SCHEDULE 1 Regulation 4

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

Special educational provision

1. Expenditure on services provided by educational psychologists.

2. Expenditure in connection with the local authority's functions under—

(a) 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); and

(b) sections 22, 36, 37 and 44 of the 2014 Act (which functions relate to the identification of children and young people with special educational needs and disabilities; the assessment of education, health and care needs; and the preparation and review of EHC plans).

3. Expenditure on monitoring the provision for pupils in schools 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 32 of the 2014 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; and

(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 1989 Act, functions under section 175 of the 2002 Act (duties in relation to welfare of children), and other functions relating to child protection.

7. Expenditure incurred in entering into, or subsequently incurred under, an arrangement under section 31 of the Health Act 1999(**1**) or regulations made under section 75 of the National Health Service Act 2006(**2**) (arrangements between NHS bodies and local authorities).

Schools causing concern

8. Expenditure incurred by a local authority in connection with functions under the following sections of the 2006 Act—

(a) section 60(**3**) (performance standards and safety warning notice);

(b) section 60A(**4**) (teachers' pay and conditions warning notice);

(**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.

(**3**) Section 60 was amended by section 203 of, and paragraph 3 of Schedule 13 to, the 2009 Act, and by section 2 of the Education and Adoption Act 2016 (c. 6) ("the 2016 Act").

(**4**) Section 60A was inserted by section 203 of, and paragraph 4 of Schedule 13 to, the 2009 Act, and by section 3 of the 2016 Act.

(c) section 63(**5**) (power of local authority to require governing bodies of schools eligible for intervention to enter into arrangements);

(d) section 64(**6**) (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(**7**) (power of local authority to suspend right to delegated budget).

Access to education

9. Expenditure in relation to planning and managing the supply of school places, including the authority's functions in relation to the establishment, alteration or discontinuance of schools under Part 2 of, and Schedule 2 to, the 2006 Act.

10. Expenditure in relation to the authority's functions under sections 508A to 509A(**8**) of the 1996 Act.

11. Expenditure on the provision of support for students under regulations made under section 1(1) of the Education Act 1962(**9**) and under section 22 of the Teaching and Higher Education Act 1998(**10**).

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

13. Expenditure on the payment of 16-19 Bursaries(**11**).

Additional education and training for children, young persons and adults

14. Expenditure on the provision of education and training and of organised leisure time occupation, and other provision under sections 15ZA, 15ZC and 15B of the 1996 Act(**12**).

15. Expenditure on the provision by the local authority under sections 507A and 507B of the 1996 Act(**13**) of recreation, social and physical training, educational leisure time activities and recreational leisure time activities.

Other functions

16. 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.

(**5**) Section 63 was amended by section 203 of, and paragraphs 5(2) and 5(3) of Schedule 13 to, the 2009 Act, and by section 2 of the 2016 Act.

(**6**) Section 64 was amended by section 203 of, and paragraphs 6(2) to 6(5) of Schedule 13 to, the 2009 Ac, and by sections 3 and 6 of the 2016 Act.

(**7**) Section 66 was amended by section 203 of, and paragraphs 7(a) and (b) of Schedule 13 to, the 2009 Act, and by sections 2 and 3 of the 2016 Act.

(**8**) Section 508A to 509A were inserted by sections 57 and 76 to 78 of the 2006 Act and amended by section 103(1) of, and paragraph 23 of Schedule 2 to, the Childcare Act 2006 and section 54 of, and paragraphs 9(1) to 9(12) of Schedule 13 to, the Education Act 2011.

(**9**) 1962 c. 12. The Education Act 1962 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 Education Act 1962 are the Education (Mandatory Awards) Regulations 2003 (S.I. 2003/1994), as amended by S.I. 2004/1038 and S.I. 2004/1792. These regulations describe the designated courses and methodology for calculating grants.

(**10**) 1998 c.30.

(**11**) 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 undertaking any course or training.

(**12**) Sections 15ZA and 15ZC were inserted by section 41 of the 2009 Act. Section 15B was inserted by section 149 of, and Schedule 9 to, the Learning and Skills Act 2000 (c. 21).

(**13**) Sections 507A and 507B were inserted by section 6(1) of the 2006 Act.

