etc.)<sup>(12)</sup> to children other than pupils at the school, where the local authority has chosen to fund such provision;

“Dedicated Schools Grant” means the grant of that name paid to a local authority by the Secretary of State under section 14 of the 2002 Act (power of Secretary of State and National Assembly for Wales to give financial assistance for purposes related to education or children etc.)<sup>(13)</sup>;

“disadvantaged two year olds” means children eligible for early years provision prescribed for the purposes of section 7(1) of the Childcare Act 2006 (duty to secure early years provision free

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(9) The area cost adjustment (“ACA”) for each local authority in respect of the year 2024 – 25 can be found at pages 9 to 13 of the document entitled “Area cost adjustment for national funding formula: technical note” published in July 2023. That document can be found at [https://assets.publishing.service.gov.uk/media/64b52ee20ea2cb000d15e3b3/2024-25\\_NFF\\_area\\_cost\\_adjustment\\_technical\\_note.pdf](https://assets.publishing.service.gov.uk/media/64b52ee20ea2cb000d15e3b3/2024-25_NFF_area_cost_adjustment_technical_note.pdf). A printed copy may also be inspected at the Department for Education, Sanctuary Buildings, Great Smith Street, London SW1P 3BT upon request.

(10) “Proper accounting practices” are defined in section 21 of the Local Government Act 2003 (c. 26). Regulations made under sections 16 and 21 of this Act in relation to England are the Local Authorities (Capital Finance and Accounting) (England) Regulations 2003 (S.I. 2003/3146). Relevant amendments to those Regulations are made by S.I. 2004/534 and 3055, 2007/573, 2010/454, 2012/265 and 2019/396.

(11) Section 22 was amended by section 45 of, and paragraphs 49 and 51 of Schedule 12 to, the Local Audit and Accountability Act 2014 (c. 2).

(12) Section 27 was amended by section 4(1) of the Children, Schools and Families Act 2010 (c. 26).

(13) Section 14 was amended by sections 59(1) to (4) of the Children Act 2004 (c. 31) (“the 2004 Act”), section 98 of, and paragraph 23 of Schedule 14 to, the 2005 Act, section 15(1) and (2) of the Education Act 2011 (c. 21) (“the 2011 Act”) and S.I. 2010/1158 and 2019/1027.

of charge in accordance with regulations)(**14**) and who meet the condition in regulation 3(2) but not the condition in regulation 3(3) of the 2014 Regulations;

“early years block” means the amount of funding allocated to a local authority in relation to early years provision in the Dedicated Schools Grant during the funding period;

“early years provision” has the meaning given by section 20 of the Childcare Act 2006;

“early years pupil premium” means funding supplied by the Department for Education for the purpose of early years provision to children who meet the criteria in regulation 33 (early years pupil premium);

“EHC plan” has the meaning given by section 37(2) of the 2014 Act (education, health and care plans)(**15**);

“eligibility for free school meals” means eligibility for free lunches under section 512ZB of the 1996 Act(**16**);

“excluded early years provision” means early years provision provided by a provider—

- (a) which is an independent school (other than an Academy school) which does not meet the standards prescribed under section 94 of the Education and Skills Act 2008 (independent educational institution standards)(**17**) in relation to the spiritual, moral, social and cultural development of pupils at the school; or
- (b) which the local authority has reasonable grounds to believe—
  - (i) does not actively promote the fundamental British values of democracy, the rule of law, individual liberty and mutual respect and tolerance of those with different faiths and beliefs; or
  - (ii) promotes, as evidence-based, views and theories which are contrary to established scientific or historical evidence and explanations;

“expenditure on the schools specific contingency” is central expenditure deducted for the purpose of ensuring that monies are available to enable an increase in a school’s budget share after it has been allocated and where it subsequently becomes apparent that a governing body has incurred expenditure which it would be unreasonable to expect it to meet from the school’s budget share, which may include expenditure in relation to—

- (a) schools in financial difficulty;
- (b) the writing off of deficits of schools which are discontinued, excluding any associated costs and overheads;
- (c) new, amalgamating or closing schools; or
- (d) circumstances which were unforeseen when the school’s budget share was initially determined;

“a fringe authority” means Buckinghamshire Council(**18**) or the County Councils of Essex, Hertfordshire, Kent or West Sussex;

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(**14**) Section 7 was substituted by section 1(1) and (2) of the 2011 Act. Regulations made under section 7 are the Local Authority (Duty to Secure Early Years Provision Free of Charge) Regulations 2014 (S.I. 2014/2147), amended by S.I.2016/887, 2018/146 and 383 and 2023/276.

(**15**) Section 37(2) was amended by S.I. 2015/914.

(**16**) Section 512ZB was inserted by section 201(1) of the 2002 Act and amended by section 28(1) of, and paragraph 16(3) of Schedule 3 to, the Welfare Reform Act 2007 (c. 5) (“the 2007 Act”), section 26(1) of the Child Poverty Act 2010 (c. 9), sections 31 and 147 of, paragraphs 37 and 39 of Schedule 2 and Part I of Schedule 14 to, the Welfare Reform Act 2012 (“the 2012 Act”), section 106 of the 2014 Act and S.I. 2010/1158.

(**17**) 2008 c. 25. Section 94 was amended by sections 75(5) of the Small Business, Enterprise and Employment Act 2015 (c. 26). Regulations made under section 94 are the Education (Independent School Standards) 2014 (S.I. 2014/3283), amended by S.I. 2018/205 and 901, 2020/542, 2021/1124 and 2022/905.

(**18**) The Buckinghamshire (Structural Changes) Order 2019 (S.I. 2019/957) created a single tier authority for Buckinghamshire, coterminous with the county of Buckinghamshire, and replaced the former district councils within the county with effect from

“fringe district” and “non-fringe district” refers to those districts which are listed as such against the entries in relation to Buckinghamshire, Essex, Hertfordshire, Kent and West Sussex in the document entitled “Area cost adjustment for national funding factor 2024 to 2025: technical note”(19), where different ACAs are applied so as to reflect the higher costs incurred by schools in fringe districts, as compared to non-fringe districts, within the same fringe authority’s area.

“funded early years provision” means—

- (a) early years provision prescribed for the purposes of section 7(1) of the Childcare Act 2006 (duty to secure early years provision free of charge in accordance with regulations); and
- (b) early years provision specified for the purposes of section 2(1) of the Childcare Act 2016 (discharging the section 1(1) duty)(20);

“funding period” means the financial year beginning with 1st April 2024;

“hospital education” means education provided at a community special school(21) or foundation special school established in a hospital, or under any arrangements made by the local authority under section 19 of the 1996 Act (exceptional provision of education in pupil referral unit or elsewhere)(22), where the child is being provided with such education by reason of a decision made by a medical practitioner, and “hospital education places” shall be read accordingly;

“integrated care board” means an integrated care board established under section 14Z25 of the National Health Service Act 2006(23);

“key stage” means the key stage of the National Curriculum for England comprising the requirements and entitlements described in sections 84 and 85 of the 2002 Act(24) and “key stage 1”, “key stage 2”, “key stage 3” and “key stage 4” mean, respectively, the first, second, third and fourth key stages referred to in those sections;

“Local Health Board” means a Local Health Board established under section 11 of the National Health Service (Wales) Act 2006(25);

“maintained nursery school supplement” is any amount allocated to the authority in respect of nursery schools maintained by it, notified to the authority in the early years block;

“middle school single sum formula” is  $A \times (B/C) + D \times (E/C)$  where—

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1st April 2020, but the former districts (described in article 2 (interpretation) of that Order) remain relevant for the purposes of regulation 20.

- (19) This document was published by the Department for Education in July 2023 and can be found at [https://assets.publishing.service.gov.uk/media/64b52ee20ea2cb000d15e3b3/2024-25\\_NFF\\_area\\_cost\\_adjustment\\_technical\\_note.pdf](https://assets.publishing.service.gov.uk/media/64b52ee20ea2cb000d15e3b3/2024-25_NFF_area_cost_adjustment_technical_note.pdf). The relevant descriptions of “fringe districts” and “non-fringe” districts can be found in the table at pages 9 to 13. A printed copy may also be inspected at the Department for Education, Sanctuary Buildings, Great Smith Street, London SW1P 3BT upon request. A list of current district and borough councils for those districts can be found at [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1140054/List\\_of\\_councils\\_in\\_England\\_2023.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1140054/List_of_councils_in_England_2023.pdf).
- (20) Relevant regulations made under section 2(1) are the Childcare (Free of Charge for Working Parents) (England) Regulations 2022 (S.I. 2022/1134), amended by S.I. 2023/276 and 1330.
- (21) For the meaning of “special school”, see section 337 of the Education Act 1996 (c. 56) (“the 1996 Act”), as substituted by section 82 of, and paragraphs 1 and 36 of Schedule 3 to, the 2014 Act.
- (22) Section 19 was amended by section 47 of, and Schedule 8 to, the Education Act 1997 (c. 44), section 101 of the 2006 Act, section 3(1) to (4) of the Children, Schools and Families Act 2010 and by S.I. 2007/1507 and 2010/1158.
- (23) 2006 c. 41. Section 14Z25 was inserted by section 19(2) of the Health and Care Act 2022 (c. 31).
- (24) Section 84 was amended by S.I. 2013/2092 and 2093. Section 85 was substituted by S.I. 2003/2946 and amended by section 74(1) and (4) of the 2006 Act, section 26(1) of, and paragraphs 11 and 12 of Schedule 8 to, the 2011 Act, S.I. 2012/924 and 2056 and 2013/2092. Section 85A was inserted by section 31(1) and (2) of the 2011 Act and amended by section 26 of, and paragraphs 22 and 26 of Schedule 8 to, the 2011 Act but only section 85A(4), which provides transitional provisions applying to section 85, has been commenced. Sections 85 and 85A were both amended by 2010/1158.
- (25) 2006 c. 42.

- (a) A is the amount allocated per school by the authority under regulation 16(2)(a) (primary single sum);
- (b) B is the number of primary-age year groups in the school;
- (c) C is the number of year groups in the school;
- (d) D is the amount allocated per school by the authority under regulation 16(3)(a) (secondary single sum); and
- (e) E is the number of secondary-age year groups in the school;

“NHS foundation trust” means an NHS foundation trust established under section 30 of the National Health Service Act 2006<sup>(26)</sup>;

“NHS trust” means an NHS trust established under section 25 of the National Health Service Act 2006;

“non-domestic rate” has the meaning given by section 54 of the Local Government Finance Act 1988 (central rating: liability and reliefs)<sup>(27)</sup>;

“premises factor allocation” means—

- (a) any additional funding that would be allocated to the school by virtue of regulation 24(3) (additional criteria: schools); and
- (b) any additional funding that the local authority has allocated to the school which has been authorised by the Secretary of State under regulation 41(1)(d);

“previous funding period” means the financial year beginning with 1st April 2023 and “previous funding periods” means such funding periods as the context specifies more particularly;

“prescribed alteration” means a prescribed alteration within the meaning of the School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013<sup>(28)</sup>;

“provider”, in relation to funded early years provision, includes a governing body of a maintained school or a relevant early years provider;

“prudential borrowing” means borrowing money for the purpose of facilitating the modernisation and rationalisation of the school estate, where the revenue savings expected to be achieved as a result are equal to or more than the expenditure expected to be incurred in borrowing the money;

“pupil premium” means the amount allocated by a local authority from the pupil premium grant to a school under the terms and conditions of the grant;

“pupil premium grant” is a grant of that name paid to a local authority by the Secretary of State under section 14 of the 2002 Act in respect of pupils who are entitled to a pupil premium;

“Reception” means the school year in which the majority of pupils attain the age of five;

“relevant early years provider” means a provider of funded early years provision, other than the governing body of a maintained school;

“relevant early years provision” means funded early years provision provided by a relevant early years provider;

“relevant group” refers to the following groups—

- (a) working parent under two year olds;

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<sup>(26)</sup> Section 30 was amended by section 159(1) of the Health and Social Care Act 2012 (c. 7).

<sup>(27)</sup> 1988 c. 41. Section 54 was amended by section 3(1) and (2) of the Telecommunications Infrastructure (Relief from Non-Domestic Rates) Act 2018 (c. 1) and section 3(1) and (2) of the Non-Domestic Rating Act 2023 (c. 53). A further amendment made by paragraphs 32 and 34 of the Schedule to that Act is not yet in force.

<sup>(28)</sup> S.I. 2013/3110. The Regulations are made under section 18 of the 2006 Act.

- (b) disadvantaged two year olds;
- (c) working parent two year olds;
- (d) three and four year olds;

“risk protection arrangement” means an arrangement to cover the costs of certain liabilities arising in connection with maintained schools and their premises that is entered into between the Secretary of State and—

- (a) the governing bodies of maintained schools, in the case of a maintained school other than a pupil referral unit; or
- (b) the local authority, in the case of a pupil referral unit;

“school census” means the record of individual pupil information supplied to the Secretary of State under section 537A of the 1996 Act<sup>(29)</sup>;

“school year” means the period of 12 months beginning with 1st September, unless the school has a term beginning in August, in which case “school year” means the period of 12 months beginning with 1st August;

“sixth form grant” means a grant of that name paid to a local authority by the Secretary of State under section 14 of the 2002 Act in respect of sixth form pupils;

“special Academy” means an educational institution which meets the requirements of section 1A(2) of the 2010 Act<sup>(30)</sup>;

“special educational needs” has the meaning given by section 20(1) of the 2014 Act (when a child or young person has special educational needs);

“special educational needs inclusion fund” means expenditure deducted by the authority under regulation 8(12) and paragraph 32(b) of Schedule 2 which the authority intends to use in respect of children who are eligible for funded early years provision;

“three and four year olds” means—

- (a) children eligible for early years provision prescribed for the purposes of section 7(1) of the Childcare Act 2006 and who meet the condition in regulation 3(3) of the 2014 Regulations; and
- (b) qualifying children of working parents eligible for early years provision specified for the purposes of section 2(1) of the Childcare Act 2016 during the period commencing with the next 1st April, 1st September or 1st January after the child attains the age of three years;

“Year 1” means the school year in which the majority of pupils attain the age of six;

“Year 2” means the school year in which the majority of pupils attain the age of seven;

“Year 3” means the school year in which the majority of pupils attain the age of eight;

“Year 4” means the school year in which the majority of pupils attain the age of nine;

“Year 5” means the school year in which the majority of pupils attain the age of 10;

“Year 6” means the school year in which the majority of pupils attain the age of 11;

“Year 7” means the school year in which the majority of pupils attain the age of 12;

“Year 8” means the school year in which the majority of pupils attain the age of 13;

“Year 9” means the school year in which the majority of pupils attain the age of 14;

“Year 10” means the school year in which the majority of pupils attain the age of 15;

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<sup>(29)</sup> Section 537A was inserted by section 140(1) of, and paragraph 153 of Schedule 30 to, the School Standards and Framework Act 1998 (c. 31) (“the 1998 Act”) and amended by S.I. 2010/1158 and 2012/976.

