

EXPLANATORY MEMORANDUM TO
THE SCHOOL AND EARLY YEARS FINANCE AND CHILDCARE (PROVISION OF INFORMATION ABOUT YOUNG CHILDREN) (AMENDMENT) (ENGLAND) REGULATIONS 2024

2024 No. 66

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Education and is laid before Parliament by Command of His Majesty.

2. Purpose of the instrument

2.1 These Regulations provide instructions on how local authorities are to set their early years and education budgets in the 2024-25 financial year.

2.2 They set the parameters that local authorities must abide by in determining their education budgets, and the budgets which are allowed to be retained centrally by local authorities. They also set out how local authorities are to allocate funding to maintained schools and private, voluntary and independent early years providers through locally-determined funding formulae.

2.3 The Department for Education makes these regulations annually; The School and Early Years Finance and Childcare (Provision of Information About Young Children) (Amendment) (England) Regulations 2024 will only apply to budgets for the 2024-25 financial year.

2.4 These Regulations also make minor amendments to the Childcare (Provision of Information about Young Children) Regulations 2009¹. They update definitions and provisions in those regulations to refer to the regulations applying to the 2024-25 financial year in Parts 1 to 4 of, and the Schedules to, these Regulations. They also simplify the way a “stretched” free entitlement (when a child takes fewer hours a week of free provision over more weeks of the year) is recorded on the Early Years Census and provide for the phased introduction of the Government’s expansion of free early years entitlements (FEYEs) to qualifying children aged nine months to two years of working parents from 1st April 2024.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Extent and Territorial Application

4.1 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales.

4.2 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England only.

¹ SI 2009/1544

5. European Convention on Human Rights

- 5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

6. Legislative Context

- 6.1 Parts 1 to 4 of, and the Schedules to, these Regulations are made under Chapter 4 of Part 2 of the School Standards and Framework Act 1998 (“SSFA 1998”), which concerns the financing of maintained schools and of the Government’s FEYEs. They relate to the 2024-25 financial year and need to be made because the School and Early Years Finance (England) Regulations 2023 (“the 2023 Regulations”) apply only up to the end of the 2023-24 financial year.
- 6.2 Part 5 of these Regulations (amendments to the Childcare (Provision of Information About Young Children) (England) Regulations 2009) is made under sections 99(1) and 104(2) in Part 3 of the Childcare Act 2006 (regulation of provision of childcare in England). Regulations under section 99(1) of the Childcare Act 2006 may make provision requiring early years providers and early years childminder agencies in England to provide prescribed information to the Secretary of State and other prescribed persons.

7. Policy background

What is being done and why?

- 7.1 Regulations prescribing how local authorities set their annual education and early years budgets are made on an annual basis. Parts 1 to 4 of, and the Schedules to, these Regulations prescribe those requirements for the 2024-25 financial year. They control how local authorities set their education budgets (the non-schools education budget, the schools budget, and the individual schools budget). They also set out how local authorities are to allocate funding to maintained schools in their area, and also to private, voluntary and independent providers of FEYEs provision through locally determined formulae.
- 7.2 The Department for Education introduced national funding formulae (NFF) for determining allocations for local authorities, to enable them to fund schools (5-16 year olds), high needs and central school services in 2018-19; and for early years in 2017-18. This replaced the previous system by which local authorities’ funding was based on historic funding. Local authorities now receive funding for maintained mainstream schools based on one single national formula. Funding for FEYEs provision is based on two national formulae (one formula for three- and four-year-olds and a separate one for two-year olds and under). However, local authorities retain responsibility for distributing that funding locally, including through their own local formula for school funding. The Department for Education delivers this funding to local authorities through the annual Dedicated Schools Grant (“DSG”).
- 7.3 Parts 1 to 4 of, and the Schedules to, these Regulations largely set out the rules local authorities must follow when spending their 2024-25 DSG funding allocation, which consists of funding for: core provision for 5-16 year olds in mainstream schools; central services carried out on behalf of local schools; provision for children and young people (aged 0-25) with complex needs; and Government-funded early years entitlements.

