

SCHEDULES

SCHEDULE 1

Regulation 3

CLASSES OR DESCRIPTIONS OF PLANNED EXPENDITURE PRESCRIBED FOR THE PURPOSES OF THE LEA BUDGET OF A LOCAL EDUCATION 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 (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⁽¹⁾, 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⁽²⁾.
8. Expenditure in providing special medical support for individual pupils in so far as such expenditure is not met by a Primary Care Trust⁽³⁾, National Health Service Trust⁽⁴⁾, NHS foundation trust⁽⁵⁾ or Local Health Board⁽⁶⁾.

(1) 1989 c. 41.

(2) 1999 c. 8.

(3) Primary Care Trusts were established under section 16A of the National Health Service Act 1977 (c. 49). Section 16A was inserted by section 2 of the Health Act 1999.

(4) National Health Service Trusts are created by order made under section 5 of the National Health Service and Community Care Act 1990 (c. 19). Section 5 has been amended by section 2 of, and paragraph 69 of Schedule 1 to, the Health Authorities Act 1995, sections 13 and 65 of, and Schedule 5 to, the Health Act 1999, and section 41 of, and paragraph 65 of Schedule 2 to, the National Health Service (Primary care) Act 1997.

(5) NHS foundation trusts are established under the Health and Social Care (Community Health and Standards) Act 2003 (c. 43).

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School improvement

9. Expenditure incurred by the authority in respect of action to support the improvement of standards in the authority's schools, including, in particular—

- (a) expenditure incurred in connection with entering into a contract pursuant to a direction under section 63 of the 2002 Act (contracts to obtain services of an advisory nature in respect of schools with serious weaknesses or schools requiring special measures);
- (b) expenditure incurred in connection with the exercise of their functions under sections 14 to 17 of the 1998 Act (powers of intervention, appointment of additional governors and suspension of delegated budget in schools causing concern)(7);
- (c) expenditure on the appointment and remuneration of interim executive members under section 16A of the 1998 Act(8); and
- (d) expenditure on the employment of 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—
 - (i) in relation to the preparation of any part of the authority's Children and Young People's Plan relating to school organisation(9), and
 - (ii) in relation to the establishment, alteration or discontinuance of schools pursuant to Chapter II of Part II of the 1998 Act, section 70 of the 2002 Act, or section 113A of, and Schedule 7A to, the 2000 Act;
- (c) the authority's functions in relation to the exclusion of pupils from schools, excluding the making of any provision of education to such pupils, but including advice to the parents of an excluded pupil;
- (d) school organisation committees;
- (e) the authority's functions under section 509 and 509AA to 509AC(10) of the 1996 Act (home-to-school and home-to-college transport); and
- (f) 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).

(6) Local Health Boards are established by order made by the National Assembly for Wales under section 16BA of the National Health Service Act 1977 (c. 49), as inserted by section 6(1) of the National Health Service Reform and Health Care Professions Act 2002 (c. 17).

(7) Section 14 has been amended by sections 56(3), 57(1), 215(1) of, and paragraph 1 of Schedule 5 to, and paragraph 92 of Schedule 21 to, the 2002 Act, and by section 61 of, and paragraphs 14(1)-(3) of Schedule 9 to, the 2005 Act. Section 15 has been amended by section 149 of, and paragraphs 1 and 78 of Schedule 9 to, the 2000 Act, by section 55(1)-(2) of the 2002 Act, and by section 61 of, and paragraphs 15(1)-(4) of Schedule 9 to, the 2005 Act. Section 16 has been amended by sections 56(3), 215(1)-(2) of, paragraphs 2(1)-(8) of Schedule 21 to, and paragraphs 2(1) and (3) of Schedule 22 part 3 to the 2002 Act, and by section 61 of, and paragraphs 16(1), (2)(a) and (b) and (3) of Schedule 9 to, the 2005 Act. Section 16A was inserted by section 57(2) of the 2002 Act, and amended by section 61 of, and paragraphs 17(a) and (b) of Schedule 9 to, the 2005 Act. Section 17 has been amended by section 56(3) of, and paragraphs 3(1)-(3) of Schedule 5 to, the 2002 Act, and paragraphs 18(a) and (b) of Schedule 9, to the 2005 Act.

