
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.

CHAPTER 2

Adjustments, Correction of Errors, and Additional Arrangements Authorised by Schools Forums or the Secretary of State

Pupils permanently excluded from, or leaving, maintained schools

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

(2) The school’s budget share must be reduced by the amount $A \times (B / 52)$ 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.

(3) 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).

(4) The admitting school’s budget share must be increased by an amount which may not be less than the amount $D \times (E / F)$ 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.

(5) 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 $G \times (H / I)$ 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.

(6) 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.

(7) For the purposes of paragraph (2)(a), the amount attributable to a registered pupil is the sum of the amounts determined in accordance with the authority’s formula, by reference to pupil numbers rather than by reference to 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 £3,232 for the funding period).

(8) For the purposes of this regulation, “the relevant date” is the sixth school day following the date on which the pupil has been permanently excluded.

Correction of errors and changes in non-domestic rates

24.—(1) A local authority may, at any time during the funding period, redetermine a school’s budget share or any earlier funding period in order to correct an error in a determination or redetermination under these or any previous Regulations, whether arising from a mistake as to the number of 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.

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

(3) In so far as any redetermination under paragraph (1) would require the amount that would otherwise have been the budget share of a school to be reduced, it may not be reduced to a figure

which is lower than that which could have been allocated to that school under the regulations in force during the funding period in which the error occurred.

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

25.—(1) 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 the Secretary of State may specify in accordance with arrangements approved by him in place of the arrangements provided for by these Regulations.

(2) 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 have 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.

(3) In determining or redetermining budget shares for schools which they maintain, a local authority may, when calculating the guaranteed funding level—

- (a) replace the figure of 0.985 referred to in paragraphs 2, 3 and 5 of Schedule 4 with a higher figure,
- (b) exclude the—
 - (i) Diploma Formula Grant,
 - (ii) targeted elements of the Targeted Support for the Primary National Strategy allocated to schools,
 - (iii) targeted elements of the Targeted Support for the Secondary National Strategy allocated to schools,

from the redetermined adjusted budget share for the previous funding period,

where authorised to do so by their schools forum.

(4) In determining or redetermining budget shares for nursery schools which they maintain or the amounts to be allocated in respect of nursery classes in schools which they maintain, a local authority may disregard regulation 19, where authorised to do so by their schools forum, provided the share or amount allocated includes a notional amount per pupil in respect of mainstreamed grants which is not less than 98.5% of the amount per pupil that was paid to the nursery school or in respect of the nursery class for the previous funding period from any mainstreamed grant.

(5) Unless the contrary intention appears in any authorisations given by the schools forum or the Secretary of State or any arrangements approved by the Secretary of State under any previous regulations, such authorisations or arrangements, as the case may be, continue to apply in relation to the funding period.