

## SCHEDULE 1

Regulation 3

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

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

#### Special educational provision

1. Expenditure on services provided by educational psychologists.
2. Expenditure in connection with the authority's functions under sections 321 to 331 of the 1996 Act (which functions relate to the identification and assessment of children with special educational needs and the making, maintaining and reviewing of statements for such children).
3. Expenditure on monitoring the provision for pupils in schools (whether or not maintained by the authority) for the purposes of disseminating good practice in relation to, and improving the quality of educational provision for, children with special educational needs.
4. Expenditure on collaboration with other statutory and voluntary bodies to provide support for children with special educational needs.
5. Expenditure in connection with—
  - (a) the provision of parent partnership services (that is services provided under section 332A of the 1996 Act to give advice and information to parents of children with special educational needs), or other guidance and information to such parents which, in relation to pupils at a school maintained by the authority, are in addition to the information usually provided by the governing bodies of such schools; or
  - (b) arrangements made by the authority with a view to avoiding or resolving disagreements with the parents of children with special educational needs.
6. Expenditure on carrying out the authority's child protection functions under the Children Act 1989, functions under section 175 of the 2002 Act, and other functions relating to child protection.
7. Expenditure incurred in entering into, or subsequently incurred pursuant to, an arrangement under section 31 of the Health Act 1999<sup>(1)</sup> or regulations made under section 75 of the National Health Service Act 2006<sup>(2)</sup> (arrangements between NHS bodies and local authorities).
8. Expenditure on the provision of special medical support for individual pupils in so far as such expenditure is not met by a Primary Care Trust, National Health Service Trust, NHS foundation trust or Local Health Board.

#### School improvement

9. Expenditure incurred by a local authority in respect of action to support the improvement of standards in the authority's schools, in particular expenditure incurred in connection with functions under the following sections of the 2006 Act—
  - (a) section 60 (performance standards and safety warning notice),
  - (b) section 60A (teachers' pay and conditions warning notice),

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(1) 1999 c.8. Section 31 was repealed by section 6 of, and Schedule 4 to, the National Health Service (Consequential Provisions) Act 2006 (c.43) but section 4 of, and paragraph 1 of Schedule 2 to, that Act contains a savings provision which means that arrangements made under section 31 of the 1999 Act continue to have effect as if made under section 75 of the National Health Service Act 2006.

(2) 2006 c. 41.

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- (c) section 63 (power of local authority to require governing bodies of schools eligible for intervention to enter into arrangements),
- (d) section 64 (power of local authority to appoint additional governors),
- (e) section 65 (power of local authority to provide for governing bodies to consist of interim executive members) and Schedule 6; and
- (f) section 66 (power of local authority to suspend right to delegated budget).

## **Access to education**

### **10.** Expenditure in relation to the following matters—

- (a) management of the authority’s capital programme including preparation and review of an asset management plan and negotiation and management of private finance transactions;
- (b) planning and managing the supply of school places, including the authority’s functions in relation to the establishment, alteration or discontinuance of schools pursuant to Part 2 of, and Schedule 2 to, the 2006 Act;
- (c) the authority’s functions in relation to the exclusion of pupils from schools, excluding any provision of education to excluded pupils, but including advice to the parents of such pupils;
- (d) the authority’s functions under sections 508A, 508E and 509 (school travel) of the 1996 Act; and
- (e) the authority’s functions under sections 510 and 514 of the 1996 Act (provision and administration of clothing grants and boarding grants), and pursuant to regulations made under section 518(2) of the 1996 Act.

**11.** Expenditure arising from the authority’s functions under Chapter 2 of Part 6 of the 1996 Act (school attendance).

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

**13.** Expenditure on discretionary grants paid under section 1(6) or 2 of the Education Act 1962(3) (awards for designated and other courses).

