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# **Schools Forum**

Wednesday, 10th September,  
2014 at 3.30 pm

## **PLEASE NOTE TIME OF MEETING**

**Cantell Maths and Computing College, Violet Road,  
Southampton, SO16 3GJ**

This meeting is open to the public

### LEAD OFFICER

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## AGENDA

Agendas and papers are now available via the City Council's website

### **1 ELECTION OF CHAIR**

To appoint a Chair to the Schools Forum for the 2014-2015 Academic Year.

### **2 APOLOGIES AND CHANGES IN MEMBERSHIP (IF ANY)**

### **3 DECLARATIONS OF INTEREST**

In accordance with the Localism Act 2011, and the Council's Code of Conduct, Members to disclose any personal or pecuniary interests in any matter included on the agenda for this meeting.

NOTE: Members are reminded that, where applicable, they must complete the appropriate form recording details of any such interests and hand it to the Democratic Support Officer.

### **4 MINUTES OF PREVIOUS MEETING**

To approve the Minutes of the meeting held on 25<sup>th</sup> June 2014 and to deal with any matters arising, attached.

### **5 SOUTHAMPTON SCHOOLS FORUM CONSTITUTION 2014/15**

Updated Southampton Schools Forum Constitution 2014/15 for information, attached.

### **6 PROPOSED DEDICATED SCHOOLS GRANT SAVINGS 2015/16**

Briefing paper of the People's Directorate Finance Manager requesting the Forum's views on the recommended proposals for achieving the challenging savings target required for 2015/16, attached.

### **7 SCHOOLS AND EARLY YEARS FINANCE (ENGLAND) REGULATIONS 2014**

Briefing paper of the Principal Accountant for Early Years and Education providing details of the amended Schools and Early Years Finance (England) Regulations 2014, attached.

### **8 CHILDREN'S TRANSFORMATION UPDATE**

A paper providing details of the Children's Transformation Update will be circulated at the meeting by the Interim Head of Service.

**SCHOOLS FORUM  
NOTES OF THE MEETING HELD ON  
WEDNESDAY 25<sup>th</sup> JUNE 2014  
FAIRISLE JUNIOR SCHOOL**

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Present:

Primary School

Peter Howard	-	Headteacher
John Draper	-	Headteacher
Amanda Talbot-Jones	-	Headteacher
Julie Swanston	-	Headteacher

Secondary Schools

Richard Harris	-	Governor
Ruth Evans	-	Headteacher
Ewan Scott	-	Headteacher

Special Schools

Andy Evans	-	Headteacher
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Academies

David Turner	-	Townhill Infant School
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Pupil Referral Unit

Jane Smith	-	Headteacher
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Nursery

Karen Waters	-	Headteacher
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Non Schools

Peter Sopowski	-	NUT Secretary
Alice Wrighton	-	Post 16 – Richard Taunton 6 <sup>th</sup> Form College
Councillor Paffey	-	SCC Councillor

Observers

Sue Thompson	-	Early Years/Sure Start
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Also in attendance:

Councillor Jeffery	-	Cabinet Member for Education and Change
Graham Talbot	-	SCC - People
Lynn Franklin	-	SCC - Finance
Sue Poynter	-	SCC - Finance
Sharon Pearson	-	SCC - Democratic Services

1. **APOLOGIES AND CHANGES IN MEMBERSHIP (IF ANY)**

Apologies were received from Anna Wright, Anne Murphy, Liz Mizon and Jeannie Gibbons.

The following were welcomed:

Ewan Scott, who replaced Karen Dagwell as a Secondary Headteacher representative and Councillor Paffey the newly elected Council representative.

Members passed a vote of thanks to Peter Howard who had very kindly provided the venue and refreshments for the meeting.

Ruth Evans, Cantell Maths and Computing College very kindly agreed to host the meeting scheduled for 10<sup>th</sup> September and Jane Smith, PRU kindly agreed to host the meeting scheduled for 22<sup>nd</sup> October.

## 2. **NOTES OF PREVIOUS MEETING AND MATTERS ARISING**

The minutes of the meeting held on 12<sup>th</sup> March 2014 were approved as a correct record.

### Matters Arising

#### Item 6 - Page 4 - Community Language Trust

The Chair informed the meeting that following the Community Language Trust's request for financial assistance, additional funding had been granted to assist with the Trust's room hire expenses and once the pricing structure for the service had been re-organised, the service should become self-sustaining.

## 3. **SCHOOLS FORUM MEETING DATES FOR THE 2014/2015 MUNICIPAL YEAR**

The Forum received and noted the schedule of meeting dates for the 2014/2015 Municipal Year.

## 4. **FAIRER SCHOOLS FUNDING 2015/2016**

The Forum received and noted a briefing paper of the Principal Accountant, Education, providing details of the interim Fairer Schools Funding proposals for 2015/2016.

The following was noted:-

- the DfE (Department for Education) had advised that the introduction of a national funding formula would not be implemented in 2015/2016 and that it would potentially be a phased process commencing during 2017/2018 at the earliest;
- Southampton City Council had formally responded to the consultation on interim proposals regarding the setting of minimum funding levels in March 2014 and had indicated that the DfE's current proposal to utilise the average of all local authorities for each of the characteristics suggested, would not reflect how local authorities chose to weight rates applicable to local priorities;
- that the Government had made the following commitments:-
  - all local authorities would be funded at the same cash level per pupil in 2015/16 as provided in 2014/15;
  - a further £350m would be allocated to fund schools in the least fairly funded authorities; and
  - that no local authority or school would receive less funding as a result

of the proposals;

- a full review of the feedback received would be considered by the DfE over the summer and further guidance would be issued which would include the final minimum funding levels that would be applied for 2015/2016.

A discussion ensued and it was noted that officers would have a better indication of what “headroom” funding was available when the Dedicated Schools Grant (DSG) funding figures were received (which would be late December 2014), after which further consultation would need to be taken with the Schools Forum to explore targeting the headroom at factors where Southampton is below the national average.

It was AGREED that a further paper would be submitted in January 2015, recommending proposals for aligning the current Southampton City Council funding levels more closely to those minimum funding levels proposed by the DfE for 2015/2016.

## 5. **SCHOOL BALANCES**

The Forum received and noted a briefing paper of the Principal Accountant, Education, detailing the revenue and capital balances held by schools at the end of 2013/2014.

The following was noted:-

- 2013/2014 school balances had increased by £1.732m compared to 2012/2013 and the total value of the excess increased from £3.5m to £5m in 2013/2014;
- letters were in the process of being mailed to all schools, requesting confirmation of their commitments and future projects/works in terms of their balances and it was essential that any requested spend was in line with the individual school’s development plan; and
- a further paper providing details of spending plans would be submitted to the October meeting.

## 6. **DEDICATED SCHOOLS GRANT SAVINGS PROPOSALS 2015-2016**

The Forum received and noted a briefing paper of the Financial Accountant, providing details of proposed savings targets over the next two years and requesting Schools Forum members’ views on which savings should be supported.

The following comments and issues were noted:-

- that the People Directorate had been asked to make significant savings and in particular had a target to save £1m from the Dedicated Schools Grant (DSG) funded services in 2015/16; a paper detailing these savings would be submitted to Council in November 2014;
- the DSG funded three areas which were the Schools Block, Early Years Block and High Needs Block and any central services that were retained by the local authority in the Schools Block and Early Years Block had to be approved by the Schools Forum. However, the local authority had the power to move funds between the Blocks after consultation with the Schools

- Forum;
- regulations defining eligible expenditure from the High Needs and Early Years Blocks were very loose and therefore if a saving could be identified from an area currently funded by the DSG, this could be replaced by expenditure relating to the MASH (Multi-Agency Support Hub) and the Early Help Service; and
  - updated DSG figures had been issued by the Education Funding Agency which showed an increase in Southampton's DSG allocation and although this additional funding had been prioritised for the expansion of Early Years places, Great Oaks and Springwell Special Schools and top-up funding for Special Schools, it did give some flexibility to make savings in 2015/2016.

It was AGREED that:-

- officers would provide the Forum with a breakdown of the "Pupils with Statements" budget; and
- a more detailed paper would be submitted to the September meeting for a decision on where savings could be made.

#### 7. **USE OF THE INTERVENTION FUND 2013/2014**

The Forum received a briefing paper of the Principal Accountant, Education, providing details on how the 2013/2014 Intervention Fund had been allocated.

It was noted that £370,000 had been held back from the Individual Schools Budget (ISB) in 2013/2014 as an Intervention Fund contingency and had been used to fund additional allocations to schools that faced extra costs as a result of significant mid-year increases in pupil numbers, those affected by the Primary Review or in financial difficulty.

The Forum expressed concerns that schools applying for assistance from the Intervention Fund should have their overall financial position assessed prior to an allocation being made. A discussion ensued and officers confirmed that there were checks in the process to ensure that schools who applied for assistance from the Intervention Fund had their financial position scrutinised prior to receiving assistance.

**SOUTHAMPTON  
SCHOOLS FORUM  
CONSTITUTION  
2014/2015**

**CONSTITUTION  
(INCLUDING TERMS OF REFERENCE 2014/2015)**

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# **THE SOUTHAMPTON SCHOOLS FORUM**

## **CONSTITUTION (INCLUDING TERMS OF REFERENCE) 2014/2015**

### **ESTABLISHMENT**

1. The Schools Forum is established by Southampton City Council pursuant to the Education Act 2002 as amended together with relevant secondary legislation (Regulations) as applicable. (legislation / relationship to Local Authority (LA) etc)
2. The Schools Forum is independent of Southampton City Council and shall be consulted by the City Council on any issues falling within its terms of reference or as otherwise required by law.
3. The Schools Forum and Southampton City Council will work together as strategic partners to co-operate on matters falling within the Forum's terms of reference and will, wherever possible, try to achieve consensus between the Forum, key partners providing education at a local level and the Council. Where it is not possible to achieve consensus locally on issues related to Central Expenditure Levels, Minimum Funding Guarantee or other matters where a statutory right of reference exists, the Council reserves the right to apply to the Secretary of State for determination of such matters.

### **TERMS OF REFERENCE**

#### **Aims and Objectives of the Forum**

4. The aim of the Forum is to take decisions on matters where they have been given specific statutory responsibility and to provide advice to the Council on the formulation of key aspects of strategy and budget whilst having regard to wider educational issues.
5. The core objectives of the Forum are to provide independent consultation and detailed scrutiny on:-
  - Changes to the funding formula and the initial determination of the schools budget;
  - Invitations to tender for supplies and services at least one month before such invitations are issued;
  - Spending on specific issues as outlined in paragraph 6 below.
6. In addition to the core aims and objectives of the Forum, the Forum is to be consulted on any proposed change to the school funding formula, about the financial effect of such a change and, annually, about the following matters related to the schools budget:-

- Amendments to the school funding formula, for which the voting is restricted by the exclusion of non-schools members except Private, Voluntary and Independent sector (PVI) representatives.
  - Arrangements for the education of pupils with special educational needs;
  - Arrangements for the use of Pupil Referral Units and the education of children otherwise than at school;
  - Arrangements for early years provision;
  - Administrative arrangements for the allocation of central government grants paid to schools via the authority.
7. Any other matter relating to the funding of schools or the Children's Services budget or capital expenditure that the Council considers it appropriate to consult the Forum on.

### **Statutory Responsibilities of the Forum**

#### Decision Making Powers of the Forum:-

8. The Schools Forum have decision making powers, the overarching areas on which to make decisions on local authority proposals are:-
- De-delegation from mainstream school budgets (approval will be required by the relevant phase members of Schools Forum), for prescribed services to be provided centrally. Academies and Non-School members may not vote on de-delegation.  
Only PVI representatives of Non-School members may vote on the consultation of the funding formula
  - To create a fund for significant pupil growth in order to support the local authority's duty for place planning and agree the criteria for maintained schools and Academies to access this fund.
  - Funding for prescribed historic commitments where the effect of delegating this funding would be destabilising.
  - Funding for local authority in order to meet prescribed statutory duties placed upon it. Approval is required to confirm the amounts for each duty and no new commitments or increases in expenditure from 2013/14 are permitted.
  - Funding for central early years expenditure, which will include funding for checking eligibility of pupils for an early years place and/or free school meals.
  - Authorising a reduction in the schools budget in order to fund a deficit arising in central expenditure that is to be carried forward from a previous funding period.
9. In each of these cases, the local authority can appeal to the DfE if the Schools Forum rejects its proposal.

#### Minimum Funding Guarantee (MFG) :-

10. From 2013-14, local authorities will need to discuss any proposals to vary the MFG with the Schools Forum but they will need to be approved by the Secretary of State.

#### Revisions to the Scheme for Financing Schools :-

11. The Forum may approve / refuse the Local Authority proposals or approve proposals subject to modifications. Where the Forum approves any revisions to the scheme, they can specify the date upon which any revised scheme is to come into force. If any proposals are refused or the modifications are unacceptable to the Local Authority, the Authority may apply to the Secretary of State for approval of the proposals.
12. The powers and responsibilities of the Forum and Local Authority are detailed in Appendix 2.

### **MEMBERSHIP OF THE FORUM**

#### Membership (General):

13. The total membership and composition of the Schools Forum is determined by the Council in accordance with The Schools Forum (England) Regulations 2010 and based on the proportion of pupils in relevant phases of education in maintained primary schools, secondary schools and academies. The Council will also have regard to the categories of maintained schools represented and include representation on behalf of nurseries, special schools and PRU's.
14. No maximum number of members is stipulated however the Council will avoid approving membership of over 30 for operational reasons. Forums must have 'schools members' and 'non schools members'. 'Non schools members' can number no more than one third of the total membership of the forum. Details of the current composition of the Forum are set out in Appendix 1.
15. Among the members representing maintained schools, at least one must be a representative of governing bodies and at least one must be a representative of Head teachers.
16. The Council will review the composition and membership of the Forum in September of each year, and may terminate the membership of any member of the Forum by giving one month's notice in writing.

17. Members are appointed to the Forum for a period of one year (commencing in September and ending the following September). Members may be re-appointed to the Forum each subsequent year without limitation on the number of years that a member may be appointed. In addition to the term of office of a member coming to an end annually, a member ceases to be a member of the Forum if he or she resigns from the Forum or no longer occupies / is a member of the office or body which he or she was nominated to represent or if a school member converts to an academy.
18. Members shall formally appoint one named substitute member from the same group as the member (or in the case of primary and secondary head teachers – two named substitute members) who may attend on their behalf if they are unable to do so. Substitutes must be named and recorded at the meeting of the Forum annually in September. In the event a substitute is not named at the September meeting, a substitute may subsequently be nominated to the Clerk to the Forum in writing to the address given for the service of Notices as set out in this Constitution. Failure to nominate a substitute or notify the Council of a nominated substitute in accordance with these provisions shall result in the nomination being null and void. No substitute member may participate in a meeting of the Forum unless the requirements of this paragraph have been met. Substitutes who have been properly named and appointed will have the same rights and responsibilities (including voting rights) as their principal, on whose behalf they are participating in the Forum.