<sup>(30)</sup> Section 1A was inserted by section 53(7) of the 2011 Act.

“Year 11” means the school year in which the majority of pupils attain the age of 16;

“working parent two year olds” means qualifying children of working parents eligible for early years provision specified for the purposes of section 2(1) of the Childcare Act 2016 during the period commencing with the next 1st April, 1st September or 1st January after the child attains the age of two years and ending with the earliest of the next 31st March, 31st August or 31st December after the child attains the age of three years;

“working parent under two year olds” means qualifying children of working parents eligible for early years provision specified for the purposes of section 2(1) of the Childcare Act 2016 during the period commencing with the next 1st April, 1st September or 1st January after the child attains the age of nine months and ending with the earliest of the next 31st March, 31st August or 31st December after the child attains the age of two years.

(5) In these Regulations,

- (a) a reference to a determination or redetermination of a budget share or amount to be allocated is a reference to such a determination or redetermination for the funding period, unless otherwise stated;
- (b) a reference to a “governing body” of a school includes the management committee of a pupil referral unit unless otherwise specified;
- (c) a reference to the number of pupils at a particular key stage is a reference to the number on 5th October 2023, unless otherwise stated;
- (d) a reference to “pupils or children” in regulations 31 (special arrangements in relation to early years), 32 (social deprivation in early years) and 37 (discretionary funding cap) is a reference to—
  - (i) in respect of a nursery school, the pupils at the school;
  - (ii) in respect of a nursery class, the pupils in the class;
  - (iii) in respect of a funded early years provider, the children receiving funded early years provision from the provider;
  - (iv) in respect of a relevant early years provider, the children receiving relevant early years provision from the provider; and
  - (v) in respect of community early years provision, the children receiving such provision at the school;
- (e) a reference to “pupils” includes only those pupils who are recorded on the school census as either—
  - (i) registered solely at that school; or
  - (ii) registered at more than one school, but attending that school for most of their time, except in regulations 31, 32 and 37, where “pupil” means a registered pupil<sup>(31)</sup>;
- (f) a reference to “schools” in Schedule 1 includes maintained schools, Academy schools and alternative provision Academies, except where the context requires otherwise;
- (g) a reference to “special educational needs transport costs”, for the purposes of paragraph 2(d) of Schedule 2, is a reference to the costs of home-to-school transport for pupils with special educational needs in schools maintained by a local authority where the authority is meeting such costs because the revenue savings that will be achieved by placing such children in a school maintained by it are equal to, or greater than, the costs of such transport;
- (h) a reference to “termination of employment costs”, for the purposes of paragraph 2(b) of Schedule 2, is a reference to expenditure relating to the dismissal or premature retirement

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(31) For the meaning of “registered pupil”, see section 434(5) of the 1996 Act.

of, or for the purpose of securing the resignation of, any person employed in a maintained school;

- (i) a reference to “children”, for the purposes of Schedule 2, has the meaning given by section 579 of the 1996 Act;
- (j) a reference to “young people”, for the purposes of Part 5 of Schedule 2, is a reference to persons who are over compulsory school age<sup>(32)</sup> but under the age of 19.

### **Revocation**

**2.** The School and Early Years Finance (England) Regulations 2022<sup>(33)</sup> are revoked on 1st April 2024.

### **Amendments**

**3.** In regulation 8 of the Schools Forums (England) Regulations 2012<sup>(34)</sup>, in each place where the words “the School and Early Years Finance (England) Regulations 2023” occur, substitute “the School and Early Years Finance and Childcare (Provision of Information About Young Children) (Amendment) (England) Regulations 2024”.

## **PART 2**

### **Action to be taken by a local authority**

#### **CHAPTER 1**

#### **Determination of the non-schools education budget, schools budget, individual schools budget, and budget shares**

#### **The non-schools education budget**

**4.—(1)** 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 7—

- (a) those specified in Schedule 1;
- (b) expenditure which is to be treated as part of the non-schools education budget by virtue of regulation 8(15); and
- (c) any expenditure which falls outside the classes or descriptions of expenditure specified in regulation 6 and Schedule 2 (the schools budget), apart from expenditure which is to be treated as part of the schools budget by virtue of regulation 8(14)(a).

(2) The expenditure referred to in paragraph (1) includes expenditure on associated administrative costs and overheads.

#### **Initial determination of a local authority’s schools budget**

- 5.** A local authority must, not later than 29th February 2024—
- (a) make an initial determination of its schools budget; and

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<sup>(32)</sup> For the meaning of “compulsory school age”, see section 8 of the 1996 Act.

<sup>(33)</sup> [S.I. 2022/27](#).

<sup>(34)</sup> [S.I. 2012/2261](#). Regulation 8 was amended by [S.I. 2012/2991](#), [2017/44](#), and [2020/540](#), as amended by [S.I. 2021/59](#) and [2022/27](#), and [S.I. 2023/59](#).



- (b) give notice of that determination to the governing bodies of the schools which it maintains.

### **The schools budget**

**6.—**(1) The classes or descriptions of local authority expenditure specified in paragraph (2) 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 the exceptions in regulation 7.

- (2) The classes or descriptions of local authority expenditure are—
  - (a) expenditure on the provision and maintenance of maintained schools and on the education of pupils at maintained schools;
  - (b) expenditure on the education of children at independent schools, non-maintained special schools, at home or in hospital, and on any other arrangements for the provision of primary and secondary education for children 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);
  - (d) expenditure on the education of—
    - (i) persons provided with further education who are aged under 19 and have special educational needs; and
    - (ii) persons provided with further education who are aged 19 or over but under 25 and are subject to an EHC plan,in so far as that expenditure does not fall within sub-paragraph (a), (b) or (c);
  - (e) expenditure on early years provision, in so far as that expenditure does not fall within sub-paragraph (a), (b), (c) or (d); and
  - (f) expenditure which is to be treated as part of the schools budget by virtue of regulation 8(14)(a).

### **Exceptions**

**7.** 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 (arrangements for patrolling school crossings)**(35)**.

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**(35)** 1984 c. 27. Section 26 was amended by section 8 of, and paragraph 4 of Schedule 5 to, the Local Government Act 1985 (c. 51), sections 288 and 423 of, and Part 6 of Schedule 34 to, the Greater London Authority Act 1999 (c. 29), sections 270 and 274 of, and Part 5 of Schedule 31 to, the Transport Act 2000 (c. 38), and section 99 of, and paragraphs 164 and 165 of Schedule 16 to, the Police Reform and Social Responsibility Act 2011 (c. 13).

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

8.—(1) Subject to the following provisions of this regulation and not later than 29th February 2024, a local authority must deduct from its schools budget such of the classes or descriptions of planned expenditure set out in Schedule 2 as it proposes to deduct in order to determine its individual schools budget.

(2) Under paragraph (1), a local authority—

- (a) must not deduct from its schools budget such of the classes or description of planned expenditure set out in Part 6 of Schedule 2 (items that may be removed from maintained schools' budget shares – primary and secondary schools); and
- (b) may only deduct from its schools budget such of the classes or descriptions of planned expenditure set out in Part 7 of Schedule 2 (items that may be removed from maintained schools' budget shares – primary, secondary and special schools and pupil referral units) if that deduction is to be made under paragraph (15).

(3) Expenditure referred to in paragraphs 1 and 2 of Part 1 of Schedule 2 (historic commitments) may only be deducted by the local authority where the expenditure is to be incurred as a result of decisions taken before 1st April 2013 which commit the authority to incur expenditure in the funding period.

(4) In deducting the expenditure referred to in Part 1 of Schedule 2, a local authority must not exceed the limits referred to in paragraph 3 of Schedule 2, unless it is authorised to do so under regulation 41(1)(a) (authorisation by the Secretary of State to disregard limits relating to expenditure in respect of historic commitments).

(5) A local authority must not deduct the expenditure referred to in paragraphs 4 to 6 of Schedule 2 (growth fund, falling rolls and new schools) unless the criteria for determining the expenditure have been authorised by its schools forum under regulation 12(1), or by the Secretary of State under regulation 12(3).

(6) Where a local authority agrees with a maintained school (other than a special school, pupil referral unit or nursery school) or an Academy school (other than a special Academy) in its area to provide an extra class to meet a need due to significant growth in pupil numbers in its area, the criteria referred to in paragraph (5) must include provision such that the amount allocated to that school is at least £1,550 in respect of each pupil to be accommodated in the extra class, multiplied by the ACA applying in relation to the area in which the school is situated.

(7) Except as provided for in paragraphs (8), (15) and (16), a local authority must obtain authorisation from its schools forum under regulation 12(1), or from the Secretary of State under regulation 12(3), before deducting the expenditure referred to in Schedule 2.

(8) Paragraph (7) does not apply to expenditure under the following provisions of Schedule 2—

- (a) paragraph 8 (expenditure on licences);
- (b) Part 5 (children and young people with high needs); and
- (c) Part 8 (deficit from previous funding period).

(9) Where a local authority has expenditure falling within Part 8 of Schedule 2, it must—

- (a) deduct all of that expenditure from its schools budget;
- (b) deduct such part of that expenditure as the authority may determine and carry forward the remaining part to the next funding period; or
- (c) carry forward all of that expenditure to the next funding period.

(10) A local authority may apply to the Secretary of State for authorisation under regulation 41(1)(b) to disregard the requirements in paragraph (9).

(11) Any amount of expenditure which was deducted under paragraph 4, 5, 6 or 7 (extra infant classes) of Schedule 2 to the 2023 Regulations for the previous funding period and which remains unspent may be used by the local authority in the funding period for the purposes listed in those paragraphs of Schedule 2 to the 2023 Regulations that applied to such expenditure.

(12) A local authority must deduct the expenditure referred to in paragraph 32(b) of Schedule 2 (expenditure on services for children who have not attained compulsory school age with special educational needs or who are subject to an EHC plan, other than expenditure in respect of funding provision specified in an EHC plan).

(13) Where—

- (a) under regulation 11(5) of the 2023 Regulations, a local authority treated expenditure described in Part 6 of Schedule 2 (items that may be removed from maintained schools' budget shares – primary and secondary schools) as central expenditure for the previous funding period; and
- (b) any such amounts remain unspent,

those amounts may be used by the local authority in the funding period for the purposes listed in Part 6 of Schedule 2 of the 2023 Regulations that applied to such expenditure.

(14) A local authority may apply to the Secretary of State for authorisation under regulation 41(1) (c) to—

- (a) deduct from its schools budget any expenditure falling outside the classes or descriptions of planned expenditure specified in Schedule 2, in order to determine its individual schools budget; and
- (b) alter the operation of regulation 11(3) (additional costs - pupils with special educational needs).

(15) A local authority may deduct the expenditure specified in paragraph (16) from the schools budget without authorisation from its schools forum under regulation 12(1) or from the Secretary of State under regulation 12(3), in which case it must be treated as if it were part of the non-schools education budget prescribed in regulation 4.

(16) The specified expenditure for the purposes of paragraph (15) is the description of expenditure referred to in the following provisions of Schedule 2—

- (a) paragraphs 9 to 12 (expenditure on local authority's functions in relation to schools admission, pupils attending non-maintained schools, remission of boarding fees and schools forums);
- (b) Part 3 (other central education expenditure); and
- (c) Part 7.

(17) References to planned expenditure in this regulation and Schedule 2 are references to that expenditure net of—

- (a) any related specific grant;
- (b) all related fees, charges and income; and
- (c) any funding received from the Secretary of State in respect of a charge payable by a local authority under a private finance transaction, as defined in regulation 16 of the Local Authorities (Capital Finance) Regulations 1997(36).

(18) The expenditure referred to in Schedule 2 includes expenditure on associated administrative costs and overheads.

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(36) *S.I. 1997/319*. These Regulations have lapsed but article 11 of *S.I. 2004/533* contains a savings provision for regulation 16 of those Regulations. Regulation 16 was substituted by *S.I. 1998/371* and amended by *S.I. 1999/1852* and *2003/515*.

(19) In paragraph (17), “specific grant” means any grant paid to a local authority under conditions which impose restrictions on the particular purposes for which the grant may be used other than—

- (a) the Dedicated Schools Grant; or
- (b) any sixth form grant.

### **Consultation**

**9.—(1)** In determining the formulae under regulation 10, a local authority may change the formulae which it determined under regulation 10 of the 2023 Regulations (formulae for determination of budget shares for certain maintained schools and early years providers).

(2) Subject to paragraph (4), a local authority must consult its schools forum and the schools it maintains 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) Where a local authority proposes to make changes under paragraph (1) which will affect relevant early years providers in its area, it must also consult those providers in relation to the factors and criteria taken into account, and the methods, principles and rules adopted.

(4) Paragraph (2) does not apply to changes made relating to matters referred to in regulation 28 (sixth form funding) or 39 (pupils permanently excluded from, or leaving, maintained schools).

(5) A local authority must consult its schools forum before incurring any of the expenditure referred to in paragraphs 4 to 6 of Schedule 2.

### **Formulae for determination of budget shares etc. for certain maintained schools and early years providers**

**10.—(1)** A local authority must, before the beginning of the funding period and after carrying out any consultation required by regulation 9(2), decide on the formula which it will use to determine the budget shares for schools which it maintains (other than special schools, pupil referral units and nursery schools, and in relation to nursery classes in schools maintained by it).

(2) A local authority must use the formula determined under paragraph (1) in all determinations of school budget shares in respect of the funding period.

(3) A local authority must, before the beginning of the funding period and after carrying out any consultation required by regulation 9(2) or (3), decide on the formula which it will use to determine—

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

(4) A local authority must use the formula determined under paragraph (3) when making the determinations referred to in paragraph (3)(a) to (d) in respect of the funding period.

(5) A local authority must ensure, in the formula determined under paragraph (3), that the predicted total number of hours calculated under regulation 31(1) (special arrangements for early years pupils and children) is multiplied by a rate.

(6) The rate referred to in paragraph (5)—

- (a) may be a different rate in relation to different relevant groups;
- (b) must be the same rate—
  - (i) in relation to each type of early years provider or school referred to in paragraph (3) (a) to (d); and

(ii) in respect of each pupil or child in the same relevant group.

(7) A local authority may not change its formulae after the funding period has begun.