17. Expenditure on making pension payments, other than in respect of staff employed in maintained schools.

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

SCHEDULE 2 Regulations 6 and 8

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

PART 1

Historic commitments

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

2. Expenditure in respect of—

(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) services (often known as combined budgets) funded partly from central expenditure and partly from other budgets of the local authority or contributions from other bodies, where the expenditure relates to classes or descriptions of expenditure falling outside those in this Schedule;

(d) special educational needs transport costs; and

(e) 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,

which was approved by the schools forum or the Secretary of State before 1st April 2013.

3. Any deductions under any of paragraphs 1 and 2(a), 2(b), 2(c), 2(d) and 2(e) must not exceed the amount deducted under each of the corresponding paragraphs of Part 1 of Schedule 2 to the 2017 Regulations for the previous funding period.

PART 2

Central Schools Expenditure

4. Expenditure due to a significant growth in pupil numbers as a result of the local authority's duty under section 13(1) of the 1996 Act to secure that efficient primary education and secondary education are available to meet the needs of the population of its area, including expenditure resulting from the additional costs associated with establishing a new school.

5. Expenditure to be incurred due to a decline in pupil numbers in—

(a) schools maintained by the authority which were awarded either the highest or the second highest grade in their last inspection under section 5 of the 2005 Act, including those inspected during the funding period; and

(b) academies that have not previously been inspected under section 5 of the 2005 Act and have a predecessor school or schools which were awarded the highest or second highest grade in their last inspection under section 5 of the 2005 Act, including those inspected during the funding period,

where funding is likely to be necessary due to subsequent growth in pupil numbers at such schools before the end of the next three financial years after the funding period.

6. Expenditure to be incurred before the opening of new schools to fund the appointment of staff and to enable the purchase of any goods and services necessary in order to admit pupils.

7. Expenditure to make provision for extra classes in order to comply with the School Admissions (Infant Class Sizes) (England) Regulations 2012(**14**).

8. Expenditure on licences which are negotiated centrally by the Secretary of State for all publicly funded schools.

9. 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) and in relation to appeals.

10. Expenditure under section 18 of the 1996 Act(**15**) 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.

11. Remission of boarding fees payable in connection with the attendance of pupils at maintained schools and academies under sections 458 or 514 of the 1996 Act or section 10A of the 2010 Act.

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

13. 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.

PART 3

Other Central Education Expenditure

Asset management

14. Expenditure in connection with education functions in relation to the following areas of expenditure—

(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; and

(b) landlord responsibilities of the authority (including in relation to land leased to academies),

which is not within the description of expenditure at paragraph 77.

(**14**) S.I. 2012/10.
(**15**) Section 18 was amended by article 5(1) of, and paragraph 7 of Schedule 2 to, S.I. 2010/1158.

Strategic management

15. 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) authorisation and monitoring of expenditure which is not met from the budget shares of schools maintained by the authority, and all related financial administration;

(d) the formulation and review of the methods of allocating resources to schools maintained by the authority, and other bodies;

(e) 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(**16**) in so far as the responsibilities do not relate to maintained schools; and

(f) the preparation and review of plans involving collaboration with other local authority services or with public or voluntary bodies.

Other functions

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

17. 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(**17**) or on the reconsideration and preparation of an agreed syllabus of religious education in accordance with Schedule 31 to the 1996 Act.

18. Expenditure in connection with powers and duties performed under Part 2 of the Children and Young Persons Act 1933(**18**) (enforcement of, and power to make byelaws in relation to, restrictions on the employment of children).

19. Expenditure in relation to consultation and functions preparatory to consultation with or by governing bodies, pupils, or with other interested bodies in connection with education functions, which is not within the description of expenditure at paragraph 67 of this Schedule.

20. Expenditure on the authority's functions in relation to the exclusion of pupils from schools.

21. Expenditure in relation to provision of information to or at the request of the Crown and the provision of other information which the authority is under a duty to make available, which is not within the description of expenditure at paragraph 69 of this Schedule.

22. Expenditure on education functions related to 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, that is not within the description of expenditure at paragraph 74 of this Schedule.

23. Expenditure in connection with the authority's duty under regulation 9A of the School Information (England) Regulations 2008(**19**).

