Introduction
The Department has launched a consultation on the new Schools Finance (England) (Amendment) Regulations 2011, to give effect to the government’s policy developments. The closing date for the consultation responses is the 10th December 2010.

Summary
The main changes from previous regulations relate to decisions and proposals outlined in the 2011-12 school funding consultation document issued on 26th July 2010. These include the requirement for all authorities to introduce an early years single funding formula from April 2011 and the mainstreaming of some specific grants into the Dedicated Schools Grant.

Other proposals include changes to make federations more attractive, allowing penalties from the carbon reduction commitment to be passed through to the schools budget or individual schools and removing exclusions as an allowable formula factor. Information is also provided about schools being able to fund community facilities from their delegated budget.

Recommendations
Schools Forum is requested to note the report.

Reference to Key Documents/Previous Papers:
School Finance (England) Regulations 2011
1. INTRODUCTION

1.1 The Department has launched a consultation on the new Schools Finance (England) (Amendment) Regulations 2011, to give effect to the government’s policy developments.

1.2 The current school finance regulations cover the 2008-11 funding period and therefore expire at 31st March 2011. This consultation sets out draft regulations which will be effective for the 2011-12 financial year only, consistent with the proposals and announcements in the “Consultation on school funding 2011-12” published on 26th July 2010 and runs until 18th October 2010. The school funding consultation is still open, and if there are changes to the proposals following consultation, then the regulations would change accordingly.

1.3 The closing date for the consultation responses is the 10th December 2010.

2. CONSULTATION PAPERS

2.1 More detail is provided in the attached: letter, consultation note and draft Schools Finance (England) (Amendment) Regulations 2011.

3. RECOMMENDATIONS

- Schools Forum is requested to note the report.

- Schools Forum is asked to consider whether it would like to respond to the consultation separately.
CONSULTATION ON THE SCHOOL FINANCE (ENGLAND) REGULATIONS 2011

The Department is today launching a consultation on the new School Finance (England) Regulations 2011.

The main changes from previous regulations relate to decisions and proposals outlined in the 2011-12 school funding consultation document issued on 26th July 2010. These include the requirement for all authorities to introduce an early years single funding formula from April 2011 and the mainstreaming of some specific grants into the Dedicated Schools Grant.

Other proposals include changes to make federations more attractive, allowing penalties from the carbon reduction commitment to be passed through to the schools budget or individual schools and removing exclusions as an allowable formula factor. Information is also provided about schools being able to fund community facilities from their delegated budget.

The Department will be launching its new website shortly and we will ensure that the draft regulations and accompanying note for consultation will be available on the site. We will inform Finance Officers at Local Authorities when the information is available on our website.

Please send consultation responses to anita.mcloughlin@education.gsi.gov.uk by Friday 10th December 2010. If you have any queries on this consultation please send them to me at keith.howkins@education.gsi.gov.uk.

In both cases please put School Finance Regulations 2011 consultation in the subject line.

Yours sincerely

Keith Howkins
School Funding Policy Adviser

Agenda Item 6

To Directors of Children’s Services
and Chairs of Schools Forums

17th September 2010

Dear Colleagues

The Department is today launching a consultation on the new School Finance (England) Regulations 2011.

The main changes from previous regulations relate to decisions and proposals outlined in the 2011-12 school funding consultation document issued on 26th July 2010. These include the requirement for all authorities to introduce an early years single funding formula from April 2011 and the mainstreaming of some specific grants into the Dedicated Schools Grant.

Other proposals include changes to make federations more attractive, allowing penalties from the carbon reduction commitment to be passed through to the schools budget or individual schools and removing exclusions as an allowable formula factor. Information is also provided about schools being able to fund community facilities from their delegated budget.

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Yours sincerely

Keith Howkins
School Funding Policy Adviser
SCHOOL FINANCE REGULATIONS 2011 CONSULTATION

1. The current school finance regulations cover the 2008-11 funding period and therefore expire at 31st March 2011. This consultation sets out draft regulations which will be effective for the 2011-12 financial year only, consistent with the proposals and announcements in the “Consultation on school funding 2011-12” published on 26th July 2010 and which runs until 18th October 2010. The school funding consultation is still open, and if there are changes to the proposals following consultation, then the regulations would change accordingly. The main changes are set out below:

*Early Years Single Funding Formula (EYSFF)*

2. Local authorities will be required to implement an Early Years Single Funding Formula from April 2011. The proposed changes to the regulations are similar to those consulted on in 2009 and include requirements to fund mainly on numbers of actual hours, to use at least three counts during the year and to have a deprivation supplement. More detail is shown at Annex A.

3. We are looking to those local authorities which were approved as EYSFF pilots or pathfinders to share good practice with those which are still to implement. The government has announced its intention to abolish the government offices, so, LAs will need to take responsibility for organising themselves to compare formulae and experiences, where this is not already happening. We have published a brief summary of aspects of the pilot/pathfinder formulae to assist other LAs, and will shortly be publishing some case studies from pathfinders.

*Mainstreaming of grants*

4. The school funding consultation document proposes that, subject to the spending review, some grants – which are likely to include at least the School Development Grant (SDG), School Standards Grant (SSG) and School Standards Grant (Personalisation) - should be mainstreamed into the Dedicated Schools Grant (DSG). To avoid undue turbulence at school level, LAs would if they wished be allowed to use a formula factor which replicates part or all of the previous level of grant, either as a cash amount or using the grant methodology. This is most likely to be of use for SDG, because of its history as an amalgamation of previous grants, some of which were distributed on a non-formulaic basis. The addition is at Schedule 3 paragraph 38.

5. The mainstreamed grants will also need to be taken into account in the calculation of the Minimum Funding Guarantee (MFG) so that the budget comparison is on a like for like basis, as they will be appearing in formula budgets in 2011-12. The best way of doing this is to permanently adjust the 2010-11 baseline to include allocations for the grants which are to be mainstreamed in 2011-12. This is reflected for primary and secondary schools in Schedule 4 paragraph 1(e).

6. For special schools, there are separate MFG calculations for place-led funding and the remainder of the budget. As the grant allocations are not based on places, and the level of place funding is usually based on existing assessments of need, we propose that the baseline should be adjusted for the part of the budget excluding place funding. This is shown at Schedule 4 paragraph 5(2). If LAs decide to add in mainstreamed grants into place factors instead, they may need to seek a disapplication from this particular MFG requirement.

*Central expenditure*
7. Mainstreaming grants will also affect the calculations for the central expenditure limit (CEL), so there will again need to be an adjustment to the 2010-11 baseline to ensure like for like comparisons. The total of relevant grant allocations in 2010-11 will, therefore, need to be added to the 2010-11 Schools Budget for each LA. This is given effect in Regulation 7(2).

8. We do not propose a similar adjustment to any funding retained centrally from mainstreamed grants. If an LA wishes to continue to retain funding and this would breach the central expenditure limit, then schools forum would need to approve this, with the usual route of appeal to the Secretary of State if the forum disagreed with the proposal. We consider that, in any case, proposals for how grants are mainstreamed locally should be discussed with the forum.

9. As noted in paragraph 4, all decisions on mainstreaming grants are subject to the spending review. If the Ethnic Minority Achievement Grant (EMAG) is mainstreamed into DSG, then we would propose to enable LAs to retain funding centrally within DSG for services which support schools in narrowing achievement gaps for under-performing ethnic groups and in meeting the specific needs of bilingual learners. This would enable LAs to maintain existing services if they wished, including in those areas with small numbers of such pupils and where it is consequently more cost-effective to run a central service than to spread funding thinly. Again, schools forums should be involved in the decision. The revised wording is at Schedule 2 paragraph 39.

10. The current regulations on the central expenditure limit require LAs to obtain further approval from schools forums if the proposed central expenditure for future years exceeds the indicative budgets originally set for those years at the start of the funding review period. This does not, however, cover the position at the start of a new funding review period. We wish to ensure that, if there is a brought forward overspend on DSG, any funding of this from central DSG is properly considered by schools forum. We are therefore proposing a new regulation which would state that, where there is an overspend on central Schools Budget expenditure from the 2010-11 and which reduces the DSG available in 2011-12, then the funding of this overspend must be approved by schools forum. The wording is at Regulation 7 (4).

Exclusions

11. The Government is committed to giving headteachers greater powers in maintaining good behaviour. We back headteachers in excluding undisciplined pupils where necessary, and are seeking to remove barriers which limit their authority. We propose, therefore, to remove the ability to have a formula factor (currently Schedule 3 paragraph 34) which takes account of exclusions. LAs currently using such a factor would need to remove this from their formula from 2011-12.

12. The deductions of age-weighted pupil funding would continue (these are set out in Regulation 23). Any charges or payments resulting from local agreements outside the formula would also continue, though we are clear that these should be genuinely consensual and cannot bind schools which are in disagreement with such arrangements.

Federations

13. Schools are increasingly joining together in federations as a way of achieving efficiencies and sharing costs. The savings which schools and LAs can make from schools federating will vary according to decisions on staffing structures and the nature of the local formula respectively. LAs, in consultation with their schools forums, should
consider the appropriate balance between allowing the savings to accrue to the individual school as against the overall Individual Schools Budget (ISB), while ensuring that federation is still an attractive option for the schools concerned.