Schools Funding

- 7.4 The majority of the DSG is allocated to local authorities through the schools NFF – for mainstream primary and secondary school funding. The schools NFF calculates notional school-level allocations, which are aggregated to form local authorities’ school funding within the DSG. The Department for Education introduced the NFF to make the funding system simpler, fairer and more transparent. In 2024-25, the Department for Education has allocated an average per pupil increase of 1.9% for every mainstream school through the NFF. Every primary school will receive a minimum of £4,610 per pupil and, every secondary school, a minimum of £5,771 per pupil in Key Stage 3 and £6,331 per pupil in Key Stage 4.
- 7.5 The 2024-25 NFF is broadly similar in policy terms to the original NFF: the same funding factors are in use, which form the basis of funding to schools, but small technical improvements have been made each year, as well as increases to the factor values used. These are set out in the NFF policy document, which we have published each year since the NFF was introduced:
<https://www.gov.uk/government/publications/national-funding-formula-for-schools-and-high-needs>.
- 7.6 The Department for Education has confirmed its intention, following consultation, to move towards a “direct” NFF - in which the Department itself will determine funding allocations for individual mainstream schools, rather than these being determined through local formulae. The majority of the changes to the regulations related to mainstream school funding, as set out below, align with the policy intention to move towards greater consistency in school funding arrangements, and thereby smooth the transition towards the “direct” NFF.

The main changes to schools funding compared with the 2023 Regulations are set out below:

Low prior attainment

- 7.7 The low prior attainment factor is used in the NFF to direct more funding towards pupils with additional needs and has been mandatory for local authorities to use since 2023-24. It must be applied for primary pupils identified as not achieving the expected level of development in the early years foundation stage profile (EYFSP) and secondary pupils not reaching the expected standard at the end of Key Stage 2 in reading, writing or maths.

In 2023-24, local authorities were required to use 2019 assessment data as a proxy for the calculation of low prior attainment funding with regard to year groups which did not sit assessments in 2020 and 2021 due to the COVID-19 pandemic. 2022 assessment data is now available (for the first time) to be used in the NFF calculations for 2024-25, and so it is used as a proxy for the cancelled assessments from 2021. These regulations require local authorities to likewise use 2022 data as a proxy for 2021, with 2019 data to be used as a proxy for the cancelled assessments in 2020 (which also follows the approach taken in the NFF).

Regulation 17 sets out these requirements.

The London fringe factor

- 7.8 The NFF contains an Area Cost Adjustment (“ACA”) which is a multiplier applied to the funding factors to account for the variations in labour market costs in different

areas of England. Most local authorities have an ACA that applies to the whole authority, but for some authorities close to London, certain districts have a higher ACA. The London fringe factor is used to take account of this difference.

- 7.9 The London fringe factor has been mandatory for those local authorities to which it applies to include in their local funding formulae for mainstream schools since 2023-24. This factor ensures that schools in the fringe districts within the local authority areas of Buckinghamshire, Essex, Hertfordshire, Kent and West Sussex attract additional funding, in recognition of the costs of the higher teacher pay bands that apply in these areas. In the NFF, the London fringe factor is applied as the ratio between the two different ACAs that apply in the relevant local authorities; that is, the ratio between the higher ACA that applies in the fringe districts within the local authority, and the lower ACA that applies in the non-fringe districts.
- 7.10 For 2024-25 we are introducing new requirements on how local authorities are to set their London fringe factors. This aligns with the wider policy objective of moving towards greater consistency in school funding arrangements, in order to prepare for the transition towards a “direct” NFF. In 2024-25, those local authorities which currently mirror the NFF approach to the London fringe – that is, Buckinghamshire, Kent and West Sussex – will be required to continue to do so. The two other London fringe local authorities – Essex and Hertfordshire – which do not currently mirror the NFF approach will be required to set their respective London fringe factors within a range, such that they will move at least 10% closer to the NFF ratio. This latter requirement is reflected in the allowable ranges for the London fringe factor for Essex and Hertfordshire at regulation 20(3)(a) and 20(3)(b) respectively.
- 7.11 Regulation 20 sets out the requirements relating to the London fringe factor.

