STATUTORY INSTRUMENTS

2025 No. 42

EDUCATION, ENGLAND

The School and Early Years Finance (England) Regulations 2025

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The Secretary of State makes these Regulations in exercise of the powers conferred by sections 45(1B)(**a**), 45A(**b**), 45AA(**c**), 47(**d**), 47ZA(**e**), 47A(4), (4B) and (5)(**f**), 48(1) and (2)(**g**), 49(2) and (2A)(**h**), and 138(7)(**i**) of, and paragraphs 1(**j**) and 2B(**k**) of Schedule 14 to, the School Standards and Framework Act 1998(**l**) and section 24(3) and (4)(**m**) of the Education Act 2002(**n**).

PART 1

Introduction

Citation, commencement, extent, application and interpretation

1.—(1) These Regulations may be cited as the School and Early Years Finance (England) Regulations 2025.

(2) These Regulations come into force on 17th February 2025.

(3) These Regulations extend to England and Wales and apply in relation to England.

(4) In these Regulations—

"the 1989 Act" means the Children Act 1989(**o**);

(**a**) Section 45(1B) was inserted by section 101 of, and paragraph 2(3) of Schedule 16 to, the Education Act 2005 (c. 18) ("the 2005 Act").
(**b**) Section 45A was inserted by section 41(1) of the Education Act 2002 (c. 32) ("the 2002 Act"). It was amended by section 101 of, and paragraph 3 of Schedule 16 to, the 2005 Act, by section 202 of the Apprenticeships, Skills, Children and Learning Act 2009 (c. 22) ("the 2009 Act"), by section 3(2)(a) of the Childcare Act 2016 (c. 5) ("the 2016 Act") and by S.I. 2010/1158.
(**c**) Section 45AA was inserted by section 101 of, and paragraph 4 of Schedule 16 to, the 2005 Act. It was amended by S.I. 2010/1158.
(**d**) Section 47 was amended by section 101 of, and paragraph 6 of Schedule 16 to, the 2005 Act and by S.I. 2010/1158.
(**e**) Section 47ZA was inserted by section 202 of the 2009 Act and amended by section 3(2)(b) of the 2016 Act.
(**f**) Section 47A was inserted by section 43 of the 2002 Act and amended by section 101 of, and paragraph 7 of Schedule 16 to, the 2005 Act, section 57 of, and paragraph 2 of Schedule 5 to, the Education and Inspections Act 2006 (c. 40) ("the 2006 Act"); section 165 of the Education and Skills Act 2008 (c. 25), section 194 of the 2009 Act and by S.I. 2010/1158.
(**g**) Section 48 was amended by section 40 of, and paragraph 2 of Schedule 3 to, the 2002 Act, section 117 of, and paragraph 7 of Schedule 18 to, the 2005 Act, section 57 of, and paragraph 3 of Schedule 5 to, the 2006 Act and by S.I. 2010/1158.
(**h**) Subsections (2) and (2A) were substituted for subsections (2) and (3), as originally enacted, by section 57 of, and paragraph 4 of Schedule 5 to, the 2006 Act and were amended by S.I. 2010/1158.
(**i**) Subsection (7) was amended by section 175 of, and paragraph 3 of Schedule 17 to, the 2006 Act.
(**j**) Paragraph 1 of Schedule 14 was amended by section 57 of, and paragraph 5 of Schedule 2 to, the 2006 Act and by S.I. 2010/1158.
(**k**) Paragraph 2B of Schedule 14 was substituted for paragraph 2, as originally enacted, by section 57 of, and paragraph 5 of Schedule 5 to, the 2006 Act and was amended by S.I. 2010/1158.
(**l**) 1998 c. 31 ("the 1998 Act"). For the meanings of "prescribed" and "regulations", see section 142(1) of the 1998 Act.
(**m**) Subsection (4) was amended by S.I. 2010/1158 and by the Education (Wales) Measure 2011 (nawm 7).
(**n**) 2002 c. 32. For the meanings of "prescribed" and "regulations" see section 212(1) of the 2002 Act, as amended by S.I. 2010/1158.
(**o**) 1989 c. 41.

"the 1996 Act" means the Education Act 1996(**a**);

"the 1998 Act" means the School Standards and Framework Act 1998;

"the 2002 Act" means the Education Act 2002;

"the 2003 Act" means the Local Government Act 2003(**b**);

"the 2006 Act" means the Education and Inspections Act 2006(**c**);

"the 2010 Act" means the Academies Act 2010(**d**);

"the 2014 Act" means the Children and Families Act 2014(**e**);

"the 2014 Regulations" means the Local Authority (Duty to Secure Early Years Provision Free of Charge) Regulations 2014(**f**);

"the 2024 Regulations" means the School and Early Years Finance and Childcare (Provision of Information About Young Children) (Amendment) (England) Regulations 2024(**g**);

"the ACA" means the "area cost adjustment", which is a multiplier applied to the funding factors specified in these Regulations to account for variations in labour market costs in different areas of England(**h**);

"administrative costs and overheads" includes—

(a) expenditure on legal services;

(b) expenditure in relation to the investigation and resolution of complaints;

(c) expenditure related to functions imposed by or under Chapter 4 of Part 2 of the 1998 Act (financing of maintained schools), the administration of grants to the local authority (including preparation of applications) and, where it is the local authority's duty to do so, ensuring payments are made in respect of taxation, national insurance and superannuation contributions; and

(d) expenditure on recruitment, training, continuing professional development, performance management and personnel management of staff who are funded by expenditure not met from schools' budget shares and who are paid for services;

"capital expenditure" means expenditure of a local authority which falls to be capitalised in accordance with proper accounting practices, or expenditure treated as capital expenditure by virtue of any regulations or directions made under section 16 of the 2003 Act(**i**);

"central expenditure" means, in respect of the funding period, the total amount deducted by a local authority from its schools budget in accordance with regulation 8 (determination of individual schools budget) or, in respect of the previous funding period, the total amount deducted by a local authority from its schools budget in accordance with regulation 8 of the 2024 Regulations;

(**a**) 1996 c. 56.
(**b**) 2003 c. 26.
(**c**) 2006 c. 40.
(**d**) 2010 c. 32.
(**e**) 2014 c. 6.
(**f**) S.I. 2014/2147, amended by S.I. 2016/887, 2018/146 and 383, 2023/276, 2024/1019 and 1228.
(**g**) S.I. 2024/66.
(**h**) The area cost adjustment ("ACA") for each local authority in respect of the year 2025-26 can be found at pages 9 to 14 of the document entitled "Area cost adjustment for national funding formula 2025 to 2026: technical note", published in November 2024. That document can be found at https://assets.publishing.service.gov.uk/media/6745f236b58081a2d9be974b/NFF_area_cost_adjustment_technical_note.pdf. A printed copy may also be inspected at the Department for Education, Sanctuary Buildings, Great Smith Street, London SW1P 3BT upon request.
(**i**) "Proper accounting practices" are defined in section 21 of the Local Government Act 2003 (c. 26). Regulations made under sections 16 and 21 of this Act in relation to England are the Local Authorities (Capital Finance and Accounting) (England) Regulations 2003 (S.I. 2003/3146). Relevant amendments to those Regulations are made by S.I. 2004/534 and 3055, 2007/573, 2010/454, 2012/265, 2019/396 and 2024/602.

"CERA" means capital expenditure which a local authority expects to charge to its revenue account within the meaning of section 22 of the 2003 Act(**a**);

"community early years provision" means funded early years provision provided by the governing body of a maintained school under section 27(1) of the 2002 Act (power of governing body to provide community facilities etc.) to children other than pupils at the school, where the local authority has chosen to fund such provision;

"Dedicated Schools Grant" means the grant of that name paid to a local authority by the Secretary of State under section 14 of the 2002 Act (power of Secretary of State and National Assembly for Wales to give financial assistance for purposes related to education or children etc)(**b**);

"disadvantaged two year olds" means children eligible for early years provision prescribed for the purposes of section 7(1) of the Childcare Act 2006 (duty to secure early years provision free of charge in accordance with regulations)(**c**) and who meet the condition in regulation 3(2) but not the condition in regulation 3(3) of the 2014 Regulations;

"early years block" means the amount of funding allocated to a local authority in relation to early years provision in the Dedicated Schools Grant during the funding period;

"early years provision" has the meaning given by section 20 of the Childcare Act 2006;

"early years pupil premium" means funding supplied by the Department for Education for the purpose of early years provision to children who meet the criteria in regulation 34 (early years pupil premium);

"EHC plan" has the meaning given by section 37(2) of the 2014 Act (education, health and care plans)(**d**);

"eligibility for free school meals" means eligibility for free lunches under section 512ZB of the 1996 Act(**e**);

"excluded early years provision" means early years provision provided by a provider—

(a) which is an independent school (other than an Academy school) which does not meet the standards prescribed under section 94 of the Education and Skills Act 2008 (independent educational institution standards)(**f**) in relation to the spiritual, moral, social and cultural development of pupils at the school; or

(b) which the local authority has reasonable grounds to believe—

(i) does not actively promote the fundamental British values of democracy, the rule of law, individual liberty and mutual respect and tolerance of those with different faiths and beliefs; or

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(**a**) Section 22 was amended by section 45 of, and paragraphs 49 and 51 of Schedule 12 to, the Local Audit and Accountability Act 2014 (c. 2).

(**b**) Section 14 was amended by sections 59(1) to (4) of the Children Act 2004 (c. 31) ("the 2004 Act"), section 98 of, and paragraph 23 of Schedule 14 to, the 2005 Act, section 15(1) and (2) of the Education Act 2011 (c. 21) ("the 2011 Act") and S.I. 2010/1158 and 2019/1027.

(**c**) 2006 c. 21. Section 7 was substituted by section 1(1) and (2) of the 2011 Act. Regulations made under section 7 are the Local Authority (Duty to Secure Early Years Provision Free of Charge) Regulations 2014 (S.I. 2014/2147), amended by S.I. 2016/887, 2018/146 and 383, 2023/276, 2024/1019 and 1228.

(**d**) Section 37(2) was amended by S.I. 2015/914.

(**e**) Section 512ZB was inserted by section 201(1) of the 2002 Act and amended by section 28(1) of, and paragraph 16(3) of Schedule 3 to, the Welfare Reform Act 2007 (c. 5) ("the 2007 Act"), section 26(1) of the Child Poverty Act 2010 (c. 9), sections 31 and 147 of, paragraphs 37 and 39 of Schedule 2 and Part I of Schedule 14 to, the Welfare Reform Act 2012 (c. 5) ("the 2012 Act"), section 106 of the Children and Families 2014 Act (c. 6) ("the 2014 Act") and S.I. 2010/1158.

(**f**) 2008 c. 25. Section 94 was amended by section 75(5) of the Small Business, Enterprise and Employment Act 2015 (c. 26). Regulations made under section 94 are the Education (Independent School Standards) Regulations 2014 (S.I. 2014/3283), amended by S.I. 2018/205 and 901, 2019/924, 2020/542, 2021/122 and 1124, 2022/905 and 2024/208.

(ii) promotes, as evidence-based, views and theories which are contrary to established scientific or historical evidence and explanations;

"expenditure on the schools specific contingency" is central expenditure deducted for the purpose of ensuring that monies are available to enable an increase in a school's budget share after it has been allocated and where it subsequently becomes apparent that a governing body has incurred expenditure which it would be unreasonable to expect it to meet from the school's budget share, which may include expenditure in relation to—

(a) schools in financial difficulty;

(b) the writing off of deficits of schools which are discontinued, excluding any associated costs and overheads;

(c) new, amalgamating or closing schools; or

(d) circumstances which were unforeseen when the school's budget share was initially determined;

"a fringe authority" means Buckinghamshire Council(**a**) or the County Councils of Essex, Hertfordshire, Kent or West Sussex;

"fringe district" and "non-fringe district" refers to those districts which are listed as such against the entries in relation to Buckinghamshire, Essex, Hertfordshire, Kent and West Sussex in the document entitled "Area cost adjustment for national funding formula 2025 to 2026: technical note"(**b**), where different ACAs are applied so as to reflect the higher costs incurred by schools in fringe districts, as compared to non-fringe districts, within the same fringe authority's area;

"funded early years provision" means—

(a) early years provision prescribed for the purposes of section 7(1) of the Childcare Act 2006 (duty to secure early years provision free of charge in accordance with regulations); and

(b) early years provision specified for the purposes of section 2(1) of the Childcare Act 2016 (discharging the section 1(1) duty)(**c**);

"funding period" means the financial year beginning with 1st April 2025;

"hospital education" means education provided at a community special school(**d**) or foundation special school established in a hospital, or under any arrangements made by the local authority under section 19 of the 1996 Act (exceptional provision of education in pupil referral unit or elsewhere)(**e**), where the child is being provided with such education by reason of a decision made by a medical practitioner, and "hospital education places" shall be read accordingly;

(**a**) The Buckinghamshire (Structural Changes) Order 2019 (S.I. 2019/957) created a single tier authority for Buckinghamshire, coterminous with the county of Buckinghamshire, and replaced the former district councils within the county with effect from 1st April 2020, but the former districts (described in article 2 (interpretation) of that Order) remain relevant for the purposes of regulation 20.

(**b**) This document was published by the Department for Education in November 2024 and can be found at https://assets.publishing.service.gov.uk/media/6745f236b58081a2d9be974b/NFF_area_cost_adjustment_technical_note.pdf. A printed copy may also be inspected at the Department for Education, Sanctuary Buildings, Great Smith Street, London SW1P 3BT upon request. A list of current district and borough councils for those districts can be found at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1140054/List_of_councils_in_England_2023.pdf.

(**c**) Relevant regulations made under section 2(1) are the Childcare (Free of Charge for Working Parents) (England) Regulations 2022 (S.I. 2022/1134), amended by S.I. 2023/276 and 1330 and 2024/369, 527, 1019 and 1228.

(**d**) For the meaning of "special school", see section 337 of the Education Act 1996 (c. 56) ("the 1996 Act"), as substituted by section 82 of, and paragraphs 1 and 36 of Schedule 3 to, the 2014 Act.

(**e**) Section 19 was amended by section 47 of, and Schedule 8 to, the Education Act 1997 (c. 44), section 101 of the 2006 Act, section 3(1) to (4) of the Children, Schools and Families Act 2010 and by S.I. 2007/1507 and 2010/1158.

"integrated care board" means an integrated care board established under section 14Z25 of the National Health Service Act 2006(**a**);

"key stage" means the key stage of the National Curriculum for England comprising the requirements and entitlements described in sections 84 and 85 of the 2002 Act(**b**) and "key stage 1", "key stage 2", "key stage 3" and "key stage 4" mean, respectively, the first, second, third and fourth key stages referred to in those sections;

"Local Health Board" means a Local Health Board established under section 11 of the National Health Service (Wales) Act 2006(**c**);

"maintained nursery school supplement" is any amount allocated to the local authority in respect of nursery schools(**d**) maintained by it, notified to it in the early years block;

"middle school single sum formula" is A x (B/C) + D x (E/C) where—

(a) A is the amount allocated per school by the local authority under regulation 16(2)(a) (primary single sum);

(b) B is the number of primary-age year groups in the school;

(c) C is the number of year groups in the school;

(d) D is the amount allocated per school by the local authority under regulation 16(3)(a) (secondary single sum); and

(e) E is the number of secondary-age year groups in the school;

"NHS foundation trust" means an NHS foundation trust established under section 30 of the National Health Service Act 2006(**e**);

"NHS trust" means an NHS trust established under section 25 of the National Health Service Act 2006;

"non-domestic rate" has the meaning given by section 54 of the Local Government Finance Act 1988 (central rating: liability and reliefs)(**f**);

"premises factor allocation" means—

(a) any additional funding that would be allocated to the school by virtue of regulation 25(3) (additional criteria: schools); and

(b) any additional funding that the local authority has allocated to the school which has been authorised by the Secretary of State under regulation 42(1)(d);

"prescribed alteration" means a prescribed alteration within the meaning of the School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013(**g**);

"previous funding period" means the financial year beginning with 1st April 2024 and "previous funding periods" means such funding periods as the context specifies more particularly;

(**a**) 2006 c. 41. Section 14Z25 was inserted by section 19(2) of the Health and Care Act 2022 (c. 31).

(**b**) Section 84 was amended by S.I. 2013/2092 and 2093. Section 85 was substituted by S.I. 2003/2946, modified by section 74(4) of the 2006 Act (until section 74(1) of the 2006 Act is commenced) and amended by section 26(1) of, and paragraphs 11 and 12 of Schedule 8 to, the 2011 Act, S.I. 2012/2056 and 2013/2092. Section 85A was inserted by section 31(1) and (2) of the 2011 Act and amended by section 26 of, and paragraphs 22 and 26 of Schedule 8 to, the 2011 Act but only section 85A(4), which provides transitional provisions applying to section 85, has been commenced. Sections 85 and 85A were both amended by S.I. 2010/1158.

(**c**) 2006 c. 42.

(**d**) For the meaning of "nursery school", see section 6(1) of the 1996 Act which was amended by paragraph 11 of Schedule 7 to the Education Act 1997, section 156(1) of the 2002 Act and paragraph 2 of Schedule 3 to the 2014 Act.

(**e**) Section 30 was amended by section 159(1) of the Health and Social Care Act 2012 (c. 7).

(**f**) 1988 c. 41. Section 54 was amended by section 3(1) and (2) of the Non-Domestic Rating Act 2023 (c. 53). A further amendment made by paragraphs 32 and 34 of the Schedule to that Act is not yet in force.

(**g**) S.I. 2013/3110, amended by S.I. 2014/2103. The Regulations are made under section 18 of the 2006 Act.

"provider", in relation to funded early years provision, includes a governing body of a maintained school or a relevant early years provider;

"prudential borrowing" means borrowing money for the purpose of facilitating the modernisation and rationalisation of the school estate, where the revenue savings expected to be achieved as a result are equal to or more than the expenditure expected to be incurred in borrowing the money;

"pupil premium" means the amount allocated by a local authority from the pupil premium grant to a school under the terms and conditions of the grant;

"pupil premium grant" is a grant of that name paid to a local authority by the Secretary of State under section 14 of the 2002 Act in respect of pupils who are entitled to a pupil premium;

"Reception" means the school year in which the majority of pupils attain the age of five;

"relevant early years provider" means a provider of funded early years provision, other than the governing body of a maintained school;

"relevant early years provision" means funded early years provision provided by a relevant early years provider;

"relevant group" refers to the following groups—

(a) working parent under two year olds;

(b) disadvantaged two year olds;

(c) working parent two year olds;

(d) three and four year olds;

"risk protection arrangement" means an arrangement to cover the costs of certain liabilities arising in connection with maintained schools and their premises that is entered into between the Secretary of State and—

(a) the governing bodies of maintained schools, in the case of a maintained school other than a pupil referral unit(**a**); or

(b) the local authority, in the case of a pupil referral unit;

"school census" means the record of individual pupil information supplied to the Secretary of State under section 537A of the 1996 Act(**b**);

"school year" means the period of 12 months beginning with 1st September, unless the school has a term beginning in August, in which case "school year" means the period of 12 months beginning with 1st August;

"sixth form grant" means a grant of that name paid to a local authority by the Secretary of State under section 14 of the 2002 Act in respect of sixth form pupils;

"special Academy" means an educational institution which meets the requirements of section 1A(2) of the 2010 Act(**c**);

"special educational needs" has the meaning given by section 20(1) of the 2014 Act (when a child or young person has special educational needs);

(**a**) For the meaning of "pupil referral unit", see section 19(2B) of the 1996 Act which was inserted by S.I. 2007/1507 and amended by section 25 of, and paragraph 1 of Schedule 3 to, the Children, Schools and Families Act 2010 (c. 26) and S.I. 2010/1158.

(**b**) Section 537A was inserted by section 140(1) of, and paragraph 153 of Schedule 30 to, the 1998 Act and amended by S.I. 2010/1158 and 2012/976.

(**c**) Section 1A was inserted by section 53(7) of the 2011 Act.