(**16**) 1972 c.70.
(**17**) Section 390 was amended by section 140(1) of, and paragraph 93 of Schedule 20 to, the 1998 Act.
(**18**) 1933 c.12.
(**19**) SI. 2008/ 3093. Regulation 9A was inserted by S.I. 2017/37.

PART 4

Central Early Years Expenditure

24. Expenditure on early years provision, excluding expenditure—

(a) on such provision in a maintained school;

(b) on relevant early years provision;

(c) on community early years provision; and

(d) on excluded early years provision.

25. Expenditure on determining—

(a) the eligibility for free school meals of a pupil who is being provided with early years provision;

(b) the eligibility of a child for funded early years provision;

(c) the eligibility of a child for the early years pupil premium; or

(d) the eligibility of a child for the disability access fund.

26. Expenditure on an early years contingency fund, for subsequent distribution to providers of funded early years provision, as a result of the attendance of an additional number of children.

PART 5

Children And Young People With High Needs

27. Expenditure in respect of pupils with special educational needs in primary and secondary schools, and children with special educational needs in relevant early years providers, and those being provided with community early years provision, excluding expenditure—

(a) in respect of pupils in places which the authority has reserved for children with special educational needs; or

(b) where it would be reasonable to expect such expenditure to be met from a maintained school's budget share, the amount allocated to a relevant early years provider or the general annual grant paid to an academy by the Secretary of State.

28. Expenditure in respect of pupils—

(a) with special educational needs at special schools and special academies; or

(b) in places at primary or secondary schools which the authority has reserved for children with special educational needs,

where the expenditure cannot be met from the sum referred to in regulation 14(1) or 14(2) or where it would be unreasonable to expect such expenditure to be met from a maintained school's budget share or the general annual grant paid to an academy by the Secretary of State.

29. Expenditure in respect of persons provided with further education who are—

(a) aged under 19 and have special educational needs; or

(b) aged over 18 but under 25 and are subject to an EHC plan, and are not attending a maintained school, an Academy school, an alternative provision Academy, a non-maintained special school, or an independent school.

30. Expenditure on support services for children who have attained compulsory school age and for young people who are subject to an EHC plan or have a statement of special educational needs,

and for such children and young people with special educational needs who do not have such a plan or statement.

31. Expenditure on services for children who have not attained compulsory school age and are subject to an EHC plan, and for such children with special educational needs who do not have such a plan.

32. Expenditure for the purposes of encouraging—

(a) collaboration between special schools and primary and secondary schools to enable children and young people with special educational needs to engage in activities at primary and secondary schools;

(b) the education of children and young people with special educational needs at primary and secondary schools; and

(c) the engagement of children and young people with special educational needs at primary and secondary schools in activities at the school with children and young people who do not have special educational needs,

in cases where the local authority considers it would be unreasonable for such expenditure to be met from a maintained school's budget share or the general annual grant paid to an academy by the Secretary of State.

33. 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, where the expenditure cannot be met from the sum referred to in regulation 14(3) and, in the case of an alternative provision academy, where it would be unreasonable to expect such expenditure to be met from the general annual grant paid to such an academy by the Secretary of State.

34. Expenditure on the payment of fees in respect of children and young people with special educational needs—

(a) at independent schools or at special schools which are not maintained by a local authority under section 63 of the 2014 Act; or

(b) at an institution outside England and Wales under section 320 of the 1996 Act or section 62 of the 2014 Act.

35. Expenditure on hospital education services, aside from expenditure on hospital education places referred to in regulation 14.

36. Expenditure on special schools and pupil referral units in financial difficulty.

37. Expenditure on costs in connection with private finance initiatives and the programme known as "Building Schools for the Future" at—

(a) maintained schools which provide secondary education falling within the description in section 2(2A) of the 1996 Act;

(b) special schools;

(c) special academies;

(d) pupil referral units;

(e) alternative provision academies; and

(f) 16 to 19 academies(**20**).

38. Expenditure on the purchase of CRC Energy Efficiency Scheme allowances operated by the Environment Agency for pupil referral units.

(**20**) For the meaning of 16 to 19 academy and alternative provision academy, see sections 1B and 1C of the Academies Act 2010.

39. Expenditure on the provision of special medical support for individual children and young people in so far as such expenditure is not met by an NHS Trust, NHS foundation trust, Clinical Commissioning Group or Local Health Board.

