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STATUTORY INSTRUMENTS

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**2012 No. 2991**

**The School and Early Years Finance  
(England) Regulations 2012**

**PART 3**

**Determination of Budget Shares etc**

**CHAPTER 1**

**Requirements, and Factors and Criteria Taken into Account**

**Pupil numbers**

**13.**—(1) Subject to regulation 16 (special arrangements for pupils in maintained nursery schools and nursery classes and children receiving relevant early years provision) and paragraph (2), in determining and redetermining budget shares for primary and secondary schools, a local authority must ascertain and take into account in their formula the number of registered pupils at those schools on the date specified in paragraph (3).

(2) For the purposes of paragraph (1), the number of registered pupils does not include pupils—

- (a) in places in primary or secondary schools which the authority have reserved for children with special educational needs, or
- (b) in respect of whom a sixth form grant is payable.

(3) The date for ascertaining pupil numbers is 4th October 2012.

(4) Where a primary school had more registered pupils in reception classes on 19th January 2012 than on 6th October 2011, the authority may take into account in their formula the number of additional pupils, and where they do so this factor must be applied to all primary schools in the area.

(5) A local authority must include in their formula a single per pupil amount for each of the following—

- (a) the number of registered pupils in reception classes and at key stage 1 and 2,
- (b) the number of registered pupils at key stage 3, and
- (c) the number of registered pupils at key stage 4,

where the number of registered pupils is calculated with reference to paragraphs (2) to (4).

**Places**

**14.**—(1) In determining and redetermining budget shares for—

- (a) special schools, and
  - (b) primary or secondary schools with places which the authority have reserved for children with special educational needs,
- paragraphs (2) and (3) have effect.

- (2) A local authority must include the sum of £10,000 for each place other than—
  - (a) places for pupils in respect of whom a sixth form grant is payable, and
  - (b) hospital education places.
- (3) For each hospital education place the local authority must include the equivalent amount per place which the authority included in their budget share in the previous funding period for hospital education.
- (4) In determining and redetermining budget shares for pupil referral units, paragraphs (5) and (6) have effect.
- (5) A local authority must include the sum of £8,000 for each place other than hospital education places.
- (6) For each hospital education place the local authority must include the equivalent amount per place which the authority provided to the pupil referral unit in the previous funding period for hospital education.

### **Social deprivation**

**15.**—(1) In determining budget shares for schools maintained by them (other than special schools, pupil referral units or nursery schools), a local authority must take into account in their formula a factor or factors based on the incidence of social deprivation in pupils registered at the schools maintained by them, subject to paragraphs (2) to (4).

(2) The authority must base the incidence of social deprivation referred to in paragraph (1) on one or both of the following—

- (a) either a pupil's eligibility for free school meals on 4th October 2012 or a pupil's eligibility for free school meals recorded in any school census between and including Summer 2006 and Spring 2012,
- (b) a pupil's IDACI score on 4th October 2012,  
and where it is based on an IDACI score the authority may use factors which differentiate between different IDACI bands.

(3) In determining budget shares pursuant to paragraph (1) the authority may take into account in their formula a single per pupil amount for each socially deprived pupil in reception classes and at key stage 1 and 2, and a single per pupil amount for each socially deprived pupil at key stage 3 and 4.

(4) In paragraph (3) a reference to a "socially deprived pupil" is to a pupil who has been determined as being such pursuant to paragraph (2).

(5) Other than in respect of two year olds, in determining—

- (a) budget shares for maintained nursery schools,
- (b) amounts to be allocated in respect of nursery classes in schools maintained by them, and
- (c) amounts to be allocated to relevant early years providers in their area,

a local authority must take into account in their formula a factor or factors based on the incidence of social deprivation in pupils registered at the nursery school or in the nursery class or among children receiving relevant early years provision from the provider, and the determination of the incidence of social deprivation must be based on the characteristics of the pupils or children and not on the location of the school or provider.

(6) In determining—

- (a) budget shares for maintained nursery schools,
- (b) amounts to be allocated in respect of nursery classes in schools maintained by them, and
- (c) amounts to be allocated to relevant early years providers in their area,

in respect of two year olds, a local authority may take into account in their formula a factor or factors based on the incidence of social deprivation in pupils registered at the nursery school or in the nursery class or among children receiving relevant early years provision from the provider, and the determination of the incidence of social deprivation must be based on the characteristics of the pupil or child and not on the location of the school or provider.