"special educational needs inclusion fund" means the expenditure deducted from a local authority's schools budget under regulation 8(12) and paragraph 32(c) of Schedule 2;

"three and four year olds" means—

(a) children eligible for early years provision prescribed for the purposes of section 7(1) of the Childcare Act 2006 and who meet the condition in regulation 3(3) of the 2014 Regulations; and

(b) qualifying children of working parents eligible for early years provision specified for the purposes of section 2(1) of the Childcare Act 2016 during the period commencing with the next 1st April, 1st September or 1st January after the child attains the age of three years and ending immediately before the next 1st September after the child attains the age of five years;

"working parent two year olds" means qualifying children of working parents eligible for early years provision specified for the purposes of section 2(1) of the Childcare Act 2016 during the period commencing with the next 1st April, 1st September or 1st January after the child attains the age of two years and ending with the earliest of the next 31st March, 31st August or 31st December after the child attains the age of three years;

"working parent under two year olds" means qualifying children of working parents eligible for early years provision specified for the purposes of section 2(1) of the Childcare Act 2016 during the period commencing with the next 1st April, 1st September or 1st January after the child attains the age of nine months and ending with the earliest of the next 31st March, 31st August or 31st December after the child attains the age of two years.

"Year 1" means the school year in which the majority of pupils attain the age of six;

"Year 2" means the school year in which the majority of pupils attain the age of seven;

"Year 3" means the school year in which the majority of pupils attain the age of eight;

"Year 4" means the school year in which the majority of pupils attain the age of nine;

"Year 5" means the school year in which the majority of pupils attain the age of 10;

"Year 6" means the school year in which the majority of pupils attain the age of 11;

"Year 7" means the school year in which the majority of pupils attain the age of 12;

"Year 8" means the school year in which the majority of pupils attain the age of 13;

"Year 9" means the school year in which the majority of pupils attain the age of 14;

"Year 10" means the school year in which the majority of pupils attain the age of 15;

"Year 11" means the school year in which the majority of pupils attain the age of 16;

(5) In these Regulations—

(a) a reference to a determination or redetermination of a budget share or amount to be allocated is a reference to such a determination or redetermination for the funding period, unless otherwise stated;

(b) a reference to a "governing body" of a school includes the management committee of a pupil referral unit unless otherwise specified;

(c) a reference to the number of pupils at a particular key stage is a reference to the number on 3rd October 2024, unless otherwise stated;

(d) a reference to "pupils or children" in regulations 32 (special arrangements for early years pupils and children), 33 (social deprivation for early years) and 38 (discretionary funding cap) is a reference to—

(i) in respect of a nursery school, the pupils at the school;

(ii) in respect of a nursery class, the pupils in the class;

(iii) in respect of a funded early years provider, the children receiving funded early years provision from the provider;

(iv) in respect of a relevant early years provider, the children receiving relevant early years provision from the provider; and

(v) in respect of community early years provision, the children receiving such provision at the school;

(e) a reference to "pupils" includes only those pupils who are recorded on the school census as either—

(i) registered solely at that school; or

(ii) registered at more than one school, but attending that school for most of their time,

except in regulations 32, 33 and 38, where "pupil" means a registered pupil(**a**);

(f) a reference to "schools" in Schedule 1 includes maintained schools, Academy schools and alternative provision Academies, except where the context requires otherwise;

(g) a reference to "special educational needs transport costs", for the purposes of paragraph 2(d) of Schedule 2, is a reference to the costs of home-to-school transport for pupils with special educational needs in schools maintained by a local authority where the local authority is meeting such costs because the revenue savings that will be achieved by placing such children in a school maintained by it are equal to, or greater than, the costs of such transport;

(h) a reference to "termination of employment costs", for the purposes of paragraph 2(b) of Schedule 2, is a reference to expenditure relating to the dismissal or premature retirement of, or for the purpose of securing the resignation of, any person employed in a maintained school;

(i) a reference to "children", for the purposes of Schedule 2, has the meaning given by section 579 of the 1996 Act;

(j) a reference to "young people", for the purposes of Part 5 of Schedule 2, is a reference to persons who are over compulsory school age(**b**) but under the age of 19.

Revocation

2. The School and Early Years Finance (England) Regulations 2023(**c**) are revoked on 1st April 2025.

Amendment of the Schools Forums (England) Regulations 2012

3. In regulation 8 of the Schools Forums (England) Regulations 2012(**d**), in each place where the words "the School and Early Years Finance and Childcare (Provision of Information About Young Children) (Amendment) (England) Regulations 2024" occur, substitute "the School and Early Years Finance (England) Regulations 2025".

(**a**) For the meaning of "registered pupil", see section 434(5) of the 1996 Act.
(**b**) For the meaning of "compulsory school age", see section 8 of the 1996 Act.
(**c**) S.I. 2023/59.
(**d**) S.I. 2012/2261. Regulation 8 was amended by S.I. 2012/2991, 2017/44, and 2020/540. It was also amended by S.I. 2021/59 and 2022/27, which have been revoked, and S.I. 2023/59, which will be revoked by regulation 2 of these Regulations on 1st April 2025.

PART 2

Action to be taken by a local authority

Chapter 1

Determination of the non-schools education budget, schools budget, individual schools budget, and budget shares

The non-schools education budget

4.—(1) The following classes or descriptions of local authority expenditure are prescribed for the purposes of section 45A(1) of the 1998 Act and the determination of a local authority's non-schools education budget, subject to the exceptions in regulation 7—

(a) those specified in Schedule 1;

(b) expenditure which is to be treated as part of the non-schools education budget by virtue of regulation 8(15); and

(c) any expenditure which falls outside the classes or descriptions of expenditure specified in regulation 6 and Schedule 2 (the schools budget), apart from expenditure which is to be treated as part of the schools budget by virtue of regulation 8(14)(a).

(2) The expenditure referred to in paragraph (1) includes expenditure on associated administrative costs and overheads.

Initial determination of a local authority's schools budget

5. A local authority must, not later than 28th February 2025—

(a) make an initial determination of its schools budget; and

(b) give notice of that determination to the governing bodies of the schools which it maintains.

The schools budget

6.—(1) The classes or descriptions of local authority expenditure specified in paragraph (2) and Schedule 2 are prescribed for the purposes of section 45A(2) of the 1998 Act and the determination of a local authority's schools budget, subject to the exceptions in regulation 7.

(2) The classes or descriptions of local authority expenditure are—

(a) expenditure on the provision and maintenance of maintained schools and on the education of pupils at maintained schools;

(b) expenditure on the education of children at independent schools, non-maintained special schools, at home or in hospital, and on any other arrangements for the provision of primary and secondary education for children otherwise than at schools maintained by a local authority;

(c) all other expenditure incurred in connection with the local authority's functions in relation to the provision of primary and secondary education, in so far as that expenditure does not fall within sub-paragraph (a) or (b);

(d) expenditure on the education of—

(i) persons provided with further education who are aged under 19 and have special educational needs; and

(ii) persons provided with further education who are aged 19 or over but under 25 and are subject to an EHC plan,

in so far as that expenditure does not fall within sub-paragraph (a), (b) or (c);

(e) expenditure on early years provision, in so far as that expenditure does not fall within sub-paragraph (a), (b), (c) or (d); and

(f) expenditure which is to be treated as part of the schools budget by virtue of regulation 8(14)(a).

Exceptions

7. A local authority's non-schools education budget or schools budget must not include the following classes or descriptions of expenditure—

(a) capital expenditure, other than—

(i) CERA;

(ii) capital expenditure appropriated to the schools budget for the purpose of funding pay arrears due to staff whose salaries are met from the schools budget;

(b) expenditure on capital financing, other than expenditure incurred—

(i) on prudential borrowing;

(ii) for the purpose of meeting the costs of financing the payment of pay arrears referred to in paragraph (a)(ii); and

(c) expenditure for the purposes of section 26 of the Road Traffic Regulation Act 1984 (arrangements for patrolling school crossings)(**a**).

Determination of the individual schools budget for the funding period and limit on increase in central expenditure

8.—(1) Subject to the following provisions of this regulation and not later than 28th February 2025, a local authority must deduct from its schools budget such of the classes or descriptions of planned expenditure set out in Schedule 2 as it proposes to deduct in order to determine its individual schools budget.

(2) Under paragraph (1), a local authority—

(a) must not deduct from its schools budget such of the classes or description of planned expenditure set out in Part 6 of Schedule 2 (items that may be removed from maintained schools' budget shares – primary and secondary schools); and

(b) may only deduct from its schools budget such of the classes or descriptions of planned expenditure set out in Part 7 of Schedule 2 (items that may be removed from maintained schools' budget shares – primary, secondary and special schools and pupil referral units) if that deduction is to be made under paragraph (15).

(3) Expenditure referred to in paragraphs 1 and 2 of Part 1 of Schedule 2 (historic commitments) may only be deducted by the local authority where the expenditure is to be incurred as a result of decisions taken before 1st April 2013 which commit the local authority to incur expenditure in the funding period.

(4) In deducting the expenditure referred to in Part 1 of Schedule 2, a local authority must not exceed the limits referred to in paragraph 3 of Schedule 2, unless it is authorised to do so under

(**a**) 1984 c. 27. Section 26 was amended by section 8 of, and paragraph 4 of Schedule 5 to, the Local Government Act 1985 (c. 51), sections 288 and 423 of, and Part 6 of Schedule 34 to, the Greater London Authority Act 1999 (c. 29), sections 270 and 274 of, and Part 5 of Schedule 31 to, the Transport Act 2000 (c. 38), and section 99 of, and paragraphs 164 and 165 of Schedule 16 to, the Police Reform and Social Responsibility Act 2011 (c. 13).

regulation 42(1)(a) (authorisation by the Secretary of State to disregard limits relating to expenditure in respect of historic commitments).

(5) A local authority must not deduct the expenditure referred to in paragraphs 4 to 6 of Schedule 2 (growth fund, falling rolls and new schools) unless the criteria for determining the expenditure have been authorised by its schools forum under regulation 12(1), or by the Secretary of State under regulation 12(3).

(6) Where a local authority agrees with a maintained school (other than a special school, pupil referral unit or nursery school) or an Academy school (other than a special Academy) in its area to provide an extra class to meet a need due to significant growth in pupil numbers in its area, the criteria referred to in paragraph (5) must include provision such that the amount allocated to that school is at least £1,570 in respect of each pupil to be accommodated in the extra class, multiplied by the ACA applying in relation to the area in which the school is situated.

(7) Except as provided for in paragraphs (8), (15) and (16), a local authority must obtain authorisation from its schools forum under regulation 12(1), or from the Secretary of State under regulation 12(3), before deducting the expenditure referred to in Schedule 2.

(8) Paragraph (7) does not apply to expenditure under paragraph (12), or the following provisions of Schedule 2—

(a) paragraph 8 (expenditure on licences);

(b) Part 5 (children and young people with high needs);

(c) Part 8 (deficit from previous funding period).

(9) Where a local authority has expenditure falling within Part 8 of Schedule 2, it must—

(a) deduct all of that expenditure from its schools budget;

(b) deduct such part of that expenditure as it may determine and carry forward the remaining part to the next funding period; or

(c) carry forward all of that expenditure to the next funding period.

(10) A local authority may apply to the Secretary of State for authorisation under regulation 42(1)(b) to disregard the requirements in paragraph (9).

(11) Any amount of expenditure which was deducted under paragraph 4 (growth fund), 5 (falling rolls), 6 (new schools) or 7 (extra infant classes) of Schedule 2 to the 2024 Regulations for the previous funding period and which remains unspent may be used by the local authority in the funding period for the purposes listed in those paragraphs of Schedule 2 to the 2024 Regulations that applied to such expenditure.

(12) A local authority must, following consultation with its schools forum about the amount to be deducted, deduct the expenditure referred to in paragraph 32(c) of Schedule 2 (expenditure on services for children who are eligible for funded early years provision, who have not attained compulsory school age, and who have special educational needs, other than expenditure in respect of funding provision specified in an EHC plan).

(13) Where—

(a) under regulation 11(5) of the 2024 Regulations, a local authority treated expenditure described in Part 6 of Schedule 2 (items that may be removed from maintained schools' budget shares – primary and secondary schools) as central expenditure for the previous funding period; and

(b) any such amounts remain unspent,

those amounts may be used by the local authority in the funding period for the purposes listed in Part 6 of Schedule 2 to the 2024 Regulations that applied to such expenditure.

(14) A local authority may apply to the Secretary of State for authorisation—

(a) under regulation 42(1)(c), to deduct from its schools budget any expenditure falling outside the classes or descriptions of planned expenditure specified in Schedule 2, in order to determine its individual schools budget; or

(b) under regulation 42(1)(f), to alter the operation of regulation 11(3) (additional costs - pupils with special educational needs).

(15) A local authority may deduct the expenditure specified in paragraph (16) from the schools budget without authorisation from its schools forum under regulation 12(1) or from the Secretary of State under regulation 12(3), in which case it must be treated as if it were part of the non-schools education budget prescribed in regulation 4.

(16) The specified expenditure for the purposes of paragraph (15) is the description of expenditure referred to in the following provisions of Schedule 2—

(a) paragraphs 9 to 12 (expenditure on local authority's functions in relation to schools admission, pupils attending non-maintained schools, remission of boarding fees and schools forums);

(b) Part 3 (other central education expenditure); and

(c) Part 7.

(17) References to planned expenditure in this regulation and Schedule 2 are references to that expenditure net of—

(a) any related specific grant;

(b) all related fees, charges and income; and

(c) any funding received from the Secretary of State in respect of a charge payable by a local authority under a private finance transaction, as defined in regulation 16 of the Local Authorities (Capital Finance) Regulations 1997(**a**).

(18) The expenditure referred to in Schedule 2 includes expenditure on associated administrative costs and overheads.

(19) In paragraph (17), "specific grant" means any grant paid to a local authority under conditions which impose restrictions on the particular purposes for which the grant may be used other than—

(a) the Dedicated Schools Grant; or

(b) any sixth form grant.

Consultation

9.—(1) In deciding on the formulae under regulation 10, a local authority may change the formulae which it decided under regulation 10 of the 2024 Regulations (formulae for determination of budget shares etc. for certain maintained schools and early years providers).

(2) Subject to paragraph (4), a local authority must consult its schools forum(**b**) and the schools it maintains about any proposed changes under paragraph (1) in relation to the factors and criteria taken into account, and the methods, principles and rules adopted.

(3) Where a local authority proposes to make changes under paragraph (1) which will affect relevant early years providers in its area, it must also consult those providers in relation to the factors and criteria taken into account, and the methods, principles and rules adopted.

(4) Paragraph (2) does not apply to changes made relating to matters referred to in regulation 29 (sixth form funding) or 40 (pupils permanently excluded from, or leaving, maintained schools).

(**a**) S.I. 1997/319. These Regulations have lapsed but article 11 of S.I. 2004/533 contains a savings provision for regulation 16 of those Regulations. Regulation 16 was substituted by S.I. 1998/371 and amended by S.I. 1999/1852 and 2003/515.

(**b**) For the meaning of "schools forum", see section 47A(1) of the 1998 Act. Section 47A(1) was inserted by section 43 of the 2002 Act and amended by section 165(2) of the Education and Skills Act 2008 (c. 25) and by S.I. 2010/1158.

(5) A local authority must consult its schools forum before incurring any of the expenditure referred to in paragraphs 4 to 6 of Schedule 2.

Formulae for determination of budget shares etc. for certain maintained schools and early years providers

10.—(1) A local authority must, before the beginning of the funding period and after carrying out any consultation required by regulation 9(2), decide on the formula which it will use to determine the budget shares for schools which it maintains (other than special schools, pupil referral units and nursery schools), excluding any amount to be allocated in respect of nursery classes or community early years provision in those schools.

(2) In respect of the funding period, a local authority must use the formula decided under paragraph (1) in all determinations of school budget shares to which that paragraph applies.

(3) A local authority must, before the beginning of the funding period and after carrying out any consultation required by regulation 9(2) or (3), decide on the formula which it will use to determine—

(a) the budget shares for nursery schools maintained by it;

(b) the amounts to be allocated in respect of nursery classes in schools maintained by it;

(c) the amounts to be allocated to relevant early years providers in its area; and

(d) the amounts to be allocated in respect of community early years provision in schools maintained by it.

(4) A local authority must use the formula decided under paragraph (3) when making the determinations referred to in paragraph (3)(a) to (d) in respect of the funding period.

(5) A local authority must ensure, in the formula decided under paragraph (3), that the predicted total number of hours calculated under regulation 32(1) (special arrangements for early years pupils and children) is multiplied by a rate.

(6) For the purposes of paragraph (5), a local authority—

(a) may use a different rate for different relevant groups; but

(b) must use the same rate for a particular relevant group—

(i) for each type of early years provider or school referred to in paragraph (3)(a) to (d); and

(ii) in respect of each pupil or child within the relevant group.

(7) A local authority may not change its formulae after the funding period has begun.

(8) The formulae must be decided in accordance with Chapter 1 (requirements, and factors and criteria taken into account – schools other than early years provision), or as the case may be, Chapter 2 (criteria taken into account – early years provision) of Part 3 of these Regulations.

Determination of allocation of budget shares etc. for the funding period

11.—(1) Except as provided for in paragraphs (2), (4) and (9), not later than 28th February 2025, a local authority must determine the budget share for each school which it maintains (other than nursery schools), excluding any amount to be allocated in respect of nursery classes or community early years provision, using the formula referred to in regulation 10(1) in accordance with Chapter 1 of Part 3.

(2) Paragraph (1) does not apply to any determination of amounts to be included in budget shares under regulation 29 (sixth form funding) and in relation to such determination, the local authority must make the determination and notify the school to which the determination relates

within a reasonable period after the notification given by the Secretary of State under regulation 29(1).

(3) When making the determination under paragraph (1), the local authority must identify within each budget share an amount calculated by reference to the requirements, factors and criteria specified in Chapter 1 of Part 3 which are relevant to pupils with special educational needs; such amount must be calculated using a threshold sum of £6,000 per pupil below which the school will be expected to meet the additional costs of pupils with special educational needs from its budget share.

(4) A local authority must, not later than 28th February 2025 and in accordance with Chapter 1 of Part 3, determine the budget share for each of the special schools and pupil referral units it maintains.

(5) After the local authority has made a determination under paragraph (1) but before giving notice under paragraph (10), it may apply to its schools forum under regulation 12(1), or to the Secretary of State under regulation 12(2), for authorisation to redetermine schools' budget shares by removing any of the expenditure referred to in Part 6 of Schedule 2 from the budget shares of—

(a) all primary schools other than nursery schools;

(b) all secondary schools; or

(c) all primary schools other than nursery schools and all secondary schools,

where the expenditure is instead to be treated as if it were part of central expenditure.

(6) After the local authority has made a determination under paragraph (1) or (4) but before giving notice under paragraph (10), it may apply to its schools forum under regulation 12(1), or to the Secretary of State under regulation 12(2), for authorisation to redetermine schools' budget shares by removing any of the expenditure referred to in Part 7 of Schedule 2 from the budget shares of the schools specified in paragraph (7), where the expenditure is instead to be treated as if it were part of central expenditure.

(7) For the purposes of paragraph (6), the specified schools are all primary schools other than nursery schools, all secondary schools, all special schools and all pupil referral units.

(8) Where the local authority makes an application referred to in paragraph (6), the amount by which the budget share is to be redetermined, except in relation to the expenditure referred to in paragraph 53 of Schedule 2 (expenditure incurred for the purposes of supporting the improvement of standards in maintained schools), must be set out—

(a) in the case of a maintained school which is not a special school, on an amount per pupil basis; and

(b) in the case of a maintained school which is a special school or a pupil referral unit, on an amount per place basis.

(9) Not later than 31st March 2025, a local authority must determine—

(a) the budget share for each of the nursery schools maintained by it;

(b) the amount to be allocated in respect of each nursery class in schools maintained by it;

(c) the amount to be allocated to each relevant early years provider in its area; and

(d) the amount to be allocated in respect of community early years provision in schools maintained by it,

using the formula referred to in regulation 10(3), in accordance with Chapter 2 of Part 3.

(10) Not later than 31st March 2025, a local authority must give notice of—

(a) each budget share or amount determined under paragraphs (1), (4) and (9); or

(b) where the budget share has been redetermined under paragraph (5) or (6), the redetermined budget share,

to the governing body of the school or the relevant early years provider concerned.