(8) The formulae must be determined in accordance with Chapter 1 (requirements, and factors and criteria taken into account – schools other than early years provision), or as the case may be, Chapter 2 (criteria taken into account – early years provision) of Part 3 of these Regulations.

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

**11.**—(1) Except as provided for in paragraphs (2), (4) and (9), not later than 29th February 2024, a local authority must determine the budget share for each school which it maintains, using the formula referred to in regulation 10(1) in accordance with Chapter 1 of Part 3.

(2) Paragraph (1) does not apply to any determination of amounts to be included in budget shares under regulation 28 (sixth form funding) and in relation to such determination the local authority must make the determination and notify the school to which the determination relates within a reasonable period after the notification given by the Secretary of State under regulation 28(1).

(3) When making the determination under paragraph (1), the local authority must identify within each budget share an amount calculated by reference to the requirements, factors and criteria specified in Chapter 1 of Part 3 which are relevant to pupils with special educational needs; such amount must be calculated using a threshold sum of £6,000 per pupil below which the school will be expected to meet the additional costs of pupils with special educational needs from its budget share.

(4) A local authority must, not later than 29th February 2024 and in accordance with Chapter 1 of Part 3, determine the budget share for each of the special schools and pupil referral units it maintains.

(5) After the local authority has made a determination under paragraph (1) but before giving notice under paragraph (10), the authority may apply to its schools forum under regulation 12(1), or to the Secretary of State under regulation 12(2), for authorisation to redetermine schools' budget shares by removing any of the expenditure referred to in Part 6 of Schedule 2 from the budget shares of—

- (a) all primary schools other than nursery schools;
- (b) all secondary schools; or
- (c) all primary schools other than nursery schools and all secondary schools,

where the expenditure is instead to be treated as if it were part of central expenditure.

(6) After the local authority has made a determination under paragraph (1) or (4) but before giving notice under paragraph (10), the authority may apply to its schools forum under regulation 12(1), or to the Secretary of State under regulation 12(2), for authorisation to redetermine schools' budget shares by removing any of the expenditure referred to in Part 7 of Schedule 2 from the budget shares of the schools specified in paragraph (7), where the expenditure is instead to be treated as if it were part of central expenditure.

(7) For the purposes of paragraph (6), the specified schools are all primary schools other than nursery schools, all secondary schools, all special schools and all pupil referral units.

(8) Where the local authority makes an application referred to in paragraph (6), the amount by which the budget share is to be redetermined, except in relation to the expenditure referred to in paragraph 53 of Part 7 of Schedule 2 (expenditure incurred for the purposes of supporting the improvement of standards in maintained schools), must be set out—

- (a) in the case of a maintained school which is not a special school, on an amount per pupil basis; and
- (b) in the case of a maintained school which is a special school or a pupil referral unit, on an amount per place basis.

- (9) Not later than 31st March 2024, a local authority must determine—
- (a) the budget share for each of the nursery schools maintained by it;
  - (b) the amount to be allocated in respect of each nursery class in schools maintained by it;
  - (c) the amount to be allocated to each relevant early years provider in its area; and
  - (d) the amount to be allocated in respect of community early years provision in schools maintained by it,

using the formula referred to in regulation 10(3), in accordance with Chapter 2 of Part 3.

- (10) Not later than 31st March 2024, a local authority must give notice of—
- (a) each budget share or amount determined under paragraphs (1), (4) and (9); or
  - (b) where the budget share has been redetermined under paragraph (5) or (6), the redetermined budget share,

to the governing body of the school or the relevant early years provider concerned.

(11) Save as provided in this regulation and in regulations 22 (risk protection arrangement), 28 (sixth form funding), 29 (new schools, merged schools and closing schools), 30 (federated schools), 31 (special arrangements for early years), 33 (early years pupil premium), 34 (disability access fund), 35 (differential funding), 39 (pupils excluded from or leaving schools), 40 (correction of errors and changes in non-domestic rates) and 41 (alternative arrangements approved by the Secretary of State), the authority must not redetermine a school's budget share or the amount allocated to a relevant early years provider.

## CHAPTER 2

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**

- 12.—(1) On the application of a local authority, its schools forum may authorise—
- (a) the criteria for determining expenditure referred to in paragraphs 4 to 6 of Schedule 2, in accordance with regulation 8(5);
  - (b) the reduction during the funding period of any amount of expenditure deducted in accordance with regulation 8(5);
  - (c) the making of deductions from the authority's schools budget of expenditure in accordance with regulation 8(7);
  - (d) the redetermination of schools' budget shares by removal of any of the expenditure referred to in Part 6 of Schedule 2 from schools' budget shares where it is instead to be treated by the authority as if it were part of central expenditure, in accordance with regulation 11(5);
  - (e) the redetermination of schools' budget shares by removal of any of the expenditure referred to in Part 7 of Schedule 2 from schools' budget shares where it is instead to be treated by the authority as if it were part of central expenditure, in accordance with regulation 11(6);
  - (f) the use of alternative criteria referred to in regulation 21(13) and (14) for the purpose of calculating funding in respect of sparsity; and
- (2) Where—
- (a) a schools forum does not authorise any of the matters referred to in paragraph (1); or
  - (b) a local authority is not required to establish a schools forum for its area,

the authority may apply 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).

## PART 3

### Determination of budget shares etc.

#### CHAPTER 1

##### Requirements, and factors and criteria taken into account – schools other than early years provision

#### **Pupil numbers**

**13.**—(1) In determining budget shares for primary and secondary schools, except in respect of nursery classes, a local authority must ascertain and take into account in its formula the number of pupils who, on 5th October 2023 (“the relevant date”), were at those schools.

(2) For the purposes of paragraph (1), the number of pupils is  $A - B$  where—

- (a)  $A$  is the total number of pupils at the school (excluding children in a nursery class) on the relevant date; and
- (b)  $B$  is the number of pupils at the school on the relevant date in respect of whom a sixth form grant is payable.

(3) Where—

- (a) there is or may be an increase to the published admission number relating to the school; or
- (b) the school is subject to a prescribed alteration that may lead to an increase in the number of pupils at the school,

the authority may, instead of ascertaining pupil numbers on 5th October 2023, include an estimate of pupil numbers.

(4) A local authority must include in its formula a single per pupil amount for each of the pupils—

- (a) in Reception and at key stages 1 and 2;
- (b) at key stage 3; and
- (c) at key stage 4.

(5) Where a primary school had more pupils in Reception on 19th January 2023 than on 6th October 2022, the local authority may take the number of additional pupils into account in its formula, and where it does so, this factor must be applied to all primary schools in the area.

(6) In this regulation, “published admission number” means the number of pupils in any relevant age group at the school determined by the admission authority in accordance with sections 88C and 88D of the 1998 Act<sup>(37)</sup>.

#### **Places**

**14.**—(1) In determining budget shares for special schools, a local authority—

- (a) must include £10,000 for each place other than—
  - (i) hospital education places; and

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<sup>(37)</sup> Sections 88C and 88D of the 1998 Act were inserted by section 151(1) and (4) of the Education and Skills Act 2008 (c. 25). For the meaning of “admission authority”, see section 88(1) of the 1998 Act, which was amended by sections 54(1) and 64(1) and (2) of, and paragraph 10(1) and (3) of Schedule 13 to, the 2011 Act and [S.I. 2010/1158](#).

- (ii) places for those who are over the age of 18, unless they are continuing to attend a particular course of secondary education which they began before they reached the age of 18; and
  - (b) must not include funding for places for those who are over the age of 18, unless they are continuing to attend a particular course of secondary education which they began before they reached the age of 18.
- (2) In determining budget shares for primary or secondary schools maintained by the local authority with places which the authority has reserved for children with special educational needs, a local authority must—
- (a) in the case of a place that was taken by a pupil on 5th October 2023, include £6,000 per place; and
  - (b) in all other cases except hospital education places, include £10,000 per place.
- (3) In determining budget shares for pupil referral units, a local authority must include £10,000 for each place other than hospital education places.
- (4) Paragraph (3) applies to places to be commissioned by schools or directly by a local authority.
- (5) For each hospital education place referred to in paragraphs (1) to (3) the local authority must include at least the equivalent amount per hospital education place which the authority included in the budget share of the school or pupil referral unit, as the case may be, in the previous funding period.
- (6) In determining budget shares under this regulation, a local authority must ensure that it funds places which may be taken by children who are not ordinarily resident in its area.

### **Social deprivation - primary and secondary schools**

- 15.**—(1) In determining budget shares for schools maintained by it (other than special schools, pupil referral units and nursery schools), a local authority must take into account in its formula the incidence of social deprivation in pupils at the schools it maintains.
- (2) The incidence of social deprivation in a school is to be determined by taking into account all of the following criteria—
- (a) a pupil’s eligibility for free school meals on 5th October 2023;
  - (b) a pupil’s eligibility for free school meals recorded in any school census between and including Spring 2018 and Autumn 2023; and
  - (c) a pupil’s LSOA rank on 5th October 2023, and where it is based on an LSOA rank the authority must use factors which differentiate between different LSOA bands (that is, groupings of LSOA ranks set out in the document published by the Department for Education named “Schools Operational Guide 2024 to 2025”<sup>(38)</sup>).
- (3) In determining budget shares under paragraph (1), the authority must determine and take into account in its formula the following factors—
- (a) in Reception and at key stages 1 and 2, a single per pupil amount for each pupil in respect of—
    - (i) a pupil’s eligibility for free school meals on 5th October 2023;
    - (ii) a pupil’s eligibility for free school meals recorded in any school census between and including Spring 2018 and Autumn 2023; and

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<sup>(38)</sup> This document was published on 19<sup>th</sup> December 2023 and can be found at <https://www.gov.uk/government/publications/pre-16-schools-funding-local-authority-guidance-for-2024-to-2025/schools-operational-guide-2024-to-2025>. The relevant section is 7.6. A printed copy may also be inspected at the Department for Education, Sanctuary Buildings, Great Smith Street, London SW1P 3BT, on request.



- (iii) a pupil's LSOA rank on 5th October 2023; and
- (b) at key stages 3 and 4, a single per pupil amount for each pupil in respect of—
  - (i) a pupil's eligibility for free school meals on 5th October 2023;
  - (ii) a pupil's eligibility for free school meals recorded in any school census between and including Spring 2018 and Autumn 2023; and
  - (iii) a pupil's LSOA rank on 5th October 2023.
- (4) In this regulation—
  - (a) "IDACI" means the Income Deprivation Affecting Children Index referred to in the document entitled "The English Indices of Deprivation 2019" published by the Ministry of Housing, Communities and Local Government<sup>(39)</sup>; and
  - (b) "LSOA rank" means the rank allocated to a pupil under IDACI in respect of the Lower-layer Super Output Area in which the pupil lives.

### **Lump sums for primary and secondary schools**

**16.**—(1) In determining budget shares for primary and secondary schools (other than special schools, pupil referral units, and nursery schools), a local authority must ascertain and take into account in its formula the following factors.

- (2) A single sum for primary schools—
  - (a) other than middle schools<sup>(40)</sup>, of an equal amount to be given to each school; and
  - (b) which are middle schools, of an amount to be calculated per school in accordance with the middle school single sum formula.
- (3) A single sum for secondary schools—
  - (a) other than middle schools, of an equal amount to be given to each school; and
  - (b) which are middle schools, of an amount to be calculated per school in accordance with the middle school single sum formula.

### **Low prior attainment factor**

**17.**—(1) In determining budget shares for primary and secondary schools (other than special schools, pupil referral units, and nursery schools), a local authority must ascertain and take into account in its formula the following factors.

- (2) An amount in relation to—
  - (a) the number of pupils in Reception and Years 1 to 6 who did not reach, or are treated as having not reached, the expected level of development in the early years foundation stage profile, calculated in accordance with paragraphs (3) and (4); and
  - (b) the number of pupils in Years 7 to 11 who did not reach, or are treated as having not reached, the expected standard at key stage 2, calculated in accordance with paragraphs (5) to (7).

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<sup>(39)</sup> The functions of the Ministry of Housing, Communities and Local Government were transferred to the Secretary of State for Levelling Up, Housing and Communities by the Transfer of Functions (Secretary of State for Levelling Up, Housing and Communities) Order 2021 (S.I. 2021/1265). The document entitled "The English Indices of Deprivation" is available at: [https://assets.publishing.service.gov.uk/media/5d8e26f6ed915d5570c6cc55/loD2019\\_Statistical\\_Release.pdf](https://assets.publishing.service.gov.uk/media/5d8e26f6ed915d5570c6cc55/loD2019_Statistical_Release.pdf). See also File 3 (income deprivation affecting children index), available at <https://www.gov.uk/government/statistics/english-indices-of-deprivation-2019>. A printed copy may also be inspected at the Department for Education, Sanctuary Buildings, Great Smith Street, London SW1P 3BT, on request.

<sup>(40)</sup> "Middle school" has the meaning given by section 5(3) of the 1996 Act, by virtue of section 142(8) of the 1998 Act, which provides that (in the absence of a different meaning) the 1998 Act is to be construed as one with the 1996 Act.

- (3) In relation to pupils in Reception and Years 1 to 6, a single per pupil amount based on the total of—
- (a) the number of pupils in Years 1, 2, 5, and 6 who did not reach the expected level of development; and
  - (b) where a school has pupils in Reception or in Years 3 or 4, a proxy number representing pupils who have not, or have not yet, been assessed under the early years foundation stage profile<sup>(41)</sup>.
- (4) The proxy number referred to in paragraph (3)(b) is calculated—
- (a) in relation to Year 4 pupils at a school which has pupils in Year 5, by using the formula  $A \times (B/C)$ , where—
    - (i) A is the number of Year 4 pupils at the school on 5th October 2023;
    - (ii) B is the number of Year 5 pupils at the school on that date who did not reach the expected level of development; and
    - (iii) C is the total number of Year 5 pupils at the school on that date;
  - (b) in relation to Year 4 pupils at a school which has no pupils in Year 5, by using the formula  $A \times (B/C)$ , where—
    - (i) A is the number of Year 4 pupils at the school on 5th October 2023;
    - (ii) B is the total number of pupils at the school on 6th October 2022 who did not reach the expected level of development, as recorded on the proforma tool; and
    - (iii) C is the total number of pupils at the school on 6th October 2022, as recorded on the proforma tool;
  - (c) in relation to Year 4 pupils at a school which has no pupils in Year 5 and where the data referred to in paragraphs (ii) and (iii) of sub-paragraph (b) is not available (for any reason), by using the formula  $A \times (B/C)$ , where—
    - (i) A is the number of Year 4 pupils at the school on 5th October 2023;
    - (ii) B is the total number of pupils in Years 1 to 6 at maintained schools and Academy schools in the local authority’s area on that date who did not reach the expected level of development; and
    - (iii) C is the total number of pupils in Years 1 to 6 at maintained schools and Academy schools in the local authority’s area on that date; or
  - (d) in relation to Year 4 pupils—
    - (i) at a school which has no pupils in Year 5;
    - (ii) where the data referred to in paragraphs (ii) and (iii) of sub-paragraph (b) is not available (for any reason); and
    - (iii) where the local authority considers that applying the formula  $A \times (B/C)$  to the data referred to in paragraphs (ii) and (iii) of sub-paragraph (c) would lead to a disproportionate or unfair allocation of resources in relation to that school, the local authority may vary that formula in its application to that school;
  - (e) in relation to Year 3 pupils at a school which has Year 2 pupils, by using the formula  $A \times (B/C)$ , where—
    - (i) A is the number of Year 3 pupils at the school on 5th October 2023;

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<sup>(41)</sup> The proxy number represents Reception pupils, who do not take the early years foundation stage assessment until the end of their Reception year, and Year 3 and Year 4 pupils, who were not assessed under the early years foundation stage profile in 2020 and 2021 due to the pandemic.

