
STATUTORY INSTRUMENTS

2011 No. 371

The School Finance (England) Regulations 2011

PART 3

Formulae for Determination of Budget Shares etc

CHAPTER 1

Factors and Criteria Taken into Account

Pupil numbers

14.—(1) Subject to regulation 16 (special arrangements for pupils in maintained nursery schools and nursery classes and children receiving relevant early years provision) and paragraph (2), in determining and redetermining budget shares for primary and secondary schools, a local authority must ascertain and take into account in their formula 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).

(2) 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, 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 33 of Schedule 3.

(3) Where a local authority exercise their discretion under regulation 15(1) to take into account places, they may also take into account in their formula 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).

(4) 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, hours of attendance;

(d) whether a pupil has special educational needs;

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

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

- (g) whether the pupil, although registered at a school, is also attending an institution within the further education sector or a course delivered by any training provider;
 - (h) 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 33 of Schedule 3);
 - (i) whether the pupil is registered at more than one maintained school.
- (5) The date for ascertaining pupil numbers is 20th January 2011.
- (6) 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 in 2011,

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.

(7) 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 in 2010; and
- (b) must make any such determination before the beginning of the funding period.

(8) 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 permanent exclusion from another school.

Places

15.—(1) In determining and redetermining budget shares, 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 a local authority may take into account the nature of any special educational needs when funding places under paragraph (1)(a) or (b).

(3) If a local authority take into account any places 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 receiving relevant early years provision

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

- (a) budget shares for nursery schools maintained by them,
- (b) amounts to be allocated in respect of nursery classes in schools maintained by them and
- (c) amounts to be allocated to relevant early years providers in their area,

a local authority must take into account in their formula the predicted total number of hours of attendance of registered pupils in the nursery school or nursery class or of children receiving prescribed early years provision from the relevant early years provider, as the case may be, using

as a basis for the calculation the most recent data available about the actual numbers of registered pupils or children.

(2) A local authority must review the budget share for each maintained nursery school and the amount allocated in respect of each nursery class when further information about the hours of attendance becomes available, taking into account—

(a) in the case where the local authority decide to fund only prescribed early years provision—

(i) the predicted total number of hours of attendance of registered pupils in the nursery school or nursery class who will receive prescribed early years provision during the period (using as a basis for the calculation the actual hours of such attendance in each of at least three sample weeks); or

(ii) the actual total number of hours of such attendance for the period;

(b) in the case where the local authority decide to fund early years provision in excess of that which is prescribed—

(i) the predicted total number of hours of attendance of registered pupils in the nursery school or nursery class who will receive early years provision during the period (using as a basis for the calculation the actual hours of such attendance in each of at least three sample weeks); or

(ii) the actual total number of hours of such attendance for the period; and

redetermine that budget share or amount allocated, as the case may be.

(3) A local authority must review the amount allocated to each relevant early years provider, when further information about hours of attendance becomes available, taking into account—

(a) the predicted total number of hours of attendance of children who will receive prescribed early years provision from the relevant early years provider during the period (using as a basis for the calculation the actual hours of such attendance in at least three sample weeks); or

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

redetermine the amount allocated.

(4) Where a local authority make any redetermination pursuant to paragraph (2) or (3) they must give notice to the governing body of the school or the relevant early years provider concerned of the redetermination and the date on which it will be implemented, within 28 days of the redetermination.

(5) When determining budget shares for maintained nursery schools, amounts to be allocated in respect of nursery classes and amounts to be allocated to relevant early years providers in their area, a local authority may weight the predicted total number of hours of attendance of registered pupils in the nursery school or nursery class or of children receiving prescribed early years provision from the relevant early years provider, according to the special educational needs of any such pupils or children.

(6) When determining budget shares for amounts to be allocated to relevant early years providers in their area, a local authority may weight the predicted total number of hours of attendance of children receiving prescribed early years provision from the relevant early years provider, according to whether any children have been admitted to the relevant early years provider in excess of the number agreed with the authority.