(11) Save as provided in this regulation and in regulations 22 (risk protection arrangement), 23 (energy scheme factor), 29 (sixth form funding), 30 (new schools, merged schools and closing schools), 31 (federated schools), 32 (special arrangements for early years pupils and children), 34 (early years pupil premium), 35 (disability access fund), 36 (differential funding), 40 (pupils permanently excluded from, or leaving, maintained schools), 41 (correction of errors and changes in non-domestic rates) and 42 (alternative arrangements approved by the Secretary of State), the local authority must not redetermine a school's budget share or the amount allocated to a relevant early years provider.

Chapter 2

Further deductions and variations to limits authorised by schools forums or the Secretary of State

Applications to the schools forum and the Secretary of State

12.—(1) On the application of a local authority, its schools forum may authorise—

(a) the criteria for determining expenditure referred to in paragraphs 4 to 6 of Schedule 2, in accordance with regulation 8(5);

(b) the reduction during the funding period of any amount of expenditure deducted in accordance with regulation 8(5);

(c) the making of deductions from the local authority's schools budget of expenditure in accordance with regulation 8(7);

(d) the redetermination of schools' budget shares by removal of any of the expenditure referred to in Part 6 of Schedule 2 from schools' budget shares where it is instead to be treated by the local authority as if it were part of central expenditure, in accordance with regulation 11(5);

(e) the redetermination of schools' budget shares by removal of any of the expenditure referred to in Part 7 of Schedule 2 from schools' budget shares where it is instead to be treated by the local authority as if it were part of central expenditure, in accordance with regulation 11(6); and

(f) the use of alternative criteria referred to in regulation 21(13) and (14) for the purpose of calculating funding in respect of sparsity.

(2) Where—

(a) a schools forum does not authorise any of the matters referred to in paragraph (1); or

(b) a local authority is not required to establish a schools forum for its area,

the local authority may apply to the Secretary of State for such authorisation.

(3) On the application of a local authority under paragraph (2), the Secretary of State may authorise the matters referred to in paragraph (1).

PART 3

Determination of budget shares etc.

Chapter 1

Requirements, and factors and criteria taken into account – schools other than early years provision

Pupil numbers

13.—(1) In determining budget shares for primary and secondary schools (other than nursery schools), excluding any amount to be allocated in respect of nursery classes or community early years provision, a local authority must ascertain and take into account in its formula the number of pupils who, on 3rd October 2024 ("the relevant date"), were at those schools.

(2) For the purposes of paragraph (1), the number of pupils is A – B where—

(a) A is the total number of pupils at the school (excluding children in a nursery class) on the relevant date; and

(b) B is the number of pupils at the school on the relevant date in respect of whom a sixth form grant is payable.

(3) Where—

(a) there is or may be an increase to the published admission number relating to the school; or

(b) the school is subject to a prescribed alteration that may lead to an increase in the number of pupils at the school,

the local authority may, instead of ascertaining pupil numbers on 3rd October 2024, include an estimate of pupil numbers.

(4) A local authority must include in its formula a single per pupil amount for each of the pupils—

(a) in Reception and at key stages 1 and 2;

(b) at key stage 3; and

(c) at key stage 4.

(5) In this regulation, "published admission number" means the number of pupils in any relevant age group at the school determined by the admission authority in accordance with sections 88C and 88D of the 1998 Act(**a**).

Places

14.—(1) In determining budget shares for special schools, a local authority—

(a) must include £10,000 for each place other than—

(i) hospital education places; and

(ii) places for those who are 19 years old or older, unless they are continuing to attend a particular course of secondary education which they began before they reached the age of 18; and

(**a**) Sections 88C and 88D of the 1998 Act were inserted by section 151(1) and (4) of the Education and Skills Act 2008 (c. 25). For the meaning of "admission authority", see section 88(1) of the 1998 Act, which was amended by sections 54(1) and 64(1) and (2) of, and paragraph 10(1) and (3) of Schedule 13 to, the 2011 Act and S.I. 2010/1158.

(b) must not include funding for places for those who are 19 years old or older, unless they are continuing to attend a particular course of secondary education which they began before they reached the age of 18.

(2) In determining budget shares for primary or secondary schools maintained by the local authority with places which it has reserved for children with special educational needs, a local authority must—

(a) in the case of a place that was taken by a pupil on 3rd October 2024, include £6,000 per place; and

(b) in all other cases except hospital education places, include £10,000 per place.

(3) In determining budget shares for pupil referral units, a local authority must include £10,000 for each place other than hospital education places.

(4) Paragraph (3) applies to places to be commissioned by schools or directly by a local authority.

(5) For each hospital education place referred to in paragraphs (1) to (3) the local authority must include at least the equivalent amount per hospital education place which it included in the budget share of the school or pupil referral unit, as the case may be, in the previous funding period.

(6) In determining budget shares under this regulation, a local authority must ensure that it funds places which may be taken by children who are not ordinarily resident in its area.

Social deprivation - primary and secondary schools

15.—(1) In determining budget shares for schools maintained by it (other than special schools, pupil referral units and nursery schools), excluding any amount to be allocated in respect of nursery classes or community early years provision, a local authority must take into account in its formula the incidence of social deprivation in pupils at the schools it maintains.

(2) The incidence of social deprivation in a school is to be determined by taking into account all of the following criteria—

(a) a pupil's eligibility for free school meals on 3rd October 2024;

(b) a pupil's eligibility for free school meals recorded in any school census between and including Spring 2019 and Autumn 2024; and

(c) a pupil's LSOA rank on 3rd October 2024, using factors which differentiate between different LSOA bands (that is groupings of LSOA ranks set out in the document published by the Department for Education named "Schools Operational Guide 2025 to 2026"(**a**)).

(3) In determining budget shares under paragraph (1), the local authority must determine and take into account in its formula the following factors—

(a) in Reception and at key stages 1 and 2, a single per pupil amount for each pupil in respect of—

(i) a pupil's eligibility for free school meals on 3rd October 2024;

(ii) a pupil's eligibility for free school meals recorded in any school census between and including Spring 2019 and Autumn 2024; and

(iii) a pupil's LSOA rank on 3rd October 2024; and

(b) at key stages 3 and 4, a single per pupil amount for each pupil in respect of—

(i) a pupil's eligibility for free school meals on 3rd October 2024;

(**a**) This document was published in November 2024 and can be found at https://www.gov.uk/government/publications/pre-16-schools-funding-local-authority-guidance-for-2025-to-2026. A printed copy may also be inspected at the Department for Education, Sanctuary Buildings, Great Smith Street, London SW1P 3BT, on request.

(ii) a pupil's eligibility for free school meals recorded in any school census between and including Spring 2019 and Autumn 2024; and

(iii) a pupil's LSOA rank on 3rd October 2024.

(4) In this regulation—

(a) "IDACI" means the Income Deprivation Affecting Children Index referred to in the document entitled "The English Indices of Deprivation 2019" published by the Ministry of Housing, Communities and Local Government(**a**); and

(b) "LSOA rank" means the rank allocated to a pupil under IDACI in respect of the Lower-layer Super Output Area in which the pupil lives.

Lump sums for primary and secondary schools

16.—(1) In determining budget shares for primary and secondary schools (other than special schools, pupil referral units and nursery schools), excluding any amount to be allocated in respect of nursery classes or community early years provision in those schools, a local authority must ascertain and take into account in its formula the following factors.

(2) A single sum for primary schools—

(a) other than middle schools(**b**), of an equal amount to be given to each school; and

(b) which are middle schools, of an amount to be calculated per school in accordance with the middle school single sum formula.

(3) A single sum for secondary schools—

(a) other than middle schools, of an equal amount to be given to each school; and

(b) which are middle schools, of an amount to be calculated per school in accordance with the middle school single sum formula.

Low prior attainment factor

17.—(1) In determining budget shares for primary and secondary schools (other than special schools, pupil referral units and nursery schools), excluding any amount to be allocated in respect of nursery classes or community early years provision in those schools, a local authority must ascertain and take into account in its formula the following factors.

(2) An amount in relation to—

(a) the number of pupils in Reception and Years 1 to 6 who did not reach, or are treated as having not reached, the expected level of development in the early years foundation stage profile, calculated in accordance with paragraphs (3) and (4); and

(b) the number of pupils in Years 7 to 11 who did not reach, or are treated as having not reached, the expected standard at key stage 2, calculated in accordance with paragraphs (5) to (8).

(3) In relation to pupils in Reception and Years 1 to 6, a single per pupil amount based on the total of—

(**a**) The document entitled "The English Indices of Deprivation" is available at: https://assets.publishing.service.gov.uk/media/5d8e26f6ed915d5570c6cc55/IoD2019_Statistical_Release.pdf. See also File 3 (income deprivation affecting children index), available at https://www.gov.uk/government/statistics/english-indices-of-deprivation-2019. A printed copy may also be inspected at the Department for Education, Sanctuary Buildings, Great Smith Street, London SW1P 3BT, on request.

(**b**) "Middle school" has the meaning given by section 5(3) of the 1996 Act, by virtue of section 142(8) of the 1998 Act, which provides that (in the absence of a different meaning) the 1998 Act is to be construed as one with the 1996 Act. Section 5(3) was substituted by paragraph 7 of Schedule 3 to, the 2006 Act.

(a) the number of pupils in Years 1, 2, 3, and 6 who did not reach the expected level of development; and

(b) where a school has pupils in Reception or in Years 4 or 5, a proxy number representing pupils who have not, or have not yet, been assessed under the early years foundation stage profile(**a**).

(4) The proxy number referred to in paragraph (3)(b) is calculated—

(a) in relation to Year 5 pupils at a school which has pupils in Year 6, by using the formula A x (B/C), where—

(i) A is the number of Year 5 pupils at the school on 3rd October 2024;

(ii) B is the number of Year 6 pupils at the school on that date who did not reach the expected level of development; and

(iii) C is the total number of Year 6 pupils at the school on that date;

(b) in relation to Year 5 pupils at a school which has no pupils in Year 6, by using the formula A x (B/C), where—

(i) A is the number of Year 5 pupils at the school on 3rd October 2024;

(ii) B is the total number of pupils at the school on 5th October 2023 who did not reach the expected level of development, as recorded on the proforma tool; and

(iii) C is the total number of pupils at the school on 5th October 2023, as recorded on the proforma tool;

(c) in relation to Year 5 pupils at a school which has no pupils in Year 6 and where the data referred to in paragraphs (ii) and (iii) of sub-paragraph (b) is not available (for any reason), by using the formula A x (B/C), where—

(i) A is the number of Year 5 pupils at the school on 3rd October 2024;

(ii) B is the total number of pupils in Years 1 to 6 at maintained schools and Academy schools in the local authority's area on that date who did not reach the expected level of development; and

(iii) C is the total number of pupils in Years 1 to 6 at maintained schools and Academy schools in the local authority's area on that date; or

(d) in relation to Year 5 pupils—

(i) at a school which has no pupils in Year 6;

(ii) where the data referred to in paragraphs (ii) and (iii) of sub-paragraph (b) is not available (for any reason); and

(iii) where the local authority considers that applying the formula A x (B/C) to the data referred to in paragraphs (ii) and (iii) of sub-paragraph (c) would lead to a disproportionate or unfair allocation of resources in relation to that school,

the local authority may vary that formula in its application to that school;

(e) in relation to Year 4 pupils at a school which has Year 3 pupils, by using the formula A x (B/C), where—

(i) A is the number of Year 4 pupils at the school on 3rd October 2024;

(ii) B is the number of Year 3 pupils at the school on that date who did not reach the expected level of development; and

(iii) C is the total number of Year 3 pupils at the school on that date;

(**a**) The proxy number represents Reception pupils, who do not take the early years foundation stage assessment until the end of their Reception year, and Year 4 and Year 5 pupils, who were not assessed under the early years foundation stage profile in 2020 and 2021 due to the pandemic.

(f) in relation to Year 4 pupils at a school which has no pupils in Year 3, by using the formula A x (B/C), where—

(i) A is the number of Year 4 pupils at the school on 3rd October 2024;

(ii) B is the total number of pupils at the school on 5th October 2023 who did not reach the expected level of development, as recorded on the proforma tool; and

(iii) C is the total number of pupils at the school on 5th October 2023, as recorded on the proforma tool;

(g) in relation to Year 4 pupils at a school which has no pupils in Year 3 and where the data referred to in paragraphs (ii) and (iii) of sub-paragraph (f) is not available (for any reason), by using the formula A x (B/C), where—

(i) A is the number of Year 4 pupils at the school on 3rd October 2024;

(ii) B is the total number of pupils in Years 1 to 6 at maintained schools and Academy schools in the local authority's area on that date who did not reach the expected level of development; and

(iii) C is the total number of pupils in Years 1 to 6 at maintained schools and Academy schools in the local authority's area on that date; or

(h) in relation to Year 4 pupils—

(i) at a school which has no pupils in Year 3;

(ii) where the data referred to in paragraphs (ii) and (iii) of sub-paragraph (f) is not available (for any reason); and

(iii) where the local authority considers that applying the formula A x (B/C) using the data referred to in paragraphs (ii) and (iii) of sub-paragraph (g) would lead to a disproportionate or unfair allocation of resources in relation to an individual school,

the local authority may vary that formula in its application to that school;

(i) in relation to pupils in Reception at a school which has pupils in any of Years 1 to 6, by using the formula A x (B/C), where—

(i) A is the number of Reception pupils at the school on 3rd October 2024;

(ii) B is the total number of pupils at the school in any of Years 1 to 6 who did not reach the expected level of development; and

(iii) C is the total number of pupils in Years 1 to 6 at the school on that date; or

(j) in relation to pupils in Reception at a school which has no pupils in any of Years 1 to 6, by using the formula A x (B/C), where—

(i) A is the number of Reception pupils at the school on 3rd October 2024;

(ii) B is the total number of pupils in Years 1 to 6 at maintained schools and Academy schools in the local authority's area on that date who did not reach the expected level of development; and

(iii) C is the total number of pupils in Years 1 to 6 at maintained schools and Academy schools in the local authority's area on that date.

(5) In relation to pupils in Years 7 to 11, a single per pupil amount based on the total of—

(a) in relation to pupils in each of Years 7, 8 and 9, the number produced by using the formula X x A where—

(i) A is the number of pupils in, as the case may be, Year 7, 8 or 9 who did not achieve the expected standard; and

(ii) X is—

(aa) for Year 9 pupils, 0.54;

(bb) for Year 8 pupils, 0.56; and

(cc) for Year 7 pupils, 0.58;

(b) in relation to pupils in Years 10 and 11, a proxy number calculated in accordance with paragraphs (6), (7) and (8).

(6) The proxy number referred to in paragraph (5)(b) in relation to pupils in Year 11 is the proxy number which was calculated in relation to pupils in Year 10 in accordance with regulation 17(6) of the 2024 Regulations divided by the number of Year 10 pupils at the school on 5th October 2023, and then multiplied by the number of Year 11 pupils at the school on 3rd October 2024, unless that data is (for any reason) not available, in which case paragraph (7) applies.

(7) The proxy number referred to in paragraph (5)(b) is calculated in relation to pupils in Year 11—

(a) using the formula (D x (E/F)) x 0.65, where—

(i) D is the number of Year 11 pupils at the school on 3rd October 2024;

(ii) E is the total number of Year 11 pupils at maintained schools and Academy schools in the local authority's area on 5th October 2023 who did not achieve the expected standard; and

(iii) F is the total number of Year 11 pupils at maintained schools and Academy schools in the local authority's area on 5th October 2023; or

(b) using a varied formula in its application to an individual school where the local authority considers that applying the formula (D x (E/F)) x 0.65, using the data referred to in paragraphs (ii) and (iii) of sub-paragraph (a), would lead to a disproportionate or unfair allocation of resources in relation to that school.

(8) The proxy number referred to in paragraph (5)(b) is calculated in relation to pupils in Year 10 using the formula (D x (E/F)) x 0.54, where—

(a) in relation to Year 10 pupils at a school which has Year 9 pupils—

(i) D is the total number of Year 10 pupils at the school on 3rd October 2024;

(ii) E is the number of Year 9 pupils at the school on that date who did not achieve the expected standard; and

(iii) F is the total number of Year 9 pupils at the school on that date;

(b) in relation to Year 10 pupils at a school which has no Year 9 pupils—

(i) D is the total number of Year 10 pupils at the school on 3rd October 2024;

(ii) E is the number of Year 9 pupils at the school on 5th October 2023 who did not achieve the expected standard, as recorded on the proforma tool; and

(iii) F is the total number of Year 9 pupils at the school on 5th October 2023;

(c) in relation to Year 10 pupils at a school which has no Year 9 pupils and where the data referred to in paragraphs (ii) and (iii) of sub-paragraph (b) is (for any reason) not available—

(i) D is the total number of Year 10 pupils at the school on 3rd October 2024;

(ii) E is the total number of Year 9 pupils at maintained schools and Academy schools in the local authority's area who did not achieve the expected standard; and

(iii) F is the total number of Year 9 pupils at maintained schools and Academy schools in the local authority's area;

(d) in relation to Year 10 pupils at a school—

(i) which has no pupils in Year 9;

(ii) where the data referred to in paragraphs (ii) and (iii) of sub-paragraph (b) is not available (for any reason); and

(iii) where the local authority considers that applying the formula (D x (E/F)) x 0.54 using the data referred to in paragraphs (ii) and (iii) of sub-paragraph (c) would lead to a disproportionate or unfair allocation of resources in relation to an individual school,

the local authority may vary that formula in its application to that school.

(9) In this regulation—

(a) "the 2019 ARA" means the document entitled "Key stage 2 Assessment and Reporting Arrangements"(**a**) containing provision made under article 11 of the Education (National Curriculum) (Key Stage 2 Assessment Arrangements) (England) Order 2003(**b**) ("the 2003 Order"), made under section 87(3) of the 2002 Act (establishment of the National Curriculum for England);

(b) "the 2022 ARA" means the document entitled "Key stage 2 Assessment and Reporting Arrangements (ARA)"(**c**) containing provision made under article 11 of the 2003 Order;

(c) "the 2023 ARA" means the document entitled "Key stage 2 Assessment and Reporting Arrangements (ARA)"(**d**) containing provision made under article 11 of the 2003 Order;

(d) "the 2024 ARA" means the document entitled "Key stage 2 Assessment and Reporting Arrangements (ARA)"(**e**) containing provision made under article 11 of the 2003 Order;

(e) "Academy school" has the meaning given by section 1A of the 2010 Act, but with the exclusion of special Academies;

(f) "the early years foundation stage profile" means the assessment completed in the summer term of the pupil's Reception year, which is referred to—

(i) in relation to references to pupils in Years 1 and 2, in section 2 of the document entitled "Statutory Framework for the Early Years Foundation Stage" published by the Secretary of State on 31st March 2021(**f**); or

(ii) in relation to references to pupils in Years 5 and 6, in section 2 of the document entitled "Statutory Framework for the Early Years Foundation Stage" published by the Secretary of State on 3rd March 2017(**g**);

(g) "the expected level of development" in relation to pupils in Years 1 to 6, refers to the expected level of development in relation to the early learning goals set out in the early years foundation stage profile;

(**a**) This document was published in October 2018 and is available at https://webarchive.nationalarchives.gov.uk/ukgwa/20190104154638/https:/www.gov.uk/government/publications/2019-key-stage-2-assessment-and-reporting-arrangements-ara. A printed copy may also be inspected at the Department for Education, Sanctuary Buildings, Great Smith Street, London SW1P 3BT, on request.

(**b**) S.I. 2003/1038. Article 11 was amended by S.I. 2009/1585, 2011/2392, 2013/1513, 2015/900, 2019/854 and 2024/578.

(**c**) This document was published in October 2021 and updated in November 2021. It is available at https://webarchive.nationalarchives.gov.uk/ukgwa/20221207000106/https:/www.gov.uk/government/publications/2022-key-stage-2-assessment-and-reporting-arrangements-ara. A printed copy may also be inspected at the Department for Education, Sanctuary Buildings, Great Smith Street, London SW1P 3BT, on request.