**14.** Expenditure on the payment of 16-19 Bursaries(4).

**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.

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(3) 1962 c.12. The 1962 Act was repealed by the Teaching and Higher Education Act 1998 (c.30) with transitional savings provisions. The repeal does not affect the continued operation of the provisions that relate to the making of subordinate legislation. Relevant regulations made under section 1(1) of the 1962 Act are the Education (Mandatory Awards) Regulations 2003 (S.I. 2003/1994), as amended by S.I. 2004/1038 and 2004/1792). These Regulations describe the designated courses and methodology for calculating grants.

(4) A 16-19 Bursary is financial assistance under section 14 of the 2002 Act paid to, or in respect of, a person who is aged 16 to 19 in connection with his undertaking any course or training.

### **Additional education and training for children, young persons and adults**

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

19. Expenditure on the provision by the local authority under sections 507A and 507B of the 1996 Act of recreation, social and physical training, educational leisure-time activities and recreational leisure-time activities.

### **Strategic management**

20. Expenditure on education functions related to—

- (a) functions of the director of children's services and the personal staff of the director;
- (b) planning for the education service as a whole;
- (c) functions of the authority under Part I of the Local Government Act 1999<sup>(5)</sup> (Best Value) and the provision of advice to assist governing bodies in procuring goods and services with a view to securing continuous improvement in the way the functions of those governing bodies are exercised, having regard to a combination of economy, efficiency and effectiveness;
- (d) revenue budget preparation, preparation of information on income and expenditure relating to education for incorporation into the authority's annual statement of accounts, and the external audit of grant claims and returns relating to education;
- (e) administration of grants to the authority (including preparation of applications), functions imposed by or under Chapter IV of Part 2 of the 1998 Act (financing of maintained schools) 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 related financial administration;
- (g) the formulation and review of the methods of allocation of resources to schools and other bodies;
- (h) the authority's monitoring of compliance with the requirements of their financial scheme prepared under section 48 of the 1998 Act, and any other requirements in relation to the provision of community facilities by governing bodies under section 27 of the 2002 Act;
- (i) 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<sup>(6)</sup>;
- (j) the authority's functions under regulations made under section 44 of the 2002 Act<sup>(7)</sup>;
- (k) 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;
- (l) 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;

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<sup>(5)</sup> 1999 c. 27.

<sup>(6)</sup> 1972 c. 70.

<sup>(7)</sup> The Consistent Financial Reporting (England) Regulations 2003 (S.I. 2003/373, as amended by S.I. 2004/393, 2006/437, 2007/599 and 2008/46.

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- (m) 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;
- (n) 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;
- (o) 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, including in particular advice with reference to alterations in remuneration, conditions of service and the collective composition and organisation of such staff;
- (p) determination of conditions of service for non-teaching staff, and advice to schools on the grading of such staff;
- (q) the authority's functions regarding the appointment or dismissal of employees;
- (r) 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;
- (s) compliance with the authority's duties under the Health and Safety at Work etc Act 1974<sup>(8)</sup> 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 performance of such tasks by governing bodies and, where necessary, the giving of advice to them;
- (t) the investigation and resolution of complaints;
- (u) legal services relating to the statutory functions of the authority;
- (v) the preparation and review of plans involving collaboration with other local authority services or with public or voluntary bodies;
- (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 functions pursuant to regulations made under section 12 of the 2002 Act (supervising authorities of companies formed by governing bodies); and
- (y) the authority's functions under the discrimination provisions of the Equality Act 2010<sup>(9)</sup> 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.

### **Other functions**

**21.** Expenditure in pursuance of a binding agreement, where the other party is a local authority, or the other parties include one or more local authorities, in relation to the operation of a facility provided partly, but not solely, for the use of schools.

**22.** Expenditure on establishing and maintaining those electronic computer systems, including data storage, which are intended primarily to maintain linkage between local authorities and their schools.

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<sup>(8)</sup> 1974 c.37.

<sup>(9)</sup> 2010 c.15.

**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<sup>(10)</sup> or in the reconsideration and preparation of an agreed syllabus of religious education in accordance with Schedule 31 to the 1996 Act.