‘Schools Members’ – Nomination and Appointment:

19. Members of the Forum are responsible for the method by which they elect and nominate their representatives, and each representative group within the Forum will be responsible for the method by which they elect their representatives. Nominations must be submitted to the Clerk to the Forum annually by September either at the September meeting or in writing to the address for the service of Notices as set out in this Constitution.
20. Academy members must be elected to the Schools Forum by the proprietor bodies of the Academies in the authority’s area and are best placed to determine the process. Academy members are there to represent the proprietor bodies of Academies and are, therefore, not restricted to principals, senior staff or governors. For the avoidance of doubt, Free Schools, University Technical Colleges and Studio Schools count as Academies. There is no distinction between sponsored, non-recoupment and converter academies and no requirement for separate primary and secondary academy representation. Nominations must be submitted to the Clerk to the Forum annually by September either at the September meeting or in writing to the address for the service of Notices as set out in this Constitution.

21. It is the member's responsibility to inform the Clerk to the Forum of any changes to membership and named substitutes.

'Non – Schools Members' - Appointment:

22. Non-Schools members must include representation from Post 16 and from private, voluntary and independent (PVI) providers of the free entitlement to Early Years education.
23. The Council will seek nominations for non schools members from the relevant bodies identified in Appendix 1 annually. On receipt of any nomination for appointment, the Council shall either make that appointment pursuant to the nomination or give reasons for rejecting any nomination and seek an alternate nomination accordingly. In the event of receiving more than one nomination to a position, the Council shall seek to reach agreement with the nominees and their representative organisations as to whom should be appointed. In the event that agreement cannot be reached, the decision as to who to appoint shall fall to the Head of Legal, HR and Democratic Services (or his nominee) having consulted with the People Director and the Director of Corporate Services respectively.

Role & Attendance of Observers:

24. The Education Funding Agency (EFA) has observer status at School Forum Meetings to support the local process and to provide a national perspective if there are any concerns.
25. The rights and attendance of observers to the Forum are separate and in addition to the rights of any member of the public to attend meetings of the Forum as provided for in this Constitution.
26. Observers are interested individuals who can attend Forum meetings. Regular observers invited to Forum meetings comprise of one representative from the Diocesan Education Authority (that does not have membership), non teacher trade union representative and Early Years and Childcare Development Partnership.
27. The Director of People and the Cabinet Member for Children's Services (or their equivalents should the nomenclature of cabinet portfolios change) shall have a standing invitation to attend and speak at all Forum and sub-committee / working group meetings but are not members of the Forum and cannot vote.
28. Elected members who hold an executive role in the Local Authority and officers employed by the Local Authority / People Directorate who have a role in the strategic resource management of the Council are barred from holding membership of the Forum. They may however attend the Forum as observers and, at the discretion

of the Chair, they may address the meeting.

#### Role & Attendance of Advisors:

29. The professional advisor to the Forum will be the People Director and her representative who will be entitled to attend and speak at all meetings of the Forum and any sub-committee or working group that it convenes. In addition to the primary professional advisor, the following professional advisors will also provide advice and support to the Forum:-
- The Principal Officer for Early Years and Education
  - People's Directorate Finance Manager
  - The Principal Accountant for Early Years and Education
- The professional advisors to the Forum will provide advice to the Forum on professional issues, including reports before them, matters of procedure in relation to the approval of reports and advice and guidance on changes to Government guidance or policy. Advisors are not members of the Forum and have no voting rights.
30. In addition to the professional advisor(s) to the Forum, the Council's Monitoring Officer (the Head of Legal, and Democratic Services or his/ her representative and the Director of Corporate Services or his/her representative shall be entitled to attend and speak at any meeting of the Forum as advisors to the Forum on matters falling within their respective remits. Neither the Head of Legal and Democratic Services or the Director of Corporate Services are members of the Forum and have no voting rights.

#### **MEETINGS AND PROCEEDINGS OF THE FORUM:-**

##### General:-

31. The Forum will operate a timetable that mirrors the Academic year of the Council and hold meetings (including extraordinary and urgent business meetings) at a time of day and at an appropriate location to allow full participation by members.
32. All meetings are public and all papers, agendas and minutes are publically available on our website. Meetings will be held at suitable venues in the City as may be considered appropriate in the circumstances. The decisions as to where to hold meetings shall ultimately lie with the Council following consultation with the Chair of the Forum.
33. The Forum shall meet at least once per term, no less than 4 times per year.
34. The Council, following consultation with the Forum, shall review the Constitution of the Forum on an annual basis at the first meeting of each academic year. Minor and administrative changes shall be determined by Principal Officer for Early Years and Education,

following consultation with the Cabinet Member for Education and Change, in accordance with powers delegated to him by the Council. Major changes (which for the purpose of this section shall include changes to the composition and membership of the Forum) shall be determined by way of the Principal Officer for Early Years and Education 's delegated power 4.4.10 following consultation with the Cabinet Member for Education and Change in accordance with powers delegated to him/her by the Council.

35. The Forum may establish and set terms of reference for sub-committees and working groups as required, subject to first obtaining the advice of the professional advisor to the Forum as to the necessity for such arrangements.
36. An extraordinary meeting of the Forum may be held if at least one third of the Members of the Forum request such a meeting or at the request of the Council. Any request for an extraordinary meeting of the Forum should be submitted to the Clerk to the Forum in writing, listing the members requesting the meeting (if called by members) and any such meeting shall, unless impracticable, be held within 15 working days of any such request being received. If impractical to hold a meeting within 15 working days, the meeting shall be convened as soon as reasonable practicable thereafter.
37. Members who fail to attend three consecutive meetings without a satisfactory explanation will have their membership reviewed by the Forum.

#### Agenda Planning / Despatch of Papers:-

38. The responsibility for setting the agenda for the Forum lies with the Council. The Council shall ensure that all matters falling within the remit of the Forum are placed on an appropriate agenda for consideration by the Forum in a timely manner.

In this regard meetings need to be scheduled at appropriate points in order to enable the Schools Forum to consider outcomes of local consultations and national announcements. The frequency and timing of meetings shall be agreed in advance of each financial or academic year.

39. Any member of the Forum may submit a report to be included on the agenda for a meeting of the Forum. Items for inclusion on the agenda for the Forum (whether submitted by the Council or a member of the Forum) must be submitted to the Clerk to the Forum not less than 10 working days before a scheduled meeting of the Forum. Items submitted in accordance with this provision may not be refused.
40. Failure to submit an item to the Forum in accordance with

paragraph 39 above may result in that item being deferred for inclusion on the next available meeting of the Forum. The clerk shall exercise their discretion on including matters on the agenda if received after the deadline for receipt of papers but prior to the despatch of papers in accordance with paragraph 43 below. All other late items may only be included on the agenda of the Forum if they meet the requirements of 'urgent business' as set out in paragraphs 57-61 below.

41. Agendas and reports will generally be circulated by the clerk to the Forum at least 5 working days before the meeting to which they relate. Forum agendas, reports and minutes to be published promptly in a public area on the Southampton City Council website. Communication links have also been set up with, all Head teachers, governor forums and Early Years networks to distribute agendas and reports in advance of the meetings.
42. It is good practice for there to be a pre-meeting between Senior Officers and the Clerk supporting the Schools Forum and the Chair of the Forum to ensure that all the issues are clearly understood.
43. Reports to the Forum should be in the format of the Council's briefing and decision papers.

#### Quorum:-

44. The quorum for any Forum meeting shall be at least 40% (2/5ths) of the voting membership. At least one representative of each of the primary and secondary phases of education must be present and voting.

#### Election of Chair and Vice Chair:-

45. The Chair and Vice Chair will be appointed by the Forum on an annual basis at the first Forum meeting of the academic year. The Forum may not choose to appoint a Chair or Vice Chair who is not a member of the Forum, nor an officer or an elected member of the Council.
46. The Chair and Vice Chair shall hold office for one year from the date of their appointment or until they resign or cease to be a member of the Forum, whichever is the sooner, at which time the Forum shall appoint a new Chair or Vice Chair as appropriate.

#### Declaration of Interests:-

47. Members of the Forum will have regard to the Local Code of Conduct for Members. Members are therefore required to sign a declaration in respect of the Code of Conduct and also complete a Register of their Interests.



48. Interests whether personal or pecuniary, should be declared at the outset of the meeting and before the item is discussed. A member with a pecuniary interest or disclosable pecuniary (DPI) interest (beyond or over and above those interests of the generality of the group they represent) shall declare that interest as soon as it becomes apparent. The member may be present for the introduction of the Item and presentation of a report by the presenting officer, make representations, answer questions and give evidence in response to that presentation before leaving the room, provided that members of the public are allowed to attend for the same purpose. A member with a pecuniary or disclosable pecuniary (DPI) interest may not take part in the Forum's debate on the item, the decision and/or vote.
49. In considering whether or not to declare a pecuniary or disclosable pecuniary interest, a member of the Forum should apply the following test: 'Would a member of the public, knowing the facts of the situation, reasonably think the member might be influenced by the interest?' A pecuniary or disclosable pecuniary interest would include the situation whereby a proposal uniquely affects either a school at which they are a head teacher / governor or which their children attend / close family members are employed at. For the purposes of the schools Forum it would not include consideration of a wider programme or project involving 5 or more schools such as the Primary Capital Programme, Building Schools for the Future etc unless the proposals before the Forum relate solely to a specific school within the overall programme.
50. If a member knows, or ought to know, that they will have a pecuniary or disclosable pecuniary interest in any matter being discussed by the Forum they are encouraged to send a substitute (nominated in accordance with the Constitution) to the meeting in their place.

#### Voting Procedures:-

51. The Forum shall always seek to operate on a consensus basis. If it is not possible to reach a consensus, members will be required to undertake a formal vote on the matter before them. Each member will have one vote. Votes cast will be carried on a simple majority basis which will be recorded. In the event of an equal number of votes for and against a proposal the Chair (or in the absence of the Chair the Vice Chair or the person appointed to chair the Forum meeting at which the matter is to be determined) will have a second or casting vote;

52. Only school members (which includes mainstream schools, Academies, special schools and PRU's) and representatives of the Private Voluntary and Independent (PVI) sector will be able to vote on the funding formulae.
53. The Regulations provide that a Schools Forum may determine its own voting procedures save that voting on :-
- The funding formula is limited to schools members and PVI representatives.
  - De-delegation will be limited to the specific primary and secondary phase of schools members. Academies and non-school members are not able to vote on de-delegation.

#### Amending Recommendations in reports:-

54. Recommendations in reports before the Forum may be amended by members or the officer presenting the paper.
55. For an officer amending recommendations in a report they are presenting, an amendment must be proposed by the officer. The Forum must then vote on whether or not to accept the amendment. If the amendment is accepted, the Forum may then move to determine the matter as amended (by consensus or vote). If an amendment is not accepted by the Forum, the Forum must determine the matter (by consensus or vote) in its original form.
56. For a member of the Forum seeking to amend a recommendation, the member must propose the amendment and it must be seconded by another member of the Forum. If seconded the Forum must vote to decide whether or not to accept the amendment. If the amendment is accepted, the Forum may then move to determine the matter as amended (by consensus or vote). If an amendment is not accepted by the Forum, the Forum must determine the matter (by consensus or vote) in its original form.

#### Urgent Business Items:-

57. A supplementary/urgent item of business can only be tabled at a Forum Meeting with the consent of the Forum.
58. In order for an urgent business item to be considered it must be proposed by a member of the Forum, seconded by another member of the Forum and approved by a formal vote of the Forum (in accordance with normal voting procedures). Once the matter has been accepted on to the agenda for the meeting in this manner it can be discussed and determined (by consensus or formal vote) in the normal manner.
59. With the agreement of the Chair, if an urgent decision is required and it is not practical to add the item to an existing Forum agenda or

call an extraordinary meeting of the Forum, the paper shall be circulated via email to all members of the Forum. The circulation will trigger a period of five working days during which members can give consideration. If before the end of the five-day period any member wishes to raise an issue regarding the content of the paper they should inform the clerk.

60. If the issue cannot be resolved the paper will be deferred for consideration at the next meeting of the Forum. If there are no objections to the proposal/s the paper will be deemed approved by the Forum on the expiration of the five working days period. All decisions taken under the five-day rule will be reported to the next available meeting of the Forum.
61. It is not legal for the Chair to take a decision on behalf of the Forum, no matter how urgent the matter in question.

#### Confidential Business of the Forum:-

62. Report authors are responsible for informing the clerk, in advance, of the status of reports to be included on the Agenda and if they contain confidential or commercially sensitive information and with such items of business, the principles of the Local Government (Access to Information) Act 1985 will apply. Reports that are to be treated as confidential should be marked accordingly and contain the appropriate confidentiality clause.
63. Where an item of business before the Forum is marked as confidential, that item of business will be discussed in private. The professional advisors to the Forum, the Head of Legal and Democratic Services, the Director of Corporate Services and the Cabinet Member for Education and Change may attend and speak at the Forum on consideration of all matters considered in private. Members of the public and observers (including other elected Members or Officers of the Council) shall be excluded from the consideration of any confidential item.

#### Public Attendance at Meetings of the Forum :-

64. Meetings of the Schools Forum are open to the public unless members resolve that an item of business be considered in private session and with such items of business the principles of the Local Government (Access to Information) Act 1985 will apply.
65. Members of the public do not have a right to speak at any meeting of the Forum but may address the Forum at the discretion of the Chair.

Clerk to the Forum:-

66. The Forum will be clerked by an employee of the Council's Democratic Support and Member's Services section. The specific responsibilities of Democratic Support and Member's will be to:-
- convene meetings of the Forum;
  - arrange accommodation for meetings;
  - co-ordinate and act as secretariat to meetings;
  - copy, circulate and dispatch appropriate papers;
  - publish papers on SCC website;
  - provide advice on matters of procedure and the Constitution of the Forum; and
  - make and maintain a record of the Membership and all proceedings of the Forum.

## **EXPENSES**

67. The authority must pay the expenses of the schools forum and charge those expenses to the schools budget.
68. The authority must reimburse all reasonable expenses of members in connection with their attendance at meetings of the forum and charge those expenses to the schools budget.