(**d**) This document was published in October 2022 and updated in March 2023. It is available at https://webarchive.nationalarchives.gov.uk/ukgwa/20230321171313/https:/www.gov.uk/government/publications/2023-key-stage-2-assessment-and-reporting-arrangements-ara. A printed copy may also be inspected at the Department for Education, Sanctuary Buildings, Great Smith Street, London SW1P 3BT, on request.

(**e**) This document was published in October 2023 and is available at https://dera.ioe.ac.uk/id/eprint/40230/. A printed copy may also be inspected at the Department for Education, Sanctuary Buildings, Great Smith Street, London SW1P 3BT, on request.

(**f**) Available at https://webarchive.nationalarchives.gov.uk/ukgwa/20230705061922/https:/assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/974907/EYFS_framework_-_March_2021.pdf. A printed copy may be inspected at the Department for Education, Sanctuary Buildings, Great Smith Street, London SW1P 3BT, on request.

(**g**) This document can be found at https://webarchive.nationalarchives.gov.uk/ukgwa/20181111011556/https:/www.gov.uk/government/publications/early-years-foundation-stage-framework--2. A printed copy of this document may be inspected at the Department for Education, Sanctuary Buildings, Great Smith Street, London SW1P 3BT, on request.

(h) a reference to "the number of pupils who do not achieve the expected standard" in relation to pupils in Years 7 to 11, refers to the total of—

(i) the number of pupils who, in the mathematics or English reading tests at key stage 2, achieved a scaled score of 99 or lower(**a**) under the 2019 ARA, the 2022 ARA, the 2023 ARA or the 2024 ARA; or

(ii) the number of pupils, other than those who fall within paragraph (i), who were given a teacher assessment standard of "working towards the expected standard", or lower, in English grammar, punctuation and spelling tests under the 2019 ARA, the 2022 ARA, the 2023 ARA or the 2024 ARA;

(i) "maintained school" has the meaning given by section 20(7) of the 1998 Act, but with the exclusion of special schools;

(j) "the proforma tool" means the authority proforma tool provided by the Secretary of State to local authorities to enable them to detail their schools block funding formulae for 2024 to 2025(**b**).

English as an additional language

18.—(1) In determining budget shares for primary and secondary schools (other than special schools, pupil referral units and nursery schools), excluding any amount to be allocated in respect of nursery classes or community early years provision in those schools, a local authority must ascertain and take into account in its formula the following factors.

(2) A single per pupil amount in relation to each pupil at key stage 1 or 2 whose first language is not English, where the pupil was not recorded as attending a school in England on any school census before 6th October 2022.

(3) A single per pupil amount in relation to each pupil at key stages 3 and 4 whose first language is not English, where the pupil was not recorded as attending a school in England on any school census before 6th October 2022.

Mobility factor

19.—(1) In determining budget shares for primary and secondary schools (other than special schools, pupil referral units and nursery schools), excluding any amount to be allocated in respect of nursery classes or community early years provision in those schools, a local authority must ascertain and take into account in its formula the following factors.

(2) Where the total number of pupils to whom paragraph (3) applies is more than 6% of the total number of pupils at key stages 1 and 2 in the school, a single per pupil amount for every pupil in excess of that 6%.

(3) This paragraph applies to pupils at key stages 1 and 2 who—

(a) joined the school in the previous three school years; and

(b) were first recorded on the school census in a spring or summer term,

(**a**) Scaled scores for 2019 can be found at https://webarchive.nationalarchives.gov.uk/ukgwa/20201111045047/https:/www.gov.uk/guidance/understanding-scaled-scores-at-key-stage-2, scaled scores for 2022 at https://www.gov.uk/government/publications/2022-scaled-scores-at-key-stage-2 and for 2023 at https://www.gov.uk/government/publications/2023-scaled-scores-at-key-stage-2. Printed copies may also be inspected at the Department for Education, Sanctuary Buildings, Great Smith Street, London SW1P 3BT, upon request.

(**b**) Instructions on how to access the 2024 – 2025 authority proforma tool can be found in the document entitled "How to complete the authority proforma tool (APT): instructions for local authorities for 2024 to 2025" published in December 2023 at https://www.gov.uk/government/publications/how-to-complete-the-authority-proforma-tool-apt-2024-to-2025/how-to-complete-the-authority-proforma-tool-apt-instructions-for-local-authorities-for-2024-to-2025. A printed copy may also be inspected at the Department for Education, Sanctuary Buildings, Great Smith Street, London, SW1P 3BT, upon request.

excluding pupils who joined the school in the nursery class (if the school has such a class) and pupils who were first recorded on the school census in a spring term as being in Reception.

(4) Where the total number of pupils to whom paragraph (5) applies is more than 6% of the total number of pupils at key stages 3 and 4 in the school, a single per pupil amount for every pupil in excess of that 6%.

(5) This paragraph applies to pupils at key stages 3 and 4 who joined the school in the previous three school years and were first recorded on the school census in a spring or summer term.

The London fringe

20.—(1) In determining budget shares for primary and secondary schools (other than special schools, pupil referral units and nursery schools), excluding any amount to be allocated in respect of nursery classes or community early years provision in those schools, a fringe authority must ascertain and take into account the following factor.

(2) Differential costs at schools in the fringe districts of Buckinghamshire(**a**), Essex, Hertfordshire, Kent and West Sussex.

(3) To take account of the differential costs mentioned in paragraph (2) a fringe authority must set the factor referred to in paragraph (1)—

(a) between 1.0192 and 1.0347 in relation to schools in the fringe districts of Essex;

(b) between 1.0195 and 1.0312 in relation to schools in the fringe districts of Hertfordshire; and

(c) in relation to schools in the fringe districts of Buckinghamshire, Kent and West Sussex, as a factor which represents the ratio between the two ACAs applying to each of those authorities in respect of the fringe districts and the non-fringe districts within their area.

The sparsity factor

21.—(1) In determining budget shares for primary and secondary schools (other than special schools, pupil referral units and nursery schools), excluding any amount to be allocated in respect of nursery classes or community early years provision in those schools, a local authority must ascertain and take into account in its formula the following factors.

(2) In respect of all maintained primary schools to which paragraph (3) applies, other than those which are middle schools(**b**), an amount ("the final value") calculated in accordance with paragraphs (4) to (6).

(3) This paragraph applies where—

(a) the mean distance by road between—

(i) the centroid of the home postcode(**c**) ("the home postcode") of each pupil for whom a school falling within paragraph (2) is their closest compatible school (irrespective of whether or not the pupil attends that school); and

(ii) the second closest compatible school in relation to each of those pupils,

(**a**) The Buckinghamshire (Structural Changes) Order 2019 (S.I. 2019/957) created a single tier authority for Buckinghamshire, coterminous with the county of Buckinghamshire, and replaced the former district councils within the county with effect from 1st April 2020, but the former districts (described in article 2 (interpretation) of that Order) remain relevant for the purposes of regulation 20.

(**b**) The arrangements for classification of middle schools as primary schools or secondary schools are set out in the Education (Middle School) (England) Regulations 2002 (S.I. 2002/1983). These Regulations were amended by S.I. 2009/1556 and 2010/1172.

(**c**) Details in relation to the calculation of the distance between a pupil's home postcode and a school are set out in Annex C to the "Schools block national funding formula: technical note", published in July 2021. This document can be found at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1003310/2022-23_NFF_schools_block_technical_note.pdf. A printed copy may also be inspected at the Department for Education, Sanctuary Buildings, Great Smith Street, London SW1P 3BT upon request.

is greater than 80% of a distance determined by the local authority, which must not be less than two miles, and must be the same distance in relation to all maintained primary schools which meet the criteria specified in this paragraph; and

(b) the mean size of a year group in that school is less than a number determined by the local authority, which must be—

(i) no more than 21.4; and

(ii) the same number in relation to all schools which meet the criteria specified in this paragraph.

(4) Where the school meets the criteria specified in paragraph (3)—

(a) a year group weighting is determined as follows—

(i) if A is less than 0.5 x B, the value of 1; or

(ii) if A is equal to or more than 0.5 x B, the value of 1 – (A – (0.5 x B)) / (0.5 x B); and

(b) a distance weighting is determined as follows—

(i) if D is equal to or greater than C, the value of 1;

(ii) if D is less than C but greater than 0.8 x C, the value of 1 – (C – D) / (0.2 x C).

(5) The final value is calculated by multiplying the lump-sum funding for sparsity determined by the local authority, the year group weighting, and the distance weighting.

(6) For the purposes of paragraph (4)—

A is the number which represents the mean size of a year group at the school (derived by dividing the number of pupils by the number of year groups);

B is the number determined by the local authority in accordance with paragraph (3)(b);

C is the number determined by the local authority in accordance with paragraph (3)(a);

D is the number which represents the "sparsity distance" for the school (calculated by identifying all the pupils for whom the school is their closest compatible school and calculating the mean road distance from the home postcodes of those pupils to their second closest compatible school).

(7) In respect of all maintained middle schools and secondary schools which meet the criteria specified in paragraph (8), the final value is calculated in accordance with paragraphs (10) to (12).

(8) This paragraph applies where—

(a) the mean distance by road between—

(i) the home postcodes of all those pupils for whom a school falling within paragraph (7) is their closest compatible school (irrespective of whether or not the pupils attend that school); and

(ii) the second closest compatible school in relation to each of those pupils,

is greater than 80% of a distance determined by the local authority in accordance with paragraph (9); and

(b) the mean size of a year group in that school is less than a number determined by the local authority, which—

(i) must not be more than—

(aa) 69.2 in respect of middle schools other than all-through schools;

(bb) 62.5 in respect of middle schools which are all-through schools; or

(cc) 120 in respect of secondary schools other than middle schools; and

(ii) must be the same number in relation to all schools of each type mentioned in paragraph (i).

(9) The distance to be determined by the local authority, referred to in paragraph (8)(a)—

(a) must not be less than—

(i) two miles in respect of middle schools; and

(ii) three miles in respect of secondary schools other than middle schools; and

(b) must be the same distance in relation to all the schools of each type mentioned in sub-paragraph (a)(i) and (ii).

(10) Where a school meets the criteria specified in paragraph (8)—

(a) a year group weighting is determined as follows—

(i) if A is less than 0.5 x B, the value of 1;

(ii) if A is equal to or more than 0.5 x B, the value of 1 – (A – (0.5 x B)) / (0.5 x B); and

(b) a distance weighting is determined as follows—

(i) if D is equal to or greater than C, the value of 1;

(ii) if D is less than C but greater than 0.8 x C, the value of 1 – (C – D) / (0.2 x C).

(11) The final value is calculated by multiplying the year group weighting, the distance weighting and the lump-sum funding for sparsity determined by the local authority.

(12) For the purposes of paragraph (10)—

A is the number which represents the mean size of a year group at the school (derived by dividing the number of pupils by the number of year groups);

B is the number determined by the local authority in accordance with paragraph (8)(b);

C is the number determined by the local authority in accordance with paragraph (8)(a);

D is the number which represents the "sparsity distance" for the school, calculated by identifying all the pupils for whom the school is their closest compatible school and calculating the mean road distance from the home postcode of each of those pupils to that pupil's second closest compatible school.

(13) Where determining the year group weighting in accordance with paragraph (4)(a) or (10)(a) or the distance weighting in accordance with paragraph (4)(b) or (10)(b) would produce a result which, in the opinion of a local authority, is unfair or disproportionate, the local authority may instead use either of the criteria specified in paragraph (14) ("the alternative criteria") if—

(a) the use of the alternative criteria is authorised by the local authority's schools forum under regulation 12(1)(f) or the Secretary of State under regulation 12(3); and

(b) the local authority uses the same criteria to calculate the year group weighting or the distance weighting for all schools which meet the criteria specified in paragraph (3), or as the case may be, paragraph (8).

(14) The alternative criteria which may be used instead of those specified in paragraph (4) or (10) are—

(a) that the year group weighting is given either—

(i) as a value of 1; or

(ii) as a value of the amount (1 – A/B);

(b) that the distance weighting is given as a value of 1.

(15) In this regulation—

(a) "all-through schools" means those primary or secondary schools which pupils may join at an age between three and five years and remain until an age between 16 and 19 years(**a**);

(b) "closest compatible school" means, in respect of a pupil, the school meeting the description in paragraph (2), or as the case may be, paragraph (7), which is the closest by road from the home postcode of the pupil and which admits pupils of the pupil's age and sex, other than—

(i) a special school;

(ii) an alternative provision Academy;

(iii) a pupil referral unit; or

(iv) an independent school which is not an Academy school;

(c) "second closest compatible school" means, in respect of a pupil, the school which is the second closest by road from the home postcode of the pupil and which admits pupils of the pupil's age and sex, other than—

(i) a selective school;

(ii) a special school;

(iii) an alternative provision Academy;

(iv) a pupil referral unit; or

(v) an independent school which is not an Academy school; and

(d) "selective school" means a school where all the pupils in the school are selected by ability or by aptitude.

Risk protection arrangement

22.—(1) Paragraph (2) applies if a local authority has not removed any expenditure referred to in paragraph 47 of Schedule 2 from a school's budget share under regulation 11(5).

(2) In determining (including redetermining) budget shares for schools maintained by it, a local authority must include—

(a) a factor which enables the local authority to deduct the amount (£27 x Z/365) per pupil from the budget share of a primary or secondary school (other than a special school or pupil referral unit) if the governing body of that school has entered into a risk protection arrangement with the Secretary of State which is still in force, or enters into such an arrangement which commences on or after 1st April 2025; and

(b) a factor which enables the local authority to deduct the amount (£27 x Z/365) per place from the budget share of a special school or pupil referral unit if—

(i) the governing body of that school; or

(ii) in the case of a pupil referral unit, the local authority,

has entered into a risk protection arrangement with the Secretary of State which is still in force, or enters into such an arrangement which commences on or after 1st April 2025.

(3) In paragraph (2)(a) and (b), Z is the number of days that the school or pupil referral unit is subject to a risk protection arrangement with the Secretary of State, beginning with 1st April 2025, or on the day on which that arrangement commences, if later, and ending with 31st March 2026.

(**a**) An "all-through school" is also a middle school by virtue of section 5(3) and (3A) of the 1996 Act. Section 5(3) and (3A) of that Act were substituted by section 30 of, and paragraph 7 of Schedule 3 to, the 2006 Act.

Energy scheme factor

23.—(1) Paragraph (2) applies where—

(a) the governing body of a maintained school has entered into an agreement with the Secretary of State for the supply of energy to that school, and

(b) the governing body of that school has failed to pay, by the required date, an undisputed invoice for the supply of energy to the school.

(2) In determining (including redetermining) budget shares for schools maintained by it, a local authority must include a factor which enables it to deduct from the budget share of a school the amount notified to the local authority by the Secretary of State in respect of an undisputed invoice for the supply of energy to the school.

(3) In this regulation—

(a) "supply of energy" means the supply of gas, electricity or both gas and electricity;

(b) "undisputed invoice" means an invoice for energy where—

(i) the governing body of the school does not dispute that the payment is due;

(ii) the governing body of the school accepts that the payment is due after entering into a form of alternative dispute resolution in respect of that invoice; or

(iii) a court in the United Kingdom has found that the payment is due;

(c) the "required date" is the final day of the period of—

(i) three months beginning with the due date for payment, where paragraph (3)(b)(i) applies;

(ii) one month beginning with the date on which the governing body accepts that the payment is due, where paragraph (3)(b)(ii) applies;

(iii) one month beginning with the date of the court finding, where paragraph (3)(b)(iii) applies, subject to paragraph (4).

(4) Where the governing body of a school appeals against the finding of a court referred to in paragraph (3)(b)(iii)—

(a) the invoice becomes undisputed where the finding on appeal is that the payment is due, and

(b) the required date is the final day of the period of one month beginning with—

(i) the date of the finding on appeal that the payment is due, or

(ii) the date on which the governing body withdraws its appeal.

Split sites factor

24.—(1) In determining budget shares for primary and secondary schools (other than special schools, pupil referral units and nursery schools), excluding any amount to be allocated in respect of nursery classes or community early years provision in those schools, a local authority must determine additional funding for each school with a split site by calculating, for each of the school's eligible sites other than the main site—

(a) a basic eligibility factor; and

(b) a distance funding factor,

and adding the two factors together.

(2) The basic eligibility factor referred to in paragraph (1)(a) is a single per site sum determined by the local authority and applied to each of the school's eligible sites up to a maximum of three sites.

(3) The basic eligibility factor determined under paragraph (2) must be no more than 2.5% above or below the amount which would be produced by multiplying the basic eligibility factor set under the national funding formula(**a**) (which for the financial year beginning with 1st April 2025 is £54,000) by the ACA applying in relation to the local authority in question, except where the local authority is a fringe authority, in which case the ACA used as the multiplier is the lowest ACA applying in relation to that local authority.

(4) The distance funding factor referred to in paragraph (1)(b) must be calculated for each eligible site which is more than 100 metres by road from the main site, up to a maximum of three sites, according to the formula A x B where—

(a) A is the distance weighting for each eligible site—

(i) where a site is 500 metres or more by road from the main site, A = 1; and

(ii) where a site is less than 500 metres by road from the main site, A is calculated according to the formula 1 - ((500 - C) / 400) where C is the distance by road in metres from the main site; and

(b) B is a single per site amount determined by the local authority.

(5) The amount determined under paragraph (4)(b) must be no more than 2.5% above or below the amount which would be produced by multiplying the distance funding factor set under the national funding formula(**b**) (which for the financial year beginning with 1st April 2025 is £27,000) by the ACA applying in relation to that local authority, except where the local authority is a fringe authority, in which case the ACA used as the multiplier is the lowest ACA applying in relation to that local authority.

(6) Where a school has more than three split sites, the calculation of the distance funding factor in respect of each site must be based on the distance from the main site of each of the three sites which are furthest from the main site.

(7) For the purposes of this regulation—

(a) a school has an eligible split site if it has at least one site other than the main site which—

(i) is separated from the school's main site by a road or railway and can only be accessed by crossing or walking alongside the road or railway; and

(ii) has a building on it which is owned, controlled or maintained by the school and is used, during the majority of school hours, for the education of 5- to 16-year old pupils attending the mainstream school; and

(b) "road" means a road to which the public has 24-hour vehicular access.

Additional criteria: schools

25.—(1) In order to determine the budget shares for schools maintained by it (other than special schools, pupil referral units and nursery schools), excluding any amount to be allocated in respect of nursery classes or community early years provision in those schools, a local authority—

(a) must comply with the requirements for minimum per pupil funding, set out in regulation 27; and

(**a**) The national funding formula basic eligibility factor is referred to at paragraph 4.7 of the document entitled "Schools block national funding formula 2025 to 2026: technical note", published in November 2024, which can be found at https://assets.publishing.service.gov.uk/media/674ed7f48b522bba9d991a75/Schools_block_NFF_technical_note.pdf. A printed copy may also be inspected at the Department for Education, Sanctuary Buildings, Great Smith Street, London SW1P 3BT upon request.

(**b**) The national funding formula distance funding factor is referred to at paragraph 4.7 of the document entitled "Schools block national funding formula 2025 to 2026: technical note". A printed copy may also be inspected at the Department for Education, Sanctuary Buildings, Great Smith Street, London SW1P 3BT upon request.

(b) may take into account in its formula either or both of the criteria specified in paragraph (3).

(2) For the purposes of complying with the requirement mentioned in paragraph (1)(a), the date for ascertaining pupil numbers or proportions is 3rd October 2024.

(3) In determining a formula under this regulation, a local authority may also take into account—

(a) non-domestic rates payable in respect of the premises of each school;

(b) payments in relation to a private finance initiative,

which may be determined on the basis of actual or estimated cost.

(4) Subject to paragraphs (6) and (7), where a school would otherwise receive a greater amount of redetermined adjusted budget share per pupil than it did in the previous funding period, the local authority may do one or both of the following—

(a) determine a percentage beyond which the per pupil amount of redetermined adjusted budget may not increase;

(b) determine a percentage by which the amount that the per pupil redetermined adjusted budget share would otherwise increase by will be reduced.

(5) Schedule 3 (minimum funding guarantee) applies for the purposes of interpreting the terms used in paragraph (4).