**25.** Expenditure in respect of the dismissal or premature retirement of, or for the purpose of securing the resignation of, or in respect of acts of discrimination against, any person except to the extent that these costs are chargeable to schools' budget shares or fall within paragraph 36(b) of Schedule 2.

**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.

**28.** Expenditure on the appointment of governors, the making of instruments of government, the payment of expenses to which governors are entitled and which are not payable from a school's budget share, and the provision of information to governors.

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

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

**31.** Expenditure in connection with powers and duties performed under Part 2 of the Children and Young Persons Act 1933<sup>(11)</sup> (enforcement of, and power to make byelaws in relation to, restrictions on the employment of children).

## 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 unless otherwise stated.

#### **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.

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<sup>(10)</sup> Section 390 was amended by section 140(1) of, and paragraph 93 of Schedule 20 to, the 1998 Act.

<sup>(11)</sup> 1933 c.12.

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### **Threshold and performance pay**

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

### **Special educational provision**

3. Subject to paragraphs 4 and 5, 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.

4. Where a pupil falls within paragraph 3(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.

5. Expenditure on making the provision specified in a pupil's statement of special educational needs where the pupil falls within paragraph 3(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.

6. 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<sup>(12)</sup> 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 paid to an Academy by the YPLA or the Secretary of State.

7. Expenditure on 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.

8. 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.

9. Expenditure incurred 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<sup>(13)</sup>.

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<sup>(12)</sup> The Special Educational Needs Code of Practice 2001 (ISBN 1 84185 5294).

<sup>(13)</sup> 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).

**10.** Expenditure (other than expenditure referred to in Schedule 1 or any other paragraph of this Schedule) incurred on services relating to the education of children with behavioural difficulties, and on other activities for the purpose of avoiding the exclusion of pupils from schools.

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

- (a) at independent schools or at special schools which are not maintained by a local authority under section 348 of the 1996 Act; or
- (b) at an institution outside England and Wales under section 320 of the 1996 Act.

**12.** Expenditure on payments to another local authority pursuant to section 493 or 494 of the 1996 Act<sup>(14)</sup>, or section 207 of the 2002 Act (recoupment between authorities).

### **Access to education**

**13.** Expenditure on the operation of the system of admissions of pupils to schools (including expenditure incurred in carrying out consultations under section 88C(2) of the 1998 Act<sup>(15)</sup>) 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—

- (a) allocate to each governing body who are an admission authority, as defined in section 88(1) of the 1998 Act<sup>(16)</sup>, an amount determined by the authority as 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 on milk and meals pursuant to section 512, 512ZA, 512ZB<sup>(17)</sup> 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.

**15.** 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 15.

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

**17.** Expenditure pursuant to section 18 of the 1996 Act<sup>(18)</sup> 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.

**18.** Remission of boarding fees payable in connection with the attendance of pupils at maintained schools and Academies.

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<sup>(14)</sup> 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).

<sup>(15)</sup> Section 88C(2) was amended by section 51 of, and Schedule 4 to, the 2002 Act and sections 45 and 56 of the 2006 Act.

<sup>(16)</sup> Section 88(1) was inserted by section 151(1) and (4) of the Education and Skills Act 2008 (c.25).

<sup>(17)</sup> 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), sections 9(3)(b) and 58(1) and Part 1 of Schedule 7 to the Welfare Reform Act 2009 (c.24) (not yet in force) and section 26 of the Child Poverty Act 2010 (c.9).

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

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## Staff

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

20. Expenditure on making payments to, or in providing a temporary replacement for, any person—

- (a) carrying out trade union duties or undergoing training under section 168 and 168A of the Trade Union and Labour Relations (Consolidation) Act 1992(19);
- (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(20);
- (d) undertaking jury service;
- (e) who is a safety representatives under the Safety Representatives and Safety Committees Regulations 1977(21);
- (f) who is a representative of employee safety under the Health and Safety (Consultation with Employees) Regulations 1996(22);
- (g) who is an employee representative for the purposes of Chapter 2 of Part 4 of the Trade Union and Labour Relations (Consolidation) Act 1992, as defined in section 196 of that Act or regulation 13(3) of the Transfer of Undertakings (Protection of Employment) Regulations 2006(23);
- (h) taking time off for ante-natal care under section 55 of the Employment Rights Act 1996;
- (i) undertaking duties as a member of the reserve forces as defined in section 1(2) of the Reserve Forces Act 1996(24);
- (j) suspended from working at a school; or
- (k) who is appointed a learning representative of a trade union, in order for that person 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 a school other than that in which they are normally based.