## **FREEDOM OF INFORMATION**

69. Request for Information under the Freedom of Information Act (FOIA) 2000 will be handled in accordance with the Council's published procedures for dealing with such requests.
70. Any Member of the Forum receiving a request under the FOIA will be required to pass that request to Legal and Democratic Services within 24 hours of receipt of that request in order that Legal and Democratic Services may deal with the request on behalf of the Forum within the 20 working day time limit.
71. That where a request has been made for the disclosure of information covered by a qualified exemption under the Freedom of Information Act 2000 (or other relevant information), the Chair of the Forum will be invited to attend a Public Interest Test Panel meeting to consider the potential disclosure. If the Chair is unable to attend the meeting the request will be dealt with by the Panel at their discretion. Where the Panel decides that the balance of interest is in favour of the disclosure of the information requested, Legal and Democratic Services will arrange for disclosure. When the Panel decides that the balance of favour of the non-disclosure of the information requested, the information will be withheld. Legal and Democratic Services will arrange for the reasons for the decision to be communicated in writing. Such decisions will be made after

taking any appropriate legal advice in accordance with the Council's published policies and procedures.

## **OVERVIEW AND SCRUTINY**

72. Schools Forums may be asked to agree on proposals from their local authority that will have an effect on all schools and academies in the local area. The extent to which Schools Forums can scrutinize and challenge such proposals is an important aspect of their effectiveness.

The Schools Forum and its members will co-operate with any reasonable request by the Council in respect of its overview and scrutiny functions under Section 21 Local Government Act 2000. Any requests for information or attendance of Forum members at the relevant Overview and Scrutiny Committee will be made as soon as possible and generally at least 10 days before the meeting.

## **COMPLAINTS / DISPUTES**

73. The Forum is intended to be a collaborative, co-operative body and needs to ensure that no particular sector or member is unduly favored. Problems and issues should normally be debated and resolved at the Forum meetings. However, if parties feel that these have not been resolved, the following process should be followed and minutes taken.
74. Stage 1: The parties who are in dispute meet with the Chair of the Forum and the relevant Professional Advisor who will assist in finding or recommending a solution
75. Stage 2: A special meeting of the Forum is convened, with papers prepared by the parties representing different views. The Chair and the Professional Advisor also prepare a paper offering possible options for resolution. If the problem is not resolved, the dispute is referred to Stage 3.
76. Stage 3: If the issue is not resolved then guidance or clarification will be sought from the relevant Government Department.
77. Complaints from members of the public will be handled by the Council's Complaints Procedure.
78. Issues of non-compliance will, in the first instance, be referred to the Chair of the Forum who will investigate and attempt to reach satisfactory resolution through discussion with the representative of the agency concerned.  
In the event of satisfactory resolution not being reached, the matter will be referred to the next Forum meeting.

79. The effectiveness of the Schools Forum will be assessed by Internal Review.

All previous versions of the Schools Forum Terms of Reference / Constitution are hereby superseded and revoked.

*In accordance with the Principal Officer for Early Years and Education delegated power 4.4.10 - "Following consultation with the Cabinet Member for Children's Services and Learning, the Solicitor to the Council and the Head of Finance to amend the terms of reference and membership set for the Schools' Forum and Admissions Forum so far as may be necessary to give effect to any new Act, Regulation or Code of Practice;"*

## SCHOOLS FORUM

<b>Total membership of the forum</b>	<b>24</b>
<b>Number of schools members</b>	<b>19</b>
Number of head teachers and governors	
<ul style="list-style-type: none"> <li>• secondary schools</li> <li>• academies</li> <li>• primary schools</li> <li>• special schools</li> <li>• maintained nurseries</li> <li>• PRU</li> </ul>	4 4 7 2 1 1
Maximum number of governors from any one governing body	1
<b>Number of non-schools members</b>	<b>5</b>
Organisations from which non-school members will be drawn:	
<ul style="list-style-type: none"> <li>• Diocesan Education Authorities               <ul style="list-style-type: none"> <li>○ Church of England, or</li> <li>○ Roman Catholic</li> </ul> </li> <li>• Teachers Liaison Panel or its successor body</li> <li>• Cabinet Members nomination</li> <li>• Post 16 Education</li> <li>• Private, Voluntary and Independent (PVI) early years providers</li> </ul>	1  1 1 1 1
Number required for quorum (40% of total membership), including substitutes.	<b>10</b>
One named substitute will be allowed where members cannot attend with the exception of head teachers for primary, secondary schools and academies, where two named substitutes can attend. Substitutes have the power to vote on behalf of the body they represent.	
<b>Formal Observers to Forum</b>	
<ul style="list-style-type: none"> <li>• The Diocesan Education Authority that does not have membership</li> <li>• Early Years Development and Childcare Partnership</li> <li>• Union representation of school support staff nominated by the appropriate Joint Consultative Group</li> <li>• Cabinet Member for Children Services and Learning (or their equivalents should the nomenclature of cabinet portfolios change)</li> </ul>	

<ul style="list-style-type: none"> <li>• Education Funding Agency (EFA) Representative</li> <li>•</li> </ul>	
<p>Council officers (Professional Advisors) who may attend not as members (i.e. have no voting rights)</p> <ul style="list-style-type: none"> <li>• The People Director</li> <li>• Principal Officer for Early Years and Education</li> <li>• People's Directorate Finance Manager</li> <li>• The Principal Accountant for Early Years and Education</li> <li>• Any other specialist Local Authority officers as required</li> </ul>	



**TABLE 1 - SCHOOLS FORUMS: POWERS AND RESPONSIBILITIES 2013-14**

**APPENDIX 2**

	<b>Function</b>	<b>Local Authority</b>	<b>Forum</b>	<b>DfE Role</b>
1	Formula Change (including redistributions)	Proposes and decides	Must be consulted. [Voting restricted to schools members plus PVI members]	None
2	Contracts	Propose at least one month prior to invitation to tender, the terms of any proposed contract	Gives a view	None
3	Financial Issues relating to: arrangements for pupils with special educational needs; arrangements for use of pupil referral units and the education of children otherwise than at school; arrangements for early years provision; administration arrangements for the allocation of central govt grants.	Consult annually	Gives a view and informs the governing bodies of all consultations carried out in lines 1, 2 & 3	None
4	Minimum funding guarantee	Proposes any exclusions from MFG for application to DfE	Gives a view	Approval
5	De-delegation for mainstream schools for: contingencies administration of free school meals insurance licences/subscriptions staff costs - supply cover support for minority ethnic pupils/underachieving groups behaviour support services library and museum services	Will propose	Primary and secondary school member representatives will decide for their phase.	Will adjudicate where Forum does not agree LA proposal
6	Central spend on funding for significant pre-16 pupil growth equal pay back-pay places in independent schools for non-SEN pupils early years expenditure	Proposes	Decides	Adjudicates where Forum does not agree LA proposal

7	Central spend on admissions servicing of schools forum carbon reduction commitment capital expenditure funded from revenue contribution to combined budgets schools budget centrally funded termination of employment costs schools budget funded prudential borrowing costs	Proposes up to the value committed in 2013/14 and where expenditure has already been committed	Decides for each line	Adjudicates where Forum does not agree LA proposal
8	Carry forward a deficit on central expenditure to the next year to be funded from the schools budget	Proposes	Decides	Adjudicates where Forum does not agree LA proposal
9	Scheme of financial management changes	Proposes and consults GB and Head of every School	Approves	Adjudicates where Forum does not agree LA proposal
10	Membership : length of office of members	Decides	None (but good practice would suggest that they gave a view)	None
11	Membership: appointment of Schools and Academies Members	Appoints those elected by members of the relevant sub groups. Facilitates election where required and appoints member if there is a tie or the election does not take place by a date set by the LA	None	None
12	Membership: Non Schools Members	Seeks nominations from the relevant bodies then appoints	None (but good practice would suggest that they gave a view)	None
13	Voting Procedures	None	Determine voting procedures	None
14	Chair of Forum	Facilitates	Elects <i>(may not be an elected member of the council or officer)</i>	None

## BRIEFING PAPER

**SUBJECT:** Proposed Dedicated Schools Grant savings 2015-16

**DATE:** 10<sup>th</sup> September 2014

**RECIPIENT:** Schools Forum

### THIS IS NOT A DECISION PAPER

**SUMMARY:**

- As reported to the Forum in June the People Directorate has been asked to make significant savings and in particular has a target to save £1 million from Dedicated Schools Grant (DSG) funded services in 2015/16. The Forum's views are sought on recommended proposals for achieving this.

**BACKGROUND and BRIEFING DETAILS:**

- Officers have now had further discussions on how to meet the challenging savings target and are recommending the following budget reductions.

Service	Proposed Savings	
	2015/16	2016/17
<u>High Needs Block</u>		
Special School outreach	£300,000	£617,000
Emotional Well-being Development Officers	£133,000	£133,000
<u>Early Years Block</u>		
Early Years development	£250,000	£250,000
DSG Carry forward	£317,000	0
<b>TOTAL</b>	<b>£1,000,000</b>	<b>£1,000,000</b>

- Special Schools outreach

£617,000 is currently allocated to some Special Schools for carrying out outreach work in maintained schools. It is proposed that Special Schools will instead charge schools directly for the services provided. This could be phased in over 2015/16 before taking full effect from April 2016.

- Emotional Well-being Development Officers

The team is currently part funded from the High Needs block. It is proposed that the team would be fully funded by school income via a Service Level Agreement from April 2015.

- Early Years Development

It is proposed that efficiencies will be made from within Early Years Development by looking at retendering contracts, and reducing contingency budgets held for increasing childcare places and setting up new provision. Any essential ad hoc costs from April 2015 could be funded on a one off basis from DSG carry forward.

# BRIEFING PAPER

6. Dedicated Schools Grant carry forward

In order to phase in the proposals in 2015/16 it is proposed to use DSG carry forward to fill the gap. DSG is currently forecast to underspend by £1.2 million in 2014/15 mainly due to lower than forecast take up of two year old places.

7. It is proposed that these reductions would be replaced by funding existing expenditure in relation to the MASH and Early Help service from DSG, thereby releasing a saving to Council funding.

8. Forum members are asked to give their views on these proposals before they are formally submitted to Council in November.

**Appendices/Supporting Information:**

None

Further Information Available From:

**Name:** Lynn Franklin

**Tel:** 2196

**E-mail:** [Lynn.franklin@southampton.gov.uk](mailto:Lynn.franklin@southampton.gov.uk)

## BRIEFING PAPER

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**SUBJECT:** School and Early Years Finance (England) Regulations 2014  
**DATE:** 10<sup>th</sup> September 2014  
**RECIPIENT:** Schools Forum

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### THIS IS NOT A DECISION PAPER

#### SUMMARY:

1. The Department for Education is proposing to amend the Schools and Early Years Finance (England) Regulations 2013. The proposed changes will come into force in January 2015 and will be applied to the financial year 2015/16.
2. Some of the changes have been previously published as part of the Fairer schools funding arrangements for 2015/16 and the Schools revenue funding 2015/16 – operational guide which were published on the 17<sup>th</sup> July 2014.
3. A number of the amendments take into account the new provisions relating to special educational needs in the Children and Families Act 2014.

#### BRIEFING DETAILS

4. **SUMMARY OF THE PROPOSED CHANGES IN THE SCHOOL FINANCE REGULATIONS 2014**
5. **Regulation 3 - The Schools Forum Regulations 2012**
  - (i) Amends the 2012 school forum regulations to allow for changes to the membership of the forum:
    - If there are any special academies in the local authority's area, there must be at least one member representing them;
    - If there are any alternative provision (AP) academies in the local authority's area, there must be at least one member representing them.
6. **Regulation 14 (1) - Determination of Budget Shares**
  - (i) The transitional protection in the 2013 regulations for separate levels of place funding for sixth form places in special schools has been removed. Since 1<sup>st</sup> August 2014 these are now funded at £10,000.
  - (ii) The proposed regulations 2014 clarify that the sixth form provision cannot include hospital places or those aged over 19 years of age.
7. **Regulation 14 (3) – Determination of Budget Shares**
  - (i) Implements a change in the value of place funding for an AP place from £8,000 to £10,000 per year. 2015/16 will be a transitional year as the increase is effective from September 2015. The value of a place in 2015/16 will be £9,166.
8. **Regulation 16 – Funding of Early Years Provision**

# BRIEFING PAPER

- (i) Provision is made to require local authorities to pay the early year's pupil premium (of 53p per hour) to all early year providers that are delivering Government-funded early education to eligible three and four-year-olds.
9. **Regulation 21 (2) – New schools, merged schools and closing schools**
- (i) The regulations are updated to make a revised provision for the determination of budgets for new maintained schools and for schools that have opened in recent years and are still adding year groups. Such schools are to be funded on the basis of estimated rather than actual pupil numbers.
10. **Schedule 1 – Paragraph 10 (e) and Schedule 2 – Paragraph 13**
- (i) The regulations 2013 included a split local authority functions in relation to remission of boarding fees between two schedules. The regulations have been amended to put all of the provisions within Schedule 2 to indicate that this type of expenditure should fall within the schools budget.
11. **Schedule 1 – Paragraph 26 – Other functions**
- (i) The former paragraph 26 within schedule 1 of the regulations 2013 has been deleted. This referred to teachers' emoluments in circumstances where they failed to complete induction satisfactorily. This expenditure should fall within the schools budget.
12. **Schedule 2 – Paragraph 14 – Central Early Years Expenditure**
- (i) This paragraph has been extended so that early years expenditure held centrally cannot be relate to an exclude provider. A definition of excluded provider has been added to Regulation 1.
13. **Schedule 2 – Paragraph 18 – Children and Young People with High Needs**
- (i) This has been amended to reflect the provisions in the Children and Families Act. It now makes provision for persons aged between 19 and 25 years of age with an EHC Plan, but not where they are attending schools or academies.
14. **Schedule 3 – Paragraphs 14 and 15 – Additional Factors/Criteria within a Local Authority funding formula.**
- (i) This has been amended to reflect the change in policy in 2015/16 for setting thresholds for average year-group size rather than school size to decide whether a school should receive funding through a sparsity factor.

## **Appendices/Supporting Information:**

The School and Early Years Finance (England) Regulations 2014

<b>Further Information Available From:</b>	<b>Name:</b>	Sue Poynter
	<b>Tel:</b>	023 8083 4153
	<b>E-mail:</b>	sue.poynter@southampton.gov.uk

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STATUTORY INSTRUMENTS

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**2014 No. XXXX**

**EDUCATION, ENGLAND**

**The School and Early Years Finance (England) Regulations  
2014**

<i>Made</i>	- - - -	<i>Date</i>
<i>Laid before Parliament</i>		<i>Date</i>
<i>Coming into force</i>	-	<i>1 January 2015</i>

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The Secretary of State for Education makes the following Regulations in exercise of powers conferred by sections 45A(a), 45AA(b), 47(c), 47ZA(d), 47A(4)(e), 48(1) and (2)(f), 49(2) and (2A)(g), 138(7) of, and paragraph 2B(h) of Schedule 14 to, the School Standards and Framework Act 1998(i) and section 24(3) of the Education Act 2002(j).

## PART 1

### Introduction

#### Citation, commencement, application and interpretation

1.—(1) These Regulations may be cited as the School and Early Years Finance (England) Regulations 2014 and come into force on 1st January 2015.