14. Finance regulations still require separate budgets and accounts for schools within a federation. This can act as a barrier to reducing bureaucracy because of the extra administration involved when there is usually a single head and governing body, with many costs apportioned between the schools. Primary legislation is already in place to enable this to change. We are therefore proposing a new regulation (regulation 22) which would allow LAs to calculate a single budget share for schools in a federation with a single governing body within section 24 of the Education Act 2002. This would mean that the data would be entered into the formula as if they were a single school.

15. We are also proposing that LAs should be able to have a formula factor for federations. This could be used to support federations, for example as a temporary pump-priming measure. Alternatively, LAs could use a negative factor, to recognise that federations achieve savings which could in part be made available for redistribution within the ISB; this would be more relevant where separate budget shares were still being issued. This is set out in Schedule 3 paragraph 39.

Carbon Reduction Commitment

16. We referred in last year’s consultation on the regulations to the need to consider the effect of the Carbon Reduction Commitment (CRC), which is now in force. Depending on their position relative to other participating organisations in the league tables, LAs will either have to pay a penalty or will receive a bonus. Schools can typically account for half an LA’s emissions, so there needs to be a mechanism for passing on the schools’ share of any penalty or bonus. This could either be done at the level of the overall Schools Budget or at individual school level. In deciding what approach to take, LAs should as usual consult their schools forums and discuss with their energy officers how best to give schools incentives to reduce emissions.

17. We are proposing to allow a new class of expenditure within the central part of the Schools Budget should the LA decide to topslice the Schools Budget as a whole (Schedule 2 paragraph 38). There is no need to change regulations for bonuses because the Schools Budget can already be topped up from other sources.

18. We are also proposing that LAs would be allowed to have a formula factor if they wish to apportion penalties or bonuses at individual school level. The value of the formula factor would be negative if it related to penalties. (Schedule 3 paragraph 37).

19. Academies are included in the LA calculation for their area. Under the current funding system, their budgets would be equally affected by a DSG topslice as there would be less available to distribute through the ISB formula which is replicated for academies. Similarly, using a formula factor would ensure their funding was comparable. The extent to which any such topslice or deduction then found its way back to the LA would depend on the method of DSG recoupment and would need to be considered as part of the wider review of academies funding.

Service children

20. The school funding consultation document refers to support for schools with fluctuations in the numbers of service children. We already allow LAs to have a formula factor (schedule 3 paragraph 27) where armed forces movements lead to a reduction in pupil numbers of at least 20% within one year. We feel this is unduly restrictive and therefore propose to remove reference to a threshold, so that LAs can make provision as they see fit to support schools affected by this turbulence.

Schools Finance (England) (Amendment) Regulations 2011
Academies

21. We are proposing to give a clearer definition of funding for individually assigned resources (IAR) for academy pupils with special educational needs (SEN). Where these resources are delegated through formula budgets, then the allocations are not included in the General Annual Grant (GAG) calculated by the Young People’s Learning Agency (YPLA) and recouped from the LA. Instead, the payments are made directly by the LA from the central part of the schools budget. The current wording in Schedule 2 paragraph 7 only refers to expenditure which it would be “unreasonable” to be met from a school’s budget share, and does not properly reflect the differences in funding of academies. We therefore propose to amend the wording to cover this.

Notification of budget shares

22. There is at present no formal requirement to notify schools and early years private, voluntary and independent (PVI) providers of their budget shares, only of the overall schools budget. While there is no evidence this is not being done, it makes sense to formalise this. We, therefore, propose to add a new regulation -regulation 10(2).

Technical changes

23. There are various technical changes which are needed to ensure regulations are consistent with other proposals relating to school funding. References to funding periods 1, 2 and 3 will be replaced as the regulations will cover a single funding period (2011-12). The regulations for the MFG leave percentages blank as no decisions on levels can be made until after the spending review. The remainder of the MFG wording has been left broadly unchanged; this does not necessarily mean that the methodology will be unchanged though as we are still considering whether it is possible to simplify the calculation.

24. References to the Learning and Skills Council (LSC) have been removed as 2011-12 post-16 allocations will have been wholly determined by the YPLA.

25. Termination of employment costs can be charged to the schools budget if schools forum agree and provided that there is a saving to the schools budget greater than the annual costs. The previous wording did not adequately recognise that there may be ongoing costs approved in previous funding periods. Reference to a start date has, therefore, been removed. The wording has also been amended to clarify the need for schools forum approval at the time the costs are first incurred – in other words, costs cannot be charged to the schools budget retrospectively.
Community Facilities

Section 4 of the Children, Schools and Families Act 2010, which was passed just before the general election, enables schools to use their delegated budgets for community facilities. Schools have had powers to provide community facilities or services since the 2002 Education Act. There were, however, restrictions in place whereby the delegated budget could only fund services which directly supported the curriculum or were of direct educational benefit to pupils at maintained schools. Services outside this definition, such as adult learning or sports activities for the local community, could only be funded by certain grants including the School Standards Grant, charges or other external income.

The relevant sub-sections of the Act take effect from 1st April 2011, so schools will be able to take into account this power in planning their budgets from 2011-12 onwards.

The Act does allow for regulations to be produced to restrict the scope of spending, but we do not intend to make any at this stage. There is already a prohibition on schools using their community facilities power if this would interfere with their primary focus of raising standards, and we feel that existing accountability mechanisms are sufficient protection. We would reconsider this if there was evidence that the core functions of the school were suffering as a result.

We will be reviewing the narratives for Consistent Financial Reporting (CFR) categories to ensure that they are consistent with the legislation, and will also amend the statutory guidance on schemes for financing schools.
Academies Act

We have already informed LAs that, during the passage of the Academies Act, an amendment was made to the Bill in the Lords and now forms Section 2(5) of the Act. This states:

In Schedule 1 to the School Finance (England) Regulations 2008, after paragraph 8 insert—

“8A Where a child is a registered pupil at an Academy, expenditure in respect of services for making provision for pupils with low incidence special educational needs or disabilities.”

This means that where LAs incur expenditure on pupils who are in academies and have low incidence SEN or a disability, then this expenditure must be charged to the non-schools education budget and not the schools budget. The definition of “low incidence” includes severe multi-sensory impairments; severe visual impairments; severe/profound hearing impairments; and profound and multiple learning difficulties.

This section of the Act took effect from 1 September 2010 and will apply until the current regulations expire on 31st March 2011. We have amended the terms and conditions of the Dedicated Schools Grant (DSG) for 2010-11 only so that it can be used in support of this expenditure.

The main reason for the passage of this amendment was concern over the way in which funding for SEN services is currently transferred from LAs to academies. We have committed to reviewing academy funding for the 2011-12 financial year onwards, to fairly reflect the respective responsibilities of LAs and academies, and therefore do not feel it is necessary to maintain these changes in the draft regulations for 2011-12.
ANNEX A – Early Years Provision

Definitions: revised definitions of early years provision, prescribed early years provision, and relevant early years provider to bring them in line with the Childcare Act 2006.

- **Part 2, reg 5(1);** addition of sub paragraph (d) to allow the Schools Budget to cover all expenditure on early years provision not in maintained schools or other specified providers (eg non maintained special schools, pupil referral units).

- **Part 2, current reg 7 (3);** amending the wording of the calculation of the Central Expenditure Limit given that the funding for early years will now all be part of the ISB. The change does not affect the calculation of the CEL because the current regulations add the centrally retained PVI funding to the ISB as part of the calculation, but the revision to where the funding is placed (in the ISB) means this adjustment will no longer be needed.

- **Part 2, reg 9 (3);** which requires a local authority to consult their schools forum about and decide upon an EYSFF which they must use in 2011-12.

- **Part 3, reg 16** provides a replacement regulation for current regulation 17 for 2011-12. This says that LAs:
  - must provide indicative budgets for early years provision using the most recently available data;
  - must review the data during or after the year using either attendance data collected during three sample weeks (census week for example) or total actual hours of attendance;
  - must recalculate the provider’s budget as appropriate;
  - and must implement the redetermination when they consider it appropriate – which may be different for different providers;
  - They must notify providers within 28 days of recalculating the budget;
  - This regulation also removes the option for local authorities to provide funding based upon places, except where there are places specifically reserved for pupils with SEN in any setting or for children in need, (although there is a later option to provide an additional formula factor in support of maintaining sufficient places for children in an area in Part 2 of Schedule 3);
  - It does allow the LA to weight the hours depending upon whether pupils have been admitted in excess of the admission number, or for SEN.
  - As with sixth forms, authorities are allowed to reduce funding to affected schools within their main formula to avoid any overlap with the new EYSFF.

- **Part 3, reg 17 (4);** allows differential funding to types of providers to reflect unavoidable costs.

- **Part 3, reg 18 (1) (2) and (3);** Specify which parts of schedule 3 may be used for respectively the school funding formula and the EYSFF. It also requires that the EYSFF must (as is currently the case for the schools funding formula) have a factor that takes the incidence of deprivation into account.