Introduction of a mandatory formulaic approach to allocating split sites funding

- 7.12 The split sites factor targets extra funding to schools which operate across more than one site. In previous years this was an optional factor which a local authority could choose to include in its local formula.
- 7.13 We are introducing a mandatory formulaic approach to allocating split sites funding in the NFF in 2024-25. This ensures that split sites funding will be provided on a consistent basis across the country, replacing the previous locally determined split sites factor used by some local authorities. This change is part of our transition towards the “direct” NFF. Local authorities will be required to allocate split sites funding to eligible schools, at funding rates that are within +/- 2.5% of the NFF values.
- 7.14 Regulation 23 sets out these requirements.

Changes to growth and falling rolls funding

- 7.15 In addition to the core funding allocated through the NFF, growth funding is provided to local authorities to manage increases in pupil numbers. The NFF operates on a lagged funding basis whereby schools receive funding in a given year based on pupil numbers from the year before – and in limited cases (covered in regulation 13(3)) local authorities can fund schools based on estimates of pupil numbers for the funding period. Local authorities can hold a growth fund to support schools to manage an increase in pupil numbers before the lagged funding system has caught up. This allows them to support growing schools in cases where funding on estimated pupil numbers is not feasible, or appropriate.

- 7.16 From 2024-25 local authorities must provide additional funding where a school or Academy has agreed with the local authority to provide an extra class in order to meet basic need in the area (either as a bulge class or as an ongoing commitment). In setting the criteria for providing growth funding, local authorities must provide funding to such schools that is at least at the minimum level set out in Regulation 8(6).
- 7.17 Since the introduction of the NFF in 2018-19, local authorities have been able to operate a falling rolls fund to support schools which see a short-term fall in the number of pupils on roll. For the first time, in 2024-25 funding will be allocated to local authorities on the basis of falling rolls, as well as growth.
- 7.18 Local authorities will continue to have discretion over whether or not to operate a falling rolls fund in 2024-25. Where local authorities operate a fund, they will only be able to provide funding where the 2022 school capacity data (SCAP) shows that school places will be required in the subsequent three to five years. The previous restriction that this funding can only be provided to schools judged “Good” or “Outstanding” in their latest Ofsted judgement will be removed from 2024-25.
- 7.19 Schedule 2 (paragraph 5) has been updated accordingly on falling rolls funding.

Early Years Funding

- 7.20 Currently, the Government funds, and local authorities are required to provide, the following FEYEs:
- (a) 15 hours a week for 38 weeks of the year for all three- and four-year-olds (the “universal entitlement”)²;
 - (b) an additional 15 hours (30 hours in total) for 38 weeks of the year for eligible three- and four-year-olds of working parents (the “extended entitlement”)³;
 - (c) 15 hours per week for eligible disadvantaged two-year-olds (the “disadvantaged two-year-old entitlement”)⁴.
- 7.21 In addition to funding early years providers to deliver these FEYEs, local authorities are required to provide an additional amount of funding to providers for each qualifying disadvantaged and disabled three- and four-year-old child through the Early Years Pupil Premium (“EYPP”) and the Disability Access Fund (“DAF”) respectively. This additional amount, which is funded by the Government, helps three- and four-year-old children eligible for the FEYEs to access the universal entitlement.
- 7.22 As announced in the spring budget 2023, from April 2024 the Government will be funding, and local authorities will be required to provide, the following additional FEYEs for eligible children of working parents:
- (a) 15 hours for 38 weeks of the year for children aged two years from 1 April 2024⁵;

² 15 hours per week, up to 570 hours per year spread over no fewer than 38 weeks.

³ An additional 15 hours per week, up to 1140 hours per year for both entitlements, spread over no fewer than 38 weeks.

⁴ 15 hours per week, up to 570 hours per year spread over no fewer than 38 weeks.

⁵ 15 hours per week, up to 570 hours per year spread over no fewer than 38 weeks.

- (b) 15 hours for 38 weeks of the year for children aged nine months to two years from 1 Sep 2024⁶;
- (c) 30 hours for 38 weeks of the year for children aged nine months to two years, from 1 Sep 2025⁷.

Additionally, from April 2024, the government will fund, and local authorities will be required to provide, EYPP and DAF funding for each qualifying disadvantaged and disabled child of any age who is in receipt of the FEYEs.

7.23 The main differences between the requirements relating to early years funding in these Regulations compared with the 2023 Regulations are set out below. Other than grouping all of the early years criteria to be taken into account by local authorities when setting their 2024-25 early years funding formula and allocations into a new Chapter 2 of Part 3 of the Regulations, most of the differences extend existing requirements in the 2023 Regulations to apply to the new Government-funded FEYEs being introduced from April 2024 in accordance with the [Government's response to the consultation with the sector over the summer](#).