(2) These Regulations apply in relation to the financial year beginning on 1st April 2015.

(3) These Regulations apply only in relation to England.

(4) In these Regulations—

“1989 Act” means the Children Act 1989(k)

“1996 Act” means the Education Act 1996(l);

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

“2002 Act” means the Education Act 2002;

“2005 Act” means the Education Act 2005(m);

“2006 Act” means the Education and Inspections Act 2006(n);

“2009 Act” means the Apprenticeships, Skills, Children and Learning Act 2009(o);

“2010 Act” means the Academies Act 2010(p);

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(a) Inserted by section 41(1) of the 2002 Act and amended by section 101 of, and paragraph 3 of Schedule 16 to, the 2005 Act.

(b) Inserted by section 101 of, and paragraph 4 of Schedule 16 to, the 2005 Act.

(c) Amended by section 101 of, and paragraph 6 of Schedule 16 to, the 2005 Act.

(d) Inserted by section 202 of the Apprenticeships, Skills, Children and Learning Act 2009 (c.22).

(e) Section 47A was inserted by section 43 of the 2002 Act and amended by section 101 of, and paragraph 7 of Schedule 16 to, the 2002 Act, section 57 of, paragraph 2 of Schedule 5 to, the 2006 Act, section 165 of the Education and Skills Act 2008 (c.25) and section 194 of the Apprenticeships, Skills, Children and Learning Act 2009.

(f) Section 48 was amended by section 40 of, and paragraph 2 of Schedule 3 to, the 2002 Act, section 117 of, and paragraph 7 of Schedule 18 to, the 2005 Act, section 57 of, and paragraph 3 of Schedule 5 to, the 2006 Act.

(g) Subsections (2) and (2A) were substituted for subsections (2) and (3), as originally enacted, by section 57 of, and paragraph 4 of Schedule 5 to, the 2006 Act.

(h) Paragraph 2B of Schedule 14 was substituted for paragraph 2, as originally enacted, by section 57 of, and paragraph 5 of Schedule 5 to, the 2006 Act.

(i) 1998 c.31. For the meaning of “prescribed” and “regulations”, see section 142(1) of the 1998 Act.

(j) 2002 c.32. For the meaning of “prescribed” and “regulations”, see section 212 of the 2002 Act.

(k) 1989 c.41.

(l) 1996 c.56.

(m) 2005 c.18.

(n) 2006 c.40.

(o) 2009 c.22.

(p) 2010 c.32 as amended by section 53(7) of the Education Act 2011 (c.21).

“2014 Act” means the Children and Families Act 2014(a);

“2013 Regulations” means the School and Early Years Finance (England) Regulations 2013(b);

“2008 Document” means the document entitled “Statutory Framework for the Early Years Foundation Stage” published by the Secretary of State on 19th May 2008(c);

“2014 Document” means the document entitled “Statutory Framework for the Early Years Foundation Stage” published by the Secretary of State in March 2014(d);

“2014 ARA” means the document entitled “2014 Key Stage 2 Assessment and Reporting Arrangements”(e) containing provisions made under Article 11 of the Education (National Curriculum) (Key Stage 2 Assessment Arrangements) (England) Order 2003(f), made under section 87(3) of the Education Act 2002;

“academic year” means any period commencing with 1st August and ending with the next 31st July;

“all-through schools” means those primary or secondary schools known by this title where pupils may join the school at an age of between three and five years and remain at the school until the age of between 16 and 19 years;

“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 Local Government Act 2003(g);

“central expenditure” means, in respect of the funding period, the total amount deducted by a local authority from their schools budget in accordance with regulation 8, or in respect of the previous funding period, the total amount deducted by a local authority from their schools budget in accordance with regulation 8 of the 2013 Regulations;

“CERA” means capital expenditure which a local authority expect to charge to a revenue account of the authority within the meaning of section 22 of the Local Government Act 2003;

“community early years provision” means prescribed early years provision provided by the governing body of a maintained school under section 27(1) of the 2002 Act to children other than pupils at the school, where the local authority have chosen to fund such provision;

“the Early Years Foundation Stage Profile” has the meaning given in section 2 of the 2008 Document or the 2012 Document, as the context specifies more particularly;

“early years provision” has the meaning given in section 20 of the Childcare Act 2006(h);

“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 16(11);

“EHC plan” has the meaning given in section 37(2) of the 2014 Act;

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

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- (a) 2014 c.6.
- (b) S.I. 2012/2991.
- (c) Available at:  
<http://webarchive.nationalarchives.gov.uk/20130401151715/http://www.education.gov.uk/publications/standard/publicationDetail/Page1/DCSF-00261-2008>
- (d) Available at:  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/335504/EYFS\\_framework\\_from\\_1\\_September\\_2014\\_\\_with\\_clarification\\_note.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/335504/EYFS_framework_from_1_September_2014__with_clarification_note.pdf)
- (e) Available at:  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/278150/2014\\_KS2\\_assessmentandreportingarrangementsARA\\_DIGITAL\\_HO.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/278150/2014_KS2_assessmentandreportingarrangementsARA_DIGITAL_HO.pdf)
- (f) S.I. 2003/1038, amended by S.I. 2009/1585, 2010/290, 2011/2392, 2013/1513; there are other amending instruments but none is relevant.
- (g) 2003 c.26. Regulations made under this section in relation to England are the Local Authorities (Capital Finance and Accounting) (England) Regulations 2003 (S.I. 2003/3146) as amended by S.I. 2004/534, 2004/3055 and 2007/573.
- (h) 2006 c.21.

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

- (i) which is an independent school (other than an Academy school) which does not meet the standards prescribed under section 157(1) of the 2002 Act in relation to the spiritual, moral, social and cultural development of pupils at the school; or
- (ii) which the local authority has reasonable grounds to believe—
  - (aa) 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
  - (bb) promotes, as evidence-based, views and theories which are contrary to established scientific or historical evidence and explanations;

“exempt early years provider” means a provider of exempt early years provision;

“exempt early years provision” means early years provision which is not included in prescribed early years provision for the purposes of section 7(1) of the 2006 Act by virtue of regulation 2(2) of the Local Authority (Duty to Secure Early Years Provision Free of Charge) Regulations 2012**(b)**;

“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—

- (i) schools in financial difficulty,
- (ii) the writing off of deficits of schools which are discontinued, excluding any associated costs and overheads,
- (iii) new, amalgamating or closing schools, or
- (iv) other expenditure where the circumstances were unforeseen when initially determining the school’s budget share;

“funding period” means the financial year beginning on 1st April and ending on 31 March in the following year;

“home school” means, in respect of a pupil, a school which is the shortest distance in a straight line from the pupil’s home and which admits pupils of the pupil’s age and sex, other than—

- (i) a selective school,
- (ii) a special school, or
- (iii) an independent school which is not an Academy school;

“hospital education” means education provided at a community special school 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), 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;

“IDACI” means the Income Deprivation Affecting Children Index referred to in the document named “English Indices of Deprivation 2010” published by the Department for Communities and Local Government**(c)**;

“IDACI bands” means the groupings of IDACI scores as published by the Department for Education in the document named “Schools Block Dataset Technical Specification: 2015 to 2016”**(d)**;

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(a) Section 512ZB was inserted by section 201(1) of the 2002 Act and amended by section 28 of, and paragraph 16(3) of Schedule 3 to, the Welfare Reform Act 2007 (c. 5), section 26(1)(a) to (e) of the Child Poverty Act 2010 (c. 9) and section 31, and paragraph 39(a) and (b) of Schedule 2 to, the Welfare Reform Act 2012 (c.5).

(b) S.I. 2012/2488.

(c) Available at: [www.gov.uk/government/publications/english-indices-of-deprivation-2010](http://www.gov.uk/government/publications/english-indices-of-deprivation-2010)

(d) Available at: [www.gov.uk/government/publications/2014-to-2015-schools-block-dataset-technical-specification](http://www.gov.uk/government/publications/2014-to-2015-schools-block-dataset-technical-specification)

“IDACI score” means the score allocated to a child under IDACI;

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

“learning difficulty assessment” has the meaning given in section 13(5) of the 1996 Act(b), and a reference to a person being subject to learning difficulty assessment has the meaning given in section 13(4) of the 1996 Act(c);

“looked after child” means a person who, for the purposes of the Children Act 1989, is a child looked after by a local authority, and references to the authority looking after the child are to be read accordingly;

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

- (i) *A* is the amount allocated per school by the authority under paragraph 1(a) of Schedule 3 (primary single sum),
- (ii) *B* is the number of primary-age year groups in the school,
- (iii) *C* is the number of year groups in the school,
- (iv) *D* is the amount allocated per school by the authority under paragraph 2(a) of Schedule 3 (secondary single sum),
- (v) *E* is the number of secondary-age year groups in the school;

“non-domestic rate” has the meaning given in section 54 of the Local Government Finance Act 1988(d);

“prescribed early years provision” means early years provision prescribed for the purposes of section 7(1) of the Childcare Act 2006;

“previous funding period” means the financial year beginning on 1st April 2014 and “previous funding periods” means such funding periods as the context specifies more particularly;

“proper accounting practices” means those accounting practices which a local authority are required to follow by virtue of any enactment, or which, so far as they are consistent with any such enactment are generally regarded, whether by reference to any generally recognised published code or otherwise, as proper accounting practices to be followed in the keeping of the accounts of local authorities, either generally or of the description concerned(e);

“provider”, in relation to prescribed 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;

“relevant early learning goals” means the early learning goals in the prime areas in section 1 of the 2014 Document and also the early learning goals of reading, writing, numbers and shape, space and measures in section 1 of that document;

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(a) Sections 85 and 85A were substituted for section 85, as originally enacted, by section 74(1) of the 2006 Act.

(d) 1988 c.41.

(e) This definition is taken from section 21 of the Local Government Act 2003 and regulation 31 of the Local Government (Capital Finance and Accounting) (England) Regulations 2003 (S.I. 2003/3146).

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

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

“school census” means the record of individual pupil information supplied by local authorities to the Secretary of State under section 537A of the 1996 Act(a);

“second closest school” means, in respect of a pupil, a school which is the second shortest distance in a straight line from the pupil’s home and which admits pupils of the pupil’s age and sex, other than—

- (i) a selective school,
- (ii) a special school, or
- (iii) an independent school which is not an Academy school;

“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, on condition that it is passed on to a particular school;

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

“special educational needs” has the meaning given in section 20(1) of the 2014 Act;

“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—

- (i) a grant named “Dedicated Schools Grant”, paid to a local authority by the Secretary of State under section 14 of the 2002 Act, or
- (ii) any sixth form grant;

“teacher assessment of English writing” means the assessment referred to as such in the 2014 ARA;

“unavoidable costs” means costs which must be incurred by virtue of a statutory requirement;

“selective school” means a school where all the pupils in the school are selected by ability or by aptitude;

“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 ten;

“Year 6” means the school year in which the majority of pupils attain the age of eleven.

(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 an Academy school’s “predecessor school” is a reference to—
  - (i) the school that was discontinued and which that Academy school replaced, or
  - (ii) the maintained school which converted into that Academy school in accordance with section 4 of the 2010 Act;
- (c) a reference to a “governing body” of a school includes the management committee of a pupil referral unit;

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(a) Section 537A was inserted by section 140(1) of, and paragraph 153 of Schedule 30 to, the 1998 Act.

- (d) a reference to an inspection under section 5 of the 2005 Act includes a reference to an inspection under section 8 of that Act (other inspections) which has been treated by the Chief Inspector as an inspection under section 5;
- (e) a reference to the number of pupils at a particular key stage is a reference to the number on 2nd October 2014, unless otherwise stated;
- (f) a reference to “pupils or children” in regulations 15 and 16 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 prescribed early years provider, the children receiving prescribed 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,
  - (v) in respect of an exempt early years provider, the children receiving exempt early years provision from the provider, and
  - (vi) in respect of community early years provision, the children receiving such provision at the school;
- (g) 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 the majority of their time,
 except in regulations 15(5), 15(6) and 16 where “pupil” means a registered pupil<sup>(a)</sup>;
- (h) a reference to “schools” in Schedules 1 and 2 includes maintained schools and Academies except where the context requires otherwise;
- (i) a reference to “special educational needs transport costs”, for the purposes of paragraph 4(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 them are equal to, or greater than, the costs of such transport; and
- (j) a reference to “termination of employment costs”, for the purposes of paragraph 4(b) of Schedule 2, is a reference to expenditure relating to the dismissal or premature retirement of, or for the purpose of securing the resignation of, any person employed in a maintained school.

## Revocation

2. The School and Early Years Finance (England) Regulations 2012<sup>(b)</sup> are revoked on 1st April 2015.

## Amendments

3.—(1) The Schools Forums (England) Regulations 2012<sup>(c)</sup> are amended as follows.

(1) In regulation 1(3)—

(a) after the definition of “Academies member”, insert—

““alternative provision Academy” means an educational institution which meets the requirements of section 1C of the Academies Act 2010;”;

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(a) “Registered pupil” is defined in section 434(5) of the 1996 Act.

(b) S.I. 2012/335.

(c) S.I. 2012/2261, amended by S.I. 2012/2991.

- (b) after the definition of “governor”, insert—
- ““mainstream Academy” means an educational institution which meets the requirements of section 1A(1) of the Academies Act 2010;” and
- (c) after the definition of “senior member of staff”, insert—
- ““special Academy” means an educational institution which meets the requirements of section 1A(2) of the Academies Act 2010;”
- (2) For regulation 4(2), substitute—
- “(2) A forum must comprise—
- (a) schools members elected in accordance with regulation 5;
- (b) at least one Academies member representing mainstream Academies, elected or selected in accordance with regulation 6;
- (c) if there are any special Academies in the authority’s area, at least one Academies member representing special Academies, elected or selected in accordance with regulation 6; and
- (c) if there are any alternative provision Academies in the authority’s area, at least one Academies member representing alternative provision Academies, elected or selected in accordance with regulation 6.”.
- (3) For regulation 6, substitute—
- “6. Academies members**
- (1) Academies members representing mainstream Academies must be elected to the schools forum by the proprietors of mainstream Academies in the authority’s area.
- (2) Where there is only one mainstream Academy in the authority’s area, the proprietor of that Academy must select the person who will represent it on the schools forum.
- (3) Academies members representing special Academies must be elected to the schools forum by the proprietors of special Academies in the authority’s area.
- (4) Where there is only one special Academy in the authority’s area, the proprietor of that special Academy must select the person who will represent it on the schools forum.
- (5) Academies members representing alternative provision Academies must be elected to the schools forum by the proprietors of alternative provision Academies in the authority’s area.
- (6) Where there is only one alternative provision Academy in the authority’s area, the proprietor of that alternative provision Academy must select the person who will represent it on the schools forum.”.
- (4) In regulation 10(1)(a), after “special educational needs”, insert—
- “, and in particular—
- (i) the places to be commissioned by the local authority in different schools and other institutions, and
- (ii) the arrangements for paying top-up funding to schools and other institutions”.
- (5) In regulation 10(1)(b), after “otherwise than at school”, insert—
- “, and in particular—
- (i) the places to be commissioned by the authority and by schools in pupil referral units and other providers of alternative provision, and
- (ii) the arrangements for paying top-up funding to pupil referral units and other providers of alternative provision”.

