EXPLANATORY MEMORANDUM TO

THE LOCAL AUTHORITIES (CAPITAL FINANCE AND ACCOUNTING) (ENGLAND) (AMENDMENT) REGULATIONS 2026

2026 No. 171

1. Introduction

1.1. This Explanatory Memorandum has been prepared by the Ministry of Housing, Communities and Local Government and is laid before Parliament by Command of His Majesty.

2. Declaration

2.1. Alison McGovern MP, Minister of State for Local Government and Homelessness at the Ministry of Housing, Communities and Local Government confirms that this Explanatory Memorandum meets the required standard.

2.2. Suzanne Clarke, Deputy Director for Local Government Finance Stewardship, at the Ministry of Housing, Communities and Local Government confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1. Matthew Hemsley at the Ministry of Housing, Communities and Local Government. Telephone: 03034 440472 or email: Matthew.Hemsley@communities.gov.uk can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1. The Local Authorities (Capital Finance and Accounting) (England) Regulations 2003 (S.I. 2003/3146) (the "2003 Regulations") set out the accounting practices to be followed by local authorities. Amendment regulations in 2020 introduced a statutory accounting override ("the override") requiring councils to separate any deficits arising from differences between Dedicated Schools Grant income and associated schools budget expenditure from their wider finances, by moving them to an unusable reserve so they do not impact local authority budgets. This instrument amends the 2003 Regulations to extend the application of the override for two additional financial years, covering 2026/27 and 2027/28.

Where does the legislation extend to, and apply?

4.2. The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales.

4.3. The territorial application of this instrument (that is, where the instrument produces a practical effect) is England.

5. Policy Context

What is being done and why?

5.1. The Dedicated Schools Grant (DSG) is paid to local authorities in support of their schools budget. Deficits relating to local authorities' schools budgets arise where the total expenditure exceeds available funding. Since the Government's Children and Families Act 2014 reforms, local authorities have raised concerns about the growth in Dedicated Schools Grant deficits, primarily driven by the cost of Special Educational Needs and Disabilities (SEND) provision, which is funded by the High Needs part of the DSG. By 2019/20, the accumulation of these deficits was sufficiently acute that they posed a serious risk to the financial sustainability of many authorities.

5.2. In response to the concerns raised by local authorities, the then Government introduced a statutory accounting override in 2020 to help mitigate the risks these deficits pose to wider local government financial sustainability. It was stated that this was to be a temporary measure while the underlying causes of the deficits were addressed, so the override was originally limited to three financial years, ending 31st March 2023. The override was further extended by three years in 2022 but otherwise left unchanged.

5.3. In February 2026, the Final Local Government Finance Settlement 2026-2027 to 2028-2029 consultation summary of responses affirmed the government's commitment to supporting local authorities with their DSG deficits during transition to a reformed SEND system, and provided details on a first phase of support to address accumulated SEND deficits. It announced that all local authorities with a deficit are eligible to receive a High Needs Stability Grant covering 90% of their High Needs-related deficit accrued up to the end of 2025-26, to be paid in autumn 2026, subject to each local authority submitting and securing the Department for Education's approval of a local SEND reform plan. Further details were published in an accompanying Explanatory Note[1].

5.4. Alongside the announcement of the grant, the government also confirmed that the override would remain in place until the end of 2027/28, recognising that SEND reforms will take time to fully embed and further deficits are expected to accrue over 2026/27 and 2027/28, necessitating an extension of the override to safeguard local authority budgets during this period. Deficits accrued in 2026/27 and 2027/28 will be addressed through further phases of support, the details of which will be announced before the override expires. Once the override ends, it is the government's intent that from 2028-29 SEND spending will be covered by the overall government budget, meaning that local authorities are not expected to accrue further deficits.

5.5. The Department for Education's Schools White Paper was published on 23 February 2026 and sets out plans for SEND reform to create a sustainable, fair, and high quality SEND system. The Schools White Paper introduces a new legal requirement for schools to create Individual Support Plans for all children with SEND, forming part of a national framework of high-quality interventions designed to improve educational and life outcomes.

5.6. Legislation is required because the extension amends statutory accounting practices set out in the Local Authorities (Capital Finance and Accounting) (England) Regulations 2003.

What was the previous policy, how is this different?