- (ii) B is the number of Year 2 pupils at the school on that date who did not reach the expected level of development; and
    - (iii) C is the total number of Year 2 pupils at the school on that date;
  - (f) in relation to Year 3 pupils at a school which has no pupils in Year 2, by using the formula  $A \times (B/C)$ , where—
    - (i) A is the number of Year 3 pupils at the school on 5th October 2023;
    - (ii) B is the total number of pupils at the school on 6th October 2022 who did not reach the expected level of development, as recorded on the proforma tool; and
    - (iii) C is the total number of pupils at the school on 6th October 2022, as recorded on the proforma tool;
  - (g) in relation to Year 3 pupils at a school which has no pupils in Year 2 and where the data referred to in paragraphs (ii) and (iii) of sub-paragraph (f) is not available (for any reason), by using the formula  $A \times (B/C)$ , where—
    - (i) A is the number of Year 3 pupils at the school on 5th October 2023;
    - (ii) B is the total number of pupils in Years 1 to 6 at maintained schools and Academy schools in the local authority's area on that date who did not reach the expected level of development; and
    - (iii) C is the total number of pupils in Years 1 to 6 at maintained schools and Academy schools in the local authority's area on that date; or
  - (h) in relation to Year 3 pupils—
    - (i) at a school which has no pupils in Year 2;
    - (ii) where the data referred to in paragraphs (ii) and (iii) of sub-paragraph (f) is not available (for any reason); and
    - (iii) where the local authority considers that applying the formula  $A \times (B/C)$  using the data referred to in paragraphs (ii) and (iii) of sub-paragraph (g) would lead to a disproportionate or unfair allocation of resources in relation to an individual school, the local authority may vary that formula in its application to that school;
  - (i) in relation to pupils in Reception at a school which has pupils in any of Years 1 to 6, by using the formula  $A \times (B/C)$ , where—
    - (i) A is the number of Reception pupils at the school on 5th October 2023;
    - (ii) B is the total number of pupils at the school in any of Years 1 to 6 who did not reach the expected level of development; and
    - (iii) C is the total number of pupils in Years 1 to 6 at the school on that date; or
  - (j) in relation to pupils in Reception at a school which has no pupils in any of Years 1 to 6, by using the formula  $A \times (B/C)$ , where—
    - (i) A is the number of Reception pupils at the school on 5th October 2023;
    - (ii) B is the total number of pupils in Years 1 to 6 at maintained schools and Academy schools in the local authority's area on that date who did not reach the expected level of development; and
    - (iii) C is the total number of pupils in Years 1 to 6 at maintained schools and Academy schools in the local authority's area on that date.
- (5) In relation to pupils in Years 7 to 11, a single per pupil amount based on the total of—
- (a) in relation to pupils in each of Years 7, 8 and 11, the number produced by using the formula  $X \times A$  where—

- (i) A is the number of pupils in, as the case may be, Year 7, 8 or 11 who did not achieve the expected standard; and
  - (ii) X is—
    - (aa) for Year 11 pupils, 0.65;
    - (bb) for Year 8 pupils, 0.54; and
    - (cc) for Year 7 pupils, 0.56;
  - (b) in relation to pupils in Years 9 and 10, a proxy number calculated in accordance with paragraph (6) and (7).
- (6) The proxy number referred to in paragraph (5)(b) is calculated in relation to pupils in Year 10 using the formula  $(D \times (E/F)) \times 0.65$ , where—
- (a) in relation to Year 10 pupils at a school which has Year 11 pupils—
    - (i) D is the number of Year 10 pupils at the school on 5th October 2023;
    - (ii) E is the number of Year 11 pupils at the school on that date who did not achieve the expected standard; and
    - (iii) F is the total number of Year 11 pupils at the school on that date;
  - (b) in relation to Year 10 pupils at a school which has no pupils in Year 11—
    - (i) D is the number of Year 10 pupils at the school on 5th October 2023;
    - (ii) E is the number of Year 9 pupils at the school on 6th October 2022 who did not achieve the expected standard, as recorded on the proforma tool; and
    - (iii) F is the total number of Year 9 pupils at the school on 6th October 2022;
  - (c) in relation to Year 10 pupils at a school which has no Year 11 pupils and where the data referred to in paragraphs (ii) and (iii) of sub-paragraph (b) is (for any reason) not available—
    - (i) D is the number of Year 10 pupils at the school on 5th October 2023;
    - (ii) E is the total number of Year 11 pupils at maintained schools and Academy schools in the local authority's area on that date who did not achieve the expected standard; and
    - (iii) F is the total number of Year 11 pupils at maintained schools and Academy schools in the local authority's area on that date; or
  - (d) in relation to Year 10 pupils—
    - (i) at a school which has no pupils in Year 11;
    - (ii) where the data referred to in paragraphs (ii) and (iii) of sub-paragraph (b) is not available (for any reason); and
    - (iii) the local authority considers that applying the formula  $(D \times (E/F)) \times 0.65$  using the data referred to in paragraphs (ii) and (iii) of sub-paragraph (c) would lead to a disproportionate or unfair allocation of resources in relation to an individual school, the local authority may vary that formula in its application to that school.
- (7) The proxy number referred to in paragraph (5)(b) is calculated in relation to pupils in Year 9 using the formula  $(D \times (E/F)) \times 0.54$ , where—
- (a) in relation to Year 9 pupils at a school which has Year 8 pupils—
    - (i) D is the total number of Year 9 pupils at the school on 5th October 2023;
    - (ii) E is the number of Year 8 pupils at the school on that date who did not achieve the expected standard; and
    - (iii) F is the total number of Year 8 pupils at the school on that date;

- (b) in relation to Year 9 pupils at a school which has no Year 8 pupils—
  - (i) D is the total number of Year 9 pupils at the school on 5th October 2023;
  - (ii) E is the number of Year 8 pupils at the school on 6th October 2022 who did not achieve the expected standard, as recorded on the proforma tool; and
  - (iii) F is the total number of Year 8 pupils at the school on 6th October 2022;
- (c) in relation to Year 9 pupils at a school which has no Year 8 pupils and where the data referred to in paragraphs (ii) and (iii) of sub-paragraph (b) is (for any reason) not available—
  - (i) D is the total number of Year 9 pupils at the school on 5th October 2023;
  - (ii) E is the total number of Year 8 pupils at maintained schools and Academy schools in the local authority’s area who did not achieve the expected standard; and
  - (iii) F is the total number of Year 8 pupils at maintained schools and Academy schools in the local authority’s area; or
- (d) in relation to Year 9 pupils at a school which has—
  - (i) no pupils in Year 8;
  - (ii) where the data referred to in paragraphs (ii) and (iii) of sub-paragraph (b) is not available (for any reason); and
  - (iii) the local authority considers that applying the formula  $(D \times (E/F)) \times 0.54$  using the data referred to in paragraphs (ii) and (iii) of sub-paragraph (c) would lead to a disproportionate or unfair allocation of resources in relation to an individual school, the local authority may vary that formula in its application to that school.
- (8) In this regulation—
  - (a) “the 2019 ARA” means the document entitled “Key stage 2 Assessment and Reporting Arrangements”(42) containing provision made under article 11 of the Education (National Curriculum) (Key Stage 2 Assessment Arrangements) (England) Order 2003(43) (“the 2003 Order”), made under section 87(3) of the 2002 Act (establishment of the National Curriculum for England);
  - (b) “the 2022 ARA” means the document entitled “Key stage 2 Assessment and Reporting Arrangements (ARA)”(44) containing provision made under article 11 of the 2003 Order;
  - (c) “the 2023 ARA” means the document entitled “Key stage 2 Assessment and Reporting arrangements (ARA)”(45) containing provision made under article 11 of the 2003 Order;
  - (d) “Academy school” has the meaning given by section 1A of the 2010 Act, but with the exclusion of special Academies;
  - (e) “the early years foundation stage profile” means the assessment completed in the summer term of the pupil’s Reception year, which is referred to—

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(42) This document was published in October 2018 and is available at [https://assets.publishing.service.gov.uk/media/5be16c9640f0b604ba030eaf/Key\\_stage\\_2\\_assessment\\_and\\_reporting\\_arrangements.pdf](https://assets.publishing.service.gov.uk/media/5be16c9640f0b604ba030eaf/Key_stage_2_assessment_and_reporting_arrangements.pdf). A printed copy may also be inspected at the Department for Education, Sanctuary Buildings, Great Smith Street, London SW1P 3BT, on request.

(43) S.I. 2003/1038. Article 11 was amended by S.I. 2009/1585, 2010/290, 2011/2392, 2013/1513, 2015/900 and 2019/854.

(44) This document was published in October 2021 and is available at: <https://www.gov.uk/government/publications/2022-key-stage-2-assessment-and-reporting-arrangements-ara>. A printed copy may also be inspected at the Department for Education, Sanctuary Buildings, Great Smith Street, London SW1P 3BT, on request.

(45) This document was published in March 2023 and can be found at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1153937/2023\\_key\\_stage\\_2\\_assessment\\_and\\_reporting\\_arrangements.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1153937/2023_key_stage_2_assessment_and_reporting_arrangements.pdf). A printed copy may also be inspected at the Department for Education, Sanctuary Buildings, Great Smith Street, London SW1P 3BT, on request.

- (i) in relation to references to pupils in Years 1 and 2, in Part 6 of the document entitled “Statutory Framework for the Early Years Foundation Stage” published by the Secretary of State on 31st March 2021(46); or
- (ii) in relation to references to pupils in Years 5 and 6, in Part 6 of the document entitled “Statutory Framework for the Early Years Foundation Stage” published by the Secretary of State on 3rd March 2017(47);
- (f) “the expected level of development” in relation to pupils in Years 1 to 6, refers to the expected level of development in relation to the early learning goals set out in the early years foundation stage profile;
- (g) a reference to “the number of pupils who do not achieve the expected standard” in relation to pupils in Years 7 to 11, refers to the total of—
  - (i) the number of pupils who, in the mathematics or English reading tests at key stage 2, achieved a scaled score of 99 or lower(48) under the 2019 ARA, the 2022 ARA or the 2023 ARA; or
  - (ii) the number of pupils, other than those who fall within paragraph (i), who were given a teacher assessment standard of “working towards the expected standard”, or lower, in English grammar, punctuation and spelling tests under the 2019 ARA, the 2022 ARA or the 2023 ARA;
- (h) “maintained school” has the meaning given by section 20(7) of the 1998 Act, but with the exclusion of special schools.
- (i) “the proforma tool” means the authority proforma tool provided to local authorities to enable them to detail their schools’ block funding formulae for 2023 to 2024(49).

### **English as an additional language**

**18.**—(1) In determining budget shares for primary and secondary schools (other than special schools, pupil referral units, and nursery schools), a local authority must ascertain and take into account in its formula the following factors.

(2) A single per pupil amount in relation to each pupil at key stage 1 or 2 whose first language is not English, where the pupil was not recorded as attending a school in England on any school census before 1st October 2021.

(3) A single per pupil amount in relation to each pupil at key stages 3 and 4 whose first language is not English, where the pupil was not recorded as attending a school in England on any school census before 1st October 2021.

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(46) Available at <https://webarchive.nationalarchives.gov.uk/ukgwa/20210212174025/https://www.gov.uk/government/publications/early-years-foundation-stage-profile-handbook>. A printed copy may be inspected at the Department for Education, Sanctuary Buildings, Great Smith Street, London SW1P 3BT, on request.

(47) This document can be found at <https://webarchive.nationalarchives.gov.uk/ukgwa/20170909065350/https://www.gov.uk/government/publications/early-years-foundation-stage-profile-handbook>. A printed copy of this document may be inspected at the Department for Education, Sanctuary Buildings, Great Smith Street, London SW1P 3BT, on request.

(48) Scaled scores for 2019 can be found at <https://www.gov.uk/government/publications/2019-scaled-scores-at-key-stage-2>, scaled scores for 2022 at <https://www.gov.uk/government/publications/2022-scaled-scores-at-key-stage-2> and for 2023 at <https://www.gov.uk/government/publications/2023-scaled-scores-at-key-stage-2>. A printed copy may also be inspected at the Department for Education, Sanctuary Buildings, Great Smith Street, London SW1P 3BT, upon request.

(49) Instructions on how to access the 2023 – 2024 authority proforma tool can be found in the document entitled “How to complete the authority proforma tool (APT): instructions for local authorities for 2023 to 2024” published in December 2022 at [www.gov.uk/government/publications/how-to-complete-the-authority-proforma-tool-apt-2023-to-2024/how-to-complete-the-authority-proforma-tool-apt-instructions-for-local-authorities-for-2023-to-2024](http://www.gov.uk/government/publications/how-to-complete-the-authority-proforma-tool-apt-2023-to-2024/how-to-complete-the-authority-proforma-tool-apt-instructions-for-local-authorities-for-2023-to-2024). A printed copy may also be inspected at the Department for Education, Sanctuary Buildings, Great Smith Street, London SW1P 3BT, upon request.

### **Mobility factor**

**19.**—(1) In determining budget shares for primary and secondary schools (other than special schools, pupil referral units, and nursery schools), a local authority must ascertain and take into account in its formula the following factors.

(2) Where the total number of pupils to whom paragraph (3) applies is more than 6% of the total number of pupils at key stages 1 and 2 in the school, a single per pupil amount for every pupil in excess of that 6%.

(3) This paragraph applies to pupils at key stages 1 and 2 who—

- (a) joined the school in the previous three school years; and
- (b) were first recorded on the school census in a spring or summer term,

excluding pupils who joined the school in the nursery class (if the school has such a class) and pupils who were first recorded on the school census in a spring term as being in Reception.