## 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. 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, including expenditure on associated administrative costs and overheads; and
- (b) any expenditure which falls outside the classes or descriptions of expenditure specified in regulation 6 and Schedule 2 (the schools budget).

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

5. A local authority must not later than 27th February 2015—

- (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, pupil referral units, 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-paragraphs (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 learning difficulty assessment or an EHC plan,in so far as that expenditure does not fall within sub-paragraphs (a) to (c); and
- (e) expenditure on early years provision, in so far as that expenditure does not fall within sub-paragraphs (a) to (d).

##### **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<sup>(a)</sup> (arrangements for patrolling school crossings).

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

8.—(1) Subject to paragraphs (2) to (10), not later than 27th February 2015, 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) Expenditure referred to in paragraphs 3 and 4 of Part 1 (Central Services) of Schedule 2 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 that commit the authority to incur expenditure in the funding period.

(3) In deducting the expenditure referred to in Part 1 (Central Services) of Schedule 2, a local authority must not exceed the limits referred to in paragraph 5 of Schedule 2, unless it is authorised to do so under regulation 25(1)(a).

(4) A local authority must not deduct the expenditure referred to in paragraphs 8 to 10 of Schedule 2 without authorisation of the criteria for determining the expenditure from its schools forum under regulation 12(1), or from the Secretary of State under regulation 12(3).

(5) A local authority must not deduct the expenditure referred to in Part 1 (Central Services), Part 2 (Central Schools Expenditure), Part 3 (Central Early Years Expenditure) or Part 5 (Items That May Be Removed From Maintained Schools' Budget Shares) of Schedule 2 without authorisation from its schools forum under regulation 12(1), or from the Secretary of State under regulation 12(3).

(6) Where a local authority carries forward a deficit from the previous funding period to the funding period which reduces the amount of the schools budget available, the funding of this deficit from the schools budget must be authorised by its schools forum under regulation 12(1), or the Secretary of State under regulation 12(3).

(7) Any amount of expenditure which was deducted under paragraphs 8 (growth fund) and 10 (extra infant classes) of Schedule 2 to the 2013 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 paragraphs 8 and 10 of Schedule 2 to the 2013 Regulations that applied to such expenditure.

(8) Where a local authority treated any expenditure described in Part 5 of Schedule 2 to the 2013 Regulations (Items That May Be Removed From Maintained Schools' Budget Shares) as central expenditure under regulation 11(3) of the 2013 Regulations for the previous funding period and any such amounts remain unspent, such amounts may be used by the local authority in the funding period for the purposes listed in Part 5 of Schedule 2 to the 2013 Regulations that applied to such expenditure.

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(a) 1984 c.27. Section 26 was amended by section 8 of, and Schedule 5 to, the Local Government Act 1985 (c.51), sections 288 and 423 of, and Schedule 34 to, the Greater London Authority Act 1999 (c.29) and sections 270 and 274 of, and Schedule 31 to, the Transport Act 2000 (c.38).

(9) A local authority may apply to the Secretary of State for authorisation under regulation 25(1) to—

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

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

- (a) all related specific grants;
- (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(a).

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

### **Consultation**

**9.—**(1) In determining the formulae under regulation 10 a local authority may make changes to the formulae which it determined under regulation 10 of the 2013 Regulations.

(2) Subject to paragraph (4), a local authority must consult its schools forum and schools maintained by it 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 or exempt 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 20 (Sixth form funding) or 23 (Excluded pupils).

(5) A local authority must consult its schools forum before incurring any of the expenditure referred to in paragraphs 8 to 10 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, 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 9(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;

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(a) S.I. 1997/319. These Regulations have lapsed but article 11 of the Local Authorities (Capital Finance) (Consequential, Transitional and Savings Provisions) Order 2004 (S.I. 2004/533) contains a savings provision for regulation 16 of the 1997 Regulations.

- (d) the amounts to be allocated to exempt early years providers in its area; and
- (e) 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 all the determinations referred to in paragraph (3)(a) to (e) in respect of the funding period.

(5) A local authority may not make changes to its formulae after the funding period has begun.

(6) The formulae must be determined in accordance with Part 3.

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

**11.**—(1) Except as provided for in paragraphs (2), (5) and (6), not later than 27th February 2015, 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 Part 3 of these Regulations.

(2) Paragraph (1) does not apply to any determination of amounts to be included in budget shares under regulation 20 (Sixth form funding) and in relation to such determinations 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 20(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 Part 3 which are relevant to pupils with special educational needs; such amount must be calculated using a sum of £6,000 as the threshold below which school will be expected to meet the additional costs of pupils with special educational needs from its budget share.

(4) After the local authority has made a determination under paragraph (1) but before giving notice under paragraph (7), 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 5 of Schedule 2 (Items That May Be Removed From Maintained Schools' Budget Shares) 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.

(5) Not later than 31st March 2015, a local authority must determine the budget share for each of the special schools and pupil referral units maintained by it in accordance with Part 3 of these Regulations.

(6) Not later than 31st March 2015, a local authority must determine the budget share for each of the nursery schools maintained by it, the amount to be allocated in respect of each nursery class in schools maintained by it, the amount to be allocated to each relevant early years provider in its area, the amount to be allocated to each exempt early years provider in its area and the amount to be allocated in respect of community early years provision, using the formula referred to in regulation 10(3) in accordance with Part 3 of these Regulations.

(7) Not later than 31st March 2015, a local authority must give notice of—

- (a) each budget share or amount determined under paragraphs (1), (5) and (6); or
- (b) the redetermined budget share, when the budget share has been redetermined under paragraph (4),

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

(8) Save as provided in this regulation and in regulations 16 (Special arrangements for pupils in maintained nursery schools and nursery classes and children receiving relevant early years provision), 17 (Differential funding), 20 (Sixth form funding), 22 (Federated schools), 23 (Excluded pupils), 24 (Correction of errors and non-domestic rates) and 25 (Alternative

arrangements), the authority must not redetermine a school's budget share, or the amount allocated to a relevant early years provider or an exempt 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) Subject to paragraph (2), on the application of a local authority, its schools forum may authorise—

- (a) the criteria for determining expenditure referred to in paragraphs 8, 9 or 10 of Schedule 2, under regulation 8(4);
- (b) the making of deductions from the authority's schools budget of expenditure under regulation 8(5);
- (c) the funding of any deficit from the schools budget under regulation 8(6); or
- (d) the redetermination of schools' budget shares by removal of any of the expenditure referred to in Part 5 of Schedule 2 (Items That May Be Removed From Maintained Schools' Budget Shares) from schools' budget shares where it is instead to be treated by the authority as if it were part of central expenditure, under regulation 11(4).

(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

#### **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 at those schools in accordance with paragraph (2) on the date specified in paragraph (3).

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

- (a)  $A$  is the total number of pupils in the school;
- (b)  $B$  is the number of places in the school which the authority has reserved for children with special educational needs;
- (c)  $C$  is the number of children in places in the school which the authority has reserved for children with special educational needs where those places are occupied by a child in a nursery class, or by a child who is not a pupil at the school;
- (d)  $D$  is the number of pupils in the school in respect of whom sixth form grant is payable.

(3) The date for ascertaining pupil numbers is 2nd October 2014.

(4) Where a primary school had more pupils in reception classes on 16th January 2014 than on 3rd October 2013, the local authority may take the number of additional pupils into account in its formula, and where they do so this factor must be applied to all primary schools in the area.

(5) A local authority must include in its formula a single per pupil amount of at least—

- (a) £2,000 for each of the pupils in reception classes and at key stages 1 and 2;
- (b) £3,000 for each of the pupils at key stage 3; and
- (c) £3,000 for each of the pupils at key stage 4;

where the number of pupils is calculated with reference to paragraphs (2) to (4).

## **Places**

**14.**—(1) In determining budget shares for special schools, a local authority must include £10,000 for each place other than—

- (a) hospital education places, and
- (b) places for those who are over 18, unless they are aged 19 and are continuing to attend a particular course of secondary education which they began before they reached the age of 18;

and the local authority must not include funding for places described in sub-paragraph (b).

(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 include £10,000 for each place other than—

- (a) hospital education places, and
- (b) places for pupils in respect of whom a sixth form grant is payable.

(3) In determining budget shares for pupil referral units, a local authority must include, for each place other than hospital education places, £3,333 for the period April to August 2015 inclusive and £5,833 for the period September 2015 to March 2016 inclusive.

(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 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.

## **Social deprivation**

**15.**—(1) In determining budget shares for schools maintained by it (other than special schools, pupil referral units or nursery schools), a local authority must take into account in its formula a factor or factors based on the incidence of social deprivation in pupils at the schools maintained by it.

(2) The authority must base the incidence of social deprivation referred to in paragraph (1) on one or both of the following—

- (a) a pupil's eligibility for free school meals on 2nd October 2014 or a pupil's eligibility for free school meals recorded in any school census between and including Summer 2008 and Spring 2014;
- (b) a pupil's IDACI score on 2nd October 2014,

and where it is based on an IDACI score the authority may use factors which differentiate between different IDACI bands.

(3) In determining budget shares under paragraph (1), the authority may take into account in its formula a single per pupil amount for each socially deprived pupil in reception classes and at key stage 1 and 2, and a single per pupil amount for each socially deprived pupil at key stage 3 and 4.

(4) In paragraph (3) a reference to a “socially deprived pupil” is to a pupil who has been determined as being such under paragraph (2).

(5) Other than in respect of two-year-olds, in determining—

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

a local authority must take into account in its formula a factor or factors based on the incidence of social deprivation in pupils or children, and the determination of the incidence of social deprivation must be based on the characteristics of the pupils or children and not on the location of the school or provider.

(6) In respect of two-year-olds, in determining—

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

a local authority may take into account in its formula a factor or factors based on the incidence of social deprivation in pupils or children, and the determination of the incidence of social deprivation must be based on the characteristics of the pupils or children and not on the location of the school or provider.

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

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

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

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

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

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

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

- (a) in the case where the local authority decides to fund only prescribed early years provision, take into account—

- (i) the predicted total number of hours of attendance of pupils in the nursery school or nursery class, and children being provided community early years provision, who will receive prescribed early years provision during the period (using as a basis for the calculation the actual hours of such attendance in each of at least three sample weeks); or
  - (ii) the actual total number of hours of such attendance for the period;
- (b) in the case where the local authority decides to fund early years provision in excess of that which is prescribed, take into account—
  - (i) the predicted total number of hours of attendance of pupils in the nursery school or nursery class, and children being provided community early years provision, who will receive early years provision during the period (using as a basis for the calculation the actual hours of such attendance in each of at least three sample weeks); or
  - (ii) the actual total number of hours of such attendance for the period.
- (4) When further information about hours of attendance becomes available, a local authority must—
  - (a) review the amount allocated to each relevant early years provider and exempt early years provider; and
  - (b) redetermine the amount allocated.
- (5) When carrying out a review and redetermination under paragraph (4) the local authority must take into account—
  - (a) the predicted total number of hours of attendance of children who will receive prescribed early years provision from the relevant early years provider, or exempt early years provision from the exempt early years provider as the case may be, during the period (using as a basis for the calculation the actual hours of such attendance in each of at least three sample weeks); or
  - (b) the actual total numbers of hours of such attendance for the period.
- (6) Within 28 days of making any redetermination under paragraph (2) or (4) the local authority must give notice of the redetermination and the date on which it will be implemented to the governing body of the school, the relevant early years provider, or the exempt early years provider concerned, within 28 days of the redetermination.
- (7) When making determinations under this regulation a local authority may weight the predicted total number of hours of attendance of pupils or children, according to the special educational needs of any such pupils or children.
- (8) When determining—
  - (a) budget shares for nursery schools maintained by it;
  - (b) amounts to be allocated in respect of nursery classes in schools maintained by it;
  - (c) amounts to be allocated to relevant early years providers in its area;
  - (d) amounts to be allocated to exempt early years providers in its area;
  - (e) amounts to be allocated in respect of community early years provision in schools maintained by it,

a local authority may take into account in its formula the number of places they wish to fund in the school, class or provider (instead of the predicted total number of hours of attendance), where those places have been reserved by the authority for children with special educational needs, children in need or children that meet the condition prescribed by regulation 3(2) of the Local Authority (Duty to Secure Early Years Provision Free of Charge) Regulations 2012(a).

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(a) S.I. 2012/2488.

(9) In paragraph (8) “children in need” means children in respect of whom the local authority in whose area they reside must provide a range of services appropriate to their needs under section 17 of the Children Act 1989(a).

(10) A local authority must include in the amount to be allocated to each early years provider in its area which has one or more children eligible for the early years pupil premium an amount equivalent to 53 pence (or any other figure which the Secretary of State notifies to the local authority) per eligible child for each hour of early years provision that the child receives, up to a maximum of 570 hours.

(11) A child is eligible for early years pupil premium if he or she is three or four years old and receives at least one hour of government-funded early years provision, and either:

- (a) the child’s parents are receiving one or more of the following benefits:
  - (i) income support;
  - (ii) income-based jobseekers’ allowance;
  - (iii) income-related employment and support allowance;
  - (iv) support under Part VI of the Immigration and Asylum Act 1999;
  - (v) the guaranteed element of state pension credit;
  - (vi) child tax credit (but are not also entitled to working tax credit and have an annual gross income of no more than £16,190), or
  - (vii) working tax credit run-on; or
- (b) the child:
  - (i) is looked after by the local authority, or
  - (ii) has previously been looked after by the local authority and is no longer so looked after as a result of the making of—
    - (aa) an adoption order within the meaning given by section 46(1) of the Adoption and Children Act 2002(b);
    - (bb) a special guardianship order within the meaning given by section 14A(1) of the 1989 Act(c); or
    - (cc) a child arrangements order within the meaning given by section 8(1) of the 1989 Act(d) 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.

## Differential funding

17. For the purpose of determining or 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;
- (d) amounts to be allocated to exempt early years providers in its area; and
- (e) amounts to be allocated in respect of community early years provision in schools maintained by it,

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

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(a) 1989 c.41.

(b) 2002 c.38.

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

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



### **Additional requirements, factors or criteria**

**18.**—(1) Subject to paragraph (3), in determining budget shares, a local authority may take into account in its formula any or all of the requirements, factors or criteria set out in Part 1 of Schedule 3, and where it does the date for ascertaining pupil numbers is 2nd October 2014, save as otherwise stated.