(8) Section 16A was inserted by section 57 of the 2002 Act.

(9) The Children and Young People's Plan (England) Regulations 2005 (S.I.2005/2149) impose a requirement to prepare and publish plans which will include key actions to be taken. Some of these may relate to school organisation.

(10) Sections 509AA, 509AB and 509AC were inserted by section 199 of, and Schedule 19 to, the 2002 Act.

(11) Section 518 was substituted by section 129 of the 1998 Act.

11. Expenditure on the Education Welfare Service(12) and other expenditure arising from the authority's functions under Chapter II of Part VI of the 1996 Act (school attendance).

12. Expenditure on the provision of support for students under section 1(1) of the Education Act 1962(13) and under section 22 of the Teaching and Higher Education Act 1998(14).

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 educational maintenance allowances(15).

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.

Further education and training for young persons and adults

18. Expenditure on the provision of education and training and of organised leisure time occupation, and other provision under sections 15A and 15B of the 1996 Act(16).

19. Expenditure on the provision by the local education authority under sections 15A and 508(17) 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 education authority in relation to—
- (a) functions of the Chief Education Officer or 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(18) (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; the 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;

(12) The functions of the Education Welfare Service and their role in reducing the levels of unauthorised absences from school are set out in DFEE Circular 11/99.

(13) 1962 c. 12.

(14) 1998 c. 30.

(15) Education Maintenance Allowances are funded under section 14 of the 2002 Act. They are paid pursuant to a scheme administered by the LSC on behalf of the Secretary of State.

(16) Section 15A was inserted by section 140(1) of, and paragraph 63 of Schedule 30 to, the 1998 Act, and section 15B by section 149 of, and paragraphs 1 and 55 of Schedule 9 to, the 2000 Act.

(17) Section 508 has been amended by section 137(1)-(4) of the 2000 Act.

(18) 1999 c. 27.

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- (e) administration of grants to the authority (including preparation of applications), functions imposed by or under Chapter IV of Part II 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⁽¹⁹⁾, 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⁽²⁰⁾;
- (i) the authority's functions under regulations made under section 44 of the 2002 Act⁽²¹⁾;
- (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⁽²²⁾ and the relevant statutory provisions as defined in section 53(1) of that Act, in so far as compliance cannot reasonably be achieved through tasks delegated to the governing bodies of schools; but including expenditure incurred by the authority in monitoring the

⁽¹⁹⁾ Section 48 has been amended by section 40 of, and paragraph 2 of Schedule 3 to, the 2002 Act, and section 117 of, and paragraph 7 of Schedule 18 to, the 2005 Act.

⁽²⁰⁾ 1972 c. 70.

⁽²¹⁾ The regulations currently in force under this provision are The Consistent Financial Reporting (England) (Amendment) Regulations 2004 (S.I. 2004/393).

⁽²²⁾ 1974 c. 37.

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 and the provision of (but not the expenditure authorised by), an early years development and childcare partnership under section 119 of the 1998 Act⁽²³⁾;
- (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⁽²⁴⁾;
- (y) the remittance of fees payable to the General Teaching Council for England by virtue of section 4(4) of the Teaching and Higher Education Act 1998 and the provision of information required by the Council pursuant to regulations⁽²⁵⁾ 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⁽²⁶⁾ in so far as compliance cannot reasonably be achieved through tasks delegated to the governing bodies of schools; but including expenditure incurred by the authority in monitoring the performance of such tasks by governing bodies and, where necessary, the giving of advice to them.

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 the authority and its schools.

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

24. Expenditure in connection with the authority's functions in relation to the standing advisory council on religious education constituted by the authority under section 390 of the 1996 Act 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 35(b) of Schedule 2.

(23) Section 119 was amended by section 150 of the 2002 Act and section 64 of and Schedule 5 to the Children Act 2004 (2004 c. 31).

(24) S.I. 2001/3458.

(25) The regulations currently in force under this provision are the General Teaching Council for England (Deduction of Fees) Regulations 2001 (S.I. 2001/3993), as amended by S.I. 2003/985.