(4) Where the total number of pupils to whom paragraph (5) applies is more than 6% of the total number of pupils at key stages 3 and 4 in the school, a single per pupil amount for every pupil in excess of that 6%.

(5) This paragraph applies to pupils at key stages 3 and 4 who joined the school in the previous three school years and were first recorded on the school census in a spring or summer term.

### **The London fringe**

**20.**—(1) In determining budget shares for primary and secondary schools (other than special schools, pupil referral units, and nursery schools), a fringe authority must ascertain and take into account the following factor.

(2) Differential costs at schools in the fringe districts of Buckinghamshire<sup>(50)</sup>, Essex, Hertfordshire, Kent and West Sussex.

(3) To take account of the differential costs mentioned in paragraph (2) a fringe authority must set the factor referred to in paragraph (1)—

- (a) between 1.0173 and 1.0345 in relation to schools in the fringe districts of Essex;
- (b) between 1.0168 and 1.030, in relation to schools in the fringe districts of Hertfordshire; and
- (c) in relation to schools in the fringe districts of Buckinghamshire, Kent and West Sussex, as a factor which represents the ratio between the two ACAs applying to each of those authorities in respect of the fringe districts and the non-fringe districts within their area.

### **The sparsity factor**

**21.**—(1) In determining budget shares for primary and secondary schools (other than special schools, pupil referral units and nursery schools), a local authority must ascertain and take into account in its formula the following factors.

(2) In respect of all maintained primary schools to which paragraph (3) applies, other than those which are middle schools<sup>(51)</sup>, an amount (“the final value”) calculated in accordance with paragraphs (4) to (6).

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<sup>(50)</sup> The Buckinghamshire (Structural Changes) Order 2019 (S.I. 2019/957) created a single tier authority for Buckinghamshire, coterminous with the county of Buckinghamshire, and replaced the former district councils within the county with effect from 1st April 2020, but the former districts (described in article 2 (interpretation) of that Order) remain relevant for the purposes of regulation 20.

<sup>(51)</sup> The arrangements for classification of middle schools as primary schools or secondary schools are set out in the Education (Middle School) (England) Regulations 2002 (S.I. 2002/1938). These regulations were amended by S.I. 2009/1156 and 2010/1172.

- (3) This paragraph applies where—
- (a) the mean distance by road between—
- (i) the centroid of the home postcode<sup>(52)</sup> (“the home postcode”) of each pupil for whom a school falling within paragraph (2) is their closest compatible school (irrespective of whether or not the pupil attends that school); and
- (ii) the second closest compatible school in relation to each of those pupils, is greater than 80% of a distance determined by the local authority, which must not be less than two miles, and must be the same distance in relation to all maintained primary schools which meet the criteria specified in this paragraph; and
- (b) the mean size of a year group in that school is less than a number determined by the local authority, which must be—
- (i) no more than 21.4; and
- (ii) the same number in relation to all schools which meet the criteria specified in this paragraph.
- (4) Where the school meets the criteria specified in paragraph (3)—
- (a) a year group weighting is determined as follows—
- (i) if A is less than  $0.5 \times B$ , the value of 1; or
- (ii) if A is equal to or more than  $0.5 \times B$ , the value of  $1 - ((A - (0.5 \times B)) / (0.5 \times B))$ ; and
- (b) a distance weighting is determined as follows—
- (i) if D is equal to or greater than C, the value of 1;
- (ii) if D is less than C but greater than  $0.8 \times C$ , the value of  $1 - (C - D) / (0.2 \times C)$ .
- (5) The final value is calculated by multiplying the lump-sum funding for sparsity determined by the local authority, the year-group weighting, and the distance weighting.
- (6) For the purposes of paragraph (4)—
- A is the number which represents the mean size of a year group at the school (derived by dividing the number of pupils by the number of year groups);
- B is the number determined by the authority in accordance with paragraph (3)(b);
- C is the number determined by the authority in accordance with paragraph (3)(a);
- D is the number which represents the “sparsity distance” for the school (calculated by identifying all the pupils for whom the school is their closest compatible school and calculating the mean road distance from the home postcodes of those pupils to their second closest compatible school).
- (7) In respect of all maintained middle schools and secondary schools which meet the criteria specified in paragraph (8), the final value is calculated in accordance with paragraphs (10) to (12).
- (8) This paragraph applies where—
- (a) the mean distance by road between—
- (i) the home postcodes of all those pupils for whom a school falling within paragraph (7) is their closest compatible school (irrespective of whether or not the pupils attend that school); and
- (ii) the second closest compatible school in relation to each of those pupils,

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(52) Details in relation to the calculation of the distance between a pupil’s home postcode and a school are set out in Annex C to the “Schools block national funding formula: technical note”, published in July 2021. This document can be found at [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1003310/2022-23\\_NFF\\_schools\\_block\\_technical\\_note.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1003310/2022-23_NFF_schools_block_technical_note.pdf). A printed copy may also be inspected at the Department for Education, Sanctuary Buildings, Great Smith Street, London SW1P 3BT upon request.



- is greater than 80% of a distance determined by the local authority in accordance with paragraph (9); and
- (b) the mean size of a year group in that school is less than a number determined by the local authority, which—
- (i) must not be less than—
    - (aa) 69.2 in respect of middle schools other than all-through schools;
    - (bb) 62.5 in respect of middle schools which are all-through schools; or
    - (cc) 120 in respect of secondary schools other than middle schools; and
  - (ii) must be the same number in relation to all schools of each type mentioned in paragraph (i).
- (9) The distance to be determined by the local authority, referred to in paragraph (8)(a)—
- (a) must not be less than—
    - (i) two miles in respect of middle schools; and
    - (ii) three miles in respect of secondary schools other than middle schools; and
  - (b) must be the same distance in relation to all the schools of each type mentioned in subparagraph (a)(i) and (ii).
- (10) Where a school meets the criteria specified in paragraph (8)—
- (a) a year group weighting is determined as follows—
    - (i) if  $A$  is less than  $0.5 \times B$ , the value of 1;
    - (ii) if  $A$  is equal to or more than  $0.5 \times B$ , the value of  $1 - ((A - (0.5 \times B)) / (0.5 \times B))$ ; and
  - (b) a distance weighting is determined as follows—
    - (i) if  $D$  is equal to or greater than  $C$ , the value of 1;
    - (ii) if  $D$  is less than  $C$  but greater than  $0.8 \times C$ , the value of  $1 - (C - D) / (0.2 \times C)$ .
- (11) The final value is calculated by multiplying the year-group weighting, the distance weighting and the lump-sum funding for sparsity determined by the local authority.
- (12) For the purposes of paragraph (10)—
- $A$  is the number which represents the mean size of a year group at the school (derived by dividing the number of pupils by the number of year groups);
- $B$  is the number determined by the authority in accordance with paragraph (8)(b);
- $C$  is the number determined by the authority in accordance with paragraph (8)(a);
- $D$  is the number which represents the “sparsity distance” for the school, calculated by identifying all the pupils for whom the school is their closest compatible school and calculating the mean road distance from the home postcode of each of those pupils to that pupil’s second closest compatible school.
- (13) Where determining the year group weighting in accordance with paragraph (4)(a) or (10)(a) or the distance weighting in accordance with paragraph (4)(b) or (10)(b) would produce a result which, in the opinion of a local authority, is unfair or disproportionate, the authority may instead use either of the criteria specified in paragraph (14) (“the alternative criteria”) if—
- (a) the use of the alternative criteria is authorised by the local authority’s schools forum under regulation 12(1)(f) or the Secretary of State under regulation 12(3); and
  - (b) the local authority uses the same criteria to calculate the year group weighting or the distance weighting for all schools which meet the criteria specified in paragraph (3), or as the case may be, paragraph (8).

(14) The alternative criteria which may be used instead of those specified in paragraph (4) or (10) are—

- (a) that the year-group weighting is given either—
  - (i) as a value of 1; or
  - (ii) as a value of the amount  $(1 - A/B)$ ;
- (b) that the distance weighting is given as a value of 1.

(15) In this regulation—

- (a) “all-through schools” means those primary or secondary schools which pupils may join at an age between three and five years and remain until an age between 16 and 19 years<sup>(53)</sup>;
- (b) “closest compatible school” means, in respect of a pupil, the school meeting the description in paragraph (2), or as the case may be, paragraph (7)), which is the closest by road from the home postcode of the pupil and which admits pupils of the pupil’s age and sex, other than—
  - (i) a special school;
  - (ii) an alternative provision Academy;
  - (iii) a pupil referral unit; or
  - (iv) an independent school which is not an Academy school;
- (c) “second closest compatible school” means, in respect of a pupil, the school which is the closest by road from the home postcode of the pupil and which admits pupils of the pupil’s age and sex, other than—
  - (i) a selective school;
  - (ii) a special school;
  - (iii) an alternative provision Academy;
  - (iv) a pupil referral unit; or
  - (v) an independent school which is not an Academy school; and
- (d) “selective school” means a school where all the pupils in the school are selected by ability or by aptitude.

### **Risk protection arrangement**

**22.**—(1) Paragraph (2) applies if a local authority has not removed any expenditure referred to in paragraph 47 of Schedule 2 from a school’s budget share under regulation 11(5).

(2) In determining (including redetermining) budget shares for schools maintained by it a local authority must include—

- (a) a factor which enables the local authority to deduct the amount (£25 x Z/365) per pupil from the budget share of a primary or secondary school, (other than a special school or pupil referral unit), if the governing body of that school has entered into a risk protection arrangement with the Secretary of State which is still in force, or enters into such an arrangement which commences on or after 1st April 2024; and
- (b) a factor which enables the local authority to deduct the amount (£25 x Z/365) per place from the budget share of a special school or pupil referral unit if—
  - (i) the governing body of that school; or

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(53) An “all-through school” is also a middle school by virtue of section 5(3) and (3A) of the 1996 Act. Section 5(3) and (3A) of that Act were substituted by section 30 of, and paragraph 7 of Schedule 3 to, the 2006 Act.

(ii) in the case of a pupil referral unit, the local authority has entered into a risk protection arrangement with the Secretary of State which is still in force, or enters into such an arrangement which commences on or after 1st April 2024.

(3) In paragraph (2)(a) and (b), Z is the number of days that the school or pupil referral unit is subject to a risk protection arrangement with the Secretary of State, beginning with 1st April 2024, or on the day on which that arrangement commences, if later, and ending with 31st March 2025.

### **Split sites factor**

**23.**—(1) In determining budget shares for primary and secondary schools (other than special schools, pupil referral units and nursery schools), a local authority must determine additional funding for each school with a split site by calculating, for each of the school's eligible sites other than the main site—

- (a) a basic eligibility factor; and
- (b) a distance funding factor,

and adding the two factors together.

(2) The basic eligibility factor referred to in paragraph (1)(a) is a single per site sum determined by the local authority and applied to each of the school's eligible sites up to a maximum of three sites.

(3) The basic eligibility factor determined under paragraph (2) must be no more than 2.5% above or below the amount which would be produced by multiplying the basic eligibility factor set under the national funding formula<sup>(54)</sup> (which for the financial year beginning with 1st April 2024 is £53,700) by the ACA applying in relation to the local authority in question, except where the authority is a fringe authority, in which case the ACA used as the multiplier is the lowest ACA applying in relation to that authority.

(4) The distance funding factor referred to in paragraph (1)(b) must be calculated for each eligible site which is more than 100 metres by road from the main site, up to a maximum of three sites, according to the formula  $A \times B$  where—

- (a) A is the distance weighting for each eligible site—
  - (i) where a site is 500 metres or more by road from the main site,  $A = 1$ ; and
  - (ii) where a site is less than 500 metres by road from the main site, A is calculated according to the formula  $1 - ((500 - C) \text{ divided by } 400)$  where C is the distance by road in metres from the main site; and
- (b) B is a single per site amount determined by the local authority.

(5) The amount determined under paragraph (4)(b) must be no more than 2.5% above or below the amount which would be produced by multiplying the distance funding factor set under the national funding formula<sup>(55)</sup> (which for the financial year beginning with 1st April 2024 is £26,900) by the ACA applying in relation to that local authority, except where the authority is a fringe authority, in which case the ACA used as the multiplier is the lowest ACA applying in relation to that authority.

(6) Where a school has more than three split sites, the calculation of the distance funding factor in respect of each site must be based on the distance from the main site of each of the three sites which are furthest from the main site.

(7) For the purposes of this regulation—

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<sup>(54)</sup> The national funding formula basic eligibility factor is referred to at paragraph 3.48 of the document entitled "Schools block national funding formula 2024 to 2025: technical note", published in October 2023, which can be found at [https://assets.publishing.service.gov.uk/media/651d273a6a6955001278b281/NFF\\_schools\\_block\\_technical\\_note\\_2024\\_to\\_2025\\_.pdf](https://assets.publishing.service.gov.uk/media/651d273a6a6955001278b281/NFF_schools_block_technical_note_2024_to_2025_.pdf). A printed copy may also be inspected at the Department for Education, Sanctuary Buildings, Great Smith Street, London SW1P 3BT upon request.

<sup>(55)</sup> The national funding formula distance funding factor is referred to at paragraph 3.48 of the Schools block national funding formula 2024 to 2025: technical note".

- (a) a school has an eligible split site if it has at least one site other than the main site which—
  - (i) shares the same unique reference number<sup>(56)</sup> with the school’s main site;
  - (ii) is separated from the school’s main site by a road or railway and can only be accessed by crossing or walking alongside the road or railway;
  - (iii) has a building on it which is owned, controlled or maintained by the school and is primarily used for the education of 5- to 16-year-old pupils; and
- (b) “road” means a road to which the public have 24-hour access.

#### **Additional criteria: schools**

**24.**—(1) In order to determine the budget shares for schools maintained by it (other than special schools, pupil referral units and nursery schools), a local authority—

- (a) must comply with the requirements for minimum per pupil funding, set out in regulation 26; and
- (b) may take into account in its formula either or both of the criteria specified in paragraph (3).

(2) For the purposes of complying with the requirement mentioned in paragraph (1)(a), the date for ascertaining pupil numbers or proportions is 5th October 2023, unless these Regulations provide otherwise.

(3) In determining a formula under this regulation, a local authority may also take into account—

- (a) non-domestic rates payable in respect of the premises of each school;
- (b) payments in relation to a private finance initiative,

which may be determined on the basis of actual or estimated cost.