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

23. Expenditure on making payments to, or in providing a temporary replacement for, persons who have been continuously absent from work because of illness for 21 days or more.

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

25. Expenditure on pay arrears due to staff employed at maintained schools and other staff whose salaries are met from the schools budget, and expenditure on the costs of financing payment of such

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(19) 1992 c.52. Section 168A was inserted by section 43 of the Employment Act 2002 (c.22).

(20) 1996 c.18.

(21) 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.

(22) 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.

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

(24) 1996 c.14.



arrears, where the expenditure is not chargeable to a maintained school's budget share under the terms of the local authority's scheme.

### **Other expenditure**

**26.** Expenditure on early years provision, excluding expenditure—

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

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

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

**29.**—(1) Subject to paragraph (2), expenditure on library services for primary and special schools, provided that the local authority—

- (a) notify the governing body of each school which does not receive 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 those 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.

(2) Expenditure of the description referred to in paragraph (1) 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.

**30.** Expenditure on licence fees or subscriptions paid on behalf of schools.

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

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

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

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

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

**36.** Expenditure on—

- (a) prudential borrowing;
- (b) termination of employment costs, 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;

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- (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 37 of Schedule 2 to the 2011 Regulations for the previous funding period.

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

**38.** Expenditure on the purchase of CRC allowances.

**39.** Expenditure for the purposes of—

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

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

**40.** Expenditure on the writing-off of deficits of schools which are discontinued, excluding any associated administrative costs and overheads.

### SCHEDULE 3

Regulation 18

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

#### PART 1

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

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

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

**4.** Admission arrangements at a school.

**5.** The size, condition and characteristics of a school's buildings and grounds relative to those of other schools maintained by the local authority.

**6.** Where a school has a split site the funding must be in accordance with criteria published by the authority.

**7.** Such physical facilities, organisational facilities or communications facilities as are found at some schools only.

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

**9.** Use of energy by schools.

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

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

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

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

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

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

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

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

**17.** School milk, meals and other refreshment: the authority may not attribute a negative value to any element of this factor.

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

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

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

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

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

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

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

**25.** Effect of taxation on schools.

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

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**27.** 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(25).

**28.** Incidence of qualified teachers(26) who have been qualified for fewer than twelve months (“NQTs”).

**29.** 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.

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

**31.** Prior attainment of pupils entering a school.

**32.** Advanced Skills Teachers employed at a school.

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

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

**35.** Payments in respect of gifted and talented pupils.

**36.** Any amount which replicates part of or all of the cash value or formulaic calculation of any sum paid to a school from a specific grant in an earlier funding period, where this specific grant was a mainstreamed grant.

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

**38.** In this Part, any reference to—

- (a) “pupils” includes children receiving early years provision;
- (b) “school” includes a relevant early years provider;
- (c) “school premises” includes premises used by a relevant early years provider, whether or not the early years provider is a school.

## PART 2

Applicable only to budget shares for, and amounts to be allocated to, providers of prescribed early years provision

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

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

**41.** The need to secure or sustain a sufficiency of prescribed early years provision within the authority’s area or any sub-area within that area; and in this paragraph “sub-area” means—

- (a) an electoral division or ward of the authority; or
- (b) such other appropriate geographical division into which the authority have notionally divided their area.

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(25) [S.I. 2002/378](#), amended by [S.I. 2004/444](#) and [2010/190](#).

(26) Qualified teacher has the meaning in regulation 5 of the Education (School Teachers’ Qualifications) (England) Regulations 2003 ([S.I. 2003/1662](#), amended by section 74 of the 2005 Act, [S.I. 2007/2782](#) and [2009/3156](#)).

