

## SCHEDULE 2

Regulations 5 and 7

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

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

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

1.—(1) Expenditure (other than expenditure incurred in connection with any other paragraph of this Schedule) which the authority is obliged to incur as a condition of a specific grant paid to the authority and which is taken into account in determining the amount of such 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 such grant, decisions regarding the expenditure of which are delegated to the governing body of a maintained school.

#### **Performance Reward Grant**

2. Expenditure not falling within any other paragraph of this Schedule or any paragraph of Schedule 1 which the authority propose to meet from a Performance Reward Grant.

#### **Threshold and Performance Pay**

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

#### **Special educational provision**

4. Subject to paragraphs 5 and 6, expenditure in making the provision specified in a pupil's statement of special educational needs except where the pupil is—

- (a) a registered pupil at a special school maintained by the authority; or
- (b) a registered pupil at a primary or secondary school maintained by the authority who occupies one of a number of places at that school which are recognised by the authority as being reserved for children with special educational needs.

5. Where a pupil falls within paragraph 4(a) or (b), and 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 the cost of pupils in places at the primary or secondary school in question, the amount by which the expenditure incurred in making the provision specified in his statement of special educational needs is greater than that incurred in making provision for a pupil who falls within such generality of pupils.

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

7. Expenditure in respect of pupils with statements of special educational needs or who are within the scope of School Action Plus as described in the Code of Practice<sup>(1)</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.

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

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

**8.** Expenditure for purposes connected with the encouragement of—

- (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 education authority consider it would be unreasonable for such expenditure to be met from a school's budget share.

**9.** Expenditure in relation to education otherwise than at school under section 19 of the 1996 Act or in relation to a pupil referral unit as defined in that section<sup>(2)</sup>.

**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<sup>(3)</sup>.

**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 education 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 education authority pursuant to section 493 or 494 of the 1996 Act<sup>(4)</sup>, or section 207 of the 2002 Act (recoupment between authorities).

### Access to education

**13.** Expenditure on the administration of the system of admissions of pupils to schools (including expenditure incurred in carrying out consultations under section 89(2) of the 1998 Act<sup>(5)</sup>, and in establishing, maintaining and consulting representative bodies for the purposes of admissions), and in relation to appeals, provided that, except where the governing body have agreed with the authority that this proviso should not apply to them, or where the authority are satisfied that factors or criteria in their formula already make suitable provision, the authority must—

- (a) allocate to each governing body who are an admission authority, as defined in section 88(1) of the 1998 Act<sup>(6)</sup>, an amount determined by the authority as that 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 incurred in connection with the authority's functions under section 85A<sup>(7)</sup> of the 1998 Act (Establishment and maintenance of, and consultation with, admission forums).

(2) "Pupil referral unit" is defined in sub-section (2B), which was inserted by the Education Act 1996 (Amendment of Section 19) (England) Regulations 2007 (S.I. 2007/1507). Other relevant amendments to the section are made by section 47 of the Education Act 1997 (c.44) and section 101 of the 2006 Act.

(3) The Children and Young People's Plan (England) Regulations 2005 (S.I. 2005/2149 as amended by S.I. 2007/57) impose a requirement upon children's services authorities to prepare and publish plans which will include key actions to be taken. Some of these relate to the education of children with behavioural difficulties.

(4) References to "funding period" are substituted for references to "financial year" in section 494 by section 117 of, and paragraph 5 of Schedule 18 to, the 2005 Act.

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

(6) Section 88(1) is amended by section 43 of the 2006 Act, which inserts new sub-sections (1A) and (1B).

(7) Section 85A is inserted by section 46 of the 2002 Act.

**15.** Expenditure on milk and meals pursuant to section 512, 512ZA, 512ZB(8) 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.

**16.** Expenditure on the repair and maintenance of a school kitchen where expenditure on meals in relation to the school concerned is deducted from the authority's schools budget pursuant to paragraph 15.

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

**18.** Expenditure pursuant to section 18 of the 1996 Act(9) 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 education authority.

## **Staff**

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

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

- (a) carrying out trade union duties or undergoing training under section 168 and 168A of the Trade Union and Labour Relations (Consolidation) Act 1992(10);
- (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(11);
- (d) undertaking jury service;
- (e) who are safety representatives under the Safety Representatives and Safety Committee Regulations 1977(12);
- (f) who are representatives of employee safety under the Health and Safety (Consultation with Employees) Regulations 1996(13);
- (g) who are employee representatives for the purposes of Chapter 2 of Part 4 of the Trade Union and Labour Relations (Consolidation) Act 1992, as defined in section 196 of that Act or regulation 13(3) of the Transfer of Undertakings (Protection of Employment) Regulations 2006(14);
- (h) taking time off for ante-natal care under section 55 of the Employment Rights Act 1996(15);
- (i) undertaking duties as members of the reserve forces as defined in section 1(2) of the Reserve Forces Act 1996(16);
- (j) suspended from working at a school;

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(8) Section 512ZB(4) is amended by section 28(1) of, and paragraph 16 of Schedule 3 to, the Welfare Reform Act 2007 (c.5). The section is to come into force on a date to be appointed.

(9) Section 18 is substituted by section 128 of the 1998 Act.

(10) 1992 c.52. Section 168A was inserted by section 43 of the Employment Act 2002 (c.22).

(11) 1996 c.18.

(12) S.I. 1977/500, amended by S.I. 1996/1513, S.I. 1999/860, S.I. 1999/3242 and S.I. 2006/594.

(13) S.I. 1996/1513.

(14) S.I. 2006/246.

(15) 1996 c.18.

(16) 1996 c.14.

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- (k) who are members of the General Teaching Council for England or a committee thereof; or
- (l) who are appointed learning representatives of trade unions, in order for them to analyse training requirements or to provide or promote training opportunities, and to carry out consultative or preparatory work in connection with such functions.

**21.** Expenditure on Advanced Skills Teachers undertaking outreach work in schools other than that in which they are normally based<sup>(17)</sup>.

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

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

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

### Other Expenditure

**26.** Expenditure on the provision of nursery education, except where such provision is made at a maintained school, including expenditure on nursery education by PVI providers funded in accordance with guidance issued by the Secretary of State<sup>(18)</sup>.

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

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

Where a local education authority deduct funding under this paragraph, they must notify the governing body of each school not receiving funding for library services in its budget share of the amount attributable to library services for that school. They must also allow the governing bodies of these schools to determine whether the expenditure on library services in respect of their school is to be spent by the authority in providing library services to the school themselves or by the authority in procuring library services from another local authority.

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

<sup>(17)</sup> "Advanced Skills Teacher" is a concept defined in the School Teachers' Pay and Conditions Document 2007. This document can be found at [www.teachernet.gov.uk](http://www.teachernet.gov.uk).

<sup>(18)</sup> Guidance on the funding of PVI providers is issued under section 153 of the 2002 Act. Current guidance is in the *Code of Practice for Three and Four Year Olds*. New duties are imposed in relation to England by section 7 of the Childcare Act 2006. Guidance issued under section 7 for the funding of PVI providers will mirror the provisions for the maintained sector in regulation 17 of these Regulations.

**31.** Expenditure incurred in connection with the authority's functions under section 47A(19) 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;
- (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 35 of Schedule 2 to the 2006 Regulations for the previous financial year or under this paragraph for the previous funding period.

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(19) Section 47A was inserted by section 43 of the 2002 Act, and has been amended by section 101 of, and paragraph 7 of Schedule 16 to, the 2005 Act and sections 57 and 184 of, and paragraphs 2(1), (3) and (4) of Schedule 5 to and Part 6 of Schedule 18 to, the 2006 Act.