**Special arrangements for pupils in maintained nursery schools and nursery classes and for children receiving relevant early years provision**

16.—(1) Subject to paragraphs (5) and (6), in determining—

- (a) budget shares for nursery schools maintained by them,
- (b) amounts to be allocated in respect of nursery classes in schools maintained by them, and
- (c) amounts to be allocated to relevant early years providers in their area,

a local authority must take into account in their formula the predicted total number of hours of attendance of registered pupils in the nursery school or nursery class or of children receiving prescribed early years provision from the relevant early years provider, as the case may be, using as a basis for the calculation the most recent data available about the actual numbers of registered pupils or children receiving prescribed early years provision.

(2) A local authority must review the budget share for each maintained nursery school and the amount allocated in respect of each nursery class when further information about hours of attendance becomes available, taking into account—

- (a) in the case where the local authority decide to fund only prescribed early years provision—
  - (i) the predicted total number of hours of attendance of registered pupils in the nursery school or nursery class who will receive prescribed early years provision during the period (using as a basis for the calculation the actual hours of such attendance in each of at least three sample weeks); or
  - (ii) the actual total number of hours of such attendance for the period;
- (b) in the case where the local authority decide to fund early years provision in excess of that which is prescribed—
  - (i) the predicted total number of hours of attendance of registered pupils in the nursery school or nursery class who will receive early years provision during the period (using as a basis for the calculation the actual hours of such attendance in each of at least three sample weeks); or
  - (ii) the actual total number of hours of such attendance for the period; andredetermine that budget share or amount allocated, as the case may be.

(3) A local authority must review the amount allocated to each relevant early years provider, when further information about hours of attendance becomes available, taking into account—

- (a) the predicted total number of hours of attendance of children who will receive prescribed early years provision from the relevant early years provider during the period (using as a basis for the calculation the actual hours of such attendance in each of at least three sample weeks); or
  - (b) the actual total numbers of hours of such attendance for the period; and
- redetermine the amount allocated.

(4) Where a local authority make any redetermination pursuant to paragraph (2) or (3) they must give notice to the governing body of the school or the relevant early years provider concerned of the redetermination and the date on which it will be implemented, within 28 days of the redetermination.

(5) When determining budget shares for maintained nursery schools, amounts to be allocated in respect of nursery classes and amounts to be allocated to relevant early years providers in their area, a local authority may weight the predicted total number of hours of attendance of registered pupils in the nursery school or nursery class or of children receiving prescribed early years provision from the relevant early years provider according to the special educational needs of any such pupils or children.

(6) When determining amounts to be allocated to relevant early years providers in their area, a local authority may weight the predicted total number of hours of attendance of children receiving prescribed early years provision from the relevant early years provider according to whether any children have been admitted to the relevant early years provider in excess of the number agreed with the authority.

(7) When determining—

- (a) budget shares for maintained nursery schools,
- (b) amounts to be allocated in respect of nursery classes in schools maintained by them, and
- (c) amounts to be allocated to relevant early years providers in their area,

a local authority may take into account in their formula the number of places they wish to fund in the school, class or provider (instead of the predicted total number of hours of attendance), where those places have been reserved by the authority for children with special educational needs, children in need or children that meet the condition prescribed by regulation 3(2) of the Local Authority (Duty to Secure Early Years Provision Free of Charge) Regulations 2012<sup>(1)</sup>.

### **Differential funding**

17. For the purpose of determining or redetermining—

- (a) budget shares for maintained nursery schools,
- (b) amounts to be allocated in respect of nursery classes in schools maintained by them, and
- (c) amounts to be allocated to relevant early years providers in their area,

a local authority may use factors or criteria which differentiate between different categories or descriptions of school or provider on the basis of unavoidable costs.

### **Additional requirements, factors or criteria**

18.—(1) Subject to paragraph (3), in determining budget shares, a local authority may take into account in their formula any or all of the requirements, factors or criteria set out in Part 1 of Schedule 3, and where they do the date for ascertaining pupil numbers is 4th October 2012, save as otherwise stated.