Social deprivation for early years

- 7.24 For three- and four-year-olds, the 2023 Regulations require a local authority to take into account in their formula at least one factor based on the incidence of social deprivation in pupils or children in its area. This is optional for disadvantaged two-year-olds. This is commonly referred to as the deprivation supplement.
- 7.25 Following [consultation with the sector over the summer](#), these Regulations maintain the mandatory social deprivation supplement in respect of three- and four-year-olds, and extend the option for including a deprivation supplement in respect of all children aged two and under.
- 7.26 To reflect what happens in practice, these Regulations also give a local authority greater flexibility as to how they determine the incidence of social deprivation in pupils and children by removing the requirement that this must be based only on the characteristics of the pupils and children and not on the location of the school or provider.
- 7.27 These provisions are in regulation 32.

Early Years Pupil Premium ("EYPP")

- 7.28 Under the 2023 Regulations, only children who are eligible for the 15-hour entitlement for three- and four-year-olds can be eligible for EYPP (provided they meet the other eligibility criteria).
- 7.29 Following [consultation with the sector over the summer](#), these Regulations extend eligibility for EYPP to all children eligible for any of the new FEYEs, including the current disadvantaged two-year-old entitlement, provided that they meet the other eligibility criteria (which remain unchanged).
- 7.30 Under the 2023 Regulations, a local authority is required to fund EYPP at a specific amount for each hour of funded early years provision a child receives, up to a maximum of 570 hours (or, in the case of looked after children, the specific amount multiplied by 570 hours). These Regulations provide greater flexibility to local

⁶ 15 hours per week, up to 570 hours per year spread over no fewer than 38 weeks.

⁷ 30 hours per week, up to 1140 hours per year spread over no fewer than 38 weeks.

authorities by requiring them to fund EYPP at a rate of at least 68 pence per hour, up to a maximum of 570 hours (retaining the requirement to fund looked after children at the maximum amount of at least 68 pence multiplied by 570 hours).

- 7.31 However, these Regulations clarify that a looked after child must receive at least one hour of funded early years provision for the requirement to apply, and that the funding is to be used in accordance with the advice or directions of, rather than managed by, the local authority's virtual schools head (reflecting what happens in practice).
- 7.32 These Regulations require a local authority to redetermine a provider's budget share or funding allocation where a child becomes eligible for EYPP during the funding period and provides for a local authority to do this without having to make an application to the Secretary of State.
- 7.33 The Regulations require a local authority to use the same rate (at least 68 pence per hour per child) for all amounts included in respect of the EYPP.
- 7.34 These provisions are in regulation 33.

Disability Access Fund ("DAF")

- 7.35 Under the 2023 Regulations, only children who are eligible for the 15-hour entitlement for three- and four-year-olds can be eligible for the DAF (provided they meet the other eligibility criteria).
- 7.36 Following [consultation with the sector over the summer](#), these Regulations extend eligibility for the DAF to all children eligible for any of the FEYEs, including the current disadvantaged two-year-old entitlement and each of the new entitlements, provided that they meet the other eligibility criteria (which remain unchanged).
- 7.37 These Regulations require a local authority to redetermine a provider's budget share or funding allocation where a child becomes eligible for the DAF during the funding period and provides for a local authority to do this without having to make an application to the Secretary of State.
- 7.38 The Regulations require a local authority to include the same quantum of funding per eligible child, for all amounts included in respect of the DAF, which must be at least £910 per child per year.
- 7.39 These provisions are in regulation 34.

Early years 95% pass through requirement

- 7.40 In order to maximise the amount of funding reaching providers, the 2023 Regulations require a local authority to pass through to their providers at least 95% of their annual DSG funding allocation in respect of the three- and four-year-old entitlements.
- 7.41 Following [consultation with the sector over the summer](#), these Regulations extend the requirement for a local authority to pass through to their providers at least 95% of their annual DSG funding allocation to the FEYEs for children aged two and under and clarify that this requirement applies separately to the entitlements for: nine-months-old children up to two-year-olds of working parents, two-year-old children of working parents, two-year-old children from disadvantaged families, three- and four-year-olds (universal and additional hours).