5.7. Under the previous policy, introduced in 2020 and extended in 2022, local authorities were permitted to ring-fence Dedicated Schools Grant deficits from their general fund

[1] https://www.gov.uk/government/publications/explanatory-note-on-the-governments-approach-to-dedicated-schools-grant-deficits/explanatory-note-on-the-governments-approach-dedicated-schools-grant-deficits

through a statutory override. This ensures that Dedicated Schools Grant deficits do not impact councils' wider financial position and reduce resources needed for other services.

5.8. This instrument does not introduce a new policy approach but extends the existing statutory override for a further two financial years. Without this instrument, the statutory override would lapse on 31 March 2026.

5.9. Although the government has set out the first phase of support, to provide grant to extinguish 90% of authorities' High Needs-related deficit accrued up to the end of 2025/26, the override is still needed as further deficits will accrue over 2026/27 and 2027/28, and to provide councils time to plan to address the portion of deficits not addressed by grant. Further phases of government support to address these deficits are yet to be announced, so it is essential that the override remains in place to protect authorities' budgets and financial stability. The override is extended to 31 March 2028 by this instrument, after which (from 2028/29 onward) it is expected that SEND spending will be covered by government budget and further deficits should not accrue.

6. Legislative and Legal Context

How has the law changed?

6.1. Section 21(1) of the Local Government Act 2003 (the "2003 Act") provides that the Secretary of State may make provision about the accounting practices ("proper practices") to be followed by local authorities, in particular with respect to the charging of expenditure to a revenue account. Section 21(2) provides that proper practices includes both enactments in legislation, and codes of practice specified by the Secretary of State in legislation. This instrument is made under those powers and amends the Local Authorities (Capital Finance and Accounting) (England) Regulations 2003.

6.2. Section 21(3) of the 2003 Act provides that where there is a conflict between enactments in legislation, and accounting practices in codes of practice, that the legislative provisions are to be regarded as the proper practices.

6.3. There are no legal issues arising from these changes.

Why was this approach taken to change the law?

6.4. This is the only possible approach to make the necessary changes

7. Consultation

Summary of consultation outcome and methodology

7.1. A formal public consultation was not undertaken for this instrument, although Government's intent to extend the override by two years was included in the Government's consultation on the Fair Funding Review 2.0, issued June 2025.

7.2. This approach was considered proportionate because the changes relate to technical accounting provisions rather than altering the underlying funding framework or eligibility criteria for education services. Local authorities are already familiar with the operation of the current statutory override and have supported its extension as well as further supportive measures on deficits.

7.3. General concerns have been raised about the need for a longer-term solution in addressing underlying financial pressures related to SEND and the accumulated deficits, which the department acknowledges will require a more comprehensive and

fundamental reform of the SEND system. The Department for Education published plans to reform the SEND system as part of the Schools White Paper on 23 February 2026.

7.4. The devolved administrations were not consulted as the provisions apply only to local authorities in England.

7.5. This statutory instrument remains time limited, reflecting the position that local authorities cannot accumulate deficits indefinitely.

8. Applicable Guidance

8.1. There are no current plans for Government to issue guidance on implementing these regulations. Local authorities primarily follow guidance issued by the Chartered Institute of Public Finance and Accountancy (CIPFA), which provides technical advice on the statutory override and the correct accounting treatment of Dedicated Schools Grant deficits. CIPFA's guidance ensures compliance with the Code of Practice on Local Authority Accounting, offering clarity on how Dedicated Schools Grant deficits should be recorded and reported in financial statements. This framework underpins consistency across all authorities and supports transparency in local government finance.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1. A full Impact Assessment has not been prepared because the instrument affects statutory accounting practices for local authorities only. It does not introduce new service delivery requirements or additional financial obligations. It has no impact on business.

Impact on businesses, charities and voluntary bodies

9.2. There is no, or no significant impact on business, charities or voluntary bodies. This instrument applies to local authority accounting treatment of specific deficits and will have no effect on these bodies.

9.3. The legislation does not impact small or micro businesses.

9.4. There is no, or no significant, impact on the public sector because this instrument extends an existing accounting treatment that applies to local authorities only, with the effect of ensuring that deficits relating to local authorities' schools budgets do not adversely affect authorities' financial stability. No additional costs are expected or have been identified as a result of this statutory accounting override.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1. The Department will monitor the impact of these regulations throughout the periods in which they will have effect.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1. None.

12. European Convention on Human Rights

12.1. As the instrument is subject to negative procedure and does not amend primary legislation, no statement is required.

13. The Relevant European Union Acts

13.1. This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 (“relevant European Union Acts”).