(4) Subject to paragraphs (6) and (7), where a school would otherwise receive a greater amount of redetermined adjusted budget share per pupil than it did in the previous funding period, the local authority may do one or both of the following—

- (a) determine a percentage beyond which the per pupil amount of redetermined adjusted budget may not increase;
- (b) determine a percentage by which the amount that the per pupil redetermined adjusted budget share would otherwise increase by will be reduced.

(5) Schedule 3 (minimum funding guarantee) applies for the purposes of interpreting the terms used in paragraph (4).

(6) Where the local authority decides to take one or both of the actions described in paragraph (4) (a) and (b)—

- (a) this must be applied to the budget shares of all schools in the local authority’s area; and
- (b) the local authority must ensure that no school in the area receives a budget share that is less than the amount it would receive under regulation 26 (the minimum per pupil amount).

(7) Paragraph (4) does not apply to the determination of budget shares for—

- (a) special schools;
- (b) pupil referral units;
- (c) nursery schools; and
- (d) any school that has opened since 1st April 2017 and does not yet have pupils in each year group for which it proposes to provide education.

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<sup>(56)</sup> A school’s unique reference number is allocated by the Department for Education and can be found using the search function at <https://get-information-schools.service.gov.uk/Search>.

### **Requirements relating to the calculation of local authority funding formula**

**25.**—(1) In determining budget shares for primary and secondary schools (other than special schools, pupil referral units and nursery schools), a local authority must set single per pupil amounts or, as the case may be, single sums or lump sums for the factors referred to in regulations 13 (pupil numbers), 15 (social deprivation), 16 (lump sums), 17 (low prior attainment), 18 (English as an additional language), 19 (mobility factor) and 21 (sparsity) as follows—

- (a) A is the value of the factor in the local authority’s funding formula (the “local factor value” for the previous funding period;
  - (b) B is the national funding formula factor value for the previous funding period<sup>(57)</sup>, adjusted by the local authority’s ACA, except where a local authority is a fringe authority, where B is the national funding formula factor value for the previous funding period, adjusted by the lowest ACA applied within that authority’s area;
  - (c) C is the absolute value of  $A - B$ ;
  - (d) D is the local factor value for this funding period;
  - (e) E is the national funding formula factor value in this funding period<sup>(58)</sup>, adjusted by the local authority’s ACA, except where a local authority is a fringe authority, where E is the national funding formula factor in this funding period, adjusted by the lowest ACA applied within that authority’s area; and
  - (f) F is the absolute value of  $D - E$ .
- (2) The local authority must set D so that—
- (a) F is equal to or smaller than  $(C \times 0.9)$ ; or
  - (b) D is—
    - (i) equal to or greater than  $(E \times 0.975)$ ; and
    - (ii) equal to or smaller than  $(E \times 1.025)$ .
- (3) If A is smaller than B, the local authority must set D to be equal to, or smaller than  $E \times 1.025$ .
- (4) If A is greater than B, the local authority must set D to be equal to, or greater than  $E \times 0.975$ .
- (5) In this regulation, “the absolute value” of a number means that number expressed as a positive number.

### **Minimum per pupil amount**

**26.**—(1) Where the per pupil amount for a school is less than the minimum per pupil amount, the authority must determine (including redetermine) that school’s budget share based on the minimum per pupil amount.

- (2) In this regulation, the per pupil amount for a school is  $X/Y$ , where—
- (a) X is the notional budget share that the school would receive under the formula referred to in regulation 10(1), but for the operation of this regulation; and
  - (b) Y is the number of pupils at the school.

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<sup>(57)</sup> The national funding formula factor values for this funding period can be found in the document entitled “The national funding formulae for schools and high needs 2023 – 24” published in July 2022. The document can be found at [https://assets.publishing.service.gov.uk/media/60f198518fa8f50c75b6ae2e/2022-23\\_NFF\\_Policy\\_Document.pdf](https://assets.publishing.service.gov.uk/media/60f198518fa8f50c75b6ae2e/2022-23_NFF_Policy_Document.pdf). A printed copy may also be inspected at the Department for Education, Sanctuary Buildings, Great Smith Street, London SW1P 3BT upon request.

<sup>(58)</sup> The national funding formula factor values for the 2024 – 2025 funding period can be found in the document entitled “The national funding formulae for schools and high needs 2024 – 25” published in October 2023. The document can be found at [https://assets.publishing.service.gov.uk/media/651d2587bef21800156ded01/National\\_funding\\_formula\\_for\\_schools\\_and\\_high\\_needs\\_2024\\_to\\_2025.pdf](https://assets.publishing.service.gov.uk/media/651d2587bef21800156ded01/National_funding_formula_for_schools_and_high_needs_2024_to_2025.pdf). A printed copy may also be inspected at the Department for Education, Sanctuary Buildings, Great Smith Street, London SW1P 3BT upon request.

- (3) In calculating X, the authority must—
- (a) deduct any premises factor allocation from the amount;
  - (b) add any amount that is deducted under regulation 11(5) or (6) (applications to a schools forum or to the Secretary of State for authorisation to redetermine budgets), 22(2) (risk protection arrangement), 39 or 40(1) (correction of errors);
  - (c) deduct any amount that is added under regulation 39 or 40(1).
- (4) The minimum per pupil amount for a school is—
- $$((A \times D) + (B \times E) + (C \times F)) / G$$
- (5) where—
- (a) A is the number of primary-age year groups in the school;
  - (b) B is the number of key stage 3 year groups in the school;
  - (c) C is the number of key stage 4 year groups in the school;
  - (d) D is the primary-age year group value of £4,610;
  - (e) E is the key stage 3 year group value of £5,771;
  - (f) F is the key stage 4 year group value of £6,331; and
  - (g) G is the total number of year groups in the school.
- (6) Where authorised to do so by the Secretary of State under regulation 41(1)(m) or (n), as the case may be, a local authority may—
- (a) vary the year group values D, E or F set out in paragraph (4) for all the schools that are subject to the formula decided by the authority under regulation 10(1);
  - (b) alter the operation of this regulation in respect of particular schools.

### **Minimum funding guarantee**

**27.**—(1) Except as provided for in this regulation, in determining (including redetermining) budget shares for primary and secondary schools maintained by it, a local authority must ensure that an amount equal to the guaranteed funding level is included, calculated in accordance with Schedule 3 (minimum funding guarantee).

(2) For the purpose of determining budget shares, paragraph (1) does not apply to any school opening during the funding period, except in the circumstances set out in paragraph 3 of Schedule 3.

(3) Where authorised to do so by the Secretary of State under regulation 41(1)(o), a local authority may alter the operation of this regulation and Schedule 3 in determining (including redetermining) budget shares.

### **Sixth form funding**

**28.**—(1) A local authority must include in the budget shares of maintained secondary schools and special schools an amount equal to any sum notified to the local authority by the Secretary of State as being the allocation of sixth form grant for that school.

(2) A local authority may also include an additional amount in the budget shares of maintained secondary schools and special schools where permitted to do so under the sixth form grant.

(3) A local authority must redetermine the budget share of a secondary school before the end of the funding period where the authority receives a written notification from the Secretary of State of a revised allocation in respect of the sum referred to in paragraph (1).

### **New schools, merged schools and closing schools**

**29.**—(1) Where in the funding period, but excluding 1st April 2024, a new maintained school opens as a replacement for two or more maintained schools that are discontinued during the funding period, a local authority must calculate the budget share of the new school by adding together the budget shares of the schools that have been discontinued.

(2) Except where paragraph (1) applies, a local authority must determine a budget share for—

(a) any new maintained school in its area; and

(b) any school that has opened since 1st April 2017 and does not yet have pupils in each year group for which the school proposes to provide education,

from the date of the school's opening, on the basis of expected pupil numbers during the funding period estimated by the authority, and regulation 13 (pupil numbers) does not apply.

(3) Where a school to which paragraph (2) applies was funded on the basis of estimated pupil numbers in the previous funding period, the local authority may take account of any difference between estimated and actual pupil numbers in the previous funding period when estimating pupil numbers for the funding period.

(4) Where in the previous funding period, or on 1st April 2024, a new maintained school opened or opens as a replacement for two or more maintained schools that were discontinued during the previous funding period, or on 1st April 2024, a local authority must include in the budget share of the new school an amount equal to 85% of the total amount which the schools that it replaced would have been allocated in their budget shares under regulation 16 (lump sums for primary and secondary schools) if the schools had not been discontinued.

(5) Where paragraph (4) applies, no single sum is to be included in the new school's budget share under regulation 16.

(6) A local authority must, in accordance with this Chapter, determine a budget share for any maintained school in its area which is to be discontinued in the funding period up to the date when the school is discontinued.

(7) Where in the funding period, but excluding 1st April 2024, a maintained school is subject to a prescribed alteration as a result of a closure of a school, a local authority must redetermine the budget share of the enlarged school by adding to it the budget share of the school that has been discontinued.

(8) Where in the previous funding period, or on 1st April 2024, a maintained school is subject to a prescribed alteration as a result of a closure of a school during the previous funding period, or on 1st April 2024, a local authority must include in the budget share of the enlarged school an amount equal to 85% of the total amount which the school it has replaced would have been allocated under regulation 16, if the school had not been discontinued.

(9) Where in the funding period, but excluding 1st April 2024, a school has been established or is subject to a prescribed alteration as a result of the closure of a school, a local authority may add an amount to the budget share of the new or enlarged school to reflect all or part of the unspent budget share (including any surplus carried over from previous funding periods) of the closing school for the funding period in which it closes.

(10) A local authority may change the operation of this regulation where authorised to do so by the Secretary of State under regulation 41(1)(p).

### **Federated schools**

**30.**—(1) Subject to paragraphs (2) and (3), where two or more maintained schools are federated under section 24 of the 2002 Act(**59**), the local authority must determine a budget share for each school in accordance with Chapter 1 of Part 3 of these Regulations.

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(59) Section 24 was amended by [S.I. 2010/1158](#).

(2) After carrying out the determination under paragraph (1) the local authority may treat the schools as a single school for the purposes of these Regulations and, accordingly, allocate a single budget share to the governing body of the federation.

(3) Where the local authority decides to allocate a single budget share to the governing body of a federation under paragraph (2), it must determine it by combining the budget shares of all the schools that form part of that federation.

(4) Where one or more schools are to leave a federation which has been allocated a single budget share under paragraph (2), the local authority must—

- (a) determine the budget share for each of the leaving schools; and
- (b) redetermine the budget share for the federation,

in accordance with Chapter 1 of Part 3.

## CHAPTER 2

### Criteria taken into account – early years provision

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

**31.**—(1) Subject to the following paragraphs of this regulation, 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; and
- (d) 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.

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

- (a) review the budget share for each nursery school maintained by it, 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 funded 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 with community early years provision, who will receive funded 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; or
- (b) in the case where the local authority decides to fund funded early years provision and early years provision in excess of funded 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 with 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
- (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 funded early years provision from the relevant early years provider 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)(b) or (4)(b), 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, or the relevant early years provider concerned.

(7) When making determinations and redeterminations under the preceding paragraphs of 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 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 within the area of a local authority in respect of whom that local authority must provide a range of services appropriate to their needs under section 17 of the 1989 Act (provision of services for children in need, their families and others)<sup>(60)</sup>.

### **Social deprivation for early years**

**32.**—(1) This regulation is subject to regulation 37 (12% early years discretionary cap).

(2) 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; and

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<sup>(60)</sup> Section 17 was amended by section 4 of, and paragraph 108(a) of Schedule 2 to, the Social Security (Consequential Provisions) Act 1992 (c. 6), section 7(1) and (2) of the Children (Leaving Care) Act 2000 (c. 35), section 47 of, and paragraphs 15 and 16 of Schedule 3 to, the Tax Credits Act 2002 (c. 21), section 116(1) of the Adoption and Children Act 2002 (c. 38), section 53(1) of the 2004 Act, section 28(1) of, and paragraph 6(1) and (2) of Schedule 3 to, the 2007 Act, sections 8(2) and 24 of, and paragraph 1 of Schedule 1 to, the Children and Young Persons Act 2008 (c. 23) (“the 2008 Act”), section 31 of, and paragraph 1(a) of Schedule 2 to, the 2012 Act and S.I. 2016/413.

- (d) amounts to be allocated in respect of community early years provision in schools maintained by it,

in respect of three and four year olds, a local authority must take into account in its formula one or more factors based on the incidence of social deprivation in pupils or children in its area.

- (3) 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; and
- (d) amounts to be allocated in respect of community early years provision in schools maintained by it,

in respect of working parent under two year olds, working parent two year olds, and disadvantaged two year olds, a local authority may take into account in its formula one or more factors based on the incidence of social deprivation in pupils or children in its area.

### **Early years pupil premium**

- 33.**—(1) 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 in respect of community early years provision in schools maintained by it,

a local authority must include in those budget shares or amounts an amount equivalent to at least a rate of 68 pence multiplied by each hour of funded early years provision, up to a maximum of 570 hours, that a child eligible for early years pupil premium is to receive.

(2) A child is eligible for early years pupil premium if the child receives at least one hour of funded early years provision and either—

- (a) the child’s parents are receiving one or more of the benefits in paragraph (3); or
- (b) the child was a looked after child but is no longer so as a result of the making of an order mentioned in paragraph (4).

- (3) The benefits are—

- (a) universal credit, where the child’s parent has, in the relevant period, earned income not exceeding the applicable amount;
- (b) income support;
- (c) income-based jobseeker’s allowance;
- (d) income-related employment and support allowance;
- (e) support under Part VI of the Immigration and Asylum Act 1999<sup>(61)</sup>;
- (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<sup>(62)</sup>.

- (4) The orders are—

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<sup>(61)</sup> 1999 c. 33.

<sup>(62)</sup> Working tax credits are in certain circumstances, paid for four weeks (“run-on”) following a cessation of employment.

- (a) an adoption order within the meaning given by section 46(1) of the Adoption and Children Act 2002<sup>(63)</sup>;
- (b) a special guardianship order within the meaning given by section 14A(1) of the 1989 Act<sup>(64)</sup>; and
- (c) a child arrangements order within the meaning given by section 8(1) of the 1989 Act<sup>(65)</sup> 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.

(5) A child eligible for early years pupil premium continues to be so eligible notwithstanding any change in circumstances which would otherwise result in paragraph (2)(a) ceasing to be satisfied, or, in the case of paragraph (3)(a), the earned income of the child's parent subsequently exceeding the applicable amount.

(6) When determining the budget shares and amounts referred to in paragraph (1), a local authority must include an amount equivalent to a rate of at least 68 pence multiplied by 570 hours (irrespective of how many hours of early years provision the child actually receives) for each looked after child who receives at least one hour of funded early years provision.