- 7.42 These Regulations also clarify that any amounts included by a local authority in respect of the EYPP and the DAF are excluded from the 95% pass through requirement.
- 7.43 These Regulations require a local authority to have a Special Educational Needs Inclusion Fund (“SENIF”) to support children of all ages who are eligible for FEYEs (see paragraphs 7.53-7.56 below). Consequently, the formula in regulation 36, which a local authority must comply with when calculating the 95% pass through requirement in respect of each of the entitlement groups, now explicitly refers to the inclusion of any amount of a local authority’s SENIF that it intends to distribute to providers in respect of the relevant group, rather than referring to expenditure deducted under paragraph 32 of Schedule 2.
- 7.44 These provisions are in regulation 36.

12% early years discretionary funding cap

- 7.45 The 2023 Regulations prohibit the amount of “discretionary funding” local authorities can allocate to their early years providers (on top of their base rate) in respect of three- and four-year-olds from exceeding 12% of the total amount they allocate to providers, excluding any maintained nursery school supplement. “Discretionary funding” means any amount attributable to the social deprivation supplement under regulation 16 of the 2023 Regulations and any amount included under regulation 28(3) of the 2023 Regulations by taking into account the additional requirements, factors, or criteria set out in Part 2 of Schedule 3 to the 2023 Regulations.
- 7.46 As a consequence of extending the use of a discretionary social deprivation supplement in respect of all children aged two and under, these Regulations extend the 12% discretionary funding cap requirement to apply in respect of all children aged two and under. “Discretionary funding” continues to mean any amount attributable to the social deprivation supplement (under regulation 32 of these Regulations) and any amount included by taking into account the additional requirements, factors, or criteria under regulation 38 of these Regulations (which is a new regulation combining regulation 28(3) of, and Part 2 of Schedule 3 to, the 2023 Regulations). These Regulations also clarify that any amounts included by a local authority in respect of the EYPP and the DAF are not included for the purpose of calculating the 12%.
- 7.47 These provisions are in regulation 37.

Local Authority funding rates: two-year-olds

- 7.48 For the 2024-25 financial year, we are replacing our current formula used to fund local authorities for delivering the disadvantaged two-year-old entitlement with a single formula for funding all entitlements for children aged two and under – the disadvantaged two-year-old entitlement and all those listed in 7.22 above. This formula will be used to create a single hourly funding rate used to calculate each local authority’s 2024-25 DSG funding allocations for delivering FEYEs for children under the age of two, and a separate single rate for two-year-olds.
- 7.49 Local authorities have flexibility in how they design their two-year-old funding approach locally: they could choose to have a single local formula for all two-year-olds, or have separate local formulae for disadvantaged two-year-olds and two-year-olds of working parents. However, to help ensure sufficiency of provision for disadvantaged two-year-olds, these Regulations require a local authority to fund a provider for delivering the disadvantaged two-year-olds entitlement at an amount that

is at least equal to the amount at which they fund the same provider for delivering the new entitlement for two-year-olds of working parents.

- 7.50 This is achieved through new regulations 38(4) to (6) of these Regulations. Where a local authority's formula results in the amount of funding a provider would receive in respect of disadvantaged two-year-olds being less than the amount of funding the same provider would receive in respect of two-year-olds of working parents, a local authority is required to take account in its formula a factor that has the effect of ensuring the amount of funding the provider receives in respect of disadvantaged two-year-olds is at least equal to the amount of funding the same provider receives in respect of two-year-olds of working parents.
- 7.51 In recognition of the fact that we are introducing new early years entitlements from April 2024 and there may be limited circumstances where a local authority may need to fund provision for two-year-olds of working parents at a higher rate than provision for disadvantaged two-year-olds, regulations 38(7) and 41(1)(r) of these Regulations give a local authority the power to apply to the Secretary of State to disregard the requirement to fund provision for disadvantaged two-year-olds at least equally to the provision for two year olds of working parents . Section 5.1 of the [2024-25 Local Authority Funding Operational Guide](#) makes it clear that such requests will only be considered in limited circumstances, for example where there are sufficiency issues locally.
- 7.52 These provisions are in regulation 38.

