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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**

**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>.

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(1) S.I. 2012/2488.