(7) When determining—

(a) budget shares for maintained nursery schools,

(b) amounts to be allocated in respect of nursery classes maintained by them and

(c) amounts to be allocated to relevant early years providers,

a local authority may take into account in their formula the number of places they wish to fund in the school, class or provider (instead of the predicted total number of hours of attendance), where those places have been reserved by the authority for children with special educational needs or children in need.

(8) When determining budget shares for schools maintained by them 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 the amount to be allocated in respect of the nursery class in that school under the formula referred to in regulation 9(3).

Differential funding

17.—(1) For the purpose of determining budget shares, a local authority must use factors or criteria which differentiate between different categories or descriptions of school in so far 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.

(2) 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 made by that school's governing body as to the inclusion in their school's budget share of funding in respect of expenditure of the kinds referred to in paragraphs 14 (admissions), 16(a) and (b) (meals), 28 (insurance) and 30 (library services) of Schedule 2.

(3) A local authority may use factors or criteria in their formula which differentiate between maintained nursery schools, primary schools, secondary schools and special schools, or between schools whose pupils are in different age ranges.

(4) For the purpose of determining or redetermining—

- (a) budget shares for maintained nursery schools,
- (b) amounts to be allocated in respect of nursery classes in schools maintained by them and
- (c) amounts to be allocated to relevant early years providers in their area,

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.—(1) Subject to paragraph (2) and regulation 17 (differential funding), in determining budget shares, 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.

(2) In determining budget shares for nursery schools maintained by them, amounts to be allocated in respect of nursery classes in schools maintained by them and amounts to be allocated to relevant early years providers in their area, a local authority—

- (a) must not take into account in their formula any of the factors or criteria set out in paragraphs 23 and 33 in Part 1 of Schedule 3; but
- (b) may take into account in their formula any or all of the factors or criteria set out in Part 2 of Schedule 3.

(3) In determining—

- (a) budget shares for maintained nursery schools,
- (b) amounts to be allocated in respect of nursery classes in schools maintained by them and
- (c) amounts to be allocated to relevant early years providers in their area,

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 the nursery school or in the nursery class or among

children receiving relevant early years provision from the provider, if they have no factor elsewhere in their formula which is based on such incidence.

(4) In determining budget shares for primary and secondary schools, 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 each school if they have no factor elsewhere in their formula which is based on such incidence.

(5) 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 receiving relevant early years provision.

(6) 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.

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

Minimum funding guarantee

19.—(1) Subject to paragraph (3), in determining and redetermining budget shares for schools maintained by them, a local authority must ensure—

- (a) in respect of primary and secondary schools, that an amount equal to the guaranteed funding level is included, calculated in accordance with paragraphs 1–4 of Schedule 4;
 - (b) in respect of special schools, that the formula must provide for a minimum amount of funding, calculated in accordance with paragraph 5 of Schedule 4.
- (2) For the purposes of determining budget shares, 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;
 - (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.—(1) A local authority must include in a secondary school's budget share 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.

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

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

(4) A local authority must redetermine the budget share of a secondary school before the end of the funding period where the authority receive a written notification from the YPLA of a revised allocation in respect of the sum referred to in paragraph (1).

New, reorganised and closing schools

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

- (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 prescribed 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 would be fully implemented; or
- (b) if no such number was indicated, such number as the authority may determine.

Federated schools

22.—(1) Subject to paragraph (2), where two or more schools are federated under section 24 of the 2002 Act, the local authority may treat them as a single school for the purposes of these Regulations and, accordingly, allocate a single budget share to the governing body of the federation.

(2) Where the local authority decide to allocate a single budget share to the governing body of a federation under paragraph (1) and the amount of that share ('X') would be less than would have been allocated to the governing body had the authority allocated a budget share for each school within the federation ('Y'), the authority must adjust X by adding to it an amount which equates to the difference between Y minus X.