Special Educational Needs Inclusion Fund ("SENIF")

- 7.53 Since 2017, it has been the Department's policy that all local authorities are expected to have a SENIF for all children with special educational needs ("SEN") who are taking up the early education entitlements for three- and four-year-olds, regardless of the number of hours taken, and that they may have a SENIF for disadvantaged two-year-olds. The objective of the SENIF is for the funding to be used by a local authority to work with providers to address the needs of individual children with SEN who are taking up the entitlements. SENIF funding is expected to be targeted at providing support for children with lower level or emerging SEN. Local authorities can fund their SENIF from the early years block and / or the high needs block of the DSG. Children with more complex needs and with an Education, Health and Care (EHC) plan continue to be eligible to receive funding via the high needs block of the DSG.
- 7.54 Despite the expectation placed on local authorities through guidance, so far regulations have not explicitly referenced the SENIF.
- 7.55 Following [consultation with the sector over the summer](#), we are for the first time requiring local authorities to have a SENIF to be used to support all children with SEN, who are eligible for, or are taking up, the new and existing entitlements, regardless of the number of hours taken. These Regulations introduce a new definition of the SENIF in regulation 1(4) (expenditure a local authority deducts under the new paragraph 32(b) of Schedule 2 which the local authority intends to use in respect of children eligible for FEYEs) and make explicit reference to the SENIF in regulation 36 (95% pass through requirement).
- 7.56 Consequential changes have been made to paragraphs 28 and 32 of Schedule 2 to these Regulations. Paragraph 28 now excludes expenditure in respect of children with

SEN who are under school age. Paragraph 32 has been divided into (a) and (b) to distinguish expenditure which does not form part of the SENIF (expenditure under paragraph 32(a)) and expenditure which does form part of the SENIF (expenditure under paragraph 32(b)). Expenditure deducted under paragraph 32(a) is to be used by local authorities to support requirements in a young child's EHC plan, whereas expenditure deducted under paragraph 32(b) is to be used for supporting a young child with special education needs other than meeting requirements specified in a child's EHC plan.

Early Years Census

- 7.57 Data on children taking up the FEYEs is collected termly from schools through the school census and annually in January from private, voluntary and independent providers through the early years census. Data from the January school census and the early years census is used to inform DSG allocations for local authorities.
- 7.58 Depending on the entitlement, eligible children are entitled to 570 or 1140 hours of free early years provision per year. Regulations⁸ require a child to take these hours over no fewer than 38 weeks of the year (which equates to 15 or 30 hours a week for 38 weeks of the year). A child is able to "stretch" their entitlements by taking fewer hours per week over more weeks of the year, up to 52 weeks, where there is provider capacity and parental demand. For example, a child eligible for 570 hours could receive around 12 hours a week for 48 weeks of the year and a child eligible for 1040 hours could receive around 23 hours a week for 48 weeks of the year.
- 7.59 Part 5 of these Regulations make consequential amendments to the Childcare (Provision of Information About Young Children) (England) Regulations 2009 which update definitions and provisions to refer to the regulations applying to the 2024-25 financial year in Parts 1 to 4 of, and the Schedules to, these Regulations.
- 7.60 These Regulations also amend the Schedule to the Childcare (Provision of Information About Young Children) (England) Regulations 2009, to simplify how information about a "stretched" free entitlement is provided and recorded. The current Schedule requires early years childcare providers and early years childminder agencies to undertake a complicated calculation based on the total number of funded hours in the spring term and an assumption that the spring term is 13 weeks long which is confusing and burdensome. The amendments made by these Regulations allow early years childcare providers and early years childminder agencies to record the number of free hours taken up in a census week (usually in January each year) and the number of weeks that the child is expected to take their funded hours across the funding period in line with the arrangements made between a child's parent and the provider. These amendments will reduce administrative burdens on early years childcare providers and early years childminder agencies and will support more accurate funding calculations.

8. European Union Withdrawal and Future Relationship

- 8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

⁸ The relevant regulations are the Local Authority (Duty to Secure Early Years Provision Free of Charge) Regulations 2014 (SI 2014/2147) and the Childcare (Free of Charge for Working Parents) (England) Regulations 2022 (SI 2022/1134).