(2) Subject to regulation 17 (differential funding), in determining budget shares for nursery schools maintained by them, amounts to be allocated in respect of nursery classes in schools maintained by them and amounts to be allocated to relevant early years providers in their area, a local authority may take into account in their formula any or all of the requirements, factors or criteria set out in Part 2 of Schedule 3.

(3) The requirements, factors and criteria set out in Schedule 3 may not be taken into account by a local authority on the basis of actual or estimated cost unless otherwise stated in that Schedule.

(4) Subject to paragraphs (5) and (6), in determining the budget shares for schools maintained by them (other than special schools, pupil referral units and nursery schools), with reference to the

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(1) [S.I. 2012/2488](#).

per pupil amount of redetermined adjusted budget share for the previous funding period, a local authority may—

- (a) determine a percentage beyond which the per pupil amount of redetermined adjusted budget share a school would otherwise be allocated must not increase by, or
- (b) determine a proportionate limit to this increase.

(5) In paragraph (4) “redetermined adjusted budget share for the previous funding period” and “redetermined adjusted budget share” have the same meanings as in Schedule 4.

(6) Where the local authority decide to determine such a percentage or proportionate limit under paragraph (4) it must be applied to the budget shares of all schools in the local authority area.

### **Minimum funding guarantee**

**19.**—(1) Subject to paragraph (4), in determining and redetermining budget shares for primary and secondary schools maintained by them, a local authority must ensure that an amount equal to the guaranteed funding level is included, calculated in accordance with Schedule 4.

(2) For the purpose of determining budget shares, paragraph (1) does not apply to any school opening during the funding period, except in the circumstances set out in paragraph 3 of Schedule 4.

(3) In determining and redetermining—

- (a) budget shares for nursery schools maintained by them,
- (b) amounts to be allocated in respect of nursery classes in schools maintained by them, and
- (c) amounts to be allocated to relevant early years providers in their area,

a local authority must ensure that the number by which they multiply the predicted total number of hours calculated pursuant to regulation 16(1) is no lower than 1.5 percent less than the number by which they multiplied the predicted total number of hours calculated pursuant to regulation 16(1) of the 2012 Regulations for making such determinations in the previous funding period.

(4) A local authority may make changes to the operation of this regulation and to the operation of Schedule 4 in determining and redetermining budget shares where authorised to do so by the Secretary of State under regulation 25 (alternative arrangements).

### **Sixth form funding**

**20.**—(1) A local authority must include in the budget shares of secondary and special schools an amount equal to any sum notified to the local authority by the Secretary of State as being the allocation in respect of that school’s sixth form grant.

(2) A local authority may, in determining budget shares, use a factor which allocates funding in respect of the number of registered pupils in sixth forms on 4th October 2012 subject to the limitation in paragraph (3).

(3) Where a local authority use a factor in determining budget shares pursuant to paragraph (2) they must ensure that the amount allocated per pupil in respect of this factor in the funding period is no greater than the amount that was allocated per pupil in sixth forms in the previous funding period, save that in determining the amount allocated per pupil in the previous funding period account should be taken of amounts that formed part of central expenditure in that funding period.

(4) A local authority must redetermine the budget share of a secondary school before the end of the funding period where the authority receive a written notification from the Secretary of State of a revised allocation in respect of the sum referred to in paragraph (1).

### **New schools**

**21.** A local authority must determine a budget share for any new school in their area from the date of the school's opening in accordance with this Part.

### **Federated schools**

**22.**—(1) Subject to paragraphs (2) and (3), where two or more schools are federated under section 24 of the 2002 Act, the local authority must determine a budget share for each school in accordance with Part 3 of these Regulations.

(2) After carrying out the determination under paragraph (1) the local authority may treat the schools as a single school for the purposes of these Regulations and, accordingly, allocate a single budget share to the governing body of the federation.

(3) Where the local authority decide to allocate a single budget share to the governing body of a federation under paragraph (2) they must determine this by combining the budget shares of all the schools that form part of that federation.

(4) Where one or more schools are to leave a federation which has been allocated a single budget share under paragraph (2), the local authority must—

- (a) determine the budget share for each of the leaving schools; and
- (b) redetermine the budget share for the federation,  
in accordance with Part 3 of these Regulations.