(6) Where the local authority decides to take one or both of the actions described in paragraph (4)(a) and (b)—

(a) this must be applied to the budget shares of all schools in the local authority's area; and

(b) the local authority must ensure that no school in the area receives a budget share that is less than the amount it would receive under regulation 27 (minimum per pupil amount).

(7) Paragraph (4) does not apply to the determination of budget shares for—

(a) special schools;

(b) pupil referral units;

(c) nursery schools; and

(d) any school that has opened since 1st April 2018 and does not yet have pupils in each year group for which it proposes to provide education.

Requirements relating to the calculation of local authority funding formula

26.—(1) In determining budget shares for primary and secondary schools (other than special schools, pupil referral units and nursery schools), excluding any amount to be allocated in respect of nursery classes or community early years provision in those schools, a local authority must set single per pupil amounts or, as the case may be, single sums or lump sums for the factors referred to in regulations 13 (pupil numbers), 15 (social deprivation - primary and secondary schools), 16 (lump sums for primary and secondary schools), 17 (low prior attainment factor), 18 (English as an additional language), 19 (mobility factor) and 21 (the sparsity factor) as follows—

(a) A is the value of the factor in the local authority's funding formula (the "local factor value") for the previous funding period;

(b) B is the national funding formula factor value for the previous funding period(**a**), adjusted by the local authority's ACA, except where a local authority is a fringe authority, where

(**a**) The national funding formula factor values for the previous funding period can be found in the document entitled "The national funding formulae for schools and high needs 2024 – 25" published in October 2023. The document can be found at https://assets.publishing.service.gov.uk/media/651d2587bef21800156ded01/National_funding_formula_for__schools_and_high_needs_2024_to_2025.pdf. A printed copy may also be inspected at the Department for Education, Sanctuary Buildings, Great Smith Street, London SW1P 3BT upon request.

B is the national funding formula factor value for the previous funding period, adjusted by the lowest ACA applied within that local authority's area;

(c) C is the absolute value of A – B;

(d) D is the local factor value for this funding period;

(e) E is the national funding formula factor value in this funding period(**a**), adjusted by the local authority's ACA, except where a local authority is a fringe authority, where E is the national funding formula factor in this funding period, adjusted by the lowest ACA applied within that local authority's area; and

(f) F is the absolute value of D – E.

(2) The local authority must set D so that—

(a) F is equal to or smaller than (C x 0.9); or

(b) D is—

(i) equal to or greater than (E x 0.975); and

(ii) equal to or smaller than (E x 1.025).

(3) If A is smaller than B, the local authority must set D to be equal to, or smaller than E x 1.025.

(4) If A is greater than B, the local authority must set D to be equal to, or greater than E x 0.975.

(5) In this regulation, "the absolute value" of a number means that number expressed as a positive number.

Minimum per pupil amount

27.—(1) Where the per pupil amount for a school (other than a special school, pupil referral unit or nursery school) is less than the minimum per pupil amount, the local authority must determine (including redetermine) that school's budget share, excluding any amount to be allocated in respect of nursery classes or community early years provision, based on the minimum per pupil amount.

(2) In this regulation, the per pupil amount for a school is X/Y, where—

(a) X is the notional budget share that the school would receive under the formula referred to in regulation 10(1), but for the operation of this regulation; and

(b) Y is the number of pupils at the school.

(3) In calculating X, the local authority must—

(a) deduct any premises factor allocation from the amount;

(b) add any amount that is deducted under regulation 11(5) or (6) (applications to a schools forum or to the Secretary of State for authorisation to redetermine budgets), 22(2) (risk protection arrangement), 23(2) (energy scheme factor), 40 (pupils permanently excluded from, or leaving, maintained schools) or 41(1) (correction of errors);

(c) deduct any amount that is added under regulation 40 or 41(1).

(4) The minimum per pupil amount for a school is—

(**a**) The national funding formula factor values for the 2025 – 2026 funding period can be found in the document entitled "The national funding formulae for schools and high needs 2025 – 26" published in November 2024. The document can be found at https://www.gov.uk/government/publications/national-funding-formula-for-schools-and-high-needs-2025-to-2026. A printed copy may also be inspected at the Department for Education, Sanctuary Buildings, Great Smith Street, London SW1P 3BT upon request.

$$\frac{((A \times D) + (B \times E) + (C \times F))}{G}$$

where—

A is the number of primary-age year groups in the school;

B is the number of key stage 3 year groups in the school;

C is the number of key stage 4 year groups in the school;

D is the primary-age year group value of £4,955;

E is the key stage 3 year group value of £6,221;

F is the key stage 4 year group value of £6,831;

G is the total number of year groups in the school.

(5) Where authorised to do so by the Secretary of State under regulation 42(1)(m) or (n), as the case may be, a local authority may—

(a) vary the year group values D, E or F set out in paragraph (4) for all the schools that are subject to the formula decided by the local authority under regulation 10(1);

(b) alter the operation of this regulation in respect of particular schools.

Minimum funding guarantee

28.—(1) Except as provided for in this regulation and excluding any amount to be allocated in respect of nursery classes or community early years provision, in determining (including redetermining) budget shares for primary and secondary schools maintained by it (other than special schools, pupil referral units and nursery schools), a local authority must ensure that an amount equal to the guaranteed funding level is included, calculated in accordance with Schedule 3 (minimum funding guarantee).

(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 3 (guaranteed level of funding for a new school replacing two or more schools discontinued during the funding period).

(3) Where authorised to do so by the Secretary of State under regulation 42(1)(o), a local authority may alter the operation of this regulation and Schedule 3 in determining (including redetermining) budget shares.

Sixth form funding

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

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

New schools, merged schools and closing schools

30.—(1) Where in the funding period, but excluding 1st April 2025, a new maintained school opens as a replacement for two or more maintained schools that are discontinued during the

funding period, a local authority must calculate the budget share of the new school by adding together the budget shares of the schools that have been discontinued.

(2) Except where paragraph (1) applies, a local authority must determine a budget share for—

(a) any new maintained school in its area; and

(b) any school that has opened since 1st April 2018 and does not yet have pupils in each year group for which the school proposes to provide education,

from the date of the school's opening, on the basis of expected pupil numbers during the funding period estimated by the local authority, and regulation 13 (pupil numbers) does not apply.

(3) Where a school to which paragraph (2) applies was funded on the basis of estimated pupil numbers in the previous funding period, the local authority may take account of any difference between estimated and actual pupil numbers in the previous funding period when estimating pupil numbers for the funding period.

(4) Where in the previous funding period, or on 1st April 2025, a new maintained school opened or opens as a replacement for two or more maintained schools that were discontinued during the previous funding period, or on 1st April 2025, a local authority must include in the budget share of the new school an amount equal to 85% of the total amount which the schools that it replaced would have been allocated in their budget shares under regulation 16 (lump sums for primary and secondary schools) if the schools had not been discontinued.

(5) Where paragraph (4) applies, no single sum is to be included in the new school's budget share under regulation 16.

(6) A local authority must, in accordance with this Chapter, determine a budget share for any maintained school in its area which is to be discontinued in the funding period up to the date when the school is discontinued.

(7) Where in the funding period, but excluding 1st April 2025, a maintained school is subject to a prescribed alteration as a result of a closure of a school, a local authority must redetermine the budget share of the enlarged school by adding to it the budget share of the school that has been discontinued.

(8) Where in the previous funding period, or on 1st April 2025, a maintained school is subject to a prescribed alteration as a result of a closure of a school during the previous funding period, or on 1st April 2025, a local authority must include in the budget share of the enlarged school an amount equal to 85% of the total amount which the school it has replaced would have been allocated under regulation 16, if the school had not been discontinued.

(9) Where in the funding period, but excluding 1st April 2025, a school has been established or is subject to a prescribed alteration as a result of the closure of a school, a local authority may add an amount to the budget share of the new or enlarged school to reflect all or part of the unspent budget share (including any surplus carried over from previous funding periods) of the closing school for the funding period in which it closes.

(10) A local authority may change the operation of this regulation where authorised to do so by the Secretary of State under regulation 42(1)(p).

Federated schools

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

(**a**) Section 24 was amended by S.I. 2010/1158 and by the Education (Wales) Measure 2011 (nawm 7).

(2) After carrying out the determination in paragraph (1), the local authority must allocate a single budget share to the governing body of the federation and treat the schools as a single school for that purpose where—

(a) the governing body of the federation requests a single budget share; and

(b) the local authority considers the governing body is capable of managing a single budget share.

(3) Where the local authority allocates a single budget share to the governing body of a federation under paragraph (2), it must determine it 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 Chapter 1 of Part 3.

Chapter 2

Criteria taken into account – early years provision

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

32.—(1) Subject to the following paragraphs of 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.

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

(a) review the budget share for each nursery school maintained by it, 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 with 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; or

(b) in the case where the local authority decides to fund funded early years provision and 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 with 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)(b) or (4)(b), 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 and redeterminations under the preceding paragraphs of 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 it has reserved those places for children with special educational needs or children in need.

(9) In paragraph (8), "children in need" means children within the area of a local authority in respect of whom that local authority must provide a range of services appropriate to their needs under section 17 of the 1989 Act (provision of services for children in need, their families and others)(**a**).

(**a**) Section 17 was amended by section 4 of, and paragraph 108(a) of Schedule 2 to, the Social Security (Consequential Provisions) Act 1992 (c. 6), section 7(1) and (2) of the Children (Leaving Care) Act 2000 (c. 35), section 47 of, and paragraphs 15 and 16 of Schedule 3 to, the Tax Credits Act 2002 (c. 21), section 116(1) of the Adoption and Children Act 2002 (c. 38), section 53(1) of the 2004 Act, section 28(1) of, and paragraph 6(1) and (2) of Schedule 3 to, the 2007 Act, sections 8(2), 24 and 42 of, and paragraph 1 of Schedule 1, and Schedule 4 to, the Children and Young Persons Act 2008 (c. 23), section 31 of, and paragraph 1(a) of Schedule 2 to, the 2012 Act and by S.I. 2016/413; Section 17 will also be amended by sections 9(3)(b) and 58(1) of, and Part 1 of Schedule 7 to, the Welfare Reform Act 2009 (c. 24) and section 147 of, and Part 1 of Schedule 14 to, the 2012 Act on a date to be appointed.

Social deprivation for early years

33.—(1) This regulation is subject to regulation 38 (12% early years discretionary funding cap).

(2) 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,

in respect of three and four year olds, a local authority must take into account in its formula one or more factors based on the incidence of social deprivation in pupils or children in its area.

(3) 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,

in respect of disadvantaged two year olds, working parent two year olds, and working parent under two year olds, a local authority may take into account in its formula one or more factors based on the incidence of social deprivation in pupils or children in its area.

Early years pupil premium

34.—(1) 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 must include in those budget shares or amounts an amount equivalent to a rate of at least £1 multiplied by each hour of funded early years provision, up to a maximum of 570 hours, that a child eligible for early years pupil premium is to receive.

(2) A child is eligible for early years pupil premium if the child receives at least one hour of funded early years provision and either—

(a) the child's parents are receiving one or more of the benefits in paragraph (3); or

(b) the child was a looked after child but is no longer so as a result of the making of an order mentioned in paragraph (4).

(3) The benefits are—

(a) universal credit, where the child's parent has, in the relevant assessment period, earned income not exceeding the applicable amount;

(b) income support;

(c) income-based jobseeker's allowance;

(d) income-related employment and support allowance;

(e) support under Part VI of the Immigration and Asylum Act 1999(**a**);

(f) the guaranteed element of state pension credit;

(g) child tax credit (where the recipient is not also entitled to working tax credit and has an annual gross income of no more than £16,190); and

(h) working tax credit run-on(**b**).

(4) The orders are—

(a) an adoption order within the meaning given by section 46(1) of the Adoption and Children Act 2002(**c**);

(b) a special guardianship order within the meaning given by section 14A(1) of the 1989 Act(**d**); and

(c) a child arrangements order within the meaning given by section 8(1) of the 1989 Act(**e**) which consists of, or includes, arrangements relating to either or both of the following—

(i) with whom the child is to live;

(ii) when the child is to live with any person.

(5) A child eligible for early years pupil premium continues to be so eligible notwithstanding any change in circumstances which would otherwise result in paragraph (2)(a) ceasing to be satisfied, or, in the case of paragraph (3)(a), the earned income of the child's parent subsequently exceeding the applicable amount.

(6) When determining the budget shares and amounts referred to in paragraph (1), a local authority must include an amount equivalent to a rate of at least £1 multiplied by 570 hours (irrespective of how many hours of early years provision the child actually receives) for each looked after child who receives at least one hour of funded early years provision.

(7) Where, after the local authority has determined the budget shares or amounts referred to in paragraph (1), either—

(a) a child becomes eligible for early years pupil premium in accordance with paragraph (2); or

(b) a child who receives at least one hour of funded early years provision becomes a looked after child,

the local authority must redetermine the budget share or amount allocated to the early years provider concerned in accordance with paragraph (8).

(8) The amount to be included by a local authority under paragraph (7) is—

(a) in the case of child falling under paragraph (7)(a), an amount equivalent to a rate of at least £1 multiplied by each hour of funded early years provision that the child is to receive, up to a maximum of 570 hours; and

(b) in the case of a child falling under paragraph (7)(b), an amount equivalent to a rate of at least £1 multiplied by 570 hours.

(9) A local authority must use the same rate, which must be at least £1, for all determinations and redeterminations under this regulation.

(10) A local authority must not include an amount under this regulation in respect of a particular child that is more than an amount equivalent to the rate used by it for the purposes of this regulation multiplied by 570 hours.

(**a**) 1999 c. 33.
(**b**) Working tax credits are in certain circumstances, paid for four weeks ("run-on") following a cessation of employment.
(**c**) 2002 c. 38.
(**d**) Section 14A(1) was inserted by section 115(1) of the Adoption and Children Act 2002 (c. 38).
(**e**) Section 8(1) was amended by section 12 of the 2014 Act.

(11) A local authority must ensure that any amount included in a budget share, or any amount allocated to a provider, under this regulation in respect of a looked after child, is used for the benefit of the child in accordance with—

(a) any directions or advice given by the local authority's virtual schools head; and

(b) the child's personal education plan.

(12) In this regulation—

(a) "child tax credit" means child tax credit under section 1(1)(a) of the Tax Credits Act 2002(**a**);

(b) "earned income" means income for the purposes of Chapter 2 of Part 6 of the Universal Credit Regulations 2013(**b**);

(c) "income-based jobseeker's allowance" has the meaning given by section 1(4) of the Jobseekers Act 1995(**c**);

(d) "income-related employment and support allowance" means an income-related allowance under Part 1 of the Welfare Reform Act 2007(**d**);

(e) "income support" means income support under section 124 of the Social Security Contributions and Benefits Act 1992(**e**);

(f) "looked after child", or in relation to a child, "looked after", has the meaning given by—

(i) section 22(1) of the 1989 Act(**f**); or

(ii) section 74(1) of the Social Services and Well-being (Wales) Act 2014(**g**);

(g) the relevant assessment period and the applicable amount are those referred to in the following sub-paragraphs as applicable—

(i) except where paragraphs (ii) or (iii) apply, where the parent had earned income which did not exceed £616.67 in the universal credit assessment period(**h**) immediately preceding the date of the request for early years pupil premium (period 1)—

(aa) the relevant assessment period is period 1; and

(**a**) 2002 c. 21. Section 1 is repealed by Part 1 of Schedule 14 to the 2012 Act with savings specified in S.I. 2019/167.

(**b**) S.I. 2013/376. Chapter 2 of Part 6 is concerned with earned income for the purposes of calculating an award of universal credit. Chapter 2 was amended by S.I. 2013/1508, 2014/2888 and 3255, 2015/67, 345 and 1754, 2018/65, 2019/1152 and 1249, 2020/354 and 1138, 2021/1283.

(**c**) 1995 c. 18. Section 1(4) is repealed by section 147 of, and Part 1 of Schedule 14 to, the 2012 Act on different days and for different areas and purposes and remains partially in force. (See S.I. 2013/983, 1511, 2657, 2846, 2014/209, 1452, 1583, 2321, 3094, 2015/33, 101, 634, 1537, 1930, 2016/33 and 407). Section 1(4) is amended by sections 59 and 88 of, and paragraph 2(4) of Schedule 7 and Part V of Schedule 13 to, the Welfare Reform and Pensions Act 1999 (c. 30), by section 4 of the Welfare Reform Act 2009 (c. 24) (on a date to be appointed) and by section 254(1) of, and paragraph 118 of Schedule 24 to, the Civil Partnership Act 2004 (c. 33).

(**d**) 2007 c. 5.

(**e**) 1992 c. 4. Section 124 is repealed by section 147 of, and Part I of Schedule 14 to, the 2012 Act on different days and for different areas and purposes and remains partially in force. (See S.I. 2013/983, 1511, 2657, 2846, 2014/209, 1452, 1583, 2321, 3094, 2015/33, 101, 634, 1537 and 2016/33). Section 124 is amended by section 41(4) and (5) of, paragraph 30 of Schedule 2, and Schedule 3 to, the Jobseekers Act 1995, section 70 of, and paragraph 28 of Schedule 8 to, the Welfare Reform and Pensions Act 1999, sections 14 and 21 of, and paragraphs 1 and 2 of Schedule 2 and Schedule 3 to, the State Pension Credit Act 2002 (c. 16), and section 254(1) of, and paragraph 42 of Schedule 24 to, the Civil Partnership Act 2004, section 28(1) and 67 of, and paragraph 9(1), (9) and (10) of Schedule 3, and Schedule 8 to, the 2007 Act, section 3(1) of the Welfare Reform Act 2009 and section 147 of, and Part 1 of Schedule 14 to, the Welfare Reform Act 2012. Further amendments will be made by section 5 (1) of the Welfare Reform Act 2009 and section 59(1) of the Welfare Reform Act 2012 on a date to be appointed.

(**f**) Section 22(1) was amended by section 107 of, and paragraph 19 of Schedule 5 to, the Local Government Act 2000 (c. 22), section 2(1) and (2) of the Children (Leaving Care) Act 2000 (c. 35), section 116(2) of the Adoption and Children Act 2002 (c. 38) and S.I. 2016/413.

(**g**) 2014 anaw. 4.

(**h**) An assessment period is prescribed by regulation 21(1) of the Universal Credit Regulations 2013 (S.I. 2013/376) as a period of one month beginning with the first day of entitlement and each subsequent period of one month during which entitlement subsists. Regulation 21(1) was amended by S.I. 2018/65.

(bb) the applicable amount is £616.67;

(ii) this paragraph applies where paragraph (i) does not because the applicable amount referred to in that paragraph is exceeded and there is a universal credit assessment period (period 2) immediately preceding period 1 referred to in that paragraph—

(aa) the relevant assessment period is the sum of period 1 and period 2 (SAP); and

(bb) the applicable amount is £1,233.34;

(iii) this paragraph applies where paragraph (ii) does not because the applicable amount referred to in that paragraph is exceeded and there is a universal credit assessment period (period 3) immediately preceding period 2 referred to in that paragraph—

(aa) the relevant assessment period is the period made up of SAP and period 3; and

(bb) the applicable amount is £1,850;

(h) where the parent referred to in paragraph (3)(a) is—

(i) a member of a couple who have jointly made a claim for, and are in receipt of, universal credit; or

(ii) a member of a couple but has claimed, and is in receipt of, universal credit as a single person,

references to applicable amounts in paragraphs (i) to (iii) of sub-paragraph (g) as applicable are to be read as references to the combined income of the couple;

(i) "parent" has the meaning given by section 2(2) of the Childcare Act 2006 (meaning of early childhood services);

(j) "personal education plan" has the same meaning as in regulation 5(1)(b)(ii) of the Care Planning, Placement and Case Review (England) Regulations 2010(**a**);

(k) "state pension credit" means state pension credit under section 1 of the State Pension Credit Act 2002(**b**), and the "guaranteed element" of state pension credit means the guarantee credit under section 2 of that Act;

(l) "universal credit" means universal credit under section 1 of the Welfare Reform Act 2012(**c**);

(m) "virtual schools head" means a person appointed by a local authority under section 22(3B) of the 1989 Act(**d**) for the purpose of discharging the local authority's duty set out in section 22(3A) of that Act (duty to promote the educational achievement of children looked after by the local authority)(**e**);

(n) "working tax credit" means working tax credit under section 1(1)(b) of the Tax Credits Act 2002.