(26) 1995 c. 50.

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26. Expenditure in respect of a teacher's emoluments under section 19(9) of the Teaching and Higher Education Act 1998.

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**(27)**.

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

SCHEDULE 2

Regulation 7

CLASSES OR DESCRIPTIONS OF PLANNED EXPENDITURE WHICH MAY BE DEDUCTED FROM THE SCHOOLS BUDGET OF A LOCAL EDUCATION AUTHORITY

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.—(1) 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.

(2) 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

3. Expenditure on any threshold and performance pay element of teachers' salaries.

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 are recognised by the authority as being reserved for children with special educational needs.

(27) The regulations currently in force under this provision are the Education (Induction Arrangements for School Teachers) (Consolidation) (England) Regulations 2001 (S.I. [2001/2897](#)), as amended by S.I. [2001/3938](#), S.I. [2002/2063](#), S.I. [2003/106](#) and S.I. [2003/2148](#) and S.I. [2005/1740](#).

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 which are recognised by the authority as being reserved for children with special educational needs are for such pupils with visual, hearing, speech or language impairments or other communication disorder.

7. Expenditure in respect of specialist support provided to assist the governing bodies of schools in meeting the particular needs 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⁽²⁸⁾ issued under section 313 of the 1996 Act (such expenditure that it would be inappropriate to expect to be met from the school's budget share).

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 (being expenditure that the authority deem inappropriate to be met from the 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⁽²⁹⁾.

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

- (a) at independent schools or at special schools which are not maintained by a local education 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 education 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

⁽²⁸⁾ The Special Educational Needs Code of Practice (ISBN 1 84185 5294).

⁽²⁹⁾ The Children and Young People's Plan (England) Regulations 2005 (S.I. 2005//2149) impose a requirement upon children's services authorities to prepare and publish plans which will include key actions to be taken. Some of these may relate to the education of children with behavioural difficulties.

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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 (the 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 which is not a former grant-maintained or grant-maintained special school, unless the governing body have elected to receive funding for meals as part of their school's budget share;
- (b) expenditure in respect of meals at any former grant-maintained primary or special school where the governing body have elected not to receive funding for meals as part of their school's budget share;
- (c) expenditure in respect of milk at any school which is not a former grant-maintained or grant-maintained special school;
- (d) expenditure in respect of milk at any former grant-maintained or grant-maintained special school where the provision of that milk attracts a subsidy from the European Union; and
- (e) 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 education 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 of the Trade Union and Labour Relations (Consolidation) Act 1992⁽³⁰⁾;
- (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⁽³¹⁾;
- (d) undertaking jury service;

⁽³⁰⁾ 1992 c. 52.

⁽³¹⁾ 1996 c. 18.

- (e) who are safety representatives under the Safety Representatives and Safety Committee Regulations 1977⁽³²⁾;
- (f) who are representatives of employee safety under the Health and Safety (Consultation with Employees) Regulations 1996⁽³³⁾;
- (g) who are employee representatives for the purposes of Chapter II of Part IV of the Trade Union and Labour Relations (Consolidation) Act 1992, as defined in section 196 of that Act or regulations 10 and 11 of the Transfer of Undertakings (Protection of Employment) Regulations 1981 as defined in regulation 11A of those Regulations⁽³⁴⁾;
- (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⁽³⁵⁾;
- (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⁽³⁶⁾.

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 education 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.

Other Expenditure

25. Expenditure in connection with the provision of nursery education, except where such provision is made at a maintained school.

26. 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 schools' budget shares.

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

28. Expenditure on library services for primary and special schools, other than for schools which received funding for library services as part of their budget shares for the financial year beginning on 1st April 1999 to the extent that their governing bodies have elected to receive funding for those same library services as part of their schools' budget shares for the financial year beginning on 1st April 2006, and provided that the authority—

(32) S.I. 1977/500, amended by S.I. 1996/1513 and 1999/860.

(33) S.I. 1996/1513.

(34) S.I. 1981/1794; regulation 11A was inserted by S.I. 1995/2587 and amended by S.I. 1999/1925.

(35) 1996 c. 14.