PART 6

Items That May Be Removed From Maintained Schools' Budget Shares – Primary and Secondary Schools

40. 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.

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

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

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

(a) carrying out trade union duties or undergoing training under sections 168 and 168A of the Trade Union and Labour Relations (Consolidation) Act 1992(**21**);

(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(**22**);

(d) undertaking jury service;

(e) a safety representative under the Safety Representatives and Safety Committees Regulations 1977(**23**);

(f) a representative of employee safety under the Health and Safety (Consultation with Employees) Regulations 1996(**24**);

(g) 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(**25**);

(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(**26**);

(j) suspended from working at a school; or

(k) 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**) 1992 c.52; section 168A was inserted by section 43 of the Employment Act 2002 (c.22).
(**22**) 1996 c.18.
(**23**) 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, 2008/960, 2014/469, and 2016/562.
(**24**) S.I. 1996/1513, amended by section 1 of the Employment Rights (Dispute Resolution) Act 1998 (c.8) and S.I. 1999/3242, 2005/1541, and 2014/431.
(**25**) S.I. 2006/246, amended by S.I. 2010/93 and S.I. 2014/16.
(**26**) 1996 c.14.

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

45. 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.

46. Expenditure on insurance in respect of liability arising in connection with schools and school premises.

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

48. Expenditure on library services.

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

50. Expenditure on the schools' specific contingency.

51. Expenditure for the purposes of—

(a) improving the performance of under-performing pupils from minority ethnic groups; or

(b) meeting the specific needs of bilingual pupils.

52. Expenditure incurred for the purposes of supporting the improvement of standards in maintained schools, that is not required by the authority's functions in Part 4 of the 2006 Act.

PART 7

Items That May Be Removed From Maintained Schools' Budget Shares – Primary, Secondary and Special Schools, and Pupil Referral Units

53. Expenditure in relation to the authority's functions under section 510 of the 1996 Act (provision and administration of clothing grants) and under regulations made under section 518(2) of the 1996 Act.

54. Expenditure on the provision of tuition in music, or on other activities which provide opportunities for pupils to enhance their experience of music.

55. Expenditure incurred in enabling pupils to enhance their experience of the visual, creative and performing arts other than music.

56. Expenditure on outdoor education centres, but not including centres wholly or mainly for the provision of organised games, swimming or athletics.

57. Expenditure in relation to functions of the authority under Part I of the Local Government Act 1999(**27**) (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.

58. Expenditure in relation to authorisation and monitoring of expenditure in respect of schools which do not have delegated budgets, and all related financial administration.

59. Expenditure in relation to the authority's monitoring of compliance with the requirements of its 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.

(**27**) 1999 c.27.

60. Expenditure in relation to 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 in so far as the responsibilities relate to maintained schools.

61. Expenditure in relation to the authority's functions under regulations made under section 44 of the 2002 Act(**28**), in so far as the functions relate to maintained schools.

62. Expenditure in relation to investigations which the authority carries 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.

63. Expenditure in relation to 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.

64. Expenditure in relation to advice, in accordance with the authority's statutory functions, to governing bodies in relation to staff paid, or to be paid, to work under the direct management of the head teacher or governing body 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.

65. Expenditure in relation to determination of conditions of service for non-teaching staff, and advice to schools on the grading of such staff.

66. Expenditure in relation to the authority's functions regarding the appointment or dismissal of employees in maintained schools.

67. Expenditure in relation to consultation and functions preparatory to consultation with persons employed at schools or their representatives.

68. Expenditure in relation to compliance with the authority's duties under the Health and Safety at Work etc Act 1974(**29**) 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, giving them advice.

69. Expenditure in relation to provision of information to or at the request of the Crown and the provision of other information which the authority is under a duty to make available, in so far as the information relates to maintained schools.

70. Expenditure in relation to the authority's functions pursuant to regulations made under section 12 of the 2002 Act (supervising authorities of companies formed by governing bodies).

71. Expenditure in relation to the authority's functions under the discrimination provisions of the Equality Act 2010(**30**) 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, giving them advice.

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

73. 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 maintained school's budget share, and the provision of information to governors.

(**28**) Relevant regulations made under section 44 of the 2002 Act are the Consistent Financial Reporting (England) Regulations 2012 (S.I. 2012/674).
(**29**) 1974 c.37.
(**30**) 2010 c.15.