## SCHEDULE 4

Regulation 19

### MINIMUM FUNDING GUARANTEE

#### Primary and secondary schools

1. In this paragraph and paragraphs 2 to 4—
  - (a) references to the number of pupils exclude those funded by a sixth form grant;
  - (b) the “relevant number” of pupils for the previous funding period is the number of registered pupils at the school on 20th January 2011;
  - (c) subject to paragraphs 3 and 4, the “relevant number” of pupils for the funding period is the number of pupils at the school on 19th January 2012;
  - (d) references to a redetermined adjusted budget share for the previous funding period include the effect of any additional arrangement approved by the schools forum or the Secretary of State under regulation 25 of the 2011 Regulations, but exclude the following—
    - (i) any amounts included pursuant to regulations 20 (sixth form funding), 23 (excluded pupils) and 24 (correction of errors) of the 2011 Regulations,
    - (ii) any amount included in respect of paragraphs 8 (rates), 14 (PFI), 28 (NQTs) and 33 (ICS) of Schedule 3 to the 2011 Regulations, and
    - (iii) any amounts in respect of funding for named pupils which are deducted from a school’s budget share when those pupils leave the school, excluding amounts for the cost of providing free school meals;
  - (e) references to a redetermined adjusted budget share include the effect of any additional arrangements approved by the schools forum or the Secretary of State under regulation 25 (additional arrangements), but exclude the following—
    - (i) any amounts included pursuant to regulation 20 (sixth form funding) and 23 (excluded pupils),
    - (ii) any amounts included in respect of paragraphs 8 (rates), 14 (PFI), 28 (NQTs) and 33(ICS) of Schedule 3; and
    - (iii) any amounts in respect of funding for named pupils which are deducted from a school’s budget share when those pupils leave the school, excluding amounts for the cost of providing free school meals;
  - (f) for the purposes of this Schedule—
    - (i) where a school has opened during the previous funding period, its redetermined adjusted budget share for the previous funding period is the amount that it would have been had the school opened on 1st April 2011,
    - (ii) where a school opens during the funding period, its redetermined adjusted budget share for the funding period is the amount that it would have been had the school opened on 1st April 2012,adjusted in accordance with sub-paragraph (d) or (e), whichever is applicable.
2. Subject to paragraphs 3 and 4, the guaranteed funding level is to be calculated as follows for the funding period—
  - (a) where the relevant number of pupils is the same as the relevant number for the previous funding period, the guaranteed funding level is A,
  - (b) where the relevant number of pupils is lower than the relevant number for the previous funding period, the guaranteed funding level is  $A - (B \times C)$ ,

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- (c) where the relevant number of pupils is higher than the relevant number for the previous funding period, the guaranteed funding level is  $A + (B \times C)$ ;

where—

A is, in respect of the funding period, the redetermined adjusted budget share for the previous funding period multiplied by 0.985 in respect of primary schools and secondary schools,

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

C is, in respect of the funding period, the mean value of funding per pupil in the school's redetermined adjusted budget share for the previous funding period (calculated using pupil numbers on 20th January 2011) multiplied by  $0.985 \times 0.80$  in respect of primary schools and by  $0.985 \times 0.875$  in respect of secondary schools.

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

- (a) where the relevant number of pupils in the funding period is the same as the relevant number for the previous funding period, the guaranteed funding level is A,
- (b) where the relevant number of pupils in the funding period is lower than the relevant number of pupils for the previous funding period, the guaranteed funding level is  $A - (B \times D/E \times 0.985)$  in respect of primary schools and secondary schools,
- (c) where the relevant number of pupils in the funding period is higher than the relevant number of pupils for the previous funding period, the guaranteed funding level is  $A + (B \times D/E \times 0.985)$  in respect of primary schools and secondary schools;

where—

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

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

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

(2) For the purposes of this paragraph, "the relevant number of pupils" means, in respect of the funding period, the number of pupils registered at the school on 19th January 2012 and, in respect of the previous funding period, the number of pupils registered at the school on 20th January 2011.