(36) "Advanced Skills Teacher" is a concept defined in the School Teachers' Pay and Conditions Document 2005 which can be found at [http://www.teachernet.gov.uk/management/payandperformance/pay/2005/School Teachers' Pay and Conditions Document 2005/](http://www.teachernet.gov.uk/management/payandperformance/pay/2005/School%20Teachers'%20Pay%20and%20Conditions%20Document%202005/). That document was given effect by the Education (School Teachers' Pay and Conditions) (No. 3) Order (S.I. 2005/2212), made under section 122 of the 2002 Act.

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- (a) notify the governing body of each school, which does not receive funding for library services in its budget share, of the share of the amount retained by the authority in respect of library services which is attributable to that school; and
- (b) allow the governing body to determine whether expenditure retained by the authority in respect of their school is to be spent by the authority in providing library services to the school themselves or in procuring that library services are provided to the school by another local authority.

29. Expenditure on licence fees or subscriptions paid on behalf of schools.

30. Expenditure incurred in connection with the authority's functions under section 47A(37) of the 1998 Act (the establishment and maintenance of, and consultation with, schools forums).

31. 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.

32. 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 per cent. of the authority's schools budget.

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

34. Expenditure on vocational education of pupils at key stage 4 of the National Curriculum not met from maintained schools' budget shares.

35. 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) SEN transport costs

provided that any deductions under this paragraph are limited to the amount deducted by the authority in respect of such expenditure for the financial year beginning on 1st April 2005 under Schedule 3 to the Budget Regulations.

SCHEDULE 3

Regulation 7

MAXIMUM INCREASE IN CENTRAL EXPENDITURE

CHAPTER 1

FUNDING PERIOD 1

1. Subject to paragraphs 2 and 3, the central expenditure for funding period 1 must not exceed $A \times (B/C)$ where—

- (a) A is the lower of either—

(37) Section 47A was inserted by section 43 of the 2002 Act, and has been amended by section 101 and paragraph 7 of Schedule 16 to the 2005 Act.

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- (i) the total amount initially deducted from the authority's schools budget for the financial year beginning on the 1st April 2005, or
 - (ii) the total amount that could have been deducted from the authority's schools budget under the Budget Regulations as if those regulations had not been amended⁽³⁸⁾,
excepting any amount deducted in accordance with paragraphs 1 to 4 (Expenditure to support grants, Excellence in Cities, Performance Reward and Threshold and Performance Pay Grants), 32 (Expenditure without which the education of pupils would be seriously prejudiced) and 34 (Expenditure authorised by the Secretary of State and for correction of errors) of Schedule 3 to the Budget Regulations;
- (b) B is the total amount of the individual schools budget for funding period 1 as initially determined in accordance with regulation 7 of these Regulations;
- (c) C is—
- (i) the total amount of the individual schools budget for the financial year beginning on 1st April 2005 allocated in accordance with regulation 4 of the 2004 Regulations, except for any amount retained under regulation 5(2) for the purpose of redeterminations or correction of errors, plus
 - (ii) where the authority have not deducted expenditure under paragraph 3 of Schedule 2 to these Regulations in respect of funding period 1, any expenditure deducted under paragraph 4 of Schedule 3 to the 2004 Regulations, to the extent that this was devolved to schools;
- save that any grant paid by the LSC to the authority under section 7 of the 2000 Act must be excluded from all the calculations.
2. Where any maintained school in the authority's area is due to be discontinued and re-open as an Academy in funding period 1, an amount equal to $D \times (E/12)$ must be deducted from C, where—
- (a) D is the number of months during funding period 1 in which the school is not to be maintained by the authority; and
 - (b) E is the total budget share of that school for the financial year beginning on 1st April 2005.
3. In calculating the limit on central expenditure imposed by paragraph 1, expenditure deducted in accordance with the following paragraphs of Schedule 2 to these Regulations—
- (a) paragraphs 1 and 2 (expenditure to support grants and Performance Reward Grant);
 - (b) paragraph 25 (nursery education) to the extent that this exceeds expenditure deducted in accordance with paragraph 26 (nursery education) of Schedule 3 to the Budget Regulations; and
 - (c) paragraph 35(d) (expenditure on the schools' specific contingency)
- must be disregarded.