74. Expenditure on education functions related to 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, in so far as those functions relate to maintained schools.

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

76. Expenditure on 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 the school to meet the cost from the school's budget share.

77. Expenditure on landlord responsibilities in relation to maintained schools, and in particular—

(a) expenditure in pursuance of duties performed under the School Premises (England) Regulations 2012(**31**); and

(b) expenditure in connection with duties under the Control of Asbestos Regulations 2012(**32**).

78. 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 maintained schools' budget shares or fall within paragraph 2(b) of this Schedule(**33**).

79. Expenditure on inspecting attendance registers under the Education (Pupil Registration) (England) Regulations 2006(**34**).

SCHEDULE 3 Regulation 20

ADDITIONAL REQUIREMENTS, OR FACTORS OR CRITERIA WHICH MAY BE TAKEN INTO ACCOUNT, IN A LOCAL AUTHORITY'S FORMULA UNDER REGULATION 20

PART 1

Applicable only to budget shares for maintained schools

1. A single sum for primary schools—

(a) other than middle schools, of an equal amount to be given to each school of up to £175,000 per school; and

(b) which are middle schools, of an amount to be calculated per school in accordance with the middle school single sum formula.

2. A single sum for secondary schools—

(a) other than middle schools, of an equal amount to be given to each school of up to £175,000 per school; and

(b) which are middle schools, of an amount to be calculated per school in accordance with the middle school single sum formula.

(**31**) S.I. 2012/1943.
(**32**) S.I. 2012/632.
(**33**) Costs in connection with dismissal or premature retirement may be chargeable to a maintained school's budget share by virtue of section 37 of the 2002 Act.
(**34**) S.I. 2006/1751, as amended by S.I. 2007/603, S.I. 2010/1172, S.I. 2011/1625, S.I. 2012/1033, S.I. 2013/756, and S.I. 2016/792.

3.—(1) Subject to sub-paragraph (5), in respect of pupils at key stages 1 and 2, a single per pupil amount based on the number of pupils in Year 1, Year 2, Year 3, Year 4, Year 5 and Year 6 to whom either sub-paragraphs (2) and (4), or sub-paragraphs (3) and (4), apply.

(2) This sub-paragraph applies to pupils who achieved fewer than 73 points on the Early Years Foundation Stage Profile under the 2008 Document.

(3) This sub-paragraph applies to pupils who achieved fewer than 78 points on the Early Years Foundation Stage Profile under the 2008 Document.

(4) This sub-paragraph applies to pupils who did not achieve expected development in relation to the relevant early learning goals in the Early Years Foundation Stage Profile under the 2012 Document, the 2014 Document, or the 2017 Document.

(5) Where, in respect of the total number of pupils in the local authority, the percentage of those pupils to whom sub-paragraph (4) applies is greater than either—

(a) the number of pupils to which sub-paragraph (2) applies, expressed as a percentage of the total pupils in the local authority, where the local authority is using sub-paragraph (2) to determine a single per pupil amount under sub-paragraph (1); or

(b) the number of pupils to which sub-paragraph (3) applies, expressed as a percentage of the total pupils in the local authority, where the local authority is using sub-paragraph (3) to determine a single per pupil amount under sub-paragraph (1),

the authority may moderate the number of pupils to whom sub-paragraph (4) would otherwise apply, in accordance with sub-paragraph (6).

(6) The local authority may moderate the number of pupils to whom sub-paragraph (4) would otherwise apply by multiplying that number by a number between zero and one, but only where the resulting number, expressed as a percentage of the number of pupils in the authority's area, is not less than the number referred to in sub-paragraph (5)(a) or (b), as appropriate.

4. In respect of pupils at key stages 3 and 4, a single per pupil amount based on the total of—

(a) the number of pupils who were assessed as achieving level 3 or lower in English reading, English writing, or mathematics at key stage 2 under any arrangements predating the 2016 ARA;

(b) the number produced by multiplying the total of the following number of pupils by 0.48—

(i) the number of pupils assessed under the 2016 ARA as achieving a scaled score of 99 or lower in the mathematics or English reading tests referred to in section 4 of the 2016 ARA, and

(ii) the number of pupils, not falling within (i), who were given a teacher assessment standard of 'working towards the expected standard', or lower, in English writing, referred to in section 9 of the 2016 ARA; and

(c) the number produced by multiplying the total of the following number of pupils by 0.58—

(i) the number of pupils assessed under the 2017 ARA as achieving a scaled score of 99 or lower in the mathematics or English reading tests referred to in section 4 of the 2016 ARA, and

(ii) the number of pupils, not falling within (i), who were given a teacher assessment standard of 'working towards the expected standard', or lower, in English writing, referred to in section 9 of the 2017 ARA.