(2) Subject to regulation 17 (Differential funding), in determining—

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

a local authority may take into account in its formula any or all of the requirements, factors or criteria set out in Part 2 of Schedule 3.

(3) The requirements, factors and criteria set out in Schedule 3 may not be taken into account by a local authority on the basis of actual or estimated cost unless otherwise stated in that Schedule.

(4) Subject to paragraphs (5) to (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) In paragraph (4) “redetermined adjusted budget share for the previous funding period” and “redetermined adjusted budget share” have the same meanings as in Schedule 4.

(6) Where the local authority decides to take one or both of the actions described in paragraph (4)(a) and (b), this must be applied to the budget shares of all schools in the local authority area.

(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) schools that have opened since 1 April 2008 and do not yet have pupils in each year group for which the school proposes to provide education.

### **Minimum funding guarantee**

**19.**—(1) Subject to paragraph (4), in determining and redetermining budget shares for primary and secondary schools maintained by them, a local authority must ensure that an amount equal to the guaranteed funding level is included, calculated in accordance with Schedule 4.

(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 4.

(3) In determining and 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;
- (d) amounts to be allocated to exempt early years providers in its area,

a local authority must ensure that the number by which it multiplies the predicted total number of hours calculated under regulation 16(1) is no lower than 1.5 percent less than the number by which it multiplied the predicted total number of hours calculated under regulation 16(1) of the 2013 Regulations for making such determinations and redeterminations in the previous funding period.

(4) A local authority may make changes to the operation of this regulation and to the operation of Schedule 4 in determining and redetermining budget shares where authorised to do so by the Secretary of State under regulation 25 (Alternative arrangements).

### **Sixth form funding**

**20.**—(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 in respect of that school's sixth form grant.

(2) A local authority may, in determining budget shares, use a factor which allocates funding in respect of the number of pupils in sixth forms on 2nd October 2014 subject to the limitation in paragraph (3).

(3) Where a local authority uses a factor in determining budget shares under paragraph (2), it must ensure that the amount allocated per pupil in respect of this factor in the funding period is no greater than the amount that was allocated per pupil in sixth forms in the previous funding period.

(4) A local authority must redetermine the budget share of a secondary school before the end of the funding period where the authority receive 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**

**21.**—(1) Where in the funding period a new maintained school opens and is a replacement for two or more maintained schools that are discontinued during that 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 their area, and
- (b) any school that has opened since 1 April 2008 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 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 2015 a new maintained school opened or opens and is a replacement for two or more maintained schools that were discontinued during that funding period, 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 paragraphs 1 and 2 of Schedule 3 (single sums), if the schools had not been discontinued.

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

(6) A local authority may change the operation of this regulation where authorised to do so by the Secretary of State under regulation 25 (Alternative arrangements).

## Federated schools

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

(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 this 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 Part 3 of these Regulations.

## CHAPTER 2

### Adjustments, Correction of Errors, and Alternative Arrangements Authorised by the Secretary of State

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

23.—(1) Where a pupil is permanently excluded from a school maintained by a local authority (other than a special school, pupil referral unit or from 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 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<sup>(a)</sup> 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 who has been permanently excluded from the excluding school and is admitted to another school maintained by a local authority (other than a special school, pupil referral unit or to a place which the authority have 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—

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(a) “School year” is defined in section 579(1) of the 1996 Act.

- (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 by 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, pupil referral unit or a place which the authority have 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 the pupil in question is a pupil in respect of whom a sixth form grant is payable, the amount attributable to that pupil is £4,000 for the funding period).

(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(a) in respect of the exclusion of the pupil from the excluding school.

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

**24.**—(1) A local authority may at any time during the funding period redetermine a maintained school's budget share, the amount allocated to a relevant early years provider, or the amount allocated to an exempt early years provider for the funding period or any previous funding period in order to correct an error in a determination or redetermination under these or any previous 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) 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.

(3) 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 the Regulations in force during the funding period in which the error occurred.

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

**25.**—(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 5 of Schedule 2 when deducting any expenditure referred to in regulation 8(3) (Central Services expenditure);

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(a) S.I. 2012/1033.

- (b) deduct any expenditure referred to in regulation 8(9)(a) (expenditure falling outside Schedule 2);
- (c) alter the operation of regulation 11(3) (additional expenditure on children with special educational needs);
- (d) determine or redetermine budget shares of schools maintained by it;
- (e) determine or redetermine amounts to be allocated in respect of nursery classes in schools maintained by it;
- (f) determine or redetermine amounts to be allocated to relevant early years providers in its area;
- (g) determine or redetermine amounts to be allocated to exempt early years providers in its area;
- (h) 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;
- (i) include additional factors or criteria that the authority proposes to include in its formula under regulation 10(3) (early years single funding formula);
- (j) vary the amount by which a school's redetermined adjusted budget share shall be reduced for the purpose of determining the guaranteed level of funding in paragraph 1 of Schedule 4;
- (k) disregard regulation 13 (Pupil numbers);
- (l) alter the operation of regulation 21 (New schools, merged schools and closing schools) in respect of particular schools; and
- (m) alter the operation of paragraphs 13 (primary sparsity) and 14 (secondary sparsity) of Schedule 3 in respect of particular schools.

(2) The Secretary of State may authorise the matters referred to 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**

**26.** 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 5.

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

**27.—**(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) Where—

- (a) the schools forum refuses to approve proposals submitted under paragraph 2A(3)(b) of Schedule 14 to the 1998 Act, or approves the proposals 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,
- the authority may apply to the Secretary of State for approval of the proposals.
- (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 to revise the scheme, 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**

**28.**—(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 as it sees fit.

(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.

Address  
Date

*Name*  
Minister of State  
Department for Education

**SCHEDULE 1**

Regulation 4

**CLASSES OR DESCRIPTIONS OF PLANNED EXPENDITURE  
PRESCRIBED FOR THE PURPOSES OF THE NON-SCHOOLS  
EDUCATION BUDGET OF A LOCAL AUTHORITY**

**Special educational provision**

1. Expenditure on services provided by educational psychologists.
2. Expenditure in connection with the local authority’s functions under—
  - (a) sections 321 to 331 of the 1996 Act (which functions relate to the identification and assessment of children with special educational needs and the making, maintaining and reviewing of statements for such children); and
  - (b) sections 22, 36, 37 and 44 of the 2014 Act (which functions relate to the identification of children and young people with special educational needs and disabilities; the assessment of education, health and care needs; and the preparation and review of EHC plans).
3. Expenditure on monitoring the provision for pupils in schools for the purposes of disseminating good practice in relation to, and improving the quality of educational provision for, children with special educational needs.

4. Expenditure on collaboration with other statutory and voluntary bodies to provide support for children with special educational needs.

5. Expenditure in connection with—

- (a) the provision of parent partnership services (that is services provided under section 332A of the 1996 Act<sup>(a)</sup> to give advice and information to parents of children with special educational needs), or other guidance and information to such parents which, in relation to pupils at a school maintained by the authority, are in addition to the information usually provided by the governing bodies of such schools; and
- (b) arrangements made by the authority with a view to avoiding or resolving disagreements with the parents of children with special educational needs.

6. Expenditure on carrying out the authority's child protection functions under the Children Act 1989, functions under section 175 of the 2002 Act (duties in relation to welfare of children), and other functions relating to child protection.

7. Expenditure incurred in entering into, or subsequently incurred under, an arrangement under section 31 of the Health Act 1999<sup>(b)</sup> or regulations made under section 75 of the National Health Service Act 2006<sup>(c)</sup> (arrangements between NHS bodies and local authorities).

8. Expenditure on the provision of special medical support for individual children in so far as such expenditure is not met by a National Health Service Trust, NHS foundation trust, Clinical Commissioning Group or Local Health Board.

### School improvement

9. Expenditure incurred by a local authority in respect of action to support the improvement of standards in schools in the authority's area, in particular expenditure incurred in connection with functions under the following sections of the 2006 Act—

- (a) section 60<sup>(d)</sup> (performance standards and safety warning notice);
- (b) section 60A<sup>(e)</sup> (teachers' pay and conditions warning notice);
- (c) section 63<sup>(f)</sup> (power of local authority to require governing bodies of schools eligible for intervention to enter into arrangements);
- (d) section 64<sup>(g)</sup> (power of local authority to appoint additional governors);
- (e) section 65 (power of local authority to provide for governing bodies to consist of interim executive members) and Schedule 6; and
- (f) section 66<sup>(h)</sup> (power of local authority to suspend right to delegated budget).

### Access to education

10. Expenditure in relation to—

- (a) management of the authority's capital programme including preparation and review of an asset management plan and negotiation and management of private finance transactions;

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(a) Section 332A was inserted by section 2 of the Special Educational Needs and Disability Act 2001 (c.10).

(b) 1999 c.8. Section 31 was repealed by section 6 of, and Schedule 4 to, the National Health Service (Consequential Provisions) Act 2006 (c.43) but section 4 of, and paragraph 1 of Schedule 2 to, that Act contains a savings provision which means that arrangements made under section 31 of the 1999 Act continue to have effect as if made under section 75 of the National Health Service Act 2006.

(c) 2006 c. 41.

(d) Section 60 was amended by section 203 of, and paragraph 3 of Schedule 13 to, the 2009 Act.

(e) Section 60A was inserted by section 203 of, and paragraph 4 of Schedule 13 to, the 2009 Act.

(f) Section 63 was amended by section 203 of, and paragraphs 5(2) and 5(3) of Schedule 13 to, the 2009 Act.

(g) Section 64 was amended by section 203 of, and paragraphs 6(2) to 6(5) of Schedule 13 to, the 2009 Act.

(h) Section 66 was amended by section 203 of, and paragraphs 7(a) and (b) of Schedule 13 to, the 2009 Act.



- (b) planning and managing the supply of school places, including the authority's functions in relation to the establishment, alteration or discontinuance of schools under Part 2 of, and Schedule 2 to, the 2006 Act;
- (c) the authority's functions in relation to the exclusion of pupils from schools, excluding any provision of education to excluded pupils, but including advice to the parents of such pupils;
- (d) the authority's functions under sections 508A to 509A(a) (school travel) of the 1996 Act; and
- (e) the authority's functions under section 510 of the 1996 Act (provision and administration of clothing grants), and pursuant to regulations made under section 518(2) of the 1996 Act.

**11.** Expenditure arising from the authority's functions under Chapter 2 of Part 6 of the 1996 Act (school attendance).

**12.** Expenditure on the provision of support for students under regulations made under section 1(1) of the Education Act 1962(b) and under section 22 of the Teaching and Higher Education Act 1998(c).

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(a) Sections 508A to 509A were inserted by sections 57 and 76 to 78 of the 2006 Act and amended by section 103(1) of, and paragraph 23 of Schedule 2 to, the Childcare Act 2006 and section 54 of, and paragraphs 9(10) to 9(12) of Schedule 13 to, the Education Act 2011.

(b) 1962 c.12. The 1962 Act was repealed by the Teaching and Higher Education Act 1998 (c.30) with transitional savings provisions. The repeal does not affect the continued operation of the provisions that relate to the making of subordinate legislation. Relevant regulations made under section 1(1) of the 1962 Act are the Education (Mandatory Awards) Regulations 2003 (S.I. 2003/1994), as amended by S.I. 2004/1038 and S.I. 2004/1792. These Regulations describe the designated courses and methodology for calculating grants.

(c) 1998 c.30.

13. Expenditure on discretionary grants paid under section 1(6) or 2 of the Education Act 1962 (awards for designated and other courses).

14. Expenditure on the payment of 16-19 Bursaries(a).

15. Expenditure on the provision of tuition in music, or on other activities which provide opportunities for pupils to enhance their experience of music.

16. Expenditure incurred in enabling pupils to enhance their experience of the visual, creative and performing arts other than music.

17. Expenditure on outdoor education centres, but not including centres wholly or mainly for the provision of organised games, swimming or athletics.

### **Additional education and training for children, young persons and adults**

18. Expenditure on the provision of education and training and of organised leisure time occupation, and other provision under sections 15ZA and 15ZC of the 1996 Act(b).

19. Expenditure on the provision by the local authority under sections 507A and 507B of the 1996 Act(c) of recreation, social and physical training, educational leisure time activities and recreational leisure time activities.

### **Strategic management**

20.—(1) Expenditure on education functions related to—

- (a) functions of the director of children's services and the personal staff of the director;
- (b) planning for the education service as a whole;
- (c) functions of the authority under Part I of the Local Government Act 1999(d) (Best Value) and the provision of advice to assist governing bodies in procuring goods and services with a view to securing continuous improvement in the way the functions of those governing bodies are exercised, having regard to a combination of economy, efficiency and effectiveness;
- (d) revenue budget preparation, preparation of information on income and expenditure relating to education for incorporation into the authority's annual statement of accounts, and the external audit of grant claims and returns relating to education;
- (e) administration of grants to the authority (including preparation of applications), functions imposed by or under Chapter 4 of Part 2 of the 1998 Act (financing of maintained schools) and, where it is the authority's duty to do so, ensuring payments are made in respect of taxation, national insurance and superannuation contributions;
- (f) authorisation and monitoring of—
  - (i) expenditure which is not met from schools' budget shares, and
  - (ii) expenditure in respect of schools which do not have delegated budgets, and all related financial administration;
- (g) the formulation and review of the methods of allocation of resources to schools and other bodies;
- (h) the authority's monitoring of compliance with the requirements of their financial scheme prepared under section 48 of the 1998 Act, and any other requirements in relation to the provision of community facilities by governing bodies under section 27 of the 2002 Act;

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(a) A 16-19 Bursary is financial assistance under section 14 of the 2002 Act paid to, or in respect of, a person who is aged 16 to 19 in connection with undertaking any course or training.

(b) Sections 15ZA and 15ZC were inserted by section 41 of the 2009 Act.

(c) Sections 507A and 507B were inserted by section 6(1) of the 2006 Act.

(d) 1999 c. 27.