CHAPTER 2

FUNDING PERIOD 2

4. Subject to paragraphs 5 and 6, the central expenditure for funding period 2 must not exceed $F \times (G/H)$ where—
- (a) F is the lower of either—
 - (i) the total amount deducted from the authority's schools budget for funding period 1, or

⁽³⁸⁾ The Budget Regulations were amended by the LEA Budget, Schools Budget and Individual Schools Budget (Amendment) (England) Regulations 2005 (S.I. [2005/526](#)).

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- (ii) the total amount that could have been deducted from the authority's schools budget under these regulations before variation of any limit was authorised by the Schools Forum or Secretary of State under regulation 13 of these Regulations, excepting any amount deducted in accordance with paragraph 1 (Expenditure to support grants), and paragraph 2 (Performance Reward Grant) of Schedule 2 to these Regulations;
- (b) G is the total amount of the individual schools budget for funding period 2 as initially determined in accordance with regulation 7 of these Regulations,
- (c) H is—
 - (i) the total amount of the individual schools budget for funding period 1 as initially determined in accordance with regulation 7 of these Regulations, plus
 - (ii) where the authority have not deducted expenditure under paragraph 3 of Schedule 2 to these Regulations in respect of funding period 2, any expenditure deducted under that paragraph in respect of funding period 1, to the extent that this expenditure has been devolved to schools;

save that any grant paid by the LSC to the authority under section 7 of the 2000 Act must be excluded from all of these calculations.
- 5. Where any maintained school in the authority's area is due to be discontinued and re-open as an Academy in funding period 2 an amount equal to $J \times (K/12)$ must be deducted from H, where—
 - (a) J is the number of months during funding period 2 in which the school is not to be maintained by the authority; and
 - (b) K is the total budget share of that school for funding period 1.
- 6. In calculating the limit on central expenditure imposed by paragraph 4, expenditure deducted in accordance with the following paragraphs of Schedule 2 to these Regulations—
 - (a) paragraphs 1 and 2 (expenditure to support grants and Performance Reward Grant); and
 - (b) paragraph 25 (nursery education) in respect of funding period 2, to the extent that this exceeds expenditure deducted in accordance with that paragraph in respect of funding period 1

must be disregarded.

SCHEDULE 4

Regulation 17

ADDITIONAL FACTORS OR CRITERIA WHICH MAY BE TAKEN INTO ACCOUNT IN A LOCAL EDUCATION AUTHORITY'S FORMULA UNDER REGULATION 17

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 authority.
6. A school which 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. 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 the 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 transaction⁽³⁹⁾ (including actual or estimated cost).
15. Amounts payable to a school which is, as the result of the discontinuance of one or more maintained schools, either established or, pursuant to Chapter 2 of Part 2 of the 1998 Act, the subject of prescribed alterations, to reflect the extent to which a school which has been discontinued has spent more than or has not spent all of its budget share in any financial year. Any such factor or criterion must provide that any amount deducted must not exceed the amount which the school receives during the financial year as part of its budget share by virtue of being a new school.
16. Whether a school is to be discontinued in the financial year or the following financial year.
17. School milk, meals and other refreshment: the authority may not treat any element of this expenditure as having a negative value.
18. Salaries at a school (including actual or estimated cost): the funding must be in accordance with a scale published by the authority.
19. Safeguarding of salaries in accordance with a School Teachers' Pay and Conditions Document having effect in accordance with an order under section 122 of the 2002 Act.
20. Social priority allowances paid in accordance with a School Teachers' Pay and Conditions Document having effect in accordance with an order 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. Schools whose budget shares would otherwise be reduced year-on-year by a percentage figure of 3 per cent 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

(39) As defined in regulation 16 of the Local Authorities (Capital Finance) Regulations 1997 (S.I. 1997/319).

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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).

26. Effect of taxation on schools.

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

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**(40)**.

29. Incidence of Newly Qualified Teachers**(41)**.

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 recognised by the authority as reserved for children with special educational needs.