**4.** Where a school opens during the funding period, and is a replacement for two or more schools being discontinued during the funding period, its guaranteed funding level must be calculated in accordance with paragraph 2, save that the figure in respect of the new school's redetermined adjusted budget share for the previous funding period is to be determined using the sum of the relevant number of pupils in the discontinued schools for the previous funding period as the relevant number for the purposes of paragraph 1(b).

### **Special schools**

**5.—(1)** A local authority must provide in their formula that any amount allocated in accordance with regulation 15(1)(a) in respect of a place at a special school for the funding period must be at least 0.985 multiplied by the amount initially determined in relation to the previous funding period, in respect of a place appropriate to a pupil with the same characteristics at that school under regulation 15(1)(a) of the 2011 Regulations.

(2) That portion of the redetermined budget share of a special school for the funding period calculated otherwise than in accordance with regulation 15 (but not including adjustments due under

regulation 23 (excluded pupils)) must be at least 0.985 multiplied by that portion of the initially determined budget share for the previous funding period calculated otherwise than in accordance with regulation 15 of the 2011 Regulations (excluding adjustments due under regulation 23 (excluded pupils) of those Regulations).

6. For the purposes of this Schedule, “PFI” means Private Finance Initiative and “ICS” means Infant Class Sizes.

## SCHEDULE 5

Regulation 26

### CONTENTS OF SCHEMES

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

1. The carrying forward from one funding period to another of surpluses and deficits arising in relation to schools’ budget shares.
2. Amounts which may be charged against schools’ budget shares.
3. Amounts received by schools which may be retained by their governing bodies and the purposes for which such amounts may be used.
4. The imposition, by or under the scheme, of conditions which must be complied with by schools in relation to the management of their delegated budgets and of sums made available to governing bodies by the authority which do not form part of delegated budgets, including conditions prescribing financial controls and procedures.
5. Terms on which services and facilities are provided by the authority for schools maintained by them.
6. The payment of interest by or to the authority.
7. The times at which amounts equal in total to the school’s budget share are to be made available to governing bodies and the proportion of the budget share to be made available at each such time.
8. The virement between budget heads within the delegated budget.
9. Circumstances in which a local authority may delegate to the governing body the power to spend any part of the authority’s non-schools education budget or schools budget in addition to those set out in section 49(4)(a) to (c) of the 1998 Act<sup>(27)</sup>.
10. The use of delegated budgets and of sums made available to a governing body by the local authority which do not form part of delegated budgets.
11. Borrowing by governing bodies.
12. The banking arrangements that may be made by governing bodies.
13. A statement as to the personal liability of governors in respect of schools’ budget shares having regard to section 50(7) of the 1998 Act.
14. A statement as to the allowances payable to governors of a school which does not have a delegated budget in accordance with the scheme made by the authority for the purposes of section 519 of the 1996 Act<sup>(28)</sup>.

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<sup>(27)</sup> Section 49(4) was amended by section 215 of, and paragraph 100 of Schedule 21 to, the 2002 Act.

<sup>(28)</sup> Section 519 was amended by section 140 of, and paragraph 139 of Schedule 2 to, the 1998 Act.

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15. The keeping of a register of any business interests of the governors and the head teacher.
16. The provision of information by and to the governing body.
17. The maintenance of inventories of assets.
18. Plans of a governing body's expenditure.
19. A statement as to the taxation of sums paid or received by a governing body.
20. Insurance.
21. The use of delegated budgets by governing bodies so as to satisfy the authority's duties imposed by or under the Health and Safety at Work etc Act 1974.
22. The provision of legal advice to a governing body.
23. Funding for child protection issues.
24. How complaints by persons working at a school or by school governors about financial management or financial propriety at the school will be dealt with and to whom such complaints should be made.
25. Expenditure incurred by a governing body in the exercise of the power conferred by section 27 of the 2002 Act.