

SCHEDULE 2

Regulations 5 and 7

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

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

Expenditure to support grants which fall within the definition of the schools budget

1.—(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 that 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 that 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 the authority have reserved for children with special educational needs.

5. Where a pupil falls within paragraph 4(a) or (b) and—

- (a) 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
- (b) the cost of pupils in places at the primary or secondary school in question is significantly greater than that for the generality of pupils at the primary or secondary school,

the amount by which the expenditure incurred in making the provision specified in the pupil's statement of special educational needs is greater than that incurred in making provision for a pupil who falls within such generality of pupils.

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

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7. Expenditure in respect of pupils with statements of special educational needs or who are within the scope of School Action Plus as described in the Code of Practice(1) issued under section 313 of the 1996 Act, in cases where it would be unreasonable to expect such expenditure to be met from a school's budget share or in cases where it is not met from the general annual grant awarded to an Academy by the YPLA.

8. Expenditure for support services for pupils who have a statement of special educational needs and for pupils with special educational needs who do not have such a statement.

9. Expenditure for the purposes of encouraging—

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

in cases where the local authority consider it would be unreasonable for such expenditure to be met from a school's budget share.

10. 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(2).

11. 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.

12. 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 authority under section 348 of the 1996 Act; or
- (b) at an institution outside England and Wales under section 320 of the 1996 Act.

13. Expenditure on payments to another local authority pursuant to section 493 or 494 of the 1996 Act(3), or section 207 of the 2002 Act (recoupment between authorities).

Access to education

14. Expenditure on the operation of the system of admissions of pupils to schools (including expenditure incurred in carrying out consultations under section 89(2) of the 1998 Act(4), and in establishing, maintaining and consulting representative bodies for the purposes of admissions) and in relation to appeals, provided that, except where the governing body have agreed with the authority that this proviso should not apply to them, or where the authority are satisfied that factors or criteria in their formula already make suitable provision, the authority must—

- (a) allocate to each governing body who are an admission authority, as defined in section 88(1) of the 1998 Act(5), an amount determined by the authority as that reasonably required by the governing body to meet expenditure incurred in connection with the system of

(1) The Special Educational Needs Code of Practice 2001 (ISBN 1 84185 5294).

(2) The definition is in sub-section (2B), which was inserted by the Education Act 1996 (Amendment of Section 19) (England) Regulations 2007 (S.I. 2007/1507).

(3) Section 493 was amended by section 208 of the 2002 Act. Section 494 was amended by section 140(1) of, and paragraph 128 of Schedule 30 to, the 1998 Act and section 117 of, and paragraph 5 of Schedule 18 to, the 2005 Act. Both sections were amended by article 5(1) of, and paragraph 7 of Schedule 2 to the Local Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158).

(4) Section 89 was amended by section 51 of, and Schedule 4 to, the 2002 Act and sections 45 and 56 of the 2006 Act.

(5) Section 88(1) was amended by article 5(1) of, and paragraph 10 of Schedule 2 to, S.I. 2010/1158

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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.

15. Expenditure incurred in connection with the authority's functions under section 85A(6) of the 1998 Act (establishment and maintenance of, and consultation with, admission forums).

16. Expenditure on milk and meals pursuant to section 512, 512ZA, 512ZB(7) or 513 of the 1996 Act falling within the following categories—

(a) expenditure in respect of meals at any primary or special school where the governing body have elected not to receive funding for meals as part of their school's budget share;

(b) expenditure in respect of milk at any school; and

(c) expenditure in respect of milk or meals at any pupil referral unit.

17. Expenditure on the repair and maintenance of a school kitchen where expenditure on meals at that school is deducted from the authority's schools budget pursuant to paragraph 16.

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

19. Expenditure pursuant to section 18 of the 1996 Act(8) in making any grant or other payment in respect of fees or expenses (of whatever nature) which are payable in connection with the attendance of pupils at a school which is not maintained by any local authority.

Staff

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

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

(a) carrying out trade union duties or undergoing training under section 168 and 168A of the Trade Union and Labour Relations (Consolidation) Act 1992(9);

(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(10);

(d) undertaking jury service;

(e) who are safety representatives under the Safety Representatives and Safety Committees Regulations 1977(11);

(f) who are representatives of employee safety under the Health and Safety (Consultation with Employees) Regulations 1996(12);

(g) who are employee representatives for the purposes of Chapter 2 of Part 4 of the Trade Union and Labour Relations (Consolidation) Act 1992, as defined in section 196 of that

(6) Section 85A was inserted by section 46 of the 2002 Act.

(7) Sections 512, 512ZA and 512ZB were substituted for section 512 as originally enacted, by section 201 of the 2002 Act. Section 512ZB(4) was amended by section 28(1) of, and paragraph 16 of Schedule 3 to, the Welfare Reform Act 2007 (c.5) (not yet in force) and section 26 of the Child Poverty Act 2010 (c.9).

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

(9) 1992 c.52. Section 168A was inserted by section 43 of the Employment Act 2002 (c.22).

(10) 1996 c.18.

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

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

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Act or regulation 13(3) of the Transfer of Undertakings (Protection of Employment) Regulations 2006⁽¹³⁾;

- (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⁽¹⁴⁾;
- (j) suspended from working at a school;
- (k) who are members of the General Teaching Council for England or one of its committees; 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.

22. Expenditure on Advanced Skills Teachers undertaking outreach work in a school other than that in which they are normally based.

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

24. 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.

25. 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.

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

Other expenditure

27. Expenditure on early years provision, excluding expenditure—

- (a) on such provision at a maintained school; and
- (b) on relevant early years provision.

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

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

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

- (a) funding for library services in respect of a particular school was delegated before April 1999 and remains delegated; or
- (b) the governing body of any primary or special school have elected to receive funding for library services as part of their school's budget share.

(2) Where a local authority deduct funding under sub-paragraph (1), they must—

⁽¹³⁾ S.I. 2006/246, amended by S.I. 2010/93.

⁽¹⁴⁾ 1996 c.14.

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- (a) notify the governing body of each school not receiving funding for library services in its budget share of the amount attributable to library services for that school; and
- (b) allow the governing bodies of these schools to determine whether the expenditure on library services in respect of their school is to be spent by—
 - (i) the authority in themselves providing library services to the school or
 - (ii) the authority procuring library services from another local authority.

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

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

33. 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.

34. Expenditure for purposes not falling within any other paragraph of this Schedule, provided that the expenditure does not amount in total to more than 0.1% of the authority's schools budget.

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

36. Expenditure on practical and applied learning not met from maintained schools' budget shares.

37. Expenditure on—

- (a) prudential borrowing;
- (b) termination of employment costs, where the schools forum has approved the charging of these costs to the schools budget for the funding period in which they were incurred and the revenue savings achieved by the termination of employment to which they relate are equal to or greater than the costs incurred;
- (c) combined services where the expenditure relates to classes or descriptions of expenditure falling outside those set out in this Schedule;
- (d) the schools' specific contingency; and
- (e) special educational needs transport costs,

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

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

39. Expenditure on the purchase of CRC allowances.

40. Expenditure for the purposes of—

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

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