32. Prior attainment of pupils entering a school.

33. Advanced Skills Teachers employed at a school.

34. Permanent exclusions from a school (including estimates), and incidence of pupils whose names have been deleted from the admissions register of a maintained school as referred to in regulation 23 of these Regulations.

35. Infant classes and places in infant classes not funded under any other provisions**(42)**.

36. Incidence of teacher salaries previously paid under the Threshold and Performance Pay Grant (including actual or estimated cost).

SCHEDULE 5

Regulation 18

MINIMUM FUNDING GUARANTEE

Primary and Secondary Schools

1. In this paragraph and paragraphs 2 to 4—

- (a) the “relevant number” of pupils for the financial year beginning on 1st April 2005 shall be the number of registered pupils at the school, including pupils for whom grant is payable by the LSC, on 20th January 2005, save that where the authority has not exercised its discretion under regulation 8(3)(b) of the 2004 Regulations to take the number of pupils in places which the authority recognises as reserved for children with special educational

(40) S.I. 2002/378 amended by S.I. 2004/444.

(41) A “newly qualified teacher” is a teacher in a maintained school who has been a qualified teacher for less than 12 months. Qualified teacher has the meaning in regulation 5 of The Education (School Teachers' Qualifications) (England) Regulations 2003 (S.I. 2003/1662).

(42) Where, as a result of compliance with the Education (Infant Class Sizes) (England) Regulations 1998 (S.I. 1998/1973) there are fewer than 30 children in an infant class, a local education authority may fund places which would not fall to be funded under any other provisions in these regulations by taking this into account as an additional factor under regulation 17.

needs, or in nursery classes, into account in their formula, then the number of those places must be added to the relevant number for the purposes of this Schedule;

- (b) subject to paragraph 4, the “relevant number” of pupils for funding periods 1 and 2 shall be the number of pupils at the school, including pupils in respect of whom grant is payable by the LSC, on the dates referred to in regulation 14, save that, where the authority has not exercised discretion under regulation 14(3) to take into account in their formula the number of pupils in places which the authority recognises as being reserved for children with special educational needs or in nursery classes, then the number of those places must be added to the relevant number for the purposes of this Schedule;
- (c) the “adjusted budget share” is a school’s budget share determined in accordance with these Regulations, but not taking into account—
 - (i) the effect of regulations 18 (Minimum Funding Guarantee), 21, 22 (prior year adjustments), 23 (excluded pupils) and paragraphs 8 (rates), 14 (PFI), 29 (NQTs), and 35 (ICS funding) of Schedule 4,
 - (ii) any amounts added in respect of funding for named pupils which is deducted from a school’s budget share when that pupil leaves the school, including amounts for pupil exclusions above that permitted by regulation 23 (excluded pupils), but not including amounts for the cost of providing free school meals;
- (d) references to a redetermined adjusted budget share for the financial year beginning on 1st April 2005 include—
 - (i) the effect of any additional arrangement approved by the Secretary of State under regulation 28 of the 2004 Regulations,
 - (ii) any amount in respect of regulation 21 of the 2004 Regulations,
 - (iii) any amount in respect of regulations 21 and 22 (prior year adjustments) of these regulations,
 - (iv) the amount of funding the school received under paragraph 4 of Schedule 3 to the Budget Regulations (Threshold and Performance Pay Grants) where the local education authority intends to include an amount in respect of this in the school’s budget share for funding period 1,but exclude the following—
 - (v) any amounts included pursuant to regulations 12 (ICS), 18 (prior year adjustments: pupil numbers), 19 (prior year adjustments: non-pupil numbers), 22 (excluded pupils), 23, 24 and 25 (Additional provisions) of the 2004 Regulations,
 - (vi) any amount included in respect of paragraphs 8 (rates), 14 (PFI) and 29 (NQTs) of Schedule 1 to the 2004 Regulations, and
 - (vii) any amounts in respect of funding for named pupils which is deducted from a school’s budget share when that pupil leaves school, including amounts for pupil exclusions above that permitted by regulation 23 (excluded pupils) of these regulations but not including amounts for the cost of providing free school meals;
- (e) references to a redetermined adjusted budget share for funding period 1 include—
 - (i) the effect of any additional arrangements approved by schools forums or the Secretary of State under regulation 25 (additional arrangements) of these Regulations,but exclude the following—
 - (ii) any amounts included pursuant to regulation 23 (excluded pupils) of these Regulations,

