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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 3**

Determination of budget shares etc.

**CHAPTER 2**

Criteria taken into account – early years provision

**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

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- (d) any amount included in accordance with regulation 38(4) (additional criteria and disadvantaged two year olds requirement: early years).