Disability access fund

35.—(1) 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;

(**a**) S.I. 2010/959. Paragraph (1) of regulation 5 was renumbered as such by S.I. 2014/1917.
(**b**) 2002 c. 16.
(**c**) 2012 c. 5.
(**d**) Section 22(3B) was inserted by section 99 of the 2014 Act and amended by S.I. 2016/413.
(**e**) Section 22(3A) was inserted by section 52 of the 2004 Act.

(d) amounts to be allocated in respect of community early years provision in schools maintained by it,

a local authority must, subject to paragraph (6), include in the budget share or amount to be allocated a single amount of at least £938 for each eligible child.

(2) Where a child becomes an eligible child after the local authority has determined the budget shares or amounts referred to in paragraph (1), the local authority must redetermine the budget share of, or amount allocated to, the early years provider concerned to include a single amount of at least £938 in respect of that child.

(3) A local authority must include the same amount under paragraphs (1) and (2) in respect of each eligible child.

(4) A local authority may only include an amount under paragraph (1) or (2) once in respect of any child.

(5) For the purposes of this regulation, a child is an eligible child if they are paid or entitled to disability living allowance by virtue of section 71 of the Social Security Contributions and Benefits Act 1992(**a**) and they receive at least one hour of funded early years provision.

(6) This regulation does not apply in respect of early years provision which is funded under regulation 14 (places).

Differential funding

36.—(1) For the purpose of determining (including redetermining)—

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

(2) In particular, a local authority may include an additional sum in the budget share of each nursery school maintained by it.

(3) In paragraph (1), "unavoidable costs" means costs which must be incurred by virtue of a statutory requirement.

Early years 96% requirement

37.—(1) In determining budget shares and amounts allocated in accordance with regulation 11(9), a local authority must comply with the formula set out in paragraph (2) separately for each relevant group.

(2) The formula is (A – B) / C is no less than 96% of D, where—

(a) A is the total of—

(i) all budget shares and amounts determined by the local authority under regulation 11(9) in respect of the relevant group;

(ii) any amount deducted by the local authority under paragraph 27 of Schedule 2 (early years contingency fund), which it intends to distribute to early years providers in respect of the relevant group; and

(**a**) 1992 c. 4. Section 71 was amended by section 67(1) of the Welfare Reform and Pensions Act 1999 and by S.I. 2021/804, 2022/335 and 2024/1048.

(iii) any amount of the local authority's special educational needs inclusion fund which the local authority intends to distribute to early years providers in respect of the relevant group;

(b) B is the total of—

(i) where the calculation is being made in respect of three and four year olds, the maintained nursery school supplement;

(ii) any amount included in accordance with regulation 34(1) or (6) (early years pupil premium) in respect of the relevant group; and

(iii) any amount included in accordance with regulation 35(1) (disability access fund) in respect of the relevant group;

(c) C is the total number of hours of attendance of children in the relevant group predicted by the local authority under regulation 32(1) (special arrangements for early years pupils and children); and

(d) D is the hourly unit funding rate in relation to the relevant group, notified to the local authority in the early years block.

(3) A local authority may alter the operation of this regulation if authorised to do so by the Secretary of State under regulation 42(1)(q).

12% early years discretionary funding cap

38.—(1) A local authority must ensure that the total amount of discretionary funding in relation to each relevant group (calculated separately for each) does not exceed 12% of early years allocations in respect of that relevant group.

(2) For the purposes of paragraph (1), "discretionary funding" means funding in respect of a relevant group that is attributable to—

(a) the factors based on the incidence of social deprivation in pupils or children referred to in regulation 33 (social deprivation for early years); and

(b) the criteria set out in regulation 39(2) (additional criteria and disadvantaged two year olds requirement: early years) which by virtue of regulation 39(1) a local authority may take into account in its formula.

(3) For the purposes of paragraph (1), "early years allocations" means the total amount of the following budget shares and amounts allocated in relation to each of the relevant groups, determined by the local authority under regulation 11(9)—

(a) the budget shares for nursery schools maintained by the local authority;

(b) the amounts to be allocated in respect of nursery classes in schools maintained by it;

(c) the amounts to be allocated to relevant early years providers in its area; and

(d) the amounts to be allocated in respect of community early years provision in schools maintained by it,

excluding any of the amounts specified in paragraph (4).

(4) The amounts are—

(a) where a calculation is made in respect of three and four year olds, the maintained nursery school supplement;

(b) any amount included in accordance with regulation 34(1) or (6) (early years pupil premium) in respect of the relevant group for which the calculation is being made;

(c) any amount included in accordance with regulation 35(1) (disability access fund) in respect of the relevant group for which the calculation is being made;

(d) any amount included in accordance with regulation 39(4) (additional criteria and disadvantaged two year olds requirement: early years).

Additional criteria and disadvantaged two year olds requirement: early years

39.—(1) Subject to regulation 38, 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;

(d) amounts to be allocated in respect of community early years provision in schools maintained by it,

a local authority may, in its formula, provide additional funding to the provider, taking into account any or all of the criteria specified in paragraph (2).

(2) The criteria which a local authority may take into account for the purposes of paragraph (1) are—

(a) the rurality or sparsity of the population of the area;

(b) pupils and children whose first language is not English;

(c) the qualifications of staff;

(d) the estimated cost of sharing expertise with other early years providers;

(e) the degree to which providers offer flexible provision to parents.

(3) Paragraph (4) applies where a local authority's per child amount for a provider in respect of disadvantaged two year olds is less than the local authority's per child amount for the same provider in respect of working parent two year olds.

(4) 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;

(d) amounts to be allocated in respect of community early years provision in schools maintained by it,

in respect of disadvantaged two year olds, a local authority must, in its formula, take into account a factor that has the effect of ensuring the per child amount a provider receives in respect of disadvantaged two year olds is equal to, or more than, the per child amount the same provider receives in respect of working parent two year olds.

(5) In this regulation, the "per child amount" is X/Y, where—

(a) X is a local authority's notional budget share for a provider or notional amount to be allocated to a provider in respect of disadvantaged two year olds or working parent two year olds, as the case may be, which would be determined under regulation 11(9), but for the operation of paragraph (4);

(b) Y is the predicted total number of hours of attendance of pupils or children who are disadvantaged two year olds or working parent two year olds, as the case may be, used by the local authority to determine the provider's notional budget share or notional amount to be allocated under regulation 11(9) in accordance with regulations 10(5) and 32(1).

(6) In calculating X, the local authority must deduct any amount of funding attributable to—

(a) regulation 34(1) (early years pupil premium);

(b) regulation 35(1) (disability access fund);

(c) regulation 36(1) (differential funding),

in respect of disadvantaged two year olds or working parent two year olds, as the case may be.

(7) A local authority may disregard the requirement under paragraph (4) if authorised to do so by the Secretary of State under regulation 42(1)(r).

Chapter 3

Adjustments, correction of errors, and alternative arrangements authorised by the Secretary of State

Pupils permanently excluded from, or leaving, maintained schools

40.—(1) Where a pupil is permanently excluded from a school maintained by a local authority (other than a special school, a pupil referral unit, or a place which the local authority has reserved for children with special educational needs) ("the excluding school") the local authority must redetermine the excluding school's budget share in accordance with paragraph (2).

(2) The excluding school's budget share must be reduced by A× (B/52) + C where—

(a) A is the amount determined by the local authority in accordance with Chapter 1 of this Part that would be attributable to a pupil of the same age and personal circumstances as the pupil in question at primary or secondary schools maintained by the local authority for the full funding period;

(b) B is either—

(i) the number of complete weeks remaining in the funding period calculated from the relevant date; or

(ii) where the permanent exclusion takes effect on or after 1st April in a school year at the end of which pupils of the same age, or age group, as the pupil in question normally leave that school before being admitted to another school with a different pupil age range, the number of complete weeks remaining in that school year calculated from the relevant date; and

(c) C is the amount of the adjustment made to the school's budget share under a financial adjustment order.

(3) Where a pupil has been permanently excluded from the excluding school and is admitted to another school maintained by a local authority (other than a special school, a pupil referral unit, or to a place which the local authority has reserved for children with special educational needs) ("the admitting school") in the funding period, the local authority must redetermine the admitting school's budget share in accordance with paragraphs (4) and (5).

(4) The admitting school's budget share must be increased by an amount which is not less than D × (E/F) where—

(a) D is the amount by which the local authority reduced the budget share of the excluding school, or would have reduced the budget share if that school had been maintained by the local authority, except that any reduction in the excluding school's budget share made under a financial adjustment order must not be taken into account for these purposes;

(b) E is the number of complete weeks remaining in the funding period during which the pupil is a pupil at the admitting school; and

(c) F is the number of complete weeks remaining in the funding period calculated from the relevant date.

(5) In redetermining the admitting school's budget share, the local authority may increase it by any amount up to the amount of the adjustment made to the excluding school's budget share under a financial adjustment order.

(6) Where a permanently excluded pupil is subsequently reinstated by the governing body of the school, the school's budget share must be increased by an amount which is no less than G × (H/I) where—

(a) G is the amount by which the local authority reduced the school's budget share under paragraph (2);

(b) H is the number of complete weeks remaining in the funding period during which the pupil is reinstated; and

(c) I is the number of complete weeks remaining in the funding period calculated from the relevant date.

(7) Paragraphs (1) and (2) also apply where a pupil leaves a maintained school (other than a special school, a pupil referral unit, or a place which the local authority has reserved for children with special educational needs) for reasons other than permanent exclusion and is receiving education funded by a local authority other than at a school which is maintained by that local authority.

(8) For the purposes of paragraph (2)(a), the amount attributable to a pupil is the sum of the amounts determined in accordance with the local authority's formula, by reference to pupil numbers rather than by reference to any other factor or criterion not dependent on pupil numbers, except that where a sixth form grant is payable in respect of a pupil, the amount attributable to that pupil in the funding period is £4,843.

(9) Where a pupil in respect of whom a pupil premium is payable has been permanently excluded from a school maintained by a local authority ("the excluding school"), the local authority must redetermine the excluding school's budget share in accordance with paragraph (10).

(10) The excluding school's budget share must be reduced by J × (K/52) where—

(a) J is the amount of the pupil premium allocated to the excluding school for the funding period in respect of that child; and

(b) K is either—

(i) the number of complete weeks remaining in the funding period calculated from the relevant date; or

(ii) where the permanent exclusion takes effect on or after 1st April in a school year at the end of which pupils of the same age, or age group, as the pupil in question normally leave that school before being admitted to another school with a different pupil age range, the number of complete weeks remaining in that school year calculated from the relevant date.

(11) Where a pupil in respect of whom a pupil premium is payable has been permanently excluded from a school maintained by a local authority and admitted to another school maintained by a local authority ("the admitting school") in the funding period, the local authority must redetermine the budget share of the admitting school in accordance with paragraph (12).

(12) The admitting school's budget share must be increased by an amount which is not less than L × (M/N) where—

(a) L is the amount by which the local authority reduced the budget share of the excluding school or would have reduced the budget share had that school been maintained by the local authority;

(b) M is the number of complete weeks remaining in the funding period during which the pupil is a pupil at the admitting school; and

(c) N is the number of complete weeks remaining in the funding period calculated from the relevant date.

(13) Where a permanently excluded pupil in respect of whom a pupil premium is payable is subsequently reinstated by the governing body of the school, the school's budget share must be increased by an amount which is no less than O × (P/Q) where—

(a) O is the amount by which the local authority reduced the school's budget share under paragraph (10);

(b) P is the number of complete weeks remaining in the funding period during which the pupil is reinstated; and

(c) Q is the number of complete weeks remaining in the funding period calculated from the relevant date.

(14) Paragraphs (9) and (10) also apply where a pupil in respect of whom a pupil premium is payable leaves a maintained school for reasons other than permanent exclusion and is receiving education funded by a local authority other than at a school which is maintained by that local authority.

(15) For the purposes of this regulation—

(a) "the relevant date" is—

(i) the sixth school day following the date on which the pupil has been permanently excluded; or

(ii) where paragraphs (7) or (14) apply, the sixth school day following the date on which the pupil leaves the school; and

(b) "a financial adjustment order" means an order for the adjustment of a school's budget share made under regulation 25(5)(b) of the School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012(**a**) in respect of the exclusion of the pupil from the excluding school.

Correction of errors and changes in non-domestic rates

41.—(1) A local authority may at any time during the funding period redetermine a maintained school's budget share, or the amount allocated to a relevant early years provider, for the funding period or any previous funding period in order to correct an error in a determination or redetermination made under these Regulations or any previous regulations made under section 47 or 47ZA of the 1998 Act ("preceding regulations"), whether arising from a mistake as to the number of pupils at the school or otherwise, and any such redetermination will take effect in the next financial year following the funding period.

(2) In so far as any redetermination under paragraph (1) would require the amount that would otherwise have been the budget share of a school to be reduced, it may not be reduced to a figure which is lower than that which could have been allocated to that school under these Regulations or under the preceding regulations in force during the funding period in which the error occurred.

(3) A local authority may redetermine a school's budget share to take into account any changes in that school's non-domestic rate liability in relation to the funding period or any previous funding period.

Alternative arrangements approved by the Secretary of State

42.—(1) Subject to paragraph (2), on application by a local authority, the Secretary of State may authorise the local authority to—

(**a**) S.I. 2012/1033. Regulation 25 was amended by S.I. 2022/788.

(a) disregard the limits referred to in paragraph 3 of Schedule 2 when deducting any expenditure referred to in regulation 8(4) (historic commitments);

(b) disregard the requirements in regulation 8(9) (deductions etc. of expenditure relating to deficit in the budget for a previous funding period);

(c) deduct any expenditure referred to in regulation 8(14)(a) (expenditure falling outside Schedule 2);

(d) include additional factors or criteria in its formula under regulation 10(1) (formula for determining budget shares) where the nature of a school's premises exceptionally gives rise to significant additional cost;

(e) include additional factors or criteria that the local authority proposes to include in its formula under regulation 10(3) (early years single funding formula);

(f) alter the operation of regulation 11(3) (additional costs - pupils with special educational needs);

(g) determine (including redetermine) budget shares of schools maintained by it;

(h) determine (including redetermine) amounts to be allocated in respect of nursery classes in schools maintained by it;

(i) determine (including redetermine) amounts to be allocated to relevant early years providers in its area;

(j) disregard regulation 13 (pupil numbers);

(k) alter the operation of regulation 14(3) or (5) (places in pupil referral units or in hospital education);

(l) alter the operation of regulation 21 (the sparsity factor) in respect of particular schools;

(m) alter the operation of regulation 27 (minimum per pupil amount) in respect of particular schools;

(n) alter any or all of the year group values D, E or F set out in regulation 27(4) for all the schools that are subject to the formula decided by the local authority under regulation 10(1);

(o) alter the operation of regulation 28 (minimum funding guarantee) and Schedule 3 in respect of particular schools;

(p) alter the operation of regulation 30 (new schools, merged schools and closing schools) in respect of particular schools;

(q) alter the operation of regulation 37 (early years 96% requirement);

(r) disregard the requirement in regulation 39(4) (requirement for a provider's per child amount in respect of disadvantaged two year olds to be equal to, or more than, the per child amount in respect of working parent two year olds).

(2) The Secretary of State may authorise the matters in paragraph (1) to such extent as the Secretary of State may specify in accordance with arrangements approved in place of the arrangements provided for by these Regulations.

PART 4
Schemes

Required content of schemes

43. A scheme prepared by a local authority under section 48(1) of the 1998 Act must deal with the matters connected with the financing of schools maintained by the local authority set out in Schedule 4 (contents of schemes).

Approval by the schools forum or the Secretary of State of proposals to revise schemes

44.—(1) Where a local authority submits a copy of its proposals to revise its scheme to its schools forum for approval under paragraph 2A(3)(b) of Schedule 14 to the 1998 Act(**a**), the members of the schools forum who represent schools maintained by the local authority may—

(a) approve the proposals;

(b) approve the proposals with modifications; or

(c) refuse to approve the proposals.

(2) Where the schools forum approves the proposals to revise the scheme, it may specify the date on which the revised scheme is to come into force.

(3) The local authority may apply to the Secretary of State for approval of proposals submitted under paragraph 2A(3)(b) of Schedule 14 to the 1998 Act where—

(a) the schools forum refuses to approve the proposals, or approves them with modifications which are not acceptable to the local authority; or

(b) the local authority is not required to establish a schools forum for its area.

(4) The Secretary of State may—

(a) approve the proposals;

(b) approve the proposals with modifications; or

(c) refuse to approve the proposals.

(5) When approving proposals, the Secretary of State may specify the date on which the revised scheme is to come into force.

(6) No revised scheme is to come into force unless approved by the schools forum or the Secretary of State in accordance with this regulation.

Publication of schemes

45.—(1) A local authority—

(a) must publish its scheme on a website which is accessible to the general public; and

(b) may publish it elsewhere.

(2) Whenever a local authority revises the whole or part of its scheme, it must publish the scheme as revised on a website which is accessible to the general public by the date that the revisions are due to come into force, together with a statement that the revised scheme comes into force on that date.

(**a**) Paragraph 2A(3)(b) of Schedule 14 to the 1998 Act was inserted by section 57 of, and paragraph 5 of Schedule 5 to, the 2006 Act.

Signed on behalf of the Secretary of State

Catherine McKinnell
Minister of State
Department for Education

16th January 2025

SCHEDULES

SCHEDULE 1

Regulation 4

CLASSES OR DESCRIPTIONS OF PLANNED EXPENDITURE PRESCRIBED FOR THE PURPOSES OF THE NON-SCHOOLS EDUCATION BUDGET OF A LOCAL AUTHORITY

Special educational provision

1. Expenditure on services provided by educational psychologists.

2. Expenditure in connection with the local authority's functions under sections 22, 36, 37(**a**) and 44 of the 2014 Act (which functions relate to the identification of children and young people with special educational needs and disabilities; the assessment of education, health and care needs; and the preparation and review of EHC plans).

3. Expenditure on monitoring the provision for pupils in schools for the purposes of disseminating good practice in relation to, and improving the quality of educational provision for, children with special educational needs.

4. Expenditure on collaboration with other statutory and voluntary bodies to provide support for children with special educational needs.

5. Expenditure in connection with—

(a) the provision of parent partnership services (that is, services provided under section 32 of the 2014 Act to give advice and information to parents of children with special educational needs), or other guidance and information to such parents which, in relation to pupils at a school maintained by the local authority, are in addition to the information usually provided by the governing bodies of such schools; and

(b) arrangements made by the local authority with a view to avoiding or resolving disagreements with the parents of children with special educational needs.

6. Expenditure on carrying out the local authority's child protection functions under the 1989 Act, functions under section 175 of the 2002 Act(**b**) (duties in relation to welfare of children), and other functions relating to child protection.

7. Expenditure incurred in entering into, or subsequently incurred under, an arrangement under section 31 of the Health Act 1999(**c**) or regulations made under section 75 of the National Health Service Act 2006(**d**) (arrangements between NHS bodies and local authorities).

(**a**) 2014 c. 6. Section 37 was amended by S.I. 2015/914.

(**b**) Section 175 was amended by section 1 of the Education and Training (Welfare of Children) Act 2021 (c. 16) and by S.I. 2010/1158.

(**c**) 1999 c. 8. Section 31 was repealed by section 6 of, and Schedule 4 to, the National Health Service (Consequential Provisions) Act 2006 (c. 43) but section 4 of, and paragraph 1 of Schedule 2 to, that Act contain a savings provision which means that arrangements made under section 31 of the 1999 Act continue to have effect as if made under section 75 of the National Health Service Act 2006.

(**d**) 2006 c. 41. Section 75 was amended by section 19 of, and paragraph 6 of Schedule 4 to, the Cities and Local Government Devolution Act 2016 (c. 1), section 71(3) of the Health and Care Act 2022 (c. 31) and section 56 of, and paragraph 168 of Schedule 4 to, the Levelling-up and Regeneration Act 2023 (c. 55).