(7) Where, after the local authority has determined the budget shares or amounts referred to in paragraph (1), either—

- (a) a child becomes eligible for early years pupil premium in accordance with paragraph (2); or
- (b) a child becomes a looked after child who receives at least one hour of funded early years provision,

the authority must redetermine the budget share or amount allocated to the early years provider concerned in accordance with paragraph (8).

(8) The amount to be included by a local authority under paragraph (7) is—

- (a) in the case of child falling under paragraph (7)(a), an amount equivalent to a rate of at least 68 pence multiplied by each hour of funded early years provision that the child is to receive, up to a maximum of 570 hours; and
- (b) in the case of a child falling under paragraph (7)(b), an amount equivalent to a rate of at least 68 pence multiplied by 570 hours.

(9) A local authority must use the same rate, which must be at least 68 pence, for all determinations and redeterminations under this regulation.

(10) A local authority must not include an amount under this regulation in respect of a particular child that is more than an amount equivalent to the rate used by the authority for the purposes of this regulation multiplied by 570 hours.

(11) A local authority must ensure that any amount included in a budget share or amount allocated under this regulation in respect of a looked after child is used for the benefit of the child in accordance with—

- (a) any directions or advice given by the local authority's virtual schools head; and
- (b) the child's personal education plan.

(12) In this regulation—

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<sup>(63)</sup> 2002 c. 38.

<sup>(64)</sup> Section 14A was inserted by section 115(1) of the Adoption and Children Act 2002 (c. 38) and amended by section 38 of the 2008 Act and section 12(4) of, and paragraph 24 of Schedule 2 to, the 2014 Act.

<sup>(65)</sup> Section 8(1) was amended by section 12 of the 2014 Act.

- (a) “child tax credit” means child tax credit under section 1(1)(a) of the Tax Credits Act 2002(66);
- (b) “earned income” means income for the purposes of Chapter 2 of Part 6 of the Universal Credit Regulations 2013(67);
- (c) “income-based jobseeker’s allowance” has the meaning given by section 1(4) of the Jobseekers Act 1995(68);
- (d) “income-related employment and support allowance” means an income-related allowance under Part 1 of the Welfare Reform Act 2007(69);
- (e) “income support” means income support under section 124 of the Social Security Contributions and Benefits Act 1992(70);
- (f) “looked after child”, or in relation to a child, “looked after”, has the meaning given by—
  - (i) section 22(1) of the 1989 Act(71); or
  - (ii) section 74(1) of the Social Services and Well-being (Wales) Act 2014(72);
- (g) the relevant assessment period and the applicable amount are those referred to in the following sub-paragraphs as applicable—
  - (i) except where paragraphs (ii) or (iii) apply, where the parent had earned income which did not exceed £616.67 in the universal credit assessment period(73) immediately preceding the date of the request for early years pupil premium (period 1)—
    - (aa) the relevant assessment period is period 1; and
    - (bb) the applicable amount is £616.67;
  - (ii) this paragraph applies where paragraph (i) does not because the applicable amount referred to in that paragraph is exceeded and there is a universal credit assessment period (period 2) immediately preceding period 1 referred to in that paragraph—
    - (aa) the relevant assessment period is the sum of period 1 and period 2 (SAP); and
    - (bb) the applicable amount is £1,233.34;

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(66) 2002 c. 21. Section 1 is repealed by Part 1 of Schedule 14 to the 2012 Act with savings specified in S.I. 2019/167.

(67) S.I. 2013/376. Chapter 2 of Part 6 is concerned with earned income for the purposes of calculating an award of universal credit. Chapter 2 was amended by S.I. 2013/1508, 2014/2888 and 3255, 2015/67, 345 and 1754, 2018/65, 2019/1152 and 1249, 2020/354 and 1138, 2021/1238.

(68) 1995 c. 18. Section 1(4) is repealed by section 147 of, and Part 1 of Schedule 14 to, the 2012 Act on different days and for different areas and purposes and remains partially in force. (See S.I. 2013/983, 1511, 2657, 2846, 2014/209, 1452, 1583, 2321, 3094, 2015/33, 101, 634, 1537 and 2016/33). Section 1(4) is amended by sections 59 and 88 of, and paragraph 2 of Schedule 7 and Part V of Schedule 13 to, the Welfare Reform and Pensions Act 1999 (c. 30), by section 4 of the Welfare Reform Act 2009 (c.24) and by section 254(1) of the Civil Partnership Act 2004 (c. 18).

(69) 2007 c. 5.

(70) 1992 c. 4. Section 124 is repealed by 147 of, and Part I of Schedule 14 to, the 2012 Act on different days and for different areas and purposes. See S.I. 2013/983, 1511, 2657, 2846, 2014/209, 1452, 1583, 2321, 3094, 2015/33, 101, 634, 1537 and 2016/33. Section 124 is amended by section 41(4) and (5) of, paragraph 30 of Schedule 2 to, and Schedule 3 to the Jobseekers Act 1995, section 70 of, and paragraph 28 of Schedule 8 to, the Welfare Reform and Pensions Act 1999, sections 14 and 21 of, and paragraphs 1 and 2 of Schedule 2 and Schedule 3 to, the State Pension Credit Act 2002 (c. 16), and section 254(1) of, and paragraph 42 of Schedule 24 to, the Civil Partnership Act 2004, section 28(1) and 67 of, and paragraph 9(1), (9) and (10) of Schedule 3 and Schedule 8 to, the 2007 Act, section 3(1) of the Welfare Reform Act 2009 and section 147 of, and paragraph 14(1) of Schedule 14 to, the Welfare Reform Act 2012.

(71) Section 22(1) was amended by section 107 of, and paragraph 19 of Schedule 5 to, the Local Government Act 2000 (c. 22), section 2(1) and (2) of the Children (Leaving Care) Act 2000 (c. 35), section 116(2) of the Adoption and Children Act 2002 (c. 38) and S.I. 2016/413.

(72) 2014 anaw. 4.

(73) An assessment period is prescribed by regulation 21(1) of the Universal Credit Regulations 2013 (S.I. 2013/376) as a period of one month beginning with the first day of entitlement and each subsequent period of one month during which entitlement subsists. Regulation 21(1) was amended by S.I. 2018/65.

- (iii) this paragraph applies where paragraph (ii) does not because the applicable amount referred to in that paragraph is exceeded and there is a universal credit assessment period (period 3) immediately preceding period 2 referred to in that paragraph—
  - (aa) the relevant assessment period is the period made up of SAP and period 3; and
  - (bb) the applicable amount is £1,850;
- (h) where the parent referred to in paragraph (3)(b) is—
  - (i) a member of a couple who have jointly made a claim for, and are in receipt of, universal credit; or
  - (ii) a member of a couple but has claimed, and is in receipt of, universal credit as a single person, references to applicable amounts in paragraphs (i) to (iii) of subparagraph (g) as applicable are to be read as references to the combined income of the couple;
- (i) “parent” has the meaning given by section 2(2) of the Childcare Act 2006 (meaning of early childhood services);
- (j) “personal education plan” has the same meaning as in regulation 5(1)(b)(ii) of the Care Planning, Placement and Case Review (England) Regulations 2010<sup>(74)</sup>;
- (k) “state pension credit” means state pension credit under section 1 of the State Pension Credit Act 2002<sup>(75)</sup>, and the “guaranteed element” of state pension credit means the guarantee credit under section 2 of that Act;
- (l) “universal credit” means universal credit under section 1 of the Welfare Reform Act 2012<sup>(76)</sup>;
- (m) “virtual schools head” means a person appointed by a local authority under section 22(3B) of the 1989 Act<sup>(77)</sup> 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);
- (n) “working tax credit” means working tax credit under section 1(1)(b) of the Tax Credits Act 2002.

### **Disability access fund**

**34.**—(1) 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 in respect of community early years provision in schools maintained by it,

a local authority must, subject to paragraph (6), include in the budget share or amount to be allocated a single amount of at least £910 for each eligible child.

(2) Where a child becomes an eligible child after the local authority has determined the budget shares or amounts referred to in paragraph (1), the authority must redetermine the budget share of,

<sup>(74)</sup> [S.I. 2010/959](#). Paragraph (1) of regulation 5 was renumbered as such by [S.I. 2014/1917](#).

<sup>(75)</sup> [2002 c. 16](#).

<sup>(76)</sup> [2012 c. 5](#).

<sup>(77)</sup> Section 22(3A) was inserted by section 52 of the 2004 Act; section 22(3B) was inserted by section 99 of the 2014 Act and amended by [S.I. 2016/413](#).

or amount allocated to, the early years provider concerned to include a single amount of at least £910 in respect of that child.

(3) A local authority must include the same amount under paragraphs (1) and (2) in respect of each eligible child.

(4) A local authority may only include an amount under paragraph (1) or (2) once in respect of any child.

(5) For the purposes of this regulation, a child is an eligible child if they are paid or entitled to disability living allowance by virtue of section 71 of the Social Security Contributions and Benefits Act 1992<sup>(78)</sup> and they receive at least one hour of funded early years provision.

(6) This regulation does not apply in respect of early years provision which is funded under regulation 14 (places).

### **Differential funding**

**35.**—(1) For the purpose of determining (including redetermining)—

- (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; and
- (d) amounts to be allocated in respect of community early years provision in schools maintained by it,

a local authority may use factors or criteria which differentiate between different categories or descriptions of school or provider on the basis of unavoidable costs.

(2) In particular, a local authority may include an additional sum in the budget share of each nursery school maintained by it.

(3) In paragraph (1), “unavoidable costs” means costs which must be incurred by virtue of a statutory requirement.

### **Early years 95% requirement**

**36.**—(1) In determining budget shares and amounts allocated in accordance with regulation 11(9), a local authority must comply with the formula set out in paragraph (2) separately for each group.

(2) The formula is  $(A - B) / C$  is no less than 95% of D, where—

- (a) A is the total of—
  - (i) all budget shares and amounts determined by the authority under regulation 11(9) in respect of the relevant group;
  - (ii) any amount deducted by the authority under paragraph 27 of Schedule 2, which the authority intends to distribute to early years providers in respect of the relevant group; and
  - (iii) any amount of the authority’s special educational needs inclusion fund, which the authority intends to distribute to early years providers in respect of the relevant group.
- (b) B is the total of—
  - (i) where the calculation is being made in respect of three and four year olds, the maintained nursery school supplement;

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<sup>(78)</sup> 1992 c. 4. Section 71 was amended by section 67(1) of the Welfare Reform and Pensions Act 1999 and by [S.I. 2021/804](#) and [2022/335](#).

- (ii) any amount included in accordance with regulation 33(1) or (6) (early years pupil premium) in respect of the relevant group; and
  - (iii) any amount included in accordance with regulation 34(1) (disability access fund) in respect of the relevant group;
  - (c) C is the total number of hours of attendance of children in the relevant group predicted by the authority under regulation 31(1) (special arrangements for early years pupils and children); and
  - (d) D is the hourly unit funding rate in relation to the relevant group, notified to the local authority in the early years block.
- (3) A local authority may alter the operation of this regulation if authorised to do so by the Secretary of State under regulation 41(1)(q).

### **12% early years discretionary funding cap**

**37.**—(1) A local authority must ensure that the total amount of discretionary funding in relation to each relevant group (calculated separately for each) does not exceed 12% of early years allocations in respect of that relevant group.

(2) For the purposes of paragraph (1), “discretionary funding” means funding in respect of a relevant group that is attributable to—

- (a) the factors based on the incidence of social deprivation in pupils or children referred to in regulation 32 (social deprivation for early years); and
- (b) the criteria set out in regulation 38(2) (additional criteria and disadvantaged two year olds requirement: early years) which by virtue of regulation 38(1) a local authority may take into account in its formula.

(3) For the purposes of paragraph (1), “early years allocations” means the total amount of the following budget shares and amounts allocated in relation to each of the relevant groups, determined by the local authority under regulation 11(9)—

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

excluding any of the amounts specified in paragraph (4).

(4) The amounts are—

- (a) where a calculation is made in respect of three and four year olds, the maintained nursery school supplement;
- (b) amount included in accordance with regulation 33(1) or (6) (early years pupil premium) in respect of the relevant group for which the calculation is being made; or
- (c) any amount included in accordance with regulation 34(1) (disability access fund) in respect of the relevant group for which the calculation is being made; and
- (d) any amount included in accordance with regulation 38(4) (additional criteria and disadvantaged two year olds requirement: early years).

### **Additional criteria and disadvantaged two year olds requirement: early years**

**38.**—(1) Subject to regulation 37, 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 in respect of community early years provision in schools maintained by it,

a local authority may, in its formula, provide additional funding to the provider, taking into account any or all of the criteria specified in paragraph (2).

(2) The criteria which a local authority may take into account for the purposes of paragraph (1) are—

- (a) the rurality or sparsity of the population of the area;
- (b) pupils and children whose first language is not English;
- (c) the qualifications of staff;
- (d) the estimated cost of sharing expertise with other early years providers;
- (e) the degree to which providers offer flexible provision to parents.

(3) Paragraph (4) applies where a local authority's per child amount for a provider in respect of disadvantaged two year olds is less than the authority's per child amount for the same provider in respect of working parent two year olds.

(4) 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 in respect of community early years provision in schools maintained by it,

in respect of disadvantaged two year olds, a local authority must, in its formula, take into account a factor that has the effect of ensuring the per child amount a provider receives in respect of disadvantaged two year olds is equal to, or more than, the per child amount the same provider receives in respect of working parent two year olds.

(5) In this regulation, the “per child amount” is  $X/Y$ , where—

- (a) X is a local authority's notional budget share for a provider or notional amount to be allocated to a provider in respect of disadvantaged two year olds or working parent two year olds, as the case may be, which would be determined under regulation 11(9), but for the operation of paragraph (4);
- (b) Y is the predicted total number of hours of attendance of pupils or children who are disadvantaged two year olds or working parent two year olds, as the case may be, used by the authority to determine the provider's notional budget share or notional amount to be allocated under regulation 11(9) in accordance with regulations 10(5) and 31(1).

(6) In calculating X, the authority must deduct any amount of funding attributable to—

- (a) regulation 33(1) (early years pupil premium);
- (b) regulation 34(1) (disability access fund); and
- (c) regulation 35(1) (differential funding),

in respect of disadvantaged two year olds or working parent two year olds, as the case may be.

(7) A local authority may disregard the requirement under paragraph (4) if authorised to do so by the Secretary of State under regulation 41(1)(r).



## CHAPTER 3

### Adjustments, correction of errors, and alternative arrangements authorised by the Secretary of State

#### **Pupils permanently excluded from, or leaving, maintained schools**

**39.**—(1) Where a pupil is permanently excluded from a school maintained by a local authority (other than a special school, a pupil referral unit, or a place which the authority has reserved for children with special educational needs) (“the excluding school”) the authority must redetermine the excluding school’s budget share in accordance with paragraph (2).