- **Schedule 2;** the schedule that specifies what may be centrally retained from the schools budget does not allow the retention of funding for the provision of early years funding for provision of the free entitlement, but does allow a contingency budget for that provision (to enable adjustments to funding to be made in year)

- **Schedule 3;** the schedule that provides the heading under which formula factors may be provided is split into two parts, part 1 applicable to all maintained schools and PVI providers and part 2 applicable to the EYSFF only. Part 2 allows factors for
  - the improvement of quality,
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- to take account of flexibility in hours of attendance the provider makes available
- to allow LAs to secure or sustain a sufficiency within an area

In general, we wish to give LAs flexibility in the factors used in the EYSFF, and propose to allow most factors which appear in the main school funding formula. The only exceptions would be the factors for infant class sizes and the factor protecting schools whose budget shares would otherwise be reduced by 3% or more; in the latter case the ability to have a sufficiency factor should cover this. There are other factors relevant only to schools and we would advise LAs to use these only where there is a clear justification in the cost analysis between different types of provider.
2011 No. 0000

EDUCATION, ENGLAND

School Finance (England) Regulations 2011

Made - - - - xxx February 2011
Laid before Parliament xxx February 2011
Coming into force - - 28th February 2011

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

(1) 1998 c.31.
(2) 2002 c.32.

Schools Finance (England) (Amendment) Regulations 2011
PART 1

Introduction

Citation, commencement, application and interpretation

1.—(1) These Regulations may be cited as the School Finance (England) Regulations 2011 and come into force on 28th February 2011.

(1) These Regulations apply in relation to the financial year beginning on 1st April 2011.

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

(3) In these Regulations—

“the 1996 Act” means the Education Act 1996; (3)

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

“the 2000 Act” means the Learning and Skills Act 2000; (4)

“the 2002 Act” means the Education Act 2002;

“the 2005 Act” means the Education Act 2005; (5)

“the 2006 Act” means the Education and Inspections Act 2006; (6)

“the 2009 Act” means the Apprenticeships, Skills, Children and Learning Act 2009; (7)

“the 2008 Regulations” means the School Finance (England) Regulations 2008; (8)

“admission number” means the number of children in any relevant age group intended to be admitted in any school year as determined or, where the context requires, proposed to be determined by an admission authority in accordance with section 88D of the 1998 Act;

“capital expenditure” means expenditure of a local authority which falls to be capitalised in accordance with proper practices, or expenditure treated as capital expenditure by virtue of any regulations or directions made under section 16 of the Local Government Act 2003;

“CRC” means the CRC Energy Efficiency Scheme operated by the Environment Agency;

“central expenditure” means the total amount deducted by a local authority from their schools budget;

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

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

“combined service” is a service funded partly from central expenditure, and partly from other budgets of the authority or contributions from other bodies;

“Dedicated Schools Grant” is a grant of that name paid to a local authority by the Secretary of State under section 14 of the 2002 Act;

“early years provision” has the meaning assigned to it in section 20 of the Childcare Act 2006; (10)

“expenditure on the schools specific contingency” is central expenditure deducted for the purpose of ensuring that monies are available to enable increases in a school’s budget share after it has been allocated where it subsequently becomes apparent that—

(a) a governing body has incurred expenditure which it would be unreasonable to expect them to meet from the school’s budget share,

(b) an increase in the school’s budget share is due in accordance with the local authority’s formula,
(c) a determination or redetermination of the school’s budget share authorised by the schools forum or the Secretary of State has led to such an increase, or
(d) such an increase is necessary for the purpose of correction of errors,
and where such circumstances were unforeseen when initially determining the school’s budget share;
“funding period” means the financial year beginning on 1st April 2011;
“gifted and talented pupils” means pupils in primary or secondary schools identified as such by a local authority by virtue of the fact that they are demonstrating, or have the potential to develop, ability in one or more subjects, leadership skills, or organisational skills at a level significantly ahead of other children in their year group;
“key stage 4” means the fourth key stage of the National Curriculum for England comprising the requirements and entitlements described in sections 85 and 85A of the 2002 Act;
a “local authority’s formula” has the meaning in regulation 9;
a reference (however framed) to a maintained nursery school, a community, foundation or voluntary school or a community or foundation special school includes a proposed school which, on implementation of proposals for the establishment of the school, will be such a school, and which has a temporary governing body;
a reference to a particular class or description of expenditure in relation to maintained schools and to pupils registered at such schools includes such expenditure of that class or description as the authority may incur in relation to Academies, and to pupils registered at Academies;
“mainstreamed” in relation to a grant, means a grant which has been merged into the Dedicated Schools Grant from 1st April 2011;
“Performance Reward Grant” is a grant of that name paid to a local authority under section 31 of the Local Government Act 2003 to reward the authority for improvements in local services;
“PFI scheme unitary payment” means 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;
“practical and applied learning” means education provided to pupils at key stage 4 in a secondary school or elsewhere which prepares them for employment or for a qualification related to a particular employment sector;
“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 2010;
“primary or secondary school” means a primary or secondary school which is a community, foundation, voluntary or maintained nursery school;
“proper 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;
“prudential borrowing” means borrowing money for the purpose of facilitating the modernisation and rationalisation of the school estate, where the revenue savings that will be achieved are equal to or more than the expenditure that will be incurred in borrowing the money;
“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 year” has the meaning given in section 579(1) of the 1996 Act;
a reference to “special educational needs transport costs”, for the purposes of paragraph 36(e) 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 cost of such transport;
“specific grant” means any grant (other than the Dedicated Schools Grant or any grant made by the YPLA under section 61 of the 2009 Act) paid to a local authority under conditions which impose restrictions on the particular purposes for which the grant may be used;

“summer term” means the third term of the school year where a school has three terms, or the fifth and sixth terms where a school has six terms;

a reference to “termination of employment costs”, for the purposes of paragraph 36(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 where—

(a) the schools forum approved the charging of those costs to the schools budget prior to or at the time when they were first incurred; and

(b) the revenue savings achieved by any termination of employment are equal to or greater than the costs incurred;

“YPLA” is the Young People’s Learning Agency for England.

Revocation of previous Regulations


PART 2

Action to be Taken by a Local Authority

CHAPTER 1

Appropriation of the Non-Schools Education Budget

The Non-Schools Education Budget

3.—(2) 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 6—

(a) those specified in Schedule 1; and

(b) any expenditure which falls outside the classes or descriptions of expenditure specified in regulation 5 and Schedule 2 (the schools budget).

(2) Expenditure which falls within the classes or descriptions of expenditure specified in regulation 5 or Schedule 2 is not expenditure prescribed for the purposes of section 45A(1) of the 1998 Act.

CHAPTER 2

Determination of Schools Budgets, Individual Schools Budgets, and Budget Shares for the Funding Period

Initial determination of a local authority’s schools budget

4. A local authority must not later than 31st March 2011—

(a) make an initial determination of their schools budget for the funding period; and

(b) give notice of that determination to the governing bodies of the schools they maintain.

The schools budget

5.—(3) The classes or descriptions of local authority expenditure specified in sub-paragraphs (a) to (d) 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 paragraph (2) and the exceptions in regulation 6—

(11) S.I. 2006/468.
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(a) expenditure on the provision and maintenance of maintained schools and on the education of pupils registered at maintained schools;

(b) expenditure on the education of pupils 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 pupils 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, insofar as that expenditure does not fall within paragraphs (a) or (b); and

(d) expenditure on all relevant early years provision.

(2) Where a local authority operates a combined service for the benefit of pupils referred to in paragraph (1), expenditure referred to in paragraph 36(c) of Schedule 2 is only expenditure prescribed for the purposes of section 45A(2) of the 1998 Act and the determination of a local authority’s schools budget, provided that any expenditure is incurred in providing an educational benefit to those pupils.

Exceptions

6. 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, or

   (ii) for the purpose of meeting the costs of financing the payment of pay arrears referred to in paragraph 6(a)(ii); and

(c) expenditure for the purposes of section 26 of the Road Traffic Regulation Act 1984 (arrangements for patrolling school crossings).

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

7.—(4) Subject to paragraphs (2) to (4), not later than 31st March 2011, a local authority must deduct from their schools budget such of the classes or descriptions of planned expenditure set out in Schedule 2 (“the central expenditure”) as they propose to deduct, in order to determine their individual schools budget for the funding period.

(1) In deducting central expenditure under paragraph (1), a local authority must limit any increase in deductions, from the previous funding period to the funding period, by ensuring that it does not exceed the percentage of any increase in the authority’s schools budget for the relevant funding period, unless they obtain the approval of their schools forum under regulation 13(1)(a) or the Secretary of State under regulation 13(3) to vary this limit on any such increase.

(2) In deducting the central expenditure referred to in paragraph 36 of Schedule 2, a local authority must not exceed the limit referred to in that paragraph, unless they have obtained the approval of their schools forum under regulation 13(1)(b) or the Secretary of State under regulation 13(3) to do so.

(3) Where a local authority carries forward an overspend on their central expenditure from the previous funding period to the funding period which reduces the amount of the Dedicated Schools Grant available for the funding period, the funding of this overspend from the Dedicated Schools Grant must be approved by their schools forum under regulation 13(1)(c) or the Secretary of State under regulation 13(3).