5. A single per pupil amount for each pupil, based on the number of pupils in Year 1, Year 2 and at key stage 2 whose first language is not English, where—

(a) the pupil was not recorded as attending a school or schools in England on any school census before 1st October 2015;

(b) the pupil was not recorded as attending a school or schools in England on any school census before 6th October 2016; or

(c) the pupil was not recorded as attending a school or schools in England on any school census before 5th October 2017.

6. A single per pupil amount for each pupil, based on the number of pupils at key stages 3 and 4 whose first language is not English, where—

(a) the pupil was not recorded as attending a school or schools in England on any school census before 1st October 2015;

(b) the pupil was not recorded as attending a school or schools in England on any school census before 6th October 2016; or

(c) the pupil was not recorded as attending a school or schools in England on any school census before 5th October 2017.

7.—(1) Where the total number of pupils to whom sub-paragraph (2)(a) and (b) applies is more than 10% of the total number of pupils at key stages 1 and 2 in the school, a single per pupil amount for every pupil in excess of that 10%.

(2) This sub-paragraph applies to pupils at key stages 1 and 2 who joined the school in the previous three academic years at any time other than August or September, excluding—

(a) pupils who joined the school in the nursery class, if the school has such a class, and

(b) pupils who joined the school in the reception class in January.

8. Where the total number of pupils at key stages 3 and 4 who joined the school in the last three academic years at any time other than August or September is more than 10% of the total number of pupils at key stages 3 and 4, a single per pupil amount for every pupil in excess of that 10%.

9. A single per pupil amount, based on the number of pupils who were looked after children on 31st March 2017.

10. Funding for schools with split sites, where the funding must be in accordance with criteria published by the authority.

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

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

13. Differential costs at schools in the county councils of Buckinghamshire, Essex, Hertfordshire, Kent or West Sussex due to the schools' being in different London salary weighting areas.

14.—(1) In respect of all primary schools to which sub-paragraph (2) applies, other than those which are middle schools or all-through schools, an amount calculated in accordance with sub-paragraphs (3) and (4).

(2) This sub-paragraph applies where—

(a) in respect of those pupils for whom the school is their home school, the mean of the distances between each pupil's home and their second closest school is more than or equal to a distance determined by the local authority of at least two miles and the same distance must be applied to all such schools; and

(b) the average size of a year group at the school (derived by dividing the number of pupils by the number of year groups) is less than a number determined by the local authority as applying to all such schools, which must be no more than 21.4.

(3) Subject to sub-paragraph (4), the amount is either—

(a) a single sum of up to £100,000, and each school must be allocated the same sum, or

(b) a sum of the amount $A \times (1 - B / C)$ where—

A is a sum of up to £100,000, and the same sum must be used in the calculation for each school;

B is the number of pupils in the school; and

C is the number determined by the authority in sub-paragraph (2)(b).

(4) The authority must use the same method of calculating the amount under sub-paragraph (3) in respect of all schools to which sub-paragraph (2) applies.

15.—(1) Where sub-paragraph (2) applies in respect of secondary schools, primary schools which are middle schools and primary schools which are all-through schools, an amount calculated in accordance with sub-paragraphs (3) and (4).

(2) This sub-paragraph applies where—

(a) in respect of those pupils for which the school is their home school, the mean of the distances between each pupil's home and his or her second closest school is more than or equal to a distance determined by the local authority of at least—

(i) two miles in respect of middle schools,

(ii) two miles in respect of all-through schools, and

(iii) three miles in respect of secondary schools other than middle schools or all-through schools; and

(b) the average size of a year group at the school (derived by dividing the number of pupils by the number of year groups) is less than a number determined by the local authority, which must be no more than—

(i) 69.2 in respect of middle schools,

(ii) 62.5 in respect of all-through schools, and

(iii) 120 in respect of secondary schools other than middle schools or all-through schools,

and the same number must be applied to all the schools of each type listed in this sub-paragraph.