- (i) internal audit and other tasks necessary for the discharge of the authority's chief finance officer's responsibilities under section 151 of the Local Government Act 1972<sup>(a)</sup>;
- (j) the authority's functions under regulations made under section 44 of the 2002 Act<sup>(b)</sup>;
- (k) 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 carried out in relation to those of the authority's functions and services which are referred to in other paragraphs of this Schedule;
- (l) investigations which the authority carries out of employees, or potential employees, of the authority, or of governing bodies of schools, or of persons otherwise engaged, or to be engaged, with or without remuneration to work at or for schools;
- (m) functions of the authority in relation to local government superannuation which it is not reasonably practicable for another person to carry out, and functions of the authority in relation to the administration of teachers' pensions;
- (n) retrospective membership of pension schemes and retrospective elections made in respect of pensions where it would not be appropriate to expect the governing body of a school to meet the cost from the school's budget share;
- (o) advice, in accordance with the authority's statutory functions, to governing bodies in relation to staff paid, or to be paid, to work at a school, and advice in relation to the management of all such staff collectively at any individual school, including in particular advice with reference to alterations in remuneration, conditions of service and the collective composition and organisation of such staff;
- (p) determination of conditions of service for non-teaching staff, and advice to schools on the grading of such staff;
- (q) the authority's functions regarding the appointment or dismissal of employees;
- (r) consultation and functions preparatory to consultation with or by governing bodies, pupils and persons employed at schools or their representatives, or with other interested bodies;
- (s) compliance with the authority's duties under the Health and Safety at Work etc Act 1974<sup>(c)</sup> and the relevant statutory provisions as defined in section 53(1) of that Act, in so far as compliance cannot reasonably be achieved through tasks delegated to the governing bodies of schools; but including expenditure incurred by the authority in monitoring the performance of such tasks by governing bodies and, where necessary, the giving of advice to them;
- (t) the investigation and resolution of complaints;
- (u) legal services relating to the statutory functions of the authority;
- (v) the preparation and review of plans involving collaboration with other local authority services or with public or voluntary bodies;
- (w) provision of information to or at the request of the Crown and the provision of other information which the authority are under a duty to make available;
- (x) the authority's functions pursuant to regulations made under section 12 of the 2002 Act (supervising authorities of companies formed by governing bodies); and
- (y) the authority's functions under the discrimination provisions of the Equality Act 2010<sup>(d)</sup> in so far as compliance cannot reasonably be achieved through tasks delegated to the governing bodies of schools; but including expenditure incurred by the authority in monitoring the performance of such tasks by governing bodies and, where necessary, the giving of advice to them.

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(a) 1972 c. 70.

(b) The Consistent Financial Reporting (England) Regulations 2012 (S.I. 2012/674).

(c) 1974 c.37.

(d) 2010 c.15.

(2) References to schools in this paragraph are to schools maintained by the authority.

### **Other functions**

**21.** Expenditure in pursuance of a binding agreement, where the other party is a local authority, or the other parties include one or more local authorities, in relation to the operation of a facility provided partly, but not solely, for the use of schools.

**22.** Expenditure on establishing and maintaining those electronic computer systems, including data storage, which are intended primarily to maintain linkage between local authorities and schools which they maintain.

**23.** Expenditure on monitoring National Curriculum assessment arrangements required by orders made under section 87 of the 2002 Act.

**24.** Expenditure in connection with the authority's functions in relation to the standing advisory council on religious education constituted by the authority under section 390 of the 1996 Act<sup>(a)</sup> or in the reconsideration and preparation of an agreed syllabus of religious education in accordance with Schedule 31 to the 1996 Act.

**25.** Expenditure in respect of the dismissal or premature retirement of, or for the purpose of securing the resignation of, or in respect of acts of discrimination against, any person except to the extent that these costs are chargeable to maintained schools' budget shares or fall within paragraph 4(b) of Schedule 2.

**26.** Expenditure on the appointment of governors, the making of instruments of government, the payment of expenses to which governors are entitled and which are not payable from a maintained school's budget share, and the provision of information to governors.

**27.** Expenditure on making pension payments, other than in respect of staff employed in maintained schools.

**28.** Expenditure on insurance, other than for liability arising in connection with maintained schools or maintained school premises.

**29.** Expenditure in connection with powers and duties performed under Part 2 of the Children and Young Persons Act 1933<sup>(b)</sup> (enforcement of, and power to make byelaws in relation to, restrictions on the employment of children).

## **SCHEDULE 2**

Regulations 6 and 8

### **CLASSES OR DESCRIPTIONS OF PLANNED EXPENDITURE PRESCRIBED FOR THE PURPOSES OF THE SCHOOLS BUDGET OF A LOCAL AUTHORITY WHICH MAY BE DEDUCTED FROM IT TO DETERMINE THE INDIVIDUAL SCHOOLS BUDGET**

#### **PART 1**

##### **Central Services**

**1.** Expenditure on the operation of the system of admissions of pupils to schools (including expenditure incurred in carrying out consultations under section 88C(2) of the 1998 Act<sup>(c)</sup>) and in relation to appeals.

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(a) Section 390 was amended by section 140(1) of, and paragraph 93 of Schedule 20 to, the 1998 Act.

(b) 1933 c.12.

(c) Section 88C(2) was amended by section 51 of, and Schedule 4 to, the 2002 Act and sections 45 and 56 of the 2006 Act.

2. Expenditure in connection with the authority's functions under section 47A of the 1998 Act (establishment and maintenance of, and consultation with, schools forums).

3. CERA incurred for purposes not falling within any other paragraph of this Schedule or Schedule 1.

4. Expenditure in respect of—

- (a) prudential borrowing;
- (b) termination of employment costs, where the schools forum have approved the charging of these costs to the schools budget for the funding period in which they were incurred and the revenue savings achieved by the termination of employment to which they relate are equal to or greater than the costs incurred;
- (c) services (often known as combined budgets) funded partly from central expenditure and partly from other budgets of the local authority or contributions from other bodies, where the expenditure relates to classes or descriptions of expenditure falling outside those set out in this Schedule;
- (d) special educational needs transport costs; and
- (e) purposes not falling within any other paragraph of this Schedule, provided that the expenditure does not amount in total to more than 0.1% of the authority's schools budget; which has been approved by the schools forum or the Secretary of State before 1st April 2013.

5. Any deductions under any of paragraphs 1, 2, 3, 4(a), 4(b), 4(c), 4(d) and 4(e) must not exceed the amount deducted under each of the corresponding paragraphs of Part 1 of Schedule 2 to the 2013 Regulations for the previous funding period.

## PART 2

### Central Schools Expenditure

6. Expenditure on pay arrears due to staff employed at maintained schools and other staff whose salaries are met from the schools budget, and expenditure on the costs of financing payment of such arrears, where the expenditure is not chargeable to a maintained school's budget share under the terms of the local authority's scheme.

7. Expenditure under section 18 of the 1996 Act<sup>(a)</sup> in making any grant or other payment in respect of fees or expenses (of whatever nature) which are payable in connection with the attendance of pupils at a school which is not maintained by any local authority.

8. Expenditure due to a significant growth in pupil numbers as a result of the local authority's duty under section 13(1) of the 1996 Act to secure that efficient primary education and secondary education are available to meet the needs of the population of its area.

9. Expenditure to be incurred due to a decline in pupil numbers in—

- (a) schools which were awarded either the highest or the second highest grade in their last inspection under section 5 of the 2005 Act, including those inspected during the funding period; and
- (b) Academy schools that have not previously been inspected under section 5 of the 2005 Act and have a predecessor school or schools which was awarded the highest or second highest grade in its last inspection under section 5 of the 2005 Act, including those inspected during the funding period,

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(a) Section 18 was amended by article 5(1) of, and paragraph 7 of Schedule 2 to, S.I. 2010/1158.

where funding is likely to be necessary due to subsequent growth in pupil numbers at such schools before the end of the next three financial years after the funding period.

**10.** Expenditure to be incurred before the opening of new schools to fund the appointment of staff and to enable the purchase of any goods and services necessary in order to admit pupils.

**11.** Expenditure in order to make provision for extra classes in order to comply with the School Admissions (Infant Class Sizes) (England) Regulations 2012(a).

**12.** Expenditure on licences which are negotiated centrally by the Secretary of State for all publicly funded schools.

**13.** Remission of boarding fees payable in connection with the attendance of pupils at maintained schools and Academies under sections 458 or 514 of the 1996 Act or section 10A of the 2010 Act.

## PART 3

### Central Early Years Expenditure

**14.** Expenditure on early years provision, excluding expenditure—

- (a) on such provision in a maintained school;
- (b) on relevant early years provision;
- (c) on exempt early years provision;
- (d) on community early years provision, and
- (e) on excluded early years provision.

**15.** Expenditure on determining—

- (a) the eligibility for free school meals of a pupil who is being provided with early years provision;
- (b) the eligibility of a child for prescribed early years provision; or
- (c) the eligibility of a child for the early years pupil premium.

## PART 4

### Children And Young People With High Needs

**16.** Expenditure in respect of pupils with special educational needs in primary and secondary schools, and children with special educational needs in relevant early years providers, exempt early years providers and those being provided with community early years provision, excluding expenditure—

- (a) in respect of pupils in places which the authority has reserved for children with special educational needs; or
- (b) where it would be reasonable to expect such expenditure to be met from a school's budget share, the amount allocated to a relevant early years provider or the general annual grant paid to an Academy by the Secretary of State.

**17.** Expenditure in respect of pupils—

- (a) with special educational needs at special schools and special Academies; or
- (b) in places at primary or secondary schools which the authority have reserved for children with special educational needs,

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(a) S.I. 2012/10.

where the expenditure cannot be met from the sum referred to in regulation 14(1) or 14(2).

**18.** Expenditure in respect of persons provided with further education who are—

- (a) aged under 19 and have special educational needs; or
- (b) aged over 18 but under 25 and are subject to learning difficulty assessment or an EHC plan, and are not attending a school or an Academy.

**19.** Expenditure on support services for children who have a statement of special educational needs and for children with special educational needs who do not have such a statement.

**20.** Expenditure for the purposes of encouraging—

- (a) collaboration between special schools and primary and secondary schools to enable children with special educational needs to engage in activities at primary and secondary schools;
- (b) the education of children with special educational needs at primary and secondary schools; and
- (c) the engagement of children with special educational needs at primary and secondary schools in activities at the school with children who do not have special educational needs,

in cases where the local authority considers it would be unreasonable for such expenditure to be met from a school's budget share or the general annual grant paid to an Academy school by the Secretary of State.

**21.** Expenditure incurred in relation to education otherwise than at school under section 19 of the 1996 Act or in relation to a pupil referral unit, where the expenditure cannot be met from the sum referred to in regulation 14(3).

**22.** Expenditure on the payment of fees in respect of children with special educational needs—

- (a) at independent schools or at special schools which are not maintained by a local authority under section 348 of the 1996 Act; or
- (b) at an institution outside England and Wales under section 320 of the 1996 Act or section 62 of the 2014 Act.

**23.** Expenditure on hospital education services, aside from expenditure on hospital education places referred to in regulation 14.

**24.** Expenditure on special schools and pupil referral units in financial difficulty.

**25.** Expenditure on costs in connection with private finance initiatives and the programme known as "Building Schools for the Future" at special schools, special Academies, pupil referral units and alternative provision Academies<sup>(a)</sup>.

**26.** Expenditure on the purchase of CRC Energy Efficiency Scheme allowances operated by the Environment Agency for pupil referral units.

## PART 5

### Items That May Be Removed From Maintained Schools' Budget Shares

**27.** Expenditure (other than expenditure referred to in Schedule 1 or any other paragraph of this Schedule) incurred on services relating to the education of children with behavioural difficulties, and on other activities for the purpose of avoiding the exclusion of pupils from schools.

**28.** Expenditure on determining the eligibility of a pupil for free school meals.

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(a) "Alternative provision Academy" is defined in section 1C of the 2010 Act.

**29.** Expenditure on making payments to, or in providing a temporary replacement for, a woman on maternity leave or a person on adoption leave.

**30.** Expenditure on making payments to, or in providing a temporary replacement for, any person—

- (a) carrying out trade union duties or undergoing training under sections 168 and 168A of the Trade Union and Labour Relations (Consolidation) Act 1992**(a)**;
- (b) taking part in trade union activities under section 170 of the Trade Union and Labour Relations (Consolidation) Act 1992;
- (c) performing public duties under section 50 of the Employment Rights Act 1996**(b)**;
- (d) undertaking jury service;
- (e) who is a safety representative under the Safety Representatives and Safety Committees Regulations 1977**(c)**;
- (f) who is a representative of employee safety under the Health and Safety (Consultation with Employees) Regulations 1996**(d)**;
- (g) who is an employee representative for the purposes of Chapter 2 of Part 4 of the Trade Union and Labour Relations (Consolidation) Act 1992, as defined in section 196 of that Act or regulation 13(3) of the Transfer of Undertakings (Protection of Employment) Regulations 2006**(e)**;
- (h) taking time off for ante-natal care under section 55 of the Employment Rights Act 1996;
- (i) undertaking duties as a member of the reserve forces as defined in section 1(2) of the Reserve Forces Act 1996**(f)**;
- (j) suspended from working at a school; or
- (k) who is appointed a learning representative of a trade union, in order for that person to analyse training requirements or to provide or promote training opportunities, and to carry out consultative or preparatory work in connection with such functions.

**31.** Expenditure on making payments to, or in providing a temporary replacement for, a person who is seconded on a full-time basis for a period of three months or more other than to a local authority or the governing body of a school.

**32.** Expenditure on making payments to, or in providing a temporary replacement for, persons who have been continuously absent from work because of illness for 21 days or more.

**33.** Expenditure on insurance in respect of liability arising in connection with schools and school premises.

**34.** Expenditure on services to schools provided by museums and galleries.

**35.** Expenditure on library services.

**36.** Expenditure on licence fees or subscriptions paid on behalf of schools.

**37.** Expenditure on the schools' specific contingency.

**38.** Expenditure for the purposes of—

- (a) improving the performance of under-performing pupils from minority ethnic groups; or
- (b) meeting the specific needs of bilingual pupils.

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(a) 1992 c.52. Section 168A was inserted by section 43 of the Employment Act 2002 (c.22).

(b) 1996 c.18.

(c) S.I. 1977/500, amended by section 1 of the Employment Rights (Dispute Resolution) Act 1998 (c.8) and S.I. 1996/1513, 1999/860, 1999/2024, 1999/3242, 2005/1541, 2006/594 and 2008/960.

(d) S.I. 1996/1513, amended by section 1 of the Employment Rights (Dispute Resolution) Act 1998 (c.8) and S.I. 1999/3242 and 2005/1541.

(e) S.I. 2006/246, amended by S.I. 2010/93.

(f) 1996 c.14.



**ADDITIONAL REQUIREMENTS, OR FACTORS OR CRITERIA  
WHICH MAY BE TAKEN INTO ACCOUNT, IN A LOCAL  
AUTHORITY'S FORMULA UNDER REGULATION 18**

**PART 1**

Applicable only to budget shares for maintained schools

**1. A single sum for primary schools—**

- (a) other than middle schools, of an equal amount to be given to each school of up to £175,000 per school; and
- (b) which are middle schools, of an amount to be calculated per school in accordance with the middle school single sum formula.

**2. A single sum for secondary schools—**

- (a) other than middle schools, of an equal amount to be given to each school of up to £175,000 per 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.—(1)** Subject to sub-paragraph (5), in respect of pupils at key stages 1 and 2, a single per pupil amount based on the number of pupils in Year 1, Year 2, Year 3, Year 4, Year 5 and Year 6 to whom either sub-paragraphs (2) and (4), or sub-paragraphs (3) and (4), applies.