(4) References to planned expenditure in this regulation 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 PFI scheme unitary payments.

(5) For the purposes of this regulation, “schools budget” includes any mainstreamed grant.

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Consultation

8.—(5) A local authority may make changes to the formulae they have used in the financial years beginning 1st April 2008, 1st April 2009 and 1st April 2010.

(1) Subject to paragraph (3), a local authority must consult their schools forum about any proposed changes under paragraph (1), in relation to the factors and criteria taken into account, and the methods, principles and rules adopted.

(2) Paragraph (2) does not apply to changes made relating to matters referred to in regulation 20 (sixth form funding) or 23 (excluded pupils).

Formula for determination of budget shares

9.—(6) A local authority must, before the beginning of the funding period and after consulting their schools forum about the matter, decide upon the formula which they will use to determine and redetermine schools’ budget shares for the funding period, having regard to the factors, criteria and requirements set out in Part 3 of these Regulations.

(1) Subject to paragraph (3), a local authority must use the formula determined under paragraph (1) in all determinations and redeterminations of budget shares in respect of the funding period.

(2) A local authority must, before the beginning of the funding period and after consulting their schools forum about the matter, decide upon the formula they will use to determine and redetermine the budget shares for providers of prescribed early years provision in their area for the funding period, having regard to the factors, criteria and requirements set out in Part 3 of these Regulations.

(3) A local authority may not make changes to their formulae for the funding period after the funding period has commenced.

Determination of allocation of budget shares for the funding period

10.—(7) Not later than 31st March 2011, a local authority must determine the budget share for the funding period, for—

(a) each of the schools which they maintain (other than for nursery schools and nursery classes in schools which they maintain), using the formula referred to in regulation 9(1);

(b) each of the nursery schools and nursery classes in schools which they maintain, using the formula referred to in regulation 9(3); and

(c) each of the providers of relevant early years provision, using the formula referred to in regulation 9(3),

in accordance with Part 3 of these Regulations.

(2) Not later than 31st March 2011, a local authority must give notice of each budget share determined under paragraph (1) to the relevant governing body or provider, as the case may be.

Delegated budgets for new schools

11.—(8) A new school must have a delegated budget from the appropriate date.

(1) Subject to paragraphs (3) and (6), the appropriate date is either—

(a) the date which is fifteen calendar months before the opening date of the new school; or

(b) the date upon which a temporary governing body is constituted for that school,

whichever is the later.

(2) On the application of a local authority, their schools forum may—

(a) vary the appropriate date to a date proposed by the authority;

(b) vary the appropriate date to a different date; or

(c) refuse to vary the appropriate date.

(3) Where—

(a) a schools forum
(i) vary the appropriate date to a different date, or
(ii) refuse to vary the appropriate date; or

(b) a local authority are not required to establish a schools forum for their area,

the authority may make an application to the Secretary of State for variation of the appropriate date.

(4) On the application of a local authority, the Secretary of State may—

(a) vary the appropriate date to a date proposed by the authority;
(b) vary the appropriate date to a different date; or
(c) refuse to vary the appropriate date.

(5) A local authority must determine the amount of a new school’s delegated budget for the period from the appropriate date to the opening date as an amount which is sufficient to fund the appointment of staff and to enable the purchase of any goods and services necessary in order to admit pupils.

(6) After the opening date, a school’s delegated budget must be determined in accordance with the local authority’s formula for the funding period.

CHAPTER 3
Redetermination of Schools Budgets, Individual Schools Budgets and Schools’ Budget Shares for the Funding Period

Redetermination of schools budgets and individual schools budgets

12.—(9) A local authority may make a redetermination of their schools budget and individual schools budgets for the funding period at any time before or during the funding period.

(1) In making any such redetermination, a local authority—

(a) may only reduce the amount of their schools budgets where they receive an amount of Dedicated Schools Grant which is lower than the amount on which they based their determinations under regulation 7;
(b) may not reduce their individual schools budget for the funding period by making further deductions of central expenditure from their schools budgets unless they have obtained authorisation to do so from their schools forum or the Secretary of State under regulation 13(2) or (4); and
(c) must comply with the limits imposed by paragraph 36 of Schedule 2 and regulation 7(2) unless their schools forum or the Secretary of State authorise the variation of those limits under regulation 13(2) or (4).

(2) Before the beginning of the funding period, a local authority must advise schools of any circumstances they are aware of which will make it likely that a redetermination will be made in respect of the funding period, and the nature of any redetermination likely to be made in particular circumstances.

(3) Where a local authority makes a redetermination under paragraph (1), they must give notice of that redetermination to the governing bodies of the schools which they maintain within 28 days of making the redetermination.

CHAPTER 4
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

13.—(10) Subject to paragraph (2), on the application of a local authority, their schools forum may authorise—

(a) the making of further deductions from their schools budget of any central expenditure exceeding the amount of any deductions made previously under regulations 7(1) or 12(1);
(b) the varying of any limit imposed by paragraph 36 of Schedule 2, or regulation 7(2); or
(c) the funding of any overspend on their central expenditure under regulation 7(4).

(2) Where—

(a) a schools forum does not authorise any of the matters referred to in paragraph (1); or
the authority may make an application 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).

(4) Unless the contrary intention appears in any authorisations given by the schools forum or the Secretary of State under previous regulations, such authorisations continue to apply in relation to the funding period.

PART 3

Formulae for Determination of Budget Shares

CHAPTER 1

Factors and Criteria Taken into Account

Pupil numbers

14.—(11) Subject to regulation 16 (Special arrangements for maintained nursery schools and pupils in nursery classes) and paragraph (2), in determining and redetermining budget shares for primary and secondary schools, a local authority must take into account in their formula for the funding period the number of registered pupils at those schools on the date specified in paragraph (5), weighted, if the authority consider it appropriate, in accordance with paragraph (4).

(1) For the purposes of paragraph (1), the number of registered pupils does not include pupils—

(a) in places—

(i) in primary or secondary schools which the authority have reserved for children with special educational needs, and

(ii) in boarding accommodation at boarding schools other than special schools

(iii) where the authority exercise their discretion to take these places into account under regulation 15(1)(b) or (c);

(b) in respect of whom grant is payable to the authority by the YPLA (sixth form pupils); or

(c) in infant classes where the authority choose to take the class into account as an additional factor under paragraph 34 of Schedule 3.

(2) Where a local authority exercise their discretion under regulation 15(1) to take into account places, they may also take into account in their formulae the number of registered pupils in special schools or schools with boarding accommodation, or in reserved places at primary or secondary schools, as referred to in that paragraph, on the date specified in paragraph (5).

(3) A local authority may weight pupil numbers according to any or all of the following factors—

(a) age, including weighting according to key stage or year group;

(b) in the case of pupils aged under five, their exact age when admitted to the school;

(c) in the case of pupils aged under five, whether they have been admitted to the school in excess of the admission number agreed with the authority;

(d) in the case of pupils aged under five, hours of attendance;

(e) whether a pupil has special educational needs;

(f) whether the pupil is attending a middle school;

(g) whether the pupil is at key stage 4, and is accessing practical and applied learning;

(h) whether the pupil, although registered at a school, is also attending a college of further education or a course delivered by any training provider;

(i) whether the pupil is in an infant class (in cases where an infant class is not taken into account as an additional factor under paragraph 34 of Schedule 3);

(j) whether the pupil is registered at more than one maintained school.

(4) The date for ascertaining pupil numbers is 20th January 2011.
(5) Subject to paragraph (7), where a primary school—

(a) operates a policy of admitting children into reception classes in the summer term; and
(b) will admit pupils into such classes in the summer term immediately after the date specified in paragraph (5),

a local authority may determine a number representing the number of pupils who will be admitted in that summer term, and take such number into account in their formula for the funding period.

(6) In determining the number of pupils they will take into account under paragraph (6), a local authority—

(a) must not determine any number which exceeds the number of pupils admitted in the summer term immediately before the date specified in paragraph (5); and
(b) must make any such determination before the beginning of the funding period.

(7) A local authority may adjust the number of registered pupils used to determine or redetermine a school’s budget share where it is appropriate to do so in order to take into account, wholly or partly, the permanent exclusion of a pupil from the school or the admission of a pupil to the school following his permanent exclusion from another school.

Places

15.—(12) In determining and redetermining budget shares for the funding period, a local authority may take into account the number of places they wish to fund in—

(a) special schools;
(b) primary or secondary schools with places which the authority have reserved for children with special educational needs; and
(c) schools with boarding accommodation.

(2) In determining and redetermining budget shares for the funding period a local authority may take into account the nature of any special educational needs in question when funding places under paragraph (1)(a) or (b).

(3) A local authority must provide that, if any places are taken into account in accordance with paragraph (1)(a), the number must be no fewer than the number of registered pupils at the school on the relevant date in regulation 14(5).

Special arrangements for pupils in maintained nursery schools and nursery classes and for children attending relevant early years provision

16.—(13) Subject to paragraphs (4) and (5), in determining budget shares for maintained nursery schools and nursery classes and for relevant early years providers in their area, a local authority must take into account in their formula for the funding period the predicted total number of hours of attendance of registered pupils in the nursery school or nursery class or children attending the relevant early years provision, having regard to the most recent data available about the actual numbers of registered pupils or children therein.