(3) Subject to sub-paragraph (4) the amount is either—

(a) a single sum of up to £100,000, and each school must be allocated the same sum, or

(b) a sum of the amount $A \times (1 - B / C)$ where—

A is a sum of up to £100,000, and the same sum must be used in the calculation for each school;

B is the number of pupils in the school; and

C is the number determined by the authority in sub-paragraph (2)(b).

(4) The authority must use the same method of calculating the amount under sub-paragraph (3) in respect of all schools to which sub-paragraph (2) applies.

16.—(1) Where a school's per pupil amount is less than the minimum per pupil amount, the authority may determine the school's budget share based on the minimum per pupil amount.

(2) In this paragraph, the per pupil amount is A/B where—

(a) A is the notional budget share that the school would receive under the formula referred to in regulation 10(1), but for the operation of this paragraph; and

(b) B is the number of pupils at the school.

(3) In calculating A, the authority may deduct any premises factor allocation from the amount.

(4) 'Premises factor allocation' refers to—

(a) any additional funding that would be allocated to the school by virtue of paragraph 10 to 12 of this Schedule; or

(b) any additional funding that the local authority has allocated to the school which has been authorised by the Secretary of State under regulation 29(1)(g).

(5) In this paragraph, the minimum per pupil amount is the amount set out in sub-paragraphs (6), (7), (8) or (9), as the case may be.

(6) In the case of primary schools (other than nursery schools or middle schools), the primary minimum per pupil amount is an amount determined by the local authority, up to a maximum of £3,500.

(7) In the case of secondary schools (other than middle schools), the secondary minimum per pupil amount is an amount determined by the local authority, up to a maximum of £4,800.

(8) In the case of middle schools, the minimum per pupil amount is A x (B/C) + D x (E/C), where—

(a) A is the primary minimum per pupil amount described in sub-paragraph (6);

(b) B is the number of primary-age year groups in the school;

(c) C is the number of year groups in the school;

(d) D is an amount determined by the local authority, up to a maximum of £4,200; and

(e) E is the number of secondary-age year groups in the school.

(9) In the case of all-through schools, the minimum per pupil amount is A x (B/C) + D x (E/C), where—

(a) A is the primary minimum per pupil amount described in sub-paragraph (6);

(b) B is the number of primary-age year groups in the school;

(c) C is the number of year groups in the school;

(d) D is the secondary minimum per pupil described in sub-paragraph (7); and

(e) E is the number of secondary-age year groups in the school.

PART 2

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

17. The rurality or sparsity of the population of the area.

18. Pupils and children whose first language is not English.

19. The qualifications of staff.

20. The sharing of expertise with other early years providers.

21. The degree to which providers offer flexible provision to parents.

SCHEDULE 4

Regulation 21

MINIMUM FUNDING GUARANTEE

1.—(1) In this Schedule—

(a) references to the number of pupils—

(i) for the purposes of the previous funding period, exclude those funded by a sixth form grant and those in places which the local authority has reserved for children with special educational needs; and

(ii) for the purposes of the funding period, exclude those funded by a sixth form grant;

(b) the "relevant number" of pupils for the previous funding period is the number of pupils at the school on 6th October 2016;

(c) the "relevant number" of pupils for the funding period is the number of pupils at the school on 5th October 2017;

(d) the "minimum funding number" means a number determined by the authority, between and including 0.985 and 1.005;

(e) the redetermined adjusted budget share for the previous funding period means a number calculated by the authority, which must exclude—

(i) any amount allocated under regulation 14(2) (places reserved for children with special educational needs) of the 2017 Regulations;

(ii) any amount included under regulation 24(1) or (2) (Sixth form funding) of the 2017 Regulations;

(iii) any amount included under regulation 28 (Correction of errors and changes in non-domestic rates) of the 2017 Regulations;

(iv) the difference between (a) any amount allocated to the school under regulation 25(4) or (8) of the 2017 Regulations, and (b) the single sum which the school would have received under paragraph 1 or 2 of Schedule 3 to the 2017 Regulations if regulation 25(4) or (8) of the 2017 Regulations had not applied;

