
STATUTORY INSTRUMENTS

2024 No. 66

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
- (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)(1).

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

(1) 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).

- (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(2).

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

(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) [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](#).

(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).