(1) A local authority must—

(a) review the budget shares for maintained nursery schools and nursery classes and relevant early years providers for the funding period when information becomes available, taking into account—

(i) in the case where the local authority decide to fund only that early years provision which is prescribed—

(aa) the predicted total number of hours of attendance of registered pupils in the nursery school or nursery class receiving prescribed early years provision or children receiving such provision from relevant early years providers for the period (using as a basis for the calculation the actual hours of such attendance in each of at least three sample weeks); or

(bb) the actual total numbers of hours of such attendance for the period; or

(ii) in the case where the local authority decide to fund early years provision in maintained nursery schools or nursery classes in excess of that which is prescribed—
(aa) the predicted total number of hours of attendance of registered pupils in the nursery school or nursery class receiving early years provision for the period (using as a basis for the calculation the actual hours of such attendance in each of at least three sample weeks); or

(bb) the actual total numbers of hours of such attendance for the period;

(b) redetermine that budget share, where appropriate; and

(c) implement any such redetermination when they consider it appropriate to do so.

(2) Where a local authority redetermine a budget share pursuant to paragraph (2) they must give notice of this to the governing body or relevant early years provider concerned and the date when the redetermination will be implemented, within 28 days of the redetermination.

(3) When determining budget shares for maintained nursery schools and nursery classes and for relevant early years providers in their area, the local authority may weight the predicted total number of hours of attendance of registered pupils in the nursery school or nursery class or children attending the relevant early years provision, according to either or both of the following factors—

(a) whether any pupils or children have been admitted to the school or to the relevant early years provider in excess of the number agreed with the authority;

(b) the special educational needs of any such pupils or children.

(4) When determining budget shares for maintained nursery schools and nursery classes and for relevant early years providers in their area, a local authority may take into account in their formula for the funding period the number of places they wish to fund in those schools, classes or providers (instead of the predicted total number of hours of attendance of registered pupils in the school or nursery class or children attending the relevant early years provision), where the authority have reserved a number of places for children with special educational needs or children in need.

(5) When determining budget shares for the funding period for schools which they maintain which provide nursery classes, a local authority may reduce the amount payable to each such school under the formula referred to in regulation 9(1) by a sum representing any element which has been duplicated in the allocation made to the nursery classes in those schools under the formula referred to in regulation 9(3).

Differential funding

17.—(14) For the purpose of determining budget shares in respect of the funding period, a local authority must use factors or criteria which differentiate between different categories or descriptions of schools insofar as the functions of the governing bodies of those schools justify such differentiation, but may not otherwise do so except as required or expressly permitted by these Regulations.

(1) A local authority must use factors or criteria which differentiate between a school and other schools of the same category or description if such differentiation is justified by reference to the choice that that school’s governing body have made as to the inclusion in their school’s budget share of funding in respect of expenditure of the kinds referred to in paragraph 13 (admissions), 15(a) and (b) (meals), 27 (insurance) or 29 (library services) of Schedule 2.

(2) A local authority are not required to use factors or criteria in their formula which differentiate between maintained nursery schools, primary schools, secondary schools, special schools, or schools whose pupils are in different age ranges, but they may do so.

(3) For the purpose of determining or redetermining budget shares for nursery schools and nursery classes in schools which they maintain and for relevant early years providers in their area for the funding period, 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.

Additional factors or criteria

18.—(15) Subject to paragraph (2) and regulation 17 (differential funding), in determining budget shares in respect of the funding period, a local authority may take into account in their formula any or all of the factors or criteria set out in Part 1 of Schedule 3.

(1) In determining budget shares for providers of prescribed early years provision in respect of the funding period, a local authority may—
(a) not take into account in their formula any of the factors or criteria set out in paragraphs 24 and 34 in Part 1 of Schedule 3;

(b) take into account in their formula any or all of the factors or criteria set out in Part 2 of Schedule 3.

(2) In determining budget shares for providers of prescribed early years provision, a local authority must take into account in their formula a factor or factors based on the incidence of social deprivation among pupils registered at all nursery schools or in nursery classes which they maintain or children attending relevant early years provision in their area if they have no factor elsewhere in their formula which is based on such incidence.

(3) In determining budget shares for both primary and secondary schools which they maintain, a local authority must take into account in their formula a factor or factors based on the incidence of social deprivation among pupils registered at all such schools if they have no factor elsewhere in their formulae which is based on such incidence.

(4) A factor included in a local authority’s formula pursuant to paragraph 17 of Schedule 3 (school milk, meals and refreshment) is not, for the purposes of paragraphs (3) and (4), a factor based on the incidence of social deprivation among pupils registered at schools or children attending relevant early years provision.

(5) The 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.

(6) Where a local authority make changes to the factors or criteria taken into account in any of their formulae from the previous funding period to the funding period, they may make such transitional provision as they consider reasonable.

Minimum funding guarantee

19.—(16) Subject to paragraph (3), in determining and redetermining budget shares for all schools maintained by them in respect of the funding period, a local authority must ensure—

(a) in respect of primary and secondary schools, that an amount equal to the guaranteed funding level is included for the funding period, calculated in accordance with paragraphs 1–4 of Schedule 4; and

(b) in respect of special schools, that the formula must provide for a minimum amount of funding for the funding period, calculated in accordance with paragraph 5 of Schedule 4.

(2) For the purposes of determining budget shares in respect of the funding period, paragraph (1) does not apply to any school—

(a) opening during the funding period, except in the circumstances set out in paragraph 4 of Schedule 4; or

(b) closing during the funding period in circumstances where a local authority have redetermined that school’s budget share during that period.

(3) 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 or their schools forum under regulation 25 (additional arrangements).

Sixth form funding

20.—(17) A local authority must include in a secondary school’s budget share for the funding period an amount equal to any sum notified to the local authority by the YPLA as being the allocation in respect of that school’s sixth form.

(1) A local authority may, in determining budget shares, use a factor which allocates funding in respect of sixth forms.

(2) A local authority may, in determining budget shares for schools with sixth forms, reduce the amount payable to each such school under their formulae by a sum representing any element which has been duplicated in the YPLA’s allocation.

(3) A secondary school’s budget share for the funding period must be redetermined before the end of the funding period where the authority receive a written notification from the YPLA of a revised allocation in respect of the sum referred to in paragraph (1).
New, reorganised and closing schools

21. — (18) A local authority must include factors or criteria in their formula which enable them to determine, or redetermine, a school’s budget share for the funding period so as to take into account the particular needs of that school in the following cases—

(a) a proposed school;
(b) a school, proposals for the establishment of which have not been fully implemented;
(c) a school which is the subject of a prescribed alteration within the meaning of regulations made under section 18 of the 2006 Act;
(d) a school which is to be discontinued; and
(e) a school which is to be the subject of a significant change, as determined by the authority.

(2) In the case of schools falling within paragraph (1)(c), such factors or criteria may not be used for a period of more than seven years after the date of implementation of the relevant alteration.

(3) For the purposes of these Regulations, proposals for the establishment of a school have been fully implemented when the number of pupils admitted to the school in each age group has, in the opinion of the local authority, reached either—

(a) the number of pupils indicated, when proposals for the establishment of the school were published, as the number of pupils to be admitted to each age group when the proposals were fully implemented; or
(b) if no such number was indicated, such number as the authority may determine.

22. Where two or more schools are federated under section 24 of the 2002 Act, the local authority may allocate a single budget share to the governing body of that federation.

CHAPTER 2
Adjustments, Correction of Errors, and Additional Arrangements Approved by the Schools Forum or the Secretary of State

Pupils permanently excluded from, or leaving, maintained schools

23. — (19) Where a pupil is permanently excluded from a school maintained by a local authority, the authority must redetermine the school’s budget share for the funding period in accordance with paragraph (2).

(1) The school’s budget share must be reduced by the amount \( A \times \frac{B}{52} \) where—

(a) \( A \) is the amount determined by the authority in accordance with this Part, that would be attributable to a registered 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; and
(b) \( B \) is the number of complete weeks remaining in the funding period calculated from the relevant date, except that 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, \( B \) is the number of complete weeks remaining in that school year calculated from the relevant date.

(2) Where a pupil who has been permanently excluded from a school maintained by a local authority is admitted to another school maintained by a local authority (“the admitting school”) in the funding period, the authority must redetermine the admitting school’s budget share in accordance with paragraph (4).

(3) The admitting school’s budget share must be increased by an amount which may not be less than the amount \( D \times \frac{E}{F} \) where—

(a) \( D \) is the amount by which the authority reduce the budget share of the school from which the pupil was permanently excluded, or would have reduced it had that school been maintained by the authority;
(b) \( E \) is the number of complete weeks remaining in the funding period during which the pupil is a registered pupil at the admitting school; and
(c) \( F \) is the number of complete weeks remaining in the funding period calculated from the relevant date.
(4) Where a permanently excluded pupil is subsequently reinstated by the governing body of the school or by an appeal panel constituted under regulations made under section 52 of the 2002 Act, the school’s budget share must be increased by an amount which is no less than $G \times \frac{H}{I}$ where—

(a) $G$ is the amount by which the authority has reduced the school’s budget share;

(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.