Access to education

8. Expenditure in relation to planning and managing the supply of school places, including the local authority's functions in relation to the establishment, alteration or discontinuance of schools under Part 2 of, and Schedule 2 to, the 2006 Act.

9. Expenditure in relation to the local authority's functions under sections 508A to 509A(**a**) of the 1996 Act.

10. Expenditure on the provision of support for students under regulations made under section 1(1) of the Education Act 1962(**b**) and under section 22 of the Teaching and Higher Education Act 1998(**c**).

11. Expenditure on discretionary grants paid under section 1(6) or 2 of the Education Act 1962 (awards for designated and other courses).

12. Expenditure on the payment of 16-19 Bursaries(**d**).

Additional education and training for children, young persons and adults

13. Expenditure on the provision of education and training and of organised leisure time occupation, and other provision under sections 15ZA, 15ZC and 15B of the 1996 Act(**e**).

14. Expenditure on the provision by the local authority, under sections 507A and 507B of the 1996 Act(**f**) of recreation, social and physical training, educational leisure time activities and recreational leisure time activities.

Other functions

15. Expenditure in pursuance of a binding agreement, where the other party is a local authority, or the other parties include one or more local authorities, in relation to the operation of a facility provided partly, but not solely, for the use of schools.

16. Expenditure on making pension payments, other than in respect of staff employed in maintained schools.

17. Expenditure on insurance, other than for liability arising in connection with maintained schools or maintained school premises.

(**a**) Sections 508A to 509A were inserted by section 124 of the 1998 Act, section 199 of, and paragraphs 4 and 5 of Schedule 19 to, the 2002 Act, sections 76 to 78 and 84 of the 2006 Act and by sections 56, 57 and 59 of, and paragraph (10) of Schedule 2 to, the 2009 Act. They were amended by section 103(1) of, and paragraph 23 of Schedule 2 to, the Childcare Act 2006 and section 54 of, and paragraph 9 of Schedule 13 to, the 2011 Act and by S.I. 2010/1158.

(**b**) 1962 c. 12. The Education Act 1962 was repealed by the Teaching and Higher Education Act 1998 (c. 30) with transitional savings provisions. The repeal does not affect the continued operation of the provisions that relate to the making of subordinate legislation.

(**c**) 1998 c. 30.

(**d**) A 16-19 Bursary is financial assistance under section 14 of the 2002 Act paid to, or in respect of, a person who is aged 16 to 19 in connection with undertaking any course or training.

(**e**) Sections 15ZA and 15ZC were inserted by sections 41 and 42 of the 2009 Act and amended by S.I. 2010/1158 and 2015/1852. Section 15ZA was amended by section 82 of, and paragraphs 1 and 5 of Schedule 3 to, the 2014 Act, section 64(3) of, and paragraphs 42 and 44 of Schedule 14 to, the Deregulation Act 2015 (c. 20). Section 15B was inserted by section 149 of, and paragraphs 1 and 55 of Schedule 9 to, the Learning and Skills Act 2000 (c. 21) ("the 2000 Act") and amended by section 82 of, and paragraphs 1 and 7 of Schedule 3 to, the 2014 Act and S.I. 2010/1158.

(**f**) Sections 507A and 507B were inserted by section 6(1) of the 2006 Act and amended by S.I. 2010/1158. Section 507B was further amended by section 82 of, and paragraphs 1 and 45 of Schedule 3 to, the 2014 Act and by S.I. 2010/1080 and 2016/997.

SCHEDULE 2

Regulations 6 and 8

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

PART 1

Historic commitments

1. CERA incurred for purposes not falling within any other paragraph of this Schedule or Schedule 1.

2. Expenditure in respect of—

(a) prudential borrowing;

(b) termination of employment costs, where the schools forum has approved the charging of these costs to the schools budget for the funding period in which they were incurred and the revenue savings achieved by the termination of employment to which they relate are equal to or greater than the costs incurred;

(c) services (often known as combined budgets) funded partly from central expenditure and partly from other budgets of the local authority or contributions from other bodies, where the expenditure relates to classes or descriptions of expenditure falling outside those in this Schedule;

(d) special educational needs transport costs; and

(e) 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 local authority's schools budget,

which was approved by the schools forum or the Secretary of State before 1st April 2013.

3. Any deductions under paragraph 1 or 2(a) to (e) must not exceed the amount deducted under each of the corresponding paragraphs of Part 1 of Schedule 2 to the 2024 Regulations for the previous funding period.

PART 2

Central schools expenditure

4. Expenditure due to a significant growth in pupil numbers as a result of the local authority's duty under section 13(1) of the 1996 Act(**a**) to secure that efficient primary education and secondary education are available to meet the needs of the population of its area, including expenditure resulting from the additional costs associated with establishing a new school.

5. Expenditure to be incurred due to a decline in pupil numbers in schools maintained by the local authority or in Academy schools where the most recent data provided by a local authority to the Secretary of State in accordance with regulation 3 of, and paragraphs 2 (forecasts of pupil

(**a**) Section 13(1) was amended by section 149 of, and paragraphs 1 and 52 of Schedule 9 to, the 2000 Act, section 59 of, and paragraphs 1 and 2 of Schedule 2 to, the 2009 Act and S.I. 2010/1158.

numbers) and 4 (total capacity) of Schedule 1 to, the Information as to Provision of Education (England) Regulations 2016(**a**) indicates that—

(a) growth in pupil numbers is expected in the three years starting with the school year beginning in the funding period; and

(b) additional funding is likely to be necessary to provide for that expected growth in pupil numbers.

6. Expenditure to be incurred before the opening of new schools to fund the appointment of staff and to enable the purchase of any goods and services necessary in order to admit pupils.

7. Expenditure to make provision for extra classes in order to comply with the School Admissions (Infant Class Sizes) (England) Regulations 2012(**b**).

8. Expenditure on licences which are negotiated centrally by the Secretary of State for all publicly funded schools.

9. Expenditure on the operation of the system of admissions of pupils to schools (including expenditure incurred in carrying out consultations under section 88C(2) of the 1998 Act) and in relation to appeals.

10. Expenditure under section 16 (power to establish, assist and maintain primary or secondary schools) or 18 of the 1996 Act (power to arrange education at non-maintained schools)(**c**) 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 authority.

11. Expenditure in relation to boarding fees for pupils in accordance with—

(a) sections 458(**d**) or 514(**e**) of the 1996 Act (in relation to boarding fees for pupils at a maintained school); and

(b) section 514(2) of the 1996 Act or section 10A(**f**) of the 2010 Act (in relation to boarding fees for pupils at Academies or alternative provision Academies).

12. Expenditure in connection with the local authority's functions under section 47A of the 1998 Act (establishment and maintenance of, and consultation with, schools forums).

13. 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 authority's scheme.

(**a**) S.I. 2016/555. Regulation 3 and Schedule 1 were substituted by S.I. 2023/1186, but the information provided during the period referred to in paragraph 5(a) would have been provided under S.I. 2016/555 as those Regulations had effect at that time.

(**b**) S.I. 2012/10, amended by S.I. 2014/852 and 2103.

(**c**) Section 16 was amended by section 126(1) of the 2009 Act. Sections 16 and 18 were both amended by S.I. 2010/1158.

(**d**) Section 458 was amended by section 140(1) and (3) of, and paragraph 123 of Schedule 30 to, the 1998 Act and by S.I. 2010/1158.

(**e**) Section 514 was amended by section 140(1) of, and paragraph 135 of Schedule 30 to, the 1998 Act and by S.I. 2010/1158.

(**f**) Section 10A was inserted by section 61 of the 2011 Act and further amended by paragraph 4 of Schedule 13 to that Act.

PART 3

Other central education expenditure

Asset management

14. Expenditure in connection with education functions in relation to the following areas of expenditure—

(a) management of the local authority's capital programme including preparation and review of an asset management plan and negotiation and management of private finance transactions; and

(b) landlord responsibilities of the local authority (including in relation to land leased to Academy schools and alternative provision Academies),

which is not within the description of expenditure at paragraph 78 of this Schedule.

Strategic management

15. Expenditure on education functions related to—

(a) functions of the director of children's services and the personal staff of the director;

(b) planning for the education service as a whole;

(c) authorisation and monitoring of expenditure which is not met from the budget shares of schools maintained by the local authority, and all related financial administration;

(d) the formulation and review of the methods of allocating resources to schools maintained by the local authority, and other bodies;

(e) internal audit and other tasks necessary for the discharge of the local authority's chief finance officer's responsibilities under section 151 of the Local Government Act 1972(**a**) in so far as the responsibilities do not relate to maintained schools; and

(f) the preparation and review of plans involving collaboration with other local authority services or with public or voluntary bodies.

Other functions

16. Expenditure arising from the local authority's functions under Chapter 2 of Part 6 of the 1996 Act (school attendance).

17. Expenditure in connection with the local authority's functions in relation to the standing advisory council on religious education constituted by the local authority under section 390 of the 1996 Act(**b**) or on the reconsideration and preparation of an agreed syllabus of religious education in accordance with Schedule 31 to the 1996 Act(**c**).

18. Expenditure in connection with powers and duties performed under Part 2 of the Children and Young Persons Act 1933(**d**) (enforcement of, and power to make byelaws in relation to, restrictions on the employment of children).

(**a**) 1972 c. 70.
(**b**) Section 390 was amended by section 140(1) of, and paragraph 93 of Schedule 30 to, the 1998 Act and by S.I. 2010/1158.
(**c**) Schedule 31 was amended by section 140(1) and (3) of, and paragraph 188 of Schedule 30 to, the 1998 Act and by S.I. 2010/1158.
(**d**) 1933 c. 12.

19. Expenditure in relation to consultation and functions preparatory to consultation with or by governing bodies, pupils, or with other interested bodies in connection with education functions, which is not within the description of expenditure at paragraph 68 of this Schedule.

20. Expenditure on the local authority's functions in relation to the exclusion of pupils from schools.

21. Expenditure in relation to provision of information to or at the request of the Crown and the provision of other information which the local authority is under a duty to make available, which is not within the description of expenditure at paragraph 70 of this Schedule.

22. Expenditure on education functions related to revenue budget preparation, preparation of information on income and expenditure relating to education for incorporation into the local authority's annual statement of accounts, and the external audit of grant claims and returns relating to education, that is not within the description of expenditure at paragraph 75 of this Schedule.

23. Expenditure in connection with the local authority's duty under regulation 9A of the School Information (England) Regulations 2008(**a**).

24. Expenditure in relation to 42.5% of the total employer contribution to the pension costs for—

(a) members of the teachers' pension scheme to which the Teachers' Pensions Regulations 2010(**b**) apply; and

(b) members of the Teachers' Pension Scheme 2015 established under regulation 2 of the Teachers' Pension Scheme Regulations 2014(**c**),

who are employed by the local authority but not employed to work in a maintained school under the direct management of the head teacher or governing body.

PART 4

Central early years expenditure

25. Expenditure on early years provision, excluding expenditure—

(a) on such provision in a maintained school;

(b) on relevant early years provision;

(c) on community early years provision; and

(d) on excluded early years provision.

26. Expenditure on determining—

(a) the eligibility for free school meals of a pupil who is being provided with early years provision;

(b) the eligibility of a child for funded early years provision;

(c) the eligibility of a child for the early years pupil premium; or

(d) the eligibility of a child for the disability access fund.

27. Expenditure on an early years contingency fund, for subsequent distribution to providers of funded early years provision, as a result of the attendance of an additional number of children.

(**a**) S.I. 2008/3093. Regulation 9A was inserted by S.I. 2017/37.
(**b**) S.I. 2010/990, to which there are amendments not relevant to these Regulations.
(**c**) S.I. 2014/512. Regulation 2 was amended by S.I. 2014/2652.

PART 5

Children and young people with high needs

28. Expenditure in respect of pupils with special educational needs in primary and secondary schools, excluding expenditure—

(a) in respect of pupils who have not attained compulsory school age in a maintained nursery school or a nursery class in a maintained school or an Academy school;

(b) in respect of pupils in places which the local authority has reserved for children with special educational needs; or

(c) which it would be reasonable to expect would be met from a maintained school's budget share or the general annual grant paid to an Academy school by the Secretary of State.

29. Expenditure in respect of pupils—

(a) with special educational needs at special schools and special Academies; or

(b) in places at primary or secondary schools which the local authority has reserved for children with special educational needs,

where the expenditure cannot be met from the sum referred to in regulation 14(1) or (2) (special school places or places for pupils with special educational needs) or where it would be unreasonable to expect such expenditure to be met from a maintained school's budget share or the general annual grant paid to an Academy school by the Secretary of State.

30. Expenditure in respect of persons provided with further education who are—

(a) aged under 19 and have special educational needs; or

(b) aged 19 years or older but under 25, subject to an EHC plan, and not attending a maintained school, an Academy school, an alternative provision Academy(**a**), a non-maintained special school, or an independent school.

31. Expenditure on support services for—

(a) children who have attained compulsory school age who have an EHC plan;

(b) children who have special educational needs, who have attained compulsory school age, and who do not have an EHC plan;

(c) young people aged under 19 who have an EHC plan;

(d) young people aged under 19, who have special educational needs, and who do not have an EHC plan; and

(e) people aged 19 years or older but under 25 who are subject to an EHC plan.

32. Expenditure—

(a) in respect of funding provision specified in an EHC plan of children who have not attained compulsory school age;

(b) on services for children who are not eligible for funded early years provision, who have not attained compulsory school age, and who have special educational needs, other than expenditure in respect of which sub-paragraph (a) applies;

(**a**) For the meaning of "alternative provision Academy", see section 1C of the Academies Act 2010 (c. 32) ("the 2010 Act") as inserted by section 53(7) of the 2011 Act.

(c) on services for children who are eligible for funded early years provision, who have not attained compulsory school age, and who have special educational needs, other than expenditure in respect of which sub-paragraph (a) applies.

33. Expenditure for the purposes of encouraging—

(a) collaboration between special schools and primary and secondary schools to enable children and young people with special educational needs to engage in activities at primary and secondary schools;

(b) the education of children and young people with special educational needs at primary and secondary schools; and

(c) the engagement of children and young people with special educational needs at primary and secondary schools in activities at the school with children and young people who do not have special educational needs,

in cases where the local authority considers it would be unreasonable for such expenditure to be met from a maintained school's budget share or the general annual grant paid to an Academy school or alternative provision Academy by the Secretary of State.

34. Expenditure incurred in relation to, or in connection with, education provided otherwise than at a school or post-16-institution under section 19 of the 1996 Act (exceptional provision of education in pupil referral units or elsewhere) or under section 61 of the 2014 Act (special education provision otherwise than in schools, post-16 institutions etc)—

(a) where that expenditure is incurred otherwise than in relation to education at a pupil referral unit or alternative provision Academy; or

(b) where that expenditure is incurred in relation to education—

(i) at a pupil referral unit, if it cannot be met from the sum referred to in regulation 14(3); or

(ii) at an alternative provision Academy, if it would be unreasonable to expect that expenditure to be met from the general annual grant paid to that Academy by the Secretary of State.

35. Expenditure on the payment of fees in respect of children and young people with special educational needs—

(a) at independent schools or at special schools which are not maintained by a local authority, under section 16 of the 1996 Act or section 63 of the 2014 Act (fees for special educational provision at non-maintained schools and post-16 institutions); or

(b) at an institution outside England and Wales under section 320 of the 1996 Act (Provision outside England and Wales for certain children)(**a**) or section 62 of the 2014 Act.

36. Expenditure on hospital education services, aside from expenditure on hospital education places referred to in regulation 14.

37. Expenditure on special schools and pupil referral units in financial difficulty.

38. Expenditure on costs in connection with private finance initiatives and the programme known as "Building Schools for the Future" at—

(a) maintained schools which provide secondary education falling within the description in section 2(2A) of the 1996 Act(**b**);

(**a**) Section 320 was amended by S.I. 2010/1158.

(**b**) Section 2(2A) was inserted by section 110(1) of the 2000 Act and amended by section 65(3) of, and paragraph 6 of Schedule 7 to, the 2002 Act and by S.I. 2010/1158.

(b) special schools;

(c) special Academies;

(d) pupil referral units;

(e) alternative provision Academies; and

(f) 16 to 19 Academies(**a**).

39. Expenditure on the provision of special medical support for individual children and young people in so far as such expenditure is not met by an NHS trust, NHS foundation trust, integrated care board or Local Health Board.

PART 6

Items that may be removed from maintained schools' budget shares – primary and secondary schools

40. 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.

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

42. Expenditure on making payments to, or in providing a temporary replacement for, a person on maternity, paternity, neonatal care, shared parental or adoption leave.

43. Expenditure on making payments to, or in providing a temporary replacement for, any person who is—

(a) carrying out trade union duties or undergoing training under sections 168 and 168A of the Trade Union and Labour Relations (Consolidation) Act 1992(**b**);

(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(**c**);

(d) undertaking jury service;

(e) a safety representative under the Safety Representatives and Safety Committees Regulations 1977(**d**);

(f) a representative of employee safety under the Health and Safety (Consultation with Employees) Regulations 1996(**e**);

(**a**) For the meaning of "16 to 19 Academy", see section 1B of the 2010 Act as inserted by section 53(7) of the 2011 Act.

(**b**) 1992 c. 52; section 168 was amended by section 1(2)(a) of the Employment Rights (Dispute Resolution) Act 1998 (c. 8) and S.I. 1999/1925 and 2006/246. Section 168A was inserted by section 43 of the Employment Act 2002 (c. 22).

(**c**) 1996 c. 18. Section 50 was amended by section 34 of, and paragraph 100 of Schedule 4 to, the Health and Social Care (Community Health and Standards) Act 2003 (c. 43), section 174(2) of, and Part 2 of Schedule 17 to, the Serious Organised Crime and Police Act 2005 (c. 15), section 2 of, and paragraph 179 of Schedule 1 to, the National Health Service (Consequential Provisions) Act 2006 (c. 43), section 52 of, and paragraph 31 of Schedule 14 and Part 1(B) of Schedule 15 to, the Police and Justice Act 2006 (c. 48), section 39 of, and paragraph 8 of Schedule 3 to, the Offender Management Act 2007 (c. 21), section 99 of, and paragraph 219 of Schedule 16 to, the Police Reform and Social Responsibility Act 2011 (c. 13), section 11(1) of, and paragraph 24 of Schedule 2 to, the 2011 Act, sections 55(2), 249 and 277 of, and paragraphs 74 of Schedule 5, 6(2) of Schedule 17 and 6(2) of Schedule 19 to, the Health and Social Care Act 2012 (c. 7), sections 1(2), 32 and 134 of, and paragraphs 1(1) of Schedule 1, 48 of Schedule 4 and 6(3) of Schedule 15 to, the Health and Care Act 2022 (c. 31), and by S.I. 2000/90 and 2463, 2001/2237, 2007/961 and 1837, 2010/1080 and 1158, 2011/2581, 2018/665 and 2023/98.

(**d**) S.I. 1977/500, amended by section 1 of the Employment Rights (Dispute Resolution) Act 1998 (c. 8) and S.I. 1992/2051, 1996/1513, 1999/860, 1999/2024, 1999/3242, 2005/1541, 2006/594, 2008/960, 2013/1471, 2014/431, 2014/469 and 2016/562.

(**e**) S.I. 1996/1513, amended by section 1 of the Employment Rights (Dispute Resolution) Act 1998 (c. 8) and S.I. 1997/1840, 1999/3242, 2005/1541, 2013/1471 and 2014/431.

(g) an employee representative 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(**a**) or regulation 13(3) of the Transfer of Undertakings (Protection of Employment) Regulations 2006(**b**);

(h) taking time off for ante-natal care under section 55 of the Employment Rights Act 1996;

(i) undertaking duties as a member of the reserve forces as defined in section 1(2) of the Reserve Forces Act 1996(**c**);

(j) suspended from working at a school; or

(k) appointed as a learning representative of a trade union, in order for that person to analyse training requirements or to provide or promote training opportunities, and to carry out consultative or preparatory work in connection with such functions.