(v) any amount allocated to the school under Schedule 3 to the 2017 Regulations where such amount has been deducted from the schools budget under Part 5 (Children And Young People With High Needs) of Schedule 2;

(vi) any amount allocated to the school under regulation 10(3) (early years single funding formula) of the 2017 Regulations;

(vii) any amount included in respect of paragraph 11 (rates) of Schedule 3 to the 2017 Regulations;

(viii) any amount allocated to the school under paragraph 1 (primary single sum) of Schedule 3 (or, where regulation 25(4) or (8) applies, the amount allocated to the school under that regulation);

(ix) any amount allocated to the school under paragraph 2 (secondary single sum) of Schedule 3 (or, where regulation 25(4) or (8) applies, the amount allocated to the school under that regulation);

(x) any amount allocated to the school under paragraph 14 (primary sparsity) of Schedule 3; and

(xi) any amount allocated to the school under paragraph 15 (secondary sparsity) of Schedule 3;

(f) references to a redetermined adjusted budget share for the funding period include the effect of any alternative arrangements approved by the Secretary of State under regulation 29, but the authority must exclude—

(i) any amount allocated under regulation 14(2) (places reserved for children with special educational needs);

(ii) any amount included under regulation 24 (Sixth form funding);

(iii) any amount included under regulation 28 (Correction of errors and changes in non-domestic rates);

(iv) any amounts allocated under regulation 10(1) (formula for determining budget shares) which would have been within a class or description of the expenditure listed in Schedule 2 to the 2017 Regulations that the authority deducted in the previous funding period;

(v) any amount allocated to the school under regulation 10(3) (Early years single funding formula);

(vi) any amount included in respect of paragraph 11 (rates) of Schedule 3;

(vii) any amount allocated to the school under paragraph 1 (primary single sum) of Schedule 3 (or, where regulation 25(4) or (8) applies, the amount allocated to the school under that regulation);

(viii) any amount allocated to the school under paragraph 2 (secondary single sum) of Schedule 3 (or, where regulation 25(4) or (8) applies, the amount allocated to the school under that regulation);

(ix) any amount allocated to the school under paragraph 14 (primary sparsity) of Schedule 3; and

(x) any amount allocated to the school under paragraph 15 (secondary sparsity) of Schedule 3;

(2) For the purposes of this Schedule—

(a) where a school opened during the previous funding period, its redetermined adjusted budget share for the previous funding period is the amount it would have been if the school had opened on 1st April 2017; and

(b) where a school opens during the funding period, its redetermined adjusted budget share for the funding period is the amount it would have been if the school had opened on 1st April 2018,

in both cases adjusted in accordance with paragraph 1(e) or (f), whichever is applicable.

2. Where (A / B) is less than (C / D) then the guaranteed funding level is $(C / D) \times B$ where—

A is the redetermined adjusted budget share, calculated by the authority, for the funding period;

B is the relevant number of pupils in the funding period;

C is the redetermined adjusted budget share for the previous funding period multiplied by the minimum funding number; and

D is the relevant number of pupils in the previous funding period.

3. Where a new 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, subject to paragraph 4.

4. In calculating the guaranteed level of funding under paragraph 3 the relevant number of pupils in the previous funding period under paragraph 1(b) is the sum of the relevant number of pupils in the discontinued schools on 6th October 2016.

5. In calculating the redetermined adjusted budget share for the previous funding period, the authority may exclude any amount allocated to the school by virtue of paragraph 9 of Schedule 3 to the 2017 Regulations if it has not allocated amounts under paragraph 9 of Schedule 3 to these Regulations.

SCHEDULE 5

Regulation 30

CONTENTS OF SCHEMES

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 schools must comply with 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 the authority provides services and facilities for schools maintained by it.

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 in section 49(4)(a) to (c) of the 1998 Act(**35**).

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(**36**).

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.

(**35**) Section 49(4) was amended by section 215 of, and paragraph 100 of Schedule 21 to, the 2002 Act.
(**36**) Section 519 was amended by section 140 of, and paragraph 139 of Schedule 2 to, the 1998 Act.

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 to satisfy the authority's duties imposed by or under the Health and Safety at Work etc Act 1974(**37**).

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.

(**37**) 1974 c.37.