(5) Paragraphs (1) and (2) also apply where a pupil 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.

(6) For the purposes of this regulation—

(a) the amount attributable to a registered pupil is the sum of the amounts determined in accordance with the authority’s formula as determined in accordance with these Regulations by reference to pupil numbers rather than by reference to the number of places at the school or any other factor or criterion not dependent on pupil numbers (except that, where the registered pupil in question is a pupil in respect of whom grant is payable to the authority by the YPLA under section 61 of the 2009 Act, the amount attributable to that pupil is [£xxx] for the funding period); and

(b) “the relevant date” is the sixth school day following the date on which the pupil has been permanently excluded; and

Correction of errors and changes in non-domestic rates

24.—(20) A local authority may at any time during the funding period redetermine a school’s budget share for any earlier funding period, in order to correct an error in a determination or redetermination under these, or previous Regulations, whether arising from a mistake as to the number of registered pupils at the school or otherwise, provided the error is of a kind not provided for by any specific error correction provision in the authority’s formula.

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

(2) Insofar 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.

Additional arrangements approved by the schools forum or the Secretary of State

25.—(21) Subject to paragraph (2), on application by a local authority to the Secretary of State for any authorisation or authorisations to determine or redetermine budget shares, the Secretary of State may authorise the authority to determine or redetermine budget shares to such extent as he may specify in accordance with arrangements approved by him in place of the arrangements provided for by these Regulations.

(1) The Secretary of State may not authorise a local authority to determine or redetermine budget shares in the cases referred to in paragraph (3) unless—

(a) the authority has first made an application to their schools forum for such authorisation which has been refused; or

(b) the authority is not required to establish a schools forum for their area.

(2) In cases where a local authority seeks any authorisation, or authorisations, to determine or redetermine budget shares which relate to the operation of regulation 19 and Schedule 4 (minimum funding guarantee) and which, either individually or when taken together in the funding period, will affect no more than 50% of pupils in schools maintained by the authority, their schools forum may authorise such determinations or redeterminations.
(3) Unless the contrary intention appears in any such authorisation or arrangements, authorisations given and arrangements approved by the Secretary of State or any schools forum under previous regulations continue to apply in relation to the funding period.

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.—(22) Where a local authority submit proposals for any revisions to their scheme to their schools forum for approval pursuant to paragraph 2A of Schedule 14 to the 1998 Act, the schools forum may—

(a) approve any such proposals;
(b) approve any such proposals subject to modifications; or
(c) refuse to approve any such proposals.

(2) Where the schools forum approve any revisions to the scheme, they may specify the date upon which any revised scheme is to come into force.

(3) Where—

(a) the schools forum refuse to approve proposals submitted under paragraph 2A of Schedule 14 to the 1998 Act, or approve any such proposals subject to modifications which are not acceptable to the local authority; or

(b) the local authority are not required to establish a schools forum for their area,

the authority may apply to the Secretary of State for approval of such proposals.

(4) The Secretary of State may—

(a) approve any such proposals;
(b) approve any such proposals subject to modifications; or
(c) refuse to approve any such proposals.

(5) Where the Secretary of State approves any revisions to the scheme, he may specify the date upon which any 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.—(23) A local authority—

(a) must publish their scheme on a website which is accessible to the general public; and

(b) may publish it elsewhere, in such manner as they see fit.

(2) Whenever a local authority revise the whole or part of their scheme they 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.

Name

Schools Finance (England) (Amendment) Regulations 2011
SCHEDULE 1

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

Expenditure of a class or description referred to in this Schedule includes expenditure on associated administrative costs and overheads.

Special educational provision

1. Expenditure on services provided by educational psychologists.

2. Expenditure in connection with the authority’s functions under 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).

3. Expenditure on monitoring the provision for pupils in schools (whether or not maintained by the authority) 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 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; or
   (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, and other functions relating to child protection.

7. Expenditure incurred in entering into, or subsequently incurred pursuant to, an arrangement under section 31 of the Health Act 1999 or regulations made under section 75 of the National Health Service Act 2006.

8. Expenditure in providing special medical support for individual pupils insofar as such expenditure is not met by a Primary Care Trust, National Health Service Trust, NHS foundation trust or Local Health Board.

School improvement

9. Expenditure incurred by a local authority in respect of action to support the improvement of standards in the authority’s schools, in particular—
   (a) expenditure incurred in connection with functions under the following sections of the 2006 Act: sections 63 (power to require governing bodies of schools eligible for intervention to enter into arrangements), 64 (power to appoint additional governors), 65 and Schedule 6 (power to provide for governing bodies to consist of interim executive boards), and 66 (power to suspend right to delegated budget); and
   (b) expenditure on school improvement partners.
Access to education

10. Expenditure in relation to the following matters—
   (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;
   (b) planning and managing the supply of school places, including the authority’s functions in relation to the establishment, alteration or discontinuance of schools pursuant to 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 such pupils, but including advice to the parents of such pupils;
   (d) the authority’s functions under sections 508A, 508E and 509 (school travel) of the 1996 Act; and
   (e) the authority’s functions under sections 510 and 514 of the 1996 Act (Provision and administration of clothing grants and boarding grants), and pursuant to regulations made under section 518(2) of the 1996 Act.

11. Expenditure on the Education Welfare Service and other 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 and under section 22 of the Teaching and Higher Education Act 1998.

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

14. Expenditure on the payment to persons over compulsory school age of education maintenance allowances.

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


19. Expenditure on the provision by the local authority under sections 15A and 507A and 507B of the 1996 Act of recreation and social and physical training, and on the authority’s provision of services under section 116 of the 2000 Act to encourage and enable the participation by young people in education and training.

Strategic management

20. Expenditure in their capacity as a local authority in relation to—
   (a) functions of the director of children’s services and his personal staff;
   (b) planning for the education service as a whole;
   (c) functions of the authority under Part I of the Local Government Act 1999 (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 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 financial administration relating thereto;

(g) 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;

(h) 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;

(i) the authority’s functions under regulations made under section 44 of the 2002 Act;

(j) 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;

(k) investigations which the authority carry 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;

(l) 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;

(m) 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;

(n) 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 (“the school workforce”), including in particular advice with reference to alterations in remuneration, conditions of service and the collective composition and organisation of such school workforce;

(o) determination of conditions of service for non-teaching staff, and advice to schools on the grading of such staff;

(p) the authority’s functions regarding the appointment or dismissal of employees;

(q) 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;

(r) compliance with the authority’s duties under the Health and Safety at Work etc Act 1974 and the relevant statutory provisions as defined in section 53(1) of that Act, insofar 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;

(s) the investigation and resolution of complaints;

(t) legal services relating to the statutory functions of the authority;

(u) the preparation and review of plans involving collaboration with other local authority services or with public or voluntary bodies;

(v) the preparation, publication, consultation upon and review of a children and young people’s plan under the Children and Young People’s Plan (England) Regulations 2005;

(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 duties under article 4(2) and (5) of the Race Relations Act 1976 (Statutory Duties) Order 2001;

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(y) the remittance of fees payable to the General Teaching Council for England by virtue of section 4(4) and 4(4A) of the Teaching and Higher Education Act 1998 and the provision of information required by the Council pursuant to regulations made under section 12 of that Act;

(z) the authority’s functions pursuant to regulations made under section 12 of the 2002 Act (supervising authorities of companies formed by governing bodies); and

(aa) the authority’s functions under the Disability Discrimination Act 1995 insofar 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.

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 their schools.


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 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 schools’ budget shares or fall within paragraph 36(b) of Schedule 2.


27. Expenditure in respect of the functions of an appropriate body under regulations pursuant to section 19(2)(g) of the Teaching and Higher Education Act 1998.

28. 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 school’s budget share, and the provision of information to governors.

29. Expenditure on making pension payments, other than in respect of staff employed in schools.

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

31. Expenditure in connection with powers and duties performed under Part 2 of the Children and Young Persons Act 1933 (Enforcement of, and power to make byelaws in relation to, restrictions on the employment of children).

SCHEDULE 2

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

Expenditure of a class or description referred to in this Schedule includes expenditure on associated administrative costs and overheads.
Expenditure to support grants which fall within the definition of the schools budget

1.—(24) Expenditure (other than expenditure incurred in connection with any other paragraph of this Schedule) which the authority is obliged to incur as a condition of a specific grant paid to the authority and which is taken into account in determining the amount of such specific grant.

(1) Any amount which the authority is obliged to make available as a condition of a grant paid under section 14 of the 2002 Act which is taken into account in determining the amount of such grant, decisions regarding the expenditure of which are delegated to the governing body of a maintained school.

Performance Reward Grant

2. Expenditure not falling within any other paragraph of this Schedule or any paragraph of Schedule 1 which the authority propose to meet from a Performance Reward Grant.