(2) The excluding school’s budget share must be reduced by  $A \times (B/52) + C$  where—

- (a) A is the amount determined by the authority in accordance with Chapter 1 of this Part that would be attributable to a pupil of the same age and personal circumstances as the pupil in question at primary or secondary schools maintained by the authority for the full funding period;
- (b) B is either—
  - (i) the number of complete weeks remaining in the funding period calculated from the relevant date; or
  - (ii) where the permanent exclusion takes effect on or after 1st April in a school year at the end of which pupils of the same age, or age group, as the pupil in question normally leave that school before being admitted to another school with a different pupil age range, the number of complete weeks remaining in that school year calculated from the relevant date; and
- (c) C is the amount of the adjustment made to the school’s budget share under a financial adjustment order.

(3) Where a pupil has been permanently excluded from the excluding school and is admitted to another school maintained by a local authority (other than a special school, a pupil referral unit, or to a place which the authority has reserved for children with special educational needs) (“the admitting school”) in the funding period, the authority must redetermine the admitting school’s budget share in accordance with paragraphs (4) and (5).

(4) The admitting school’s budget share must be increased by an amount which is not less than  $D \times (E / F)$  where—

- (a) D is the amount by which the authority reduced the budget share of the excluding school, or would have reduced the budget share if that school had been maintained by the authority, except that any reduction in the excluding school’s budget share made under a financial adjustment order must not be taken into account for these purposes;
- (b) E is the number of complete weeks remaining in the funding period during which the pupil is a pupil at the admitting school; and
- (c) F is the number of complete weeks remaining in the funding period calculated from the relevant date.

(5) In redetermining the admitting school’s budget share, the authority may increase it by any amount up to the amount of the adjustment made to the excluding school’s budget share under a financial adjustment order.

(6) Where a permanently excluded pupil is subsequently reinstated by the governing body of the school, the school’s budget share must be increased by an amount which is no less than  $G \times (H/I)$  where—

- (a) G is the amount by which the authority reduced the school’s budget share under paragraph (2);

- (b) H is the number of complete weeks remaining in the funding period during which the pupil is reinstated; and
- (c) I is the number of complete weeks remaining in the funding period calculated from the relevant date.

(7) Paragraphs (1) and (2) also apply where a pupil leaves a maintained school (other than a special school, a pupil referral unit, or a place which the authority has reserved for children with special educational needs) for reasons other than permanent exclusion and is receiving education funded by a local authority other than at a school which is maintained by that authority.

(8) For the purposes of paragraph (2)(a), the amount attributable to a pupil is the sum of the amounts determined in accordance with the authority's formula, by reference to pupil numbers rather than by reference to any other factor or criterion not dependent on pupil numbers, except that where a sixth form grant is payable in respect of a pupil, the amount attributable to that pupil in the funding period is £4,753.

(9) Where a pupil in respect of whom a pupil premium is payable has been permanently excluded from a school maintained by a local authority ("the excluding school"), the local authority must redetermine the excluding school's budget share in accordance with paragraph (10).

(10) The excluding school's budget share must be reduced by  $J \times (K/52)$  where—

- (a) J is the amount of the pupil premium allocated to the excluding school for the funding period in respect of that child; and
- (b) K is either—
  - (i) the number of complete weeks remaining in the funding period calculated from the relevant date; or
  - (ii) where the permanent exclusion takes effect on or after 1st April in a school year at the end of which pupils of the same age, or age group, as the pupil in question normally leave that school before being admitted to another school with a different pupil age range, the number of complete weeks remaining in that school year calculated from the relevant date.

(11) Where a pupil in respect of whom a pupil premium is payable has been permanently excluded from a school maintained by a local authority and admitted to another school maintained by a local authority ("the admitting school") in the funding period, the authority must redetermine the budget share of the admitting school in accordance with paragraph (12).

(12) The admitting school's budget share must be increased by an amount which is not less than  $L \times (M / N)$  where—

- (a) L is the amount by which the authority reduced the budget share of the excluding school or would have reduced the budget share had that school been maintained by the authority;
- (b) M is the number of complete weeks remaining in the funding period during which the pupil is a pupil at the admitting school; and
- (c) N is the number of complete weeks remaining in the funding period calculated from the relevant date.

(13) Where a permanently excluded pupil in respect of whom a pupil premium is payable is subsequently reinstated by the governing body of the school, the school's budget share must be increased by an amount which is no less than  $O \times (P / Q)$  where—

- (a) O is the amount by which the authority reduced the school's budget share under paragraph (10);
- (b) P is the number of complete weeks remaining in the funding period during which the pupil is reinstated; and

(c) Q is the number of complete weeks remaining in the funding period calculated from the relevant date.

(14) Paragraphs (9) and (10) also apply where a pupil in respect of whom a pupil premium is payable leaves a maintained school for reasons other than permanent exclusion and is receiving education funded by a local authority other than at a school which is maintained by that authority.

(15) For the purposes of this regulation—

- (a) “the relevant date” is the sixth school day following the date on which the pupil has been permanently excluded; and
- (b) “a financial adjustment order” means an order for the adjustment of a school’s budget share made under regulation 25(5)(b) of the School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012(79) in respect of the exclusion of the pupil from the excluding school.

### **Correction of errors and changes in non-domestic rates**

**40.**—(1) A local authority may at any time during the funding period redetermine a maintained school’s budget share, or the amount allocated to a relevant early years provider, for the funding period or any previous funding period in order to correct an error in a determination or redetermination made under these Regulations or any previous regulations made under section 47 or 47ZA of the 1998 Act (“preceding regulations”), whether arising from a mistake as to the number of pupils at the school or otherwise, and any such redetermination will take effect in the next financial year following the funding period.

(2) In so far as any redetermination under paragraph (1) would require the amount that would otherwise have been the budget share of a school to be reduced, it may not be reduced to a figure which is lower than that which could have been allocated to that school under these Regulations or under the preceding regulations in force during the funding period in which the error occurred.

(3) A local authority may redetermine a school’s budget share to take into account any changes in that school’s non-domestic rate liability in relation to the funding period or any previous funding period.

### **Alternative arrangements approved by the Secretary of State**

**41.**—(1) Subject to paragraph (2), on application by a local authority, the Secretary of State may authorise the authority to—

- (a) disregard the limits referred to in paragraph 3 of Schedule 2 when deducting any expenditure referred to in regulation 8(4) (historic commitments);
- (b) disregard the requirements in regulation 8(9) (deductions etc. of expenditure relating to deficit in the budget for a previous funding period);
- (c) deduct any expenditure referred to in regulation 8(14)(a) (expenditure falling outside Schedule 2);
- (d) include additional factors or criteria in its formula under regulation 10(1) (formula for determining budget shares) where the nature of a school’s premises exceptionally gives rise to significant additional cost;
- (e) include additional factors or criteria that the authority proposes to include in its formula under regulation 10(3) (early years single funding formula);
- (f) alter the operation of regulation 11(3) (additional expenditure on children with special educational needs);

- (g) determine (including redetermine) budget shares of schools maintained by it;
- (h) determine (including redetermine) amounts to be allocated in respect of nursery classes in schools maintained by it;
- (i) determine (including redetermine) amounts to be allocated to relevant early years providers in its area;
- (j) disregard regulation 13 (pupil numbers);
- (k) alter the operation of regulation 14(3) or (5) (places in pupil referral units or in hospital education);
- (l) alter the operation of regulation 21 (the sparsity factor) in respect of particular schools;
- (m) alter the operation of regulation 26 (minimum per pupil amount) in respect of particular schools;
- (n) alter any or all of the year group values D, E or F set out in regulation 26(5) for all the schools that are subject to the formula decided by the authority under regulation 10(1);
- (o) alter the operation of regulation 27 (minimum funding guarantee) and Schedule 3 in respect of particular schools;
- (p) alter the operation of regulation 29 (new schools, merged schools and closing schools) in respect of particular schools;
- (q) alter the operation of regulation 36 (early years 95% requirement);
- (r) disregard the requirement in regulation 38(4) (requirement for a provider's per child amount in respect of disadvantaged two year olds to be equal to, or more than, the per child amount in respect of working parent two year olds).

(2) The Secretary of State may authorise the matters in paragraph (1) to such extent as the Secretary of State may specify in accordance with arrangements approved in place of the arrangements provided for by these Regulations.

## PART 4

### Schemes

#### **Required content of schemes**

**42.** A scheme prepared by a local authority under section 48(1) of the 1998 Act must deal with the matters connected with the financing of schools maintained by the authority set out in Schedule 4 (contents of schemes).

#### **Approval by the schools forum or the Secretary of State of proposals to revise schemes**

**43.**—(1) Where a local authority submits a copy of its proposals to revise its scheme to its schools forum for approval under paragraph 2A(3)(b) of Schedule 14 to the 1998 Act, the members of the schools forum who represent schools maintained by the authority may—

- (a) approve the proposals;
- (b) approve the proposals with modifications; or
- (c) refuse to approve the proposals.

(2) Where the schools forum approves the proposals to revise the scheme, it may specify the date on which the revised scheme is to come into force.

(3) The local authority may apply to the Secretary of State for approval of proposals submitted under paragraph 2A(3)(b) of Schedule 14 to the 1998 Act<sup>(80)</sup> where—

- (a) the schools forum refuses to approve the proposals, or approves them with modifications which are not acceptable to the local authority; or
- (b) the local authority is not required to establish a schools forum for its area.

(4) The Secretary of State may—

- (a) approve the proposals;
- (b) approve the proposals with modifications; or
- (c) refuse to approve the proposals.

(5) When approving proposals, the Secretary of State may specify the date on which the revised scheme is to come into force.

(6) No revised scheme is to come into force unless approved by the schools forum or the Secretary of State in accordance with this regulation.

### **Publication of schemes**

**44.**—(1) A local authority—

- (a) must publish its scheme on a website which is accessible to the general public; and
- (b) may publish it elsewhere.

(2) Whenever a local authority revises the whole or part of its scheme, it must publish the scheme as revised on a website which is accessible to the general public by the date that the revisions are due to come into force, together with a statement that the revised scheme comes into force on that date.

## **PART 5**

### **Amendments to the Childcare (Provision of Information About Young Children) Regulations 2009**

#### **Information to be provided under the Childcare (Provision of Information About Young Children) Regulations 2009**

**45.**—(1) The Childcare (Provision of Information About Young Children) Regulations 2009<sup>(81)</sup> are amended as follows.

(2) In regulation 2 (interpretation) —

- (a) for ““the 2017 Regulations”” and the associated definition, substitute—  
““the 2024 Regulations” means the School and Early Years Finance and Childcare (Provision of Information About Young Children) (Amendment) (England) Regulations 2024;”;
- (b) in the definition of “disability access fund”, for “regulation 18(3) of the 2017 Regulations” substitute “regulation 34(5) of the 2024 Regulations”;
- (c) in the definition of early years pupil premium”, for “the 2017 Regulations” substitute “the 2024 Regulations”.

(3) In the Schedule—

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<sup>(80)</sup> Paragraph 2A(3)(b) of Schedule 14 to the 1998 Act was inserted by section 57 of, and paragraph 5 of Schedule 5 to, the 2006 Act.

<sup>(81)</sup> S.I. 2009/1554, amended by S.I. 2010/1836, 2012/765, 2014/2103 and 3197, 2015/1696 and 2017/461.

- (a) omit paragraphs 10 to 11;
- (b) for paragraph 12 substitute—

“12.—(1) The number of weeks during the funding period in which the child is expected to receive at least one hour of funded early years provision pursuant to each of the entitlements separately.

(2) Where the child receives at least one hour of funded early years provision during a specified week in the funding period, the number of hours of funded early years provision received pursuant to each of the entitlements separately during that week.

(3) Where the child receives at least one hour of early years provision that is funded by the local authority in excess of funded early years provision during a specified week in the funding period, the number of such hours received during that week.

(4) Where a child receives at least one hour of early years provision during a specified week in the funding period, the total number of hours received during that week.

(5) In this paragraph—

(a) “the entitlements” means each of the following—

(i) funded early years provision prescribed for the purposes of section 7(1) of the Act where—

(aa) a child meets the condition in regulation 3(2) but not the condition in regulation 3(3) of the Local Authority (Duty to Secure Early Years Provision Free of Charge) Regulations 2014 (“the disadvantaged two year old entitlement”);

(bb) a child meets the condition in regulation 3(3) of the 2014 Regulations (“the universal three and four year old entitlement”);

(ii) funded early years provision specified for the purposes of section 2(1) of the Childcare Act 2016 where a child is a qualifying child of a working parent—

(aa) during the period commencing with the earliest of the next 1st April, 1st September or 1st January after the child attains the age of nine months and ending with the earliest of the next 31st March, 31st August or 31st December after the child attains the age of three years (“the working parent under three year old entitlement”);

(bb) during the period commencing with the earliest of the next 1st April, 1st September or 1st January after the child attains the age of three years (“the working parent three and four year old entitlement”);

(b) funded early years provision is expected to be received by a child if the child’s parent or carer has arranged the provision with the early years provider;

(c) “the funding period” means each period of up to 12 months during the relevant entitlement period;

(d) “qualifying children of working parents” has the meaning given by section 1(2) of the Childcare Act 2016;

(e) “the relevant entitlement period” means—

(i) in respect of the working parent under three year old entitlement, the period commencing with the earliest of the next 1st April, 1st September or 1st January after the child attains the age of nine months and ending

- with the earliest of the next 31st March, 31st August or 31st December after the child attains the age of three years;
- (ii) in respect of the disadvantaged two year old entitlement, the period commencing with the earliest of the next 1st April, 1st September or 1st January after the child attains the age of two years and ending with the earliest of the next 31st March, 31st August or 31st December after the child attains the age of three years;
  - (iii) in respect of universal three and four year old entitlement and the working parent three and four year old entitlement, the period commencing with the earliest of the next 1st April, 1st September or 1st January after the child attains the age of three years;
- (f) “a specified week” means a week (and may include more than one week) specified in a request for information mentioned in regulation 4(1) or (2) or 4A(1)”; and
- (c) in paragraph 14—
- (i) omit sub-paragraphs (2) and (3); and
  - (ii) insert—

“(2) If the provider is in receipt of the early years pupil premium in relation to the child, whether, if it is known, the eligibility derives from sub-paragraph (2)(a), (2)(b) or (6) of regulation 33 of the 2024 Regulations (early years pupil premium).”.

18th January 2024

*Damian Hinds*  
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