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- (iii) any amount included in respect of paragraphs 8 (rates), 14 (PFI), 29 (NQTs), and 36 (ICS) of Schedule 4 to these Regulations, and
 - (iv) any amounts included in respect of funding for named pupils which is deducted from a school's budget share when that pupil leaves school, including amounts above those permitted by regulation 23(excluded pupils) of these regulations but not including amounts for the cost of providing free school meals;
- (f) for the purposes of this Schedule—
- (i) where a school has opened after 1st April 2005 but before the 1st April 2006, its redetermined adjusted budget share for the financial year beginning on 1st April 2005 shall be the amount that it would have been had the school opened on 1st April 2005, and
 - (ii) where a school has opened during funding period 1, its redetermined adjusted budget share for funding period 1 shall be the amount that it would have been had the school opened on 1st April of funding period 1,
- adjusted in accordance with sub-paragraph (d) or (e), whichever is applicable.
2. Subject to paragraphs 3 and 4, the guaranteed funding level must be calculated as follows—
- (a) where the relevant number of pupils is the same as, in respect of funding period 1, the relevant number for the financial year beginning on 1st April 2005 or, in respect of funding period 2, the relevant number for funding period 1, the guaranteed funding level must be A;
 - (b) where the relevant number of pupils is lower than, in respect of funding period 1, the relevant number for the financial year beginning on 1st April 2005 or, in respect of funding period 2, the relevant number for funding period 1, the guaranteed funding level must be $A - (B \times C)$;
 - (c) where the relevant number of pupils is higher than, in respect of funding period 1, the relevant number for the financial year beginning on 1st April 2005 or, in respect of funding period 2, the relevant number for funding period 1, the guaranteed funding level must be $(D/E) \times F$

where—

A is, in respect of funding period 1, the redetermined adjusted budget share for the financial year beginning on 1st April 2005 multiplied by 1.04 in respect of primary schools and 1.034 in respect of secondary schools and, in respect of funding period 2, the redetermined adjusted budget share for funding period 1 multiplied by 1.037 in respect of primary schools and secondary schools;

B is, in respect of funding period 1, the difference between the relevant number of pupils for the financial year beginning on 1st April 2005 and funding period 1, and, in respect of funding period 2, the difference between the relevant number of pupils for funding period 1 and funding period 2;

C is, in respect of funding period 1, the mean value of funding per pupil in the school's redetermined adjusted budget share for the financial year beginning on 1st April 2005 (calculated using pupil numbers on the 20th January 2005) multiplied by 1.04 x 0.80 in respect of primary schools and by 1.034 x 0.875 in respect of secondary schools, and in respect of funding period 2, the mean value of funding per pupil in the school's redetermined adjusted budget share for funding period 1 (calculated using pupil numbers on the 19th January 2006) multiplied by 1.037 x 0.8 in respect of primary schools and by 1.037 x 0.875 in respect of secondary schools;

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D is, in respect of funding period 1, the redetermined adjusted budget share for the financial year beginning on 1st April 2005, and, in respect of funding period 2, the redetermined adjusted budget share for funding period 1;

E is, in respect of funding period 1, the relevant number of pupils for the financial year beginning on 1st April 2005, and, in respect of funding period 2, the relevant number of pupils for funding period 1; and

F is, in respect of funding period 1, the relevant number of pupils for the financial year beginning on 1st April 2005, multiplied by 1.04 in respect of primary schools and 1.034 in respect of secondary schools, and, in respect of funding period 2, the relevant number of pupils for funding period 1 multiplied by 1.037 in respect of primary schools and secondary schools.