Threshold and performance pay


Special educational provision

4. Subject to paragraphs 5 and 6, expenditure in making the provision specified in a pupil’s statement of special educational needs except where the pupil is—

(a) a registered pupil at a special school maintained by the authority; or

(b) a registered pupil at a primary or secondary school maintained by the authority who occupies one of a number of places at that school which the authority have reserved for children with special educational needs.

5. Where a pupil falls within paragraph 4(a) or (b), and the cost of the provision specified in the pupil’s statement of special educational needs is significantly greater than that for the generality of pupils at the special school, or the cost of pupils in places at the primary or secondary school in question, the amount by which the expenditure incurred in making the provision specified in his statement of special educational needs is greater than that incurred in making provision for a pupil who falls within such generality of pupils.

6. Expenditure in making the provision specified in a pupil’s statement of special educational needs where the pupil falls within paragraph 4(b) but the places reserved for pupils with special educational needs are for pupils with visual, hearing, speech or language impairments or other communication disorder.

7. Expenditure in respect of pupils with statements of special educational needs or who are within the scope of School Action Plus as described in the Code of Practice issued under section 313 of the 1996 Act in cases where it would be unreasonable to expect such expenditure to be met from a school’s budget share or in cases where it is not met from the general annual grant awarded to an Academy by the YPLA.

8. Expenditure for purposes connected with the encouragement of—

(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 consider it would be unreasonable for such expenditure to be met from a school’s budget share.

9. Expenditure in relation to education otherwise than at school under section 19 of the 1996 Act or in relation to a pupil referral unit as defined in that section.

10. 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.

11. Expenditure on the payment of fees in respect of pupils with special educational needs—

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(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.

12. Expenditure on payments to another local authority pursuant to section 493 or 494 of the 1996 Act, or section 207 of the 2002 Act (recoupment between authorities).

Access to education

13. Expenditure on the administration of the system of admissions of pupils to schools (including expenditure incurred in carrying out consultations under section 89(2) of the 1998 Act, and in establishing, maintaining and consulting representative bodies for the purposes of admissions), and in relation to appeals, provided that, except where the governing body have agreed with the authority that this proviso should not apply to them, or where the authority are satisfied that factors or criteria in their formula already make suitable provision, the authority must—

(a) allocate to each governing body who are an admission authority, as defined in section 88(1) of the 1998 Act, an amount determined by the authority as that reasonably required by the governing body to meet expenditure incurred in connection with the system of admissions of pupils to the school and any appeals, taking into account any factors or criteria in their formula which relate to admission arrangements; and

(b) allow the governing body to determine how such amount should be spent for that purpose.

14. Expenditure incurred in connection with the authority’s functions under section 85A of the 1998 Act (Establishment and maintenance of, and consultation with, admission forums).

15. Expenditure on milk and meals pursuant to section 512, 512ZA, 512ZB or 513 of the 1996 Act falling within the following categories—

(a) expenditure in respect of meals at any primary or special school where the governing body have elected not to receive funding for meals as part of their school’s budget share;
(b) expenditure in respect of milk at any school; and
(c) expenditure in respect of milk or meals at any pupil referral unit.

16. Expenditure on the repair and maintenance of a school kitchen where expenditure on meals in relation to the school concerned is deducted from the authority’s schools budget pursuant to paragraph 15.

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

18. Expenditure pursuant to section 18 of the 1996 Act 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.

Staff

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

20. Expenditure in making payments to, or in providing a temporary replacement for, persons—

(a) carrying out trade union duties or undergoing training under section 168 and 168A of the Trade Union and Labour Relations (Consolidation) Act 1992;
(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;
(d) undertaking jury service;
(e) who are safety representatives under the Safety Representatives and Safety Committee Regulations 1977;
(f) who are representatives of employee safety under the Health and Safety (Consultation with Employees) Regulations 1996;
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(g) who are employee representatives 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;

(h) taking time off for ante-natal care under section 55 of the Employment Rights Act 1996;

(i) undertaking duties as members of the reserve forces as defined in section 1(2) of the Reserve Forces Act 1996;

(j) suspended from working at a school;

(k) who are members of the General Teaching Council for England or a committee thereof; or

(l) who are appointed learning representatives of trade unions, in order for them to analyse training requirements or to provide or promote training opportunities, and to carry out consultative or preparatory work in connection with such functions.

21. Expenditure on Advanced Skills Teachers undertaking outreach work in schools other than that in which they are normally based.

22. Expenditure in 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.

23. Expenditure in 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.

24. Expenditure, not falling within Schedule 1, in relation to the recruitment, training, continuing professional development, performance management and personnel management of staff who are funded by expenditure not met from schools’ budget shares.

25. 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.

Other expenditure

26. Expenditure on early years provision, excluding expenditure—

   (a) on such provision at a maintained school; and

   (b) on relevant early years provision.

27. Expenditure on insurance in respect of liability arising in connection with schools and school premises, except to the extent that governing bodies have elected to receive funding for insurance as part of their school’s budget share.

28. Expenditure on services to schools provided by museums and galleries.

29.—(25) Expenditure on library services for primary and special schools, except that such expenditure may not be deducted where—

   (a) funding for library services in respect of a particular school was delegated before April 1999 and remains delegated; or

   (b) the governing body of any primary or special school has elected to receive funding for library services as part of their school’s budget share.

   (2) Where a local authority deduct funding under sub-paragraph (1), they must notify the governing body of each school not receiving funding for library services in its budget share of the amount attributable to library services for that school. They must also allow the governing bodies of these schools to determine whether the expenditure on library services in respect of their school is to be spent by the authority in providing library services to the school themselves or by the authority in procuring library services from another local authority.

30. Expenditure on licence fees or subscriptions paid on behalf of schools.
31. Expenditure incurred in connection with the authority’s functions under section 47A of the 1998 Act (establishment and maintenance of, and consultation with, schools forums).

32. Expenditure on allocations to the governing body of a school in financial difficulty, provided that the authority consult the schools forum on their arrangements for the implementation of such support.

33. Expenditure for 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.

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

35. Expenditure on practical and applied learning not met from maintained schools’ budget shares.

36. Expenditure on—
   (a) prudential borrowing;
   (b) termination of employment costs;
   (c) combined services where the expenditure relates to classes or descriptions of expenditure falling outside those set out in this Schedule;
   (d) the schools’ specific contingency; and
   (e) special educational needs transport costs,

provided that any deductions under this paragraph are limited to the amount deducted by the authority in respect of such expenditure under paragraph 36 of Schedule 2 to the 2008 Regulations for the previous funding period.

37. Expenditure on contingencies arising from any adjustment of the formula for providers of prescribed early years provision.

38. Expenditure on penalties arising from the CRC.

39. Expenditure for the purposes of—
   (a) improving the performance of under-performing pupils from ethnic minority groups; and
   (b) meeting the specific needs of bilingual pupils,

where the authority consider that it would be more appropriate for them to make this provision.

SCHEDULE 3

ADDITIONAL FACTORS OR CRITERIA WHICH MAY BE TAKEN INTO ACCOUNT IN A LOCAL AUTHORITY’S FORMULA UNDER REGULATION 18

PART 1

Applicable to all budget shares

1. Special educational needs of pupils determined in a manner that the authority consider appropriate as a means of assessing such needs.

2. Pupils for whom English is not their first language.

3. Turnover of pupils other than as part of the general admissions process at a school.

4. Admission arrangements at a school.

5. The size, condition and characteristics of a school’s buildings and grounds relative to those of other schools maintained by the local authority.
6. Where a school has a split site the funding must be in accordance with criteria published by the authority.

7. Such physical facilities, organisational facilities for the education of pupils, or communications facilities as are found at some schools only.

8. Non-domestic rates payable in respect of the premises of each school (including actual or estimated cost).

9. Use of energy by schools.

10. Rent payable in respect of school premises or payments in respect of the use by a school of facilities not exclusively occupied by that school (including actual or estimated cost).

11. Transport to and from activities outside school premises which form part of the school’s curriculum, or transport between the school and other educational facilities attended by pupils (including actual or estimated cost).

12. Hire of facilities outside school premises (including actual or estimated cost).

13. Insurance: the funding must be equal to the amount which would be spent on insurance for the school in question if amounts were not delegated to the governing body for such insurance or, if the authority do not insure, the appropriate proportion of the amount that would have been spent had they insured, to be determined on a basis decided by the authority.

14. Payments in relation to a private finance initiative (including actual or estimated cost).

15. Where a school has been established or has become the subject of a prescribed alteration within the meaning of regulations made under section 18 of the 2006 Act as a result of the closure of one or more schools, a local authority may include a factor in their formula which provides that—

(a) an amount may be added to the budget share of the school to reflect all or part of the unspent budget share of the closing school for the funding period in which it closes; or

(b) an amount may be deducted from the budget share of the school to reflect all or part of any deficit in the budget share of the closing school, provided the amount deducted does not exceed any amount determined by the local authority under regulation 11(6) as the delegated budget of the new school for the period from the opening date to the appropriate date.

16. Where a school is to be discontinued during the financial year or the following financial year.

17. School milk, meals and other refreshment: the authority may not, however, treat any element of this expenditure as having a negative value.

18. Salaries at a school, the funding of which must be in accordance with a scale published by the authority (including actual or estimated cost), and which include pay arrears due to staff (also including actual or estimated cost).