(2) This sub-paragraph applies to pupils who achieved fewer than 73 points on the Early Years Foundation Stage Profile under the 2008 Document.

(3) This sub-paragraph applies to pupils who achieved fewer than 78 points on the Early Years Foundation Stage Profile under the 2008 Document.

(4) This sub-paragraph applies to pupils who did not achieve expected development in relation to the relevant early learning goals in the Early Years Foundation Stage Profile under the 2014 Document.

(5) Where, in respect of the total number of pupils in the local authority, the percentage of those pupils to whom sub-paragraph (4) applies is greater than either—

- (a) the number of pupils to which sub-paragraph (2) applies, expressed as a percentage of the total pupils in the local authority, where the local authority is using sub-paragraph (2) to determine a single per pupil amount under sub-paragraph (1); or
- (b) the number of pupils to which sub-paragraph (3) applies, expressed as a percentage of the total pupils in the local authority, where the local authority is using sub-paragraph (3) to determine a single per pupil amount under sub-paragraph (1),

the authority may moderate the number of pupils to whom sub-paragraph (4) would otherwise apply, in accordance with sub-paragraph (6).

(6) The local authority may moderate the number of pupils to whom sub-paragraph (4) would otherwise apply by multiplying that number by a number between zero and one, but only where the resulting number, expressed as a percentage of the number of pupils in the authority, is not less than the number referred to in sub-paragraph (5)(a) or (b), as appropriate.

**4. In respect of pupils at key stages 3 and 4, a single per pupil amount based on—**

- (a) the number of pupils who were assessed as achieving level 3 or lower in English or mathematics at key stage 2 under any arrangements predating the 2014 ARA, and

- (b) the number of pupils who were assessed under the 2014 ARA as achieving level 3 or lower in mathematics or English reading under the tests referred to in paragraph 4.1 of the 2014 ARA or the teacher assessment of English writing.
- 5.** A single per pupil amount for each pupil, based on the number of pupils in Year 1, Year 2 and at key stage 2 for whom English is not their first language, where either—
- (a) the pupil was not recorded as attending a school or schools in England on any school census before 4th October 2012;
  - (b) the pupil was not recorded as attending a school or schools in England on any school census before 3rd October 2013; or
  - (c) the pupil was not recorded as attending a school or schools in England on any school census before 2nd October 2014.
- 6.** A single per pupil amount for each pupil, based on the number of pupils at key stages 3 and 4 for whom English is not their first language, where either—
- (a) the pupil was not recorded as attending a school or schools in England on any school census before 4th October 2012;
  - (b) the pupil was not recorded as attending a school or schools in England on any school census before 3rd October 2013; or
  - (c) the pupil was not recorded as attending a school or schools in England on any school census before 2nd October 2014.
- 7.**—(1) Where the total number of pupils to whom sub-paragraph (2)(a) and (b) applies is more than 10% 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 10%.
- (2) This sub-paragraph applies to—
- (a) pupils at key stages 1 and 2 who joined in the previous three academic years at any time other than August or September, excluding pupils who joined the school in the nursery class, if the school has such a class;
  - (b) pupils at key stages 1 and 2 who joined in the reception class at any time other than January, in the previous three academic years.
- 8.** Where the total number of pupils at key stages 3 and 4 who joined the school in the last three academic years at any time other than August or September is more than 10% of the total number of pupils at key stages 3 and 4, a single per pupil amount for every pupil in excess of that 10%.
- 9.** A single per pupil amount, based on the number of pupils who were looked after children on 31st March 2014.
- 10.** Funding for schools with split sites, where the funding must be in accordance with criteria published by the authority.
- 11.** Non-domestic rates payable in respect of the premises of each school (including actual or estimated cost).
- 12.** Payments in relation to a private finance initiative (including actual or estimated cost).
- 13.** Differential salaries of teachers at schools in the county councils of Buckinghamshire, Essex, Hertfordshire, Kent or West Sussex due to the schools being in different London salary weighting areas.
- 14.**—(1) In respect of all primary schools to which sub-paragraph (2) applies, other than those which are middle schools or all-through schools, an amount calculated in accordance with sub-paragraphs (3) and (4).
- (2) This sub-paragraph applies where—
- (a) in respect of those pupils for which the school is their home school, the mean of the distances between each pupil's home and their second closest school is more than or

equal to a distance determined by the local authority of at least two miles and the same distance must be applied to all such schools; and

- (b) the average size of a year group at the school (derived by dividing the number of pupils by the number of year groups) is less than a number determined by the local authority, which must be no more than 21.4; the same number must be applied to all such schools.

(3) Subject to sub-paragraph (4), the amount is either—

- (a) a single sum of up to £100,000, and each school must be allocated the same sum, or
- (b) a sum of the amount  $A \times (1 - B / C)$  where—

*A* is a sum of up to £100,000, and the same sum must be used in the calculation for each school

*B* is the number of pupils in the school

*C* is the number determined by the authority in sub-paragraph (2)(b).

(4) The authority must use the same method of calculating the amount under sub-paragraph (3) in respect of all schools to which sub-paragraph (2) applies.

**15.—**(1) Where sub-paragraph (2) applies in respect of secondary schools, primary schools which are middle schools and primary schools which are all-through schools, an amount calculated in accordance with sub-paragraphs (3) and (4)—

(2) This sub-paragraph applies where—

- (a) in respect of those pupils for which the school is their home school, the mean of the distances between each pupil's home and their second closest school is more than or equal to a distance determined by the local authority of at least—
  - (i) two miles in respect of middle schools,
  - (ii) two miles in respect of all-through schools, and
  - (iii) three miles in respect of secondary schools other than middle schools or all-through schools; and
- (b) the average size of a year group at the school (derived by dividing the number of pupils by the number of year groups) is less than a number determined by the local authority, which must be no more than—
  - (i) 69.2 in respect of middle schools,
  - (ii) 62.5 in respect of all-through schools, and
  - (iii) 120 in respect of secondary schools other than middle schools or all-through schools, and the same number must be applied to all the schools of each type listed in this sub-paragraph.

(3) Subject to sub-paragraph (4) the amount is either—

- (a) a single sum of up to £100,000, and each school must be allocated the same sum, or
- (b) a sum of the amount  $A \times (1 - B / C)$  where—

*A* is a sum of up to £100,000, and the same sum must be used in the calculation for each school

*B* is the number of pupils in the school

*C* is the number determined by the authority in sub-paragraph (2)(b).

(4) The authority must use the same method of calculating the amount under sub-paragraph (3) in respect of all schools to which sub-paragraph (2) applies.

## PART 2

Applicable only to budget shares for, and amounts to be allocated to, providers of prescribed early years provision

16. Incidence of looked after children.
17. Prior attainment of pupils entering a school or children entering a relevant early years provider, exempt early years provider or school where they will receive community early years provision.
18. Pupils and children for whom English is not their first language.
19. A single sum for each school, relevant early years provider, exempt early years provider and school providing community early years provision, which may vary according to the type of provider.
20. Funding for schools, relevant early years providers, exempt early years providers and schools providing community early years provision with split sites, where the funding must be in accordance with criteria published by the authority.
21. Non-domestic rates payable in respect of the premises of each school, relevant early years provider, exempt early years provider or school providing community early years provision (including actual or estimated cost).
22. Payments in relation to a private finance initiative (including actual or estimated cost).
23. Differential salaries of teachers at schools in the county councils of Buckinghamshire, Essex, Hertfordshire, Kent or West Sussex due to the schools being in different London salary weighting areas.
24. The need to improve the quality of provision by particular providers or types of provider.
25. The degree of flexibility in the hours of attendance that a provider makes available.
26. The need to secure or sustain a sufficiency of prescribed early years provision within the authority's area or any sub-area within that area; and in this paragraph "sub-area" means—
  - (a) an electoral division or ward of the authority; or
  - (b) such other appropriate geographical division into which the authority has notionally divided its area.

## SCHEDULE 4

Regulation 19

### MINIMUM FUNDING GUARANTEE

- 1.—(1) In this Schedule—
  - (a) references to the number of pupils exclude those funded by a sixth form grant and those in places which the local authority have reserved for children with special educational needs;
  - (b) the "relevant number" of pupils for the previous funding period is the number of pupils at the school on 3rd October 2013;
  - (c) the "relevant number" of pupils for the funding period is the number of pupils at the school on 2nd October 2014;
  - (d) references to a redetermined adjusted budget share for the previous funding period must be reduced by the following—
    - (i) any amount included under regulation 20 (sixth form funding) of the 2013 Regulations;

- (ii) any amount allocated to the school under Schedule 3 to the 2013 Regulations where such amount has been deducted from the schools budget under Part 4 (Children And Young People With High Needs) of Schedule 2;
  - (iii) any amount allocated to the school under regulation 10(3)(b) (nursery classes) of the 2013 Regulations;
  - (iv) any amount included in respect of paragraph 11 (rates) of Schedule 3 of the 2013 Regulations;
  - (v) any amount allocated to the school under paragraph 1 (primary single sum) of Schedule 3;
  - (vi) any amount allocated to the school under paragraph 2 (secondary single sum) of Schedule 3;
  - (vii) any amount allocated to the school under paragraph 14 (primary sparsity) of Schedule 3; and
  - (viii) any amount allocated to the school under paragraph 15 (secondary sparsity) of Schedule 3;
- (e) references to a redetermined adjusted budget share for the funding period include the effect of any alternative arrangements approved by the Secretary of State under regulation 25, but are reduced by the following—
- (i) any amount included under regulation 20 (sixth form funding);
  - (ii) any amount allocated under regulation 14(2) (places in special schools and places reserved for children with special educational needs);
  - (iii) any amount included in respect of paragraph 11 (rates) of Schedule 3;
  - (iv) any amount allocated to the school under paragraph 1 (primary single sum) of Schedule 3;
  - (v) any amount allocated to the school under paragraph 2 (secondary single sum) of Schedule 3;
  - (vi) any amounts allocated under regulation 10(1) (formula for determining budget shares) which would have been within a class or description of the expenditure listed in Schedule 2 to the 2013 Regulations that the authority deducted in the previous funding period;
  - (vii) any amount allocated to the school under regulation 10(3) (early years single funding formula);
  - (viii) any amount allocated to the school under paragraph 14 (primary sparsity) of Schedule 3; and
  - (ix) any amount allocated to the school under paragraph 15 (secondary sparsity) of Schedule 3.

(2) For the purposes of this Schedule—

- (a) where a school opened during the previous funding period, its redetermined adjusted budget share for the previous funding period is the amount it would have been if the school had opened on 1st April 2014; and
- (b) where a school opens during the funding period, its redetermined adjusted budget share for the funding period is the amount it would have been if the school had opened on 1st April 2015,

in both cases adjusted in accordance with sub-paragraph (d) or (e), whichever is applicable.

2. Where  $(A / B)$  is less than  $(C / D)$  then the guaranteed funding level is  $(C / D) \times B$  where—

*A* is the redetermined adjusted budget share for the funding period;

*B* is the relevant number of pupils in the funding period;

*C* is the redetermined adjusted budget share for the previous funding period multiplied by 0.985; and

$D$  is the number of relevant pupils in the previous funding period.

**3.** Where a new school opens during the funding period and is a replacement for two or more schools being discontinued during the funding period, its guaranteed funding level must be calculated in accordance with paragraph 2, subject to paragraph 4.

**4.** In calculating the guaranteed level of funding under paragraph 3 the relevant number of pupils in the previous funding period under paragraph 1(b) is the sum of the relevant number of pupils in the discontinued schools on 3rd October 2013.

## SCHEDULE 5

Regulation 26

### CONTENTS OF SCHEMES

**1.** The carrying forward from one funding period to another of surpluses and deficits arising in relation to schools' budget shares.

**2.** Amounts which may be charged against schools' budget shares.

**3.** Amounts received by schools which may be retained by their governing bodies and the purposes for which such amounts may be used.

**4.** The imposition, by or under the scheme, of conditions which schools must comply with in relation to the management of their delegated budgets, and of sums made available to governing bodies by the authority which do not form part of delegated budgets, including conditions prescribing financial controls and procedures.

**5.** Terms on which services and facilities are provided by the authority for schools maintained by it.

**6.** The payment of interest by or to the authority.

**7.** The times at which amounts equal in total to the school's budget share are to be made available to governing bodies and the proportion of the budget share to be made available at each such time.

**8.** The virement between budget heads within the delegated budget.

**9.** Circumstances in which a local authority may delegate to the governing body the power to spend any part of the authority's non-schools education budget or schools budget in addition to those set out in section 49(4)(a) to (c) of the 1998 Act(a).

**10.** The use of delegated budgets and of sums made available to a governing body by the local authority which do not form part of delegated budgets.

**11.** Borrowing by governing bodies.

**12.** The banking arrangements that may be made by governing bodies.

**13.** A statement as to the personal liability of governors in respect of schools' budget shares having regard to section 50(7) of the 1998 Act.

**14.** A statement as to the allowances payable to governors of a school which does not have a delegated budget in accordance with the scheme made by the authority for the purposes of section 519 of the 1996 Act(b).

**15.** The keeping of a register of any business interests of the governors and the head teacher.

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(a) Section 49(4) was amended by section 215 of, and paragraph 100 of Schedule 21 to, the 2002 Act.

(b) Section 519 was amended by section 140 of, and paragraph 139 of Schedule 2 to, the 1998 Act.

16. The provision of information by and to the governing body.
17. The maintenance of inventories of assets.
18. Plans of a governing body's expenditure.
19. A statement as to the taxation of sums paid or received by a governing body.
20. Insurance.
21. The use of delegated budgets by governing bodies so as to satisfy the authority's duties imposed by or under the Health and Safety at Work etc Act 1974.
22. The provision of legal advice to a governing body.
23. Funding for child protection issues.
24. How complaints by persons working at a school or by school governors about financial management or financial propriety at the school will be dealt with and to whom such complaints should be made.
25. Expenditure incurred by a governing body in the exercise of the power conferred by section 27 of the 2002 Act.

#### **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations make provision for local authorities' financial arrangements in relation to the funding of maintained schools and providers of prescribed early years provision in England, for the financial year 2015-2016.

The School and Early Years Finance (England) Regulations 2012 are revoked. The School and Early Years Finance (England) Regulations 2013 remain in force.

These Regulations define the non-schools education budget (regulation 4 and Schedule 1), the schools budget (regulation 6 and Schedule 2), central expenditure and the individual schools budget (regulation 8 and Schedule 2). They require local authorities to determine budget shares for schools maintained by them and amounts to be allocated in respect of early years provision in their area, in accordance with the appropriate formulae (regulations 10 and 11). They impose a minimum funding guarantee (regulation 19 and Schedule 4) and requirements in relation to local authorities' schemes (regulation 26 and Schedule 5).

No impact assessment has been prepared for these Regulations as they have minimal impact on businesses, civil society organisations and the public sector.

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