9. Consolidation

9.1 None.

10. Consultation outcome

10.1 The introduction of a formulaic approach to split sites funding and changes to growth and falling rolls funding were both consulted on in 2022 as part of a wider consultation on changes to schools funding for the move to a “direct” NFF ([Implementing the direct national funding formula - government consultation](#); pages 30-36 on split sites funding; pages 17-29 on growth and falling rolls funding). The full consultation response can be found here: [Implementing the Direct National Funding Formula Government consultation response](#) (pages 28-37 on split sites funding; pages 18-27 on growth and falling rolls funding). Responses to the consultation were broadly supportive of the proposed changes. Therefore, in the response, the Government confirmed that from 2024-25 that there would be a new, formulaic approach to split sites funding - on the basis of a formula factor made up of a ‘basic eligibility’ element and a ‘distance eligibility’ element. The Government also confirmed that from 2024-25 minimum requirements would be introduced for the provision of growth funding. On falling rolls funding, it was confirmed that local authorities would be required to only provide this funding where School Capacity Survey data shows that school places will be required in the subsequent three to five years, and that the restriction that only schools that are judged to be “Good” or “Outstanding” by Ofsted are eligible for falling rolls funding would be removed. The 2024 Regulations reflect all these confirmed policy positions.

10.2 Between 21 July 2023 and 8 September 2023, the Government held a [consultation](#) on its proposed approach to distributing entitlements funding for two-year-olds and under for 2024-25 in light of the expansion of the Government FEYEs. This consultation was aimed at local authorities, early years providers and sector representative bodies, as well as any other interested member of the public, to provide comments, concerns, and feedback in response to the proposals outlined. The consultation was conducted online, and 983 responses were received.

There was broad agreement to the proposals outlined in the consultation document. The consultation response document has now been [published](#) on the gov.uk website and outlines the full response to the consultation. To summarise, the Government is proceeding with all but one of the proposals outlined in the initial consultation response document. The deprivation supplement will be optional for the two-year-old and under entitlement, rather than mandatory as originally proposed. The full rationale for this, and for all other decisions taken, is available to read in the [consultation response document](#).

11. Guidance

- 11.1 Operational guidance for 2024-25 on schools funding is available at: <https://www.gov.uk/government/publications/pre-16-schools-funding-local-authority-guidance-for-2024-to-2025/schools-operational-guide-2024-to-2025>.
- 11.2 Operational guidance for local authorities for 2024-25 on high needs funding is available at: <https://www.gov.uk/government/publications/high-needs-funding-arrangements-2024-to-2025/high-needs-funding-2024-to-2025-operational-guide>.

- 11.3 Operational guidance for local authorities for 2024-25 early years funding is available at: <https://www.gov.uk/government/publications/early-years-funding-2024-to-2025/early-years-entitlements-local-authority-funding-operational-guide-2024-to-2025>.

12. Impact

- 12.1 The impact on business, charities or voluntary bodies is that local authorities will continue to fund relevant early years providers, including maintained nursery schools, in respect of the existing free entitlements for disadvantaged two-year-olds and three- and four-year-olds, together with, from April 2024, the new entitlement for two-year-old children of working parents and from September 2024, children aged nine months to two years of working parents.
- 12.2 The impact on the public sector is that local authorities must comply with these Regulations when allocating their schools budget and determining budget allocations for schools and amounts for early years providers.
- 12.3 A full Impact Assessment has not been prepared for this instrument because it has minimal impact on businesses, civil society organisations, and on the public sector.

13. Regulating small business

- 13.1 The legislation does not apply to activities that are undertaken by small businesses, except for the early years providers referred to in 12.1 above.
- 13.2 It applies to local authorities and it is for the local authority to determine how they fund their local providers, within the rules set out in these Regulations.

14. Monitoring & review

- 14.1 The approach to monitoring of this legislation is through the usual contact that the Funding Policy Unit within the Department for Education has with schools and local authorities. The team will log and review any correspondence from schools and local authorities relating to the instrument.
- 14.2 The instrument does not include a statutory review clause.

15. Contact

- 15.1 Ellie Barrett at the Department for Education, Ellie.Barrett@education.gov.uk, can be contacted with any queries regarding the instrument.
- 15.2 Tom Goldman, Deputy Director for Funding Policy Unit, at the Department for Education can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Damian Hinds at the Department for Education can confirm that this Explanatory Memorandum meets the required standard.