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

45. Expenditure on 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.

46. Expenditure on insurance in respect of liability arising in connection with schools and school premises.

47. Expenditure on a risk protection arrangement.

48. Expenditure on services to schools provided by museums and galleries.

49. Expenditure on library services.

50. Expenditure on licence fees or subscriptions paid on behalf of schools.

51. Expenditure on the schools specific contingency.

52. Expenditure for the purposes of—

(a) improving the performance of under-performing pupils from minority ethnic groups; or

(b) meeting the specific needs of bilingual pupils.

PART 7

Items that may be removed from maintained schools' budget shares – primary, secondary and special schools and pupil referral units

53. Expenditure incurred for the purposes of supporting the improvement of standards in maintained schools including expenditure in relation to the local authority's functions under Part 4 of the 2006 Act (schools causing concern: England).

54. Expenditure in relation to the local authority's functions under section 510 of the 1996 Act(**d**) (provision and administration of clothing grants) and under regulations made under section 518(2) of the 1996 Act(**e**).

(**a**) Section 196 was substituted by S.I. 1995/2587 and amended by S.I. 1999/1925.
(**b**) S.I. 2006/246. Regulation 13 was amended by S.I. 2010/93 and 2014/16.
(**c**) 1996 c. 14. Section 1(2) was amended by section 44(3) of the Defence Reform Act 2014 (c. 20).
(**d**) Section 510 was amended by section 140 of, paragraph 134 of Schedule 30 to, and Schedule 31 to, the 1998 Act, section 6(2) and paragraphs 2 and 5 of Schedule 1 to, the 2006 Act, section 54 of, and paragraph 9 of Schedule 13 to, the 2011 Act and by S.I. 2010/1158.
(**e**) Section 518(2) was substituted by section 129 of the 1998 Act and amended by S.I. 2010/1158. Regulations made under section 518 are S.I. 1998/86, 1999/229 and 1727, 2000/2057 and 2004/1006.

55. Expenditure on the provision of tuition in music, or on other activities which provide opportunities for pupils to enhance their experience of music.

56. Expenditure incurred in enabling pupils to enhance their experience of the visual, creative and performing arts other than music.

57. Expenditure on outdoor education centres, but not including centres wholly or mainly for the provision of organised games, swimming or athletics.

58. Expenditure in relation to functions of the local authority under Part I of the Local Government Act 1999(**a**) (best value) and the provision of advice to assist governing bodies in procuring goods and services with a view to securing continuous improvement in the way the functions of those governing bodies are exercised, having regard to a combination of economy, efficiency and effectiveness.

59. Expenditure in relation to authorisation and monitoring of expenditure in respect of schools which do not have delegated budgets, and all related financial administration.

60. Expenditure in relation to the local authority's monitoring of compliance with the requirements of its financial scheme prepared under section 48 of the 1998 Act, and any other requirements in relation to the provision of community facilities by governing bodies under section 27 of the 2002 Act(**b**).

61. Expenditure in relation to internal audit and other tasks necessary for the discharge of the local authority's chief finance officer's responsibilities under section 151 of the Local Government Act 1972 in so far as the responsibilities relate to maintained schools.

62. Expenditure in relation to the local authority's functions under regulations made under section 44 of the 2002 Act(**c**), in so far as the functions relate to maintained schools.

63. Expenditure in relation to investigations which the local authority carries out of employees, or potential employees, of the local authority, or of governing bodies of schools, or of persons otherwise engaged, or to be engaged, with or without remuneration to work at or for schools.

64. Expenditure in relation to functions of the local authority in relation to local government superannuation which it is not reasonably practicable for another person to carry out, and functions of the local authority in relation to the administration of teachers' pensions.

65. Expenditure in relation to advice, in accordance with the local authority's statutory functions, to governing bodies in relation to staff paid, or to be paid, to work under the direct management of the head teacher or governing body at a school, and advice in relation to the management of all such staff collectively at any individual school, including in particular advice with reference to alterations in remuneration, conditions of service and the collective composition and organisation of such staff.

66. Expenditure in relation to determination of conditions of service for non-teaching staff, and advice to schools on the grading of such staff.

67. Expenditure in relation to the local authority's functions regarding the appointment or dismissal of employees in maintained schools.

(**a**) 1999 c. 27.

(**b**) Section 27 will be amended by section 4(1) of the Children, Schools and Families Act 2010 (c. 26) on a date to be appointed.

(**c**) Section 44 was amended by S.I. 2010/1158. The relevant statutory instrument made under section 44 of the 2002 Act is S.I. 2012/674.

68. Expenditure in relation to consultation and functions preparatory to consultation with persons employed at schools or their representatives.

69. Expenditure in relation to compliance with the local authority's duties under the Health and Safety at Work etc. Act 1974(**a**) and the relevant statutory provisions as defined in section 53(1) of that Act, in so far as compliance cannot reasonably be achieved through tasks delegated to the governing bodies of schools; but including expenditure incurred by the local authority in monitoring the performance of such tasks by governing bodies and, where necessary, giving them advice.

70. Expenditure in relation to provision of information to or at the request of the Crown and the provision of other information which the local authority is under a duty to make available, in so far as the information relates to maintained schools.

71. Expenditure in relation to the local authority's functions pursuant to regulations made under section 12 of the 2002 Act(**b**) (supervising authorities of companies formed by governing bodies).

72. Expenditure in relation to the local authority's functions under the discrimination provisions of the Equality Act 2010(**c**) in so far as compliance cannot reasonably be achieved through tasks delegated to the governing bodies of schools; but including expenditure incurred by the local authority in monitoring the performance of such tasks by governing bodies and, where necessary, giving them advice.

73. Expenditure on establishing and maintaining those electronic computer systems, including data storage, which are intended primarily to maintain linkage between local authorities and schools which they maintain.

74. Expenditure on the appointment of governors, the making of instruments of government, the payment of expenses to which governors are entitled and which are not payable from a maintained school's budget share, and the provision of information to governors.

75. Expenditure on education functions related to revenue budget preparation, preparation of information on income and expenditure relating to education for incorporation into the local authority's annual statement of accounts, and the external audit of grant claims and returns relating to education, in so far as those functions relate to maintained schools.

76. Expenditure on monitoring National Curriculum assessment arrangements required by orders made under section 87(3) of the 2002 Act.

77. Expenditure on retrospective membership of pension schemes and retrospective elections made in respect of pensions where it would not be appropriate to expect the governing body of the school to meet the cost from the school's budget share.

78. Expenditure on landlord responsibilities in relation to maintained schools, and in particular—

(a) expenditure in pursuance of duties performed under the School Premises (England) Regulations 2012(**d**); and

(b) expenditure in connection with duties under the Control of Asbestos Regulations 2012(**e**).

79. Expenditure in respect of the dismissal or premature retirement of, or for the purpose of securing the resignation of, or in respect of acts of discrimination against, any person except to

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(**a**) 1974 c. 37.
(**b**) Section 12 was amended by S.I. 2010/1158. Regulations made under section 12 are S.I. 2002/2978, amended by S.I. 2002/3177 and 2003/2049, 2004/3264, 2006/2198, 2009/1924 and 2014/2923.
(**c**) 2010 c. 15.
(**d**) S.I. 2012/1943.
(**e**) S.I. 2012/632, amended by S.I. 2014/469, 2015/21 and 1682, 2018/390 and 2019/696.

the extent that these costs are chargeable to maintained schools' budget shares or fall within paragraph 2(b) of this Schedule(**a**).

80. Expenditure on examining attendance registers under the School Attendance (Pupil Registration) (England) Regulations 2024(**b**).

PART 8

Deficit from previous funding period

81. Expenditure in relation to any deficit in respect of the local authority's schools budget from a previous funding period.

SCHEDULE 3

Regulation 28

MINIMUM FUNDING GUARANTEE

1.—(1) In this Schedule—

(a) references to the number of pupils—

(i) for the purposes of the previous funding period, exclude those funded by a sixth form grant; and

(ii) for the purposes of the funding period, exclude those funded by a sixth form grant;

(b) the "relevant number" of pupils for the previous funding period is the number of pupils at the school on 5th October 2023;

(c) the "relevant number" of pupils for the funding period is the number of pupils at the school on 3rd October 2024;

(d) the "minimum funding number" means a number determined by the local authority, between and including 0.995 and 1.000;

(e) the redetermined adjusted budget share for the previous funding period means a number calculated by the local authority, which must—

(i) exclude—

(aa) any amount allocated under regulation 14(2) (places reserved for children with special educational needs) of the 2024 Regulations;

(bb) any amount included under regulation 28 (sixth form funding) of the 2024 Regulations;

(cc) any amount included under regulation 40 (correction of errors and changes in non-domestic rates) of the 2024 Regulations;

(dd) the difference between (a) any amount allocated to the school under regulation 29(4) or (8) (new schools, merged schools and closing schools) of the 2024 Regulations, and (b) the single sum which the school would have received under regulation 16 (lump sums for primary and secondary schools) of the 2024 Regulations, had regulation 29(4) or (8) of the 2024 Regulations not applied;

(**a**) Costs in connection with dismissal or premature retirement may be chargeable to a maintained school's budget share by virtue of section 37 of the 2002 Act. Section 37 was amended by section 117 of, and paragraph 14 of Schedule 18 to, the 2005 Act, section 47 of the 2011 Act and by S.I. 2010/1158.

(**b**) S.I. 2024/208.

(ee) any amount allocated to the school under regulation 24 (additional criteria etc which may be taken into account) of the 2024 Regulations where such amount has been deducted from the schools budget under Part 5 (children and young people with high needs) of Schedule 2;

(ff) any amount allocated to the school under regulation 10(3) (early years single funding formula) of the 2024 Regulations;

(gg) any amount included in respect of regulation 24(3)(a) (non-domestic rates) of the 2024 Regulations;

(hh) any amount allocated to the school under regulation 16(2) (primary lump sum) or, where regulation 30(4) or (8) applies, the amount allocated to the school under that regulation;

(ii) any amount allocated to the school under regulation 16(3) (secondary lump sum) or, where regulation 30(4) or (8) (applies, the amount allocated to the school under that regulation;

(jj) any amount allocated to the school under regulation 21(2) (primary population sparsity);

(kk) any amount allocated to the school under regulation 21(7) (secondary population sparsity);

(ll) any amount added to the school's budget share under regulation 39 (pupils permanently excluded from, or leaving, maintained schools) of the 2024 Regulations;

(mm) any amount allocated to the school under regulation 23 (split sites factor) of the 2024 Regulations; and

(nn) any amount allocated to the school under regulation 24(3)(b) (private finance initiatives) of the 2024 Regulations.

(ii) include—

(aa) any amount deducted from the school's budget share under regulation 11(5) or (6) (determination of allocation of budget shares etc. for the funding period), 22(2) (risk protection arrangement) or 39 (pupils permanently excluded from, or leaving, maintained schools) of the 2024 Regulations; and

(bb) any amount representing the allocation to the school in the previous funding period in respect of the teachers' pay additional grant, the teachers' pension employer contribution grant and the core schools budget grant(**a**) as shown on the authority proforma tool(**b**) for 2025–26 sent to the local authority by the Department for Education in December 2024;

(f) references to a redetermined adjusted budget share for the funding period include the effect of any alternative arrangements approved by the Secretary of State under regulation 42, but the local authority must—

(i) exclude—

(**a**) "The teachers' pay additional grant", "the teachers' pension employer contribution grant" and "the core schools budget grant", are the names of three grants paid to a local authority by the Secretary of State under section 14 of the 2002 Act.

(**b**) The authority proforma tool is provided to local authorities to enable them to detail their schools block funding formulae. The 2025 – 2026 authority proforma tool can be found in a document entitled "Authority Proforma Tool (APT): purpose and process – instructions for local authorities for 2025 to 2026", published in December 2024, which is available at h ttps://www.gov.uk/government/publications/how-to-complete-the-authority-proforma-tool-apt-2025-to-2026. A printed copy may also be inspected at the Department for Education, Sanctuary Buildings, Great Smith Street, London SW1P 3BT, upon request.

(aa) any amount allocated under regulation 14(2) (places);

(bb) any amount included under regulation 29 (sixth form funding);

(cc) any amount included under regulation 41 (correction of errors and changes in non-domestic rates);

(dd) any amounts allocated under regulation 10(1) (formula for determining budget shares) which would have been within a class or description of the expenditure listed in Schedule 2 to the 2024 Regulations that the local authority deducted in the previous funding period;

(ee) any amount allocated to the school under regulation 10(3) (early years single funding formula);

(ff) any amount included in respect of regulation 25(3)(a) (non-domestic rates);

(gg) any amount included in respect of regulation 25(3)(b) (private finance initiatives);

(hh) any amount allocated to the school under regulation 16(2) (primary lump sum) (or, where regulation 30(4) or (8) applies, the amount allocated to the school under that regulation);

(ii) any amount allocated to the school under regulation 16(3) (secondary lump sum) (or, where regulation 30(4) or (8) applies, the amount allocated to the school under that regulation);

(jj) any amount allocated to the school under regulation 21(2);

(kk) any amount allocated to the school under regulation 21(7);

(ll) any amount added to the school's budget share under regulation 40 (pupils permanently excluded from, or leaving, maintained schools); and

(mm) any amount allocated under regulation 24.

(ii) include any amount that is deducted from a school's budget share under regulation 11(5) or (6) (applications to a schools forum or to the Secretary of State for authorisation to redetermine budgets), 22(2) (risk protection arrangement), 23(2) (energy scheme factor), 40 or 41.

(2) For the purposes of this Schedule—

(a) where a school opened during the previous funding period, its redetermined adjusted budget share for the previous funding period is the amount it would have been if the school had opened on 1st April 2024; and

(b) where a school opens during the funding period, its redetermined adjusted budget share for the funding period is the amount it would have been if the school had opened on 1st April 2025,

in both cases adjusted in accordance with paragraph 1(e) or (f), whichever is applicable.

2. Where (A/B) is less than (C/D) then the guaranteed funding level is (C/D) x B where—

A is the redetermined adjusted budget share, calculated by the local authority, for the funding period;

B is the relevant number of pupils in the funding period;

C is the redetermined adjusted budget share for the previous funding period multiplied by the minimum funding number; and

D is the relevant number of pupils in the previous funding period.

3. Where a new school opens during the funding period and is a replacement for two or more schools being discontinued during the funding period, its guaranteed funding level must be calculated in accordance with paragraph 2, subject to paragraph 4.

4. In calculating the guaranteed level of funding under paragraph 3 the relevant number of pupils in the previous funding period under paragraph 1(1)(b) is the sum of the relevant number of pupils in the discontinued schools on 5th October 2023.

5. In calculating the redetermined adjusted budget share for the previous funding period, the local authority may exclude any amounts allocated pursuant to regulation 42(1)(d) (exceptional premises costs) if it also excludes the amount from the redetermined adjusted budget share calculated for the funding period.

SCHEDULE 4

Regulation 43

CONTENTS OF SCHEMES

1. The carrying forward from one funding period to another of surpluses and deficits arising in relation to schools' budget shares.

2. Amounts which may be charged against schools' budget shares.

3. Amounts received by schools which may be retained by their governing bodies and the purposes for which such amounts may be used.

4. The imposition, by or under the scheme, of conditions which schools must comply with in relation to the management of their delegated budgets, and of sums made available to governing bodies by the local authority which do not form part of delegated budgets, including conditions prescribing financial controls and procedures.

5. Terms on which the local authority provides services and facilities for schools maintained by it.

6. The payment of interest by or to the local authority.

7. The times at which amounts equal in total to the school's budget share are to be made available to governing bodies and the proportion of the budget share to be made available at each such time.

8. The virement between budget heads within the delegated budget.

9. Circumstances in which a local authority may delegate to the governing body the power to spend any part of the local authority's non-schools education budget or schools budget in addition to those in section 49(4)(a) to (c) of the 1998 Act(**a**).

10. The use of delegated budgets and of sums made available to a governing body by the local authority which do not form part of delegated budgets.

11. Borrowing by governing bodies.

12. The banking arrangements that may be made by governing bodies.

13. A statement as to the personal liability of governors in respect of schools' budget shares having regard to section 50(7) of the 1998 Act.

(**a**) Section 49(4) was amended by section 215 of, and paragraph 100(2) of Schedule 21 to, the 2002 Act and by S.I. 2010/1158.

14. A statement as to the allowances payable to governors of a school which does not have a delegated budget in accordance with the scheme made by the local authority for the purposes of section 519 of the 1996 Act(**a**).

15. The keeping of a register of any business interests of the governors and the head teacher.

16. The provision of information by and to the governing body.

17. The maintenance of inventories of assets.

18. Plans of a governing body's expenditure.

19. A statement as to the taxation of sums paid or received by a governing body.

20. Insurance.

21. The use of delegated budgets by governing bodies to satisfy the local authority's duties imposed by or under the Health and Safety at Work etc. Act 1974.

22. The provision of legal advice to a governing body.

23. Funding for child protection issues.

24. How complaints by persons working at a school or by school governors about financial management or financial propriety at the school will be dealt with and to whom such complaints should be made.

25. Expenditure incurred by a governing body in the exercise of the power conferred by section 27 of the 2002 Act.

(**a**) Section 519 was amended by section 140 of, and paragraph 139 of Schedule 30 to, the 1998 Act and by S.I. 2012/976 and 2010/1158.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for local authorities' financial arrangements in relation to the funding of maintained schools and providers of funded early years provision in England, for the financial year 2025-2026.

Part 1 revokes the School and Early Years Finance (England) Regulations 2023 (S.I. 2023/59) with effect from 1st April 2025 (regulation 2). The School and Early Years Finance and Childcare (Provision of Information About Young Children) (Amendment) (England) Regulations 2024 (S.I. 2024/66) ("the 2024 Regulations") remain in force. Regulation 3 amends references to the 2024 Regulations in the Schools Forums (England) Regulations 2012 (S.I. 2012/2261).

Part 2 defines the non-schools education budget (regulation 4 and Schedule 1) and sets requirements for the initial determination of the schools budget (regulation 5), which is defined in regulation 6 and Schedule 2. It lists expenditure that is excluded from the non-schools education budget and the schools budget (regulation 7) and makes provision for central expenditure and the individual schools budget (regulation 8 and Schedule 2). It further requires local authorities to determine budget shares for schools maintained by them and amounts to be allocated in respect of early years provision in their areas, in accordance with the appropriate formulae (regulations 10 and 11).

Chapter 1 of Part 3 deals with the determination of budget shares for schools. Regulations 13 and 15 to 24 make provision for specific factors that the local authority must include in their local funding formulae for certain schools. The allowable ranges for these amounts or sums are set in relation to the distance between their respective value in the national funding formula and, for all mandatory factors other than the split site factor, the value in the local authority's funding formula in the previous funding period (financial year 2024 – 2025). Regulation 25 specifies additional criteria which may, or must, be taken into account in setting budgets for certain schools. The Regulations also impose a minimum per pupil amount (regulation 27) and a minimum funding guarantee for schools (regulation 28 and Schedule 3). Regulations 29 to 31 make provision for calculation of budgets in relation to specific types of school or specific circumstances.

Chapter 2 of Part 3 deals with early years provision and requires local authorities' formulae to take into account the predicted hours of attendance (with provision for review and redetermination on the basis of information about actual hours of attendance) (regulation 32) and to include one or more social deprivation factors (regulation 33). Regulations 34 and 35 provide for additional amounts to be included in respect of children in specified circumstances (regulation 34) and disabled children (regulation 35). There is a requirement to pass 96% of funding to early years providers (regulation 37) and a 12% limit on the amount of funding that may be attributable to the discretionary (supplementary) part of the early years formulae (regulation 38).

Chapter 3 of Part 3 deals with the redetermination of a school's budget share where a pupil is permanently excluded or leaves (regulation 40) and where a school's non-domestic rate liability changes (regulation 41). Regulation 41 also provides for the redetermination of a school's budget share, or the amount allocated to an early years provider, in order to correct errors in previous determinations. Regulation 42 makes provision for the Secretary of State to authorise a local authority to vary its application of certain provisions in these Regulations.

There are also requirements in relation to local authorities' schemes (regulation 43 and Schedule 4).

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.

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