3. Save where paragraph 4 applies, where the relevant number of pupils for the financial year beginning on 1st April 2005, funding period 1 or funding period 2 is 75 or fewer, that school's guaranteed funding level must be calculated as follows:

(a) for funding period 1—

- (i) where the relevant number of pupils in funding period 1 is the same as the relevant number for the financial year beginning on 1st April 2005 the guaranteed funding level must be A,
- (ii) where the relevant number of pupils in funding period 1 is lower than the relevant number of pupils for the financial year beginning on 1st April 2005 the guaranteed funding level must be, in respect of primary schools $A - (B \times G/H \times 1.04)$, and in respect of secondary schools $A - (B \times G/H \times 1.034)$,
- (iii) where the relevant number of pupils in funding period 1 is higher than the relevant number of pupils for the financial year beginning on 1st April 2005 the guaranteed funding level must be, in respect of primary schools $A + (B \times G/H \times 1.04)$, and in respect of secondary schools $A + (B \times G/H \times 1.034)$;

(b) for funding period 2—

- (i) where the relevant number of pupils in funding period 2 is the same as the relevant number for funding period 1 the guaranteed funding level must be A,
- (ii) where the relevant number of pupils in funding period 2 is lower than the relevant number of pupils for funding period 1 the guaranteed funding level must be $A - (B \times G/H \times 1.037)$ in respect of primary schools and secondary schools,
- (iii) where the relevant number of pupils in funding period 2 is higher than the relevant number of pupils for funding period 1 the guaranteed funding level must be $A + (B \times G/H \times 1.037)$ in respect of primary schools and secondary schools where—

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

G is the total funding within the redetermined adjusted budget share for, in respect of funding period 1, the financial year beginning on 1st April 2005 and, in respect of funding period 2, the redetermined adjusted budget share for funding period 1, determined on the basis of pupil numbers, and

H is the relevant number of pupils for, in respect of funding period 1, the financial year beginning on 1st April 2005, and, in respect of funding period 2, funding period 1.

4. Where a school opens:

- (a) in funding period 1, and is a replacement for two or more schools being discontinued in funding period 1, 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 financial year beginning on 1st April 2005 shall be determined using

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the sum of the relevant number of pupils in the discontinued schools for that financial year as the relevant number for the purposes of paragraph 1(b); or

- (b) in funding period 2, and is a replacement for two or more schools being discontinued in funding period 2, 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 funding period 1 shall be determined using the sum of the relevant number of pupils in the discontinued schools for that funding period as the relevant number for the purposes of paragraph 1(b).

Special Schools

5.—(1) A local education 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—

- (a) for funding period 1 must be at least 3.4 per cent higher than the amount initially determined in relation to the financial year beginning on 1st April 2005 in respect of a place appropriate to a pupil with the same characteristics at that school under regulation 11(1)(a) of the 2004 Regulations; and
 - (b) for funding period 2, must be at least 3.7 per cent higher than the amount initially determined in relation to funding period 1 in respect of a place appropriate to a pupil with the same characteristics at that school under regulation 15(1)(a) of these Regulations.
- (a) (2) (a) That portion of the redetermined budget share of a special school for funding period 1 calculated otherwise than in accordance with regulation 15 (but not including adjustments due under regulation 23 (excluded pupils)) must be at least 3.4 per cent higher than that portion of the initially determined budget share for the financial year beginning on 1st April 2005 calculated otherwise than in accordance with regulation 11 of the 2004 Regulations but not including regulations 18, 19 (prior year adjustments) and 22 (excluded pupils) of those Regulations; and
- (b) that portion of the initially determined budget share of a special school for funding period 2 calculated otherwise than in accordance with regulation 15 (but not including adjustments due under regulation 23) must be at least 3.7 per cent higher than that portion of the initially determined budget share for funding period 1 calculated in accordance with regulation 15 of these Regulations but not including adjustments due under regulation 23.

SCHEDULE 6

Regulation 26

CONTENTS OF SCHEMES

The matters referred to in regulation 26, being matters connected with the financing of schools maintained by a local education authority, required to be dealt with in the local education 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.
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 the authority may delegate to the governing body the power to spend any part of the authority's LEA 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 the governing body by the 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 the governing body.

23. Funding for child protection issues.

24. School meals.

25. To whom in the authority complaints should be made by persons working at the school or by school governors about financial management or financial propriety at the school and how such complaints will be dealt with.

26. Expenditure incurred by a governing body in the exercise of the power conferred by section 27 of the Education Act 2002.