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STATUTORY INSTRUMENTS

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**2021 No. 59**

**The School and Early Years Finance  
(England) Regulations 2021**

**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 and community early years provision**

**16.—**(1) Subject to this regulation, in determining—

- (a) budget shares for nursery schools maintained by it;
- (b) amounts to be allocated in respect of nursery classes in schools maintained by it;
- (c) amounts to be allocated to relevant early years providers in its area; and
- (d) amounts to be allocated in respect of community early years provision in schools maintained by it,

a local authority must take into account in its formula the predicted total number of hours of attendance of pupils or children, basing the calculation on the most recent data available about the actual numbers of pupils or children.

(2) When further information about hours of attendance becomes available a local authority must—

- (a) review the budget share for each maintained nursery school, the amount allocated in respect of each nursery class and the amount allocated in respect of community early years provision; and
- (b) redetermine that budget share or amount allocated, as the case may be.

(3) When carrying out a review and redetermination under paragraph (2) the local authority must—

- (a) in the case where the local authority decides to fund only funded early years provision, take into account—
  - (i) the predicted total number of hours of attendance of pupils in the nursery school or nursery class, and of children being provided community early years provision, who will receive funded early years provision during the period (basing the calculation on 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 decides to fund early years provision in excess of funded early years provision, take into account—

- (i) the predicted total number of hours of attendance of pupils in the nursery school or nursery class, and of children being provided community early years provision, who will receive early years provision during the period (basing the calculation on 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.

(4) When further information about hours of attendance becomes available, a local authority must—

- (a) review the amount allocated to each relevant early years provider; and
- (b) redetermine the amount allocated.

(5) When carrying out a review and redetermination under paragraph (4) the local authority must take into account—

- (a) the predicted total number of hours of attendance of children who will receive funded early years provision from the relevant early years provider, during the period (basing the calculation on 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.

(6) Within 28 days of making any redetermination under paragraph (2) or (4), the local authority must give notice of the redetermination and the date on which it will be implemented to the governing body of the school, or the relevant early years provider concerned.

(7) When making determinations under this regulation, a local authority may weight the predicted total number of hours of attendance of pupils or children, according to the special educational needs of any such pupils or children.

(8) When determining—

- (a) budget shares for nursery schools maintained by it;
- (b) amounts to be allocated in respect of nursery classes in schools maintained by it;
- (c) amounts to be allocated to relevant early years providers in its area;
- (d) amounts to be allocated in respect of community early years provision in schools maintained by it,

a local authority may take into account in its formula the number of places it wishes to fund in the school, class or provider (instead of the predicted total number of hours of attendance), where the authority has reserved those places for children with special educational needs or children in need.

(9) In paragraph (8) “children in need” means children in respect of whom the local authority in whose area they reside must provide a range of services appropriate to their needs under section 17 of the 1989 Act.