19. Safeguarding of salaries in accordance with a document referred to in an order under section 122 of the 2002 Act (school teachers’ pay and conditions).

20. Social priority allowances paid in accordance with a document referred to in an order under section 122 under the 2002 Act (including actual or estimated cost).

21. The differential in recruitment and retention costs in different areas in which schools are located.

22. The need for single payments to be allocated to nursery, primary, secondary or special schools, or any combination of such schools, regardless of size.

23. The need for payments to be allocated to schools, of a size and satisfying other conditions, specified by the authority.

24. Where schools budget shares would otherwise be reduced year-on-year by a percentage figure of 3% or more (determined by the authority), the authority must publish that percentage figure and an explanation of how any amounts using such a factor or criteria will be determined including, if applicable, the use to be
made of any sliding scale. Such a factor may not take account of the extent to which a school has spent more than or has not spent all of its budget share in any financial year.

25. Contracts to which the governing body of a school are bound by virtue of a provision in the authority’s scheme (including actual or estimated cost).


27. Housing development leading to a reduction in numbers on roll at a school of at least 20% within one financial year or armed forces movements leading to any reduction in numbers on roll at a school.

28. Such items of expenditure in connection with provision for pupils registered at other schools as are prescribed by the School Budget Shares (Prescribed Purposes)(England) Regulations 2002.(13)

29. Incidence of Newly Qualified Teachers.

30. Incidence of pupils from ethnic minority groups having below average levels of academic achievement in relation to other pupils in the authority’s area, to be determined on a basis decided by the authority.

31. Incidence of nursery classes and places which the authority have reserved for children with special educational needs.

32. Prior attainment of pupils entering a school.

33. Advanced Skills Teachers employed at a school.

34. Infant classes and places in infant classes not funded under any other provisions.

35. Incidence of any element of teachers’ salaries relating to threshold and performance pay (including actual or estimated cost).

36. Payments in respect of gifted and talented pupils.

37. The penalties or bonuses arising from the CRC.

38. Amount which replicates part of or all of the cash value or formulaic calculation of any sum paid to a school from a specific grant in the previous funding period, where this specific grant has been mainstreamed.

39. Where a school is federated together with one or more other schools under section 24 of the 2002 Act.

40. In this Part, any reference to—
   (a) “pupils” includes children attending early years provision;
   (b) “school” includes a relevant early years provider;
   (c) “school premises” includes premises used by a relevant early years provider, whether or not the early years provider is a school.

PART 2

Applicable to budget shares for providers of prescribed early years provision

41. The need to improve the quality of provision by particular providers or types of provider.

42. The degree of flexibility in the hours of attendance that a provider makes available.

43. 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 have notionally divided their area.

SCHEDULE 4
MINIMUM FUNDING GUARANTEE

Primary and secondary schools

1. In this paragraph and paragraphs 2 to 4—
   (a) references to the number of pupils exclude those funded by a grant paid to the authority by the YPLA under section 61 of the 2009 Act;
   (b) the “relevant number” of pupils for the previous funding period shall be the number of registered pupils at the school on 21st January 2010;
   (c) subject to paragraphs 3 and 4, the “relevant number” of pupils for the funding period shall be the number of pupils at the school on the date referred to in regulation 14;
   (d) the “adjusted budget share” (which must not be lower than the guaranteed funding level) is a school’s budget share determined in accordance with these Regulations, but not taking into account—
      (i) the effect of regulations 19 (MFG), 20 (sixth form funding), 23 (excluded pupils) and paragraphs 8 (rates), 14 (PFI), 29 (NQTs), and 34 (ICS funding) of Schedule 3,
      (ii) any amounts added in respect of funding for named pupils which are deducted from a school’s budget share when those pupils leave the school, excluding amounts for the cost of providing free school meals;
   (e) references to a redetermined adjusted budget share for the previous funding period include the effect of any additional arrangement approved by the schools forum or Secretary of State under regulation 25 of the 2008 Regulations and the allocation of any mainstreamed grant, but exclude the following—
      (i) any amounts included pursuant to regulations 21 (sixth form funding), 23 (excluded pupils) and 24 (correction of errors) of the 2008 Regulations,
      (ii) any amount included in respect of paragraphs 8 (rates), 14 (PFI), 29 (NQTs) and 35 (ICS) of Schedule 3 to the 2008 Regulations, and
      (iii) any amounts in respect of funding for named pupils which are deducted from a school’s budget share when those pupils leave the school, excluding amounts for the cost of providing free school meals;
   (f) references to a redetermined adjusted budget share for the funding period shall include the effect of any additional arrangements approved by the schools forum or the Secretary of State under regulation 25 (additional arrangements), but exclude the following—
      (i) any amounts included pursuant to regulation 21 (sixth form funding) and 23 (excluded pupils),
      (ii) any amounts included in respect of paragraphs 8 (rates), 14 (PFI), 29 (NQTs) and 34 (ICS) of Schedule 3; and
      (iii) any amounts included in respect of funding for named pupils which are deducted from a school’s budget share when those pupils leave the school, including amounts above those permitted by regulation 23 (excluded pupils), but not including amounts for the cost of providing free school meals;
   (g) for the purposes of this Schedule—
      (i) where a school has opened during the previous funding period, its redetermined adjusted budget share for the previous funding period must be the amount that it would have been had the school opened on 1st April 2010,
      (ii) where a school opens during the funding period, its redetermined adjusted budget share for the funding period must be the amount that it would have been had the school opened on 1st April 2011, adjusted in accordance with sub-paragraph (e) or (f), whichever is applicable.

2. Subject to paragraphs 3 and 4, the guaranteed funding level is to be calculated as follows for the funding period—
(a) where the relevant number of pupils is the same as the relevant number for the previous funding period, the guaranteed funding level must be A,

(b) where the relevant number of pupils is lower than the relevant number for the previous funding period, the guaranteed funding level must be A - (B x C),

(c) where the relevant number of pupils is higher than the relevant number for the previous funding period, the guaranteed funding level must be A + (B x C);

where—

A is, in respect of the funding period, the redetermined adjusted budget share for the previous funding period multiplied by [xxx] in respect of primary schools and secondary schools,

B is, in respect of the funding period, the difference between the relevant number of pupils for the previous funding period and the funding period,

C is, in respect of the funding period, the mean value of funding per pupil in the school’s redetermined adjusted budget share for the previous funding period (calculated using pupil numbers on 21st January 2010) multiplied by [xxx] in respect of primary schools and by [xxx] in respect of secondary schools.

3.—(26) Except where paragraph 4 applies, where the relevant number of pupils for the previous funding period or the funding period is 75 or fewer, that school’s guaranteed funding level for the funding period must be calculated as follows—

(a) where the relevant number of pupils in the funding period is the same as the relevant number for the previous funding period, the guaranteed funding level must be A,

(b) where the relevant number of pupils in the funding period is lower than the relevant number of pupils for the previous funding period, the guaranteed funding level must be A - (B x D/E x xxx) in respect of primary schools and secondary schools,

(c) where the relevant number of pupils in the funding period is higher than the relevant number of pupils for the previous funding period, the guaranteed funding level must be A + (B x D/E x xxx) in respect of primary schools and secondary schools;

where—

A and B have the same meaning as in paragraph 2,

D is the total funding within the redetermined adjusted budget share determined on the basis of pupil numbers for, in respect of the funding period, the previous funding period; and

E is, in respect of the funding period, the relevant number of pupils for the previous funding period.

(2) For the purposes of this paragraph, “the relevant number” means, in respect of the funding period, either the number of pupils registered at the school on 21st January 2010 or the number of pupils registered at the school on 20th January 2011.

4. Where a 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, save that the figure in respect of the new school’s redetermined adjusted budget share for the previous funding period is to be determined using the sum of the relevant number of pupils in the discontinued schools for the previous funding period as the relevant number for the purposes of paragraph 1(b).

Special schools

5.—(27) A local authority must provide in their formula that any amount allocated in accordance with regulation 15(1)(a) in respect of a place at a special school for the funding period must be at least [xxx] multiplied by the amount initially determined in relation to the previous funding period in respect of a place appropriate to a pupil with the same characteristics at that school under regulation 16(1)(a) of the 2008 Regulations.

(1) That portion of the redetermined budget share of a special school for the funding period calculated otherwise than in accordance with regulation 15 (but not including adjustments due under regulation 23 (excluded pupils)) must be at least [xxx] multiplied by that portion of the initially determined budget share...
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for the previous funding period calculated otherwise than in accordance with regulation 16 of the 2008 Regulations (including the allocation of any mainstreamed grant but not including adjustments due under regulation 23 (excluded pupils) of those Regulations).

SCHEDULE 5

CONTENTS OF SCHEMES

The matters referred to in regulation 26, being matters connected with the financing of schools maintained by a local authority, required to be dealt with in the local authority’s scheme are as follows:

1. The carrying forward from one funding period to another of surpluses and deficits arising in relation to schools’ budget shares, including a mechanism for the deduction of excess surplus balances from 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 must be complied with by schools 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 them.

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.

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.

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

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. School meals.

25. 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.