EXPLANATORY MEMORANDUM TO

THE SCHOOL AND EARLY YEARS FINANCE (ENGLAND) REGULATIONS 2025

2025 No. 42

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Education and is laid before Parliament by Command of His Majesty.

2. Declaration

2.1 Catherine McKinnell, Minister for School Standards at the Department for Education confirms that this Explanatory Memorandum meets the required standard.

2.2 Tom Goldman, Deputy Director for Funding Policy Unit, at the Department for Education confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Victoria Barber-Clark at the Department for Education. Email: FundingPolicy.QUERIES@education.gov.uk can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This instrument makes regulations which provide for how local authorities in England must set their education budgets for the financial year 2025-2026, including financial arrangements relating to how those local authorities must fund maintained schools and providers of funded early years provision in their area.

4.2 The regulations set the parameters that local authorities must abide by in determining their education budgets, and the budgets which are allowed to be retained centrally by local authorities. They also set out how local authorities are to allocate funding to maintained schools and private, voluntary and independent early years providers through locally-determined funding formulae.

Where does the legislation extend to, and apply?

4.3 The extent of this instrument (that is, the jurisdictions which the instrument forms part of the law of) is England and Wales.

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

5. Policy Context

What is being done and why?

5.1 The regulations that make provision for local authorities' financial arrangements in relation to the funding of maintained schools and providers of funded early years provision in England are made on an annual basis. These Regulations prescribe those

requirements for the 2025-26 financial year. They also set out how local authorities are to allocate funding to maintained schools in their area, and to providers of government-funded free early years entitlements (FEYEs), through locally determined formulae.

5.2 The Department for Education introduced national funding formulae (NFF) for determining allocations for local authorities, to enable them to fund schools (for 5-16 year olds), and for high needs and central school services in 2018-19. Formulae for determining local authority allocations to enable them to fund FEYEs were introduced in 2017-18. This replaced the previous system by which local authorities' funding was based on historic funding. Local authorities now receive funding for maintained mainstream schools based on one single national formula. Funding for FEYEs provision is based on two national formulae (one formula for three- and four-year-olds and a separate one for two-year olds and under). However, local authorities retain responsibility for distributing that funding locally, including through their own local formula for school funding, and a separate local formula for early years funding. The Department for Education delivers this funding to local authorities through the annual Dedicated Schools Grant ("DSG").

5.3 These Regulations set out the rules local authorities must follow when spending their 2025-26 schools budget, which consists of funding for: core provision for 5-16 year olds in mainstream schools; central services carried out on behalf of local schools; provision for children and young people (aged 0-25) with complex needs; and FEYEs.

What was the previous policy, how is this different?

5.4 The Department for Education makes these regulations annually for each new financial year. The School and Early Years Finance and Childcare (Provision of Information About Young Children) (Amendment) (England) Regulations 2024 (2024 Regulations) apply to the 2024-25 financial year, ending on 31st March 2025. These Regulations apply to local authorities' education budgets for the 2025-26 financial year, commencing on 1st April 2025. These Regulations largely mirror the 2024 Regulations with some changes to reflect minor amendments to policy from 2024-25. These changes are explained from 5.5 to 5.10.

Schools Funding

5.5 The majority of the DSG is allocated to local authorities through the schools NFF – for mainstream primary and secondary school funding. This "schools block" of the DSG totals £48.7bn in 2025-26, which equates to average per pupil funding of £6,466, and a per-pupil funding increase of 2.15% compared to 2024-25. The schools NFF calculates notional school-level allocations, which are aggregated to form local authorities' school funding within the DSG.

5.6 The 2025-26 NFF is broadly similar in policy terms to the original NFF: the same funding factors are in use, which form the basis of funding to schools, but small technical improvements are made each year, as well as increases to the factor values used. These are set out in the NFF policy document, which we have published each year since the NFF was introduced: https://www.gov.uk/government/publications/national-funding-formula-for-schools-and-high-needs-2025-to-2026.

5.7 Likewise, the requirements on local authorities' local funding formulae for mainstream schools are largely unchanged from 2024-25. Only small changes have been made to these Regulations concerning school funding, to reflect changes in policy. The key changes are set out below:

Removal of the facility to provide extra funding for reception pupils

5.8 The 2024 Regulations allow local authorities the discretion to apply what we term a "reception uplift" to basic per-pupil funding in their local funding formulae. By virtue of regulation 13(5) of the 2024 Regulations, local authorities can choose to use reception pupil numbers as of January, as opposed to the usual date of October, to calculate basic per-pupil funding. This directs additional funding towards schools that see an increase in reception pupil numbers between October and January. Only a small minority of local authorities (8 in total) made use of this flexibility in their 2024-25 formulae. In July 2023, the Department for Education informed schools and local authorities that this flexibility would be removed for 2025-26 as part of the move towards more consistent funding arrangements. The 2025 Regulations remove this flexibility, in line with that policy.

Introduction of Department for Education Energy Scheme

5.9 The Department for Education is introducing a new energy purchase scheme under which maintained schools will be able to make use of the Department's own energy contract. If schools fail to pay moneys due under the contract, the Department would be liable. The new regulation 23 provides for local authorities to deduct money from schools' budget shares where they have not paid an undisputed invoice: the Department will then recover the money from local authorities' DSG.

Premises Funding in the Minimum Funding Guarantee (MFG) Calculation

5.10 In their local funding formulae, local authorities must include a minimum funding guarantee (MFG) which protect schools against excessive losses in funding compared to the previous funding period. The requirements relating to the MFG are set out in regulation 28 of, and Schedule 3 to, the 2025 Regulations.

5.11 In the 2024 Regulations, Schedule 3, Paragraph 5 stated that all premises factor funding could be excluded in the calculation of the MFG. For 2025-26, we have amended the Regulations to provide that funding allocated to schools for split sites premises costs and for private finance initiative (PFI) premises costs must be excluded from the MFG calculation.

5.12 The effect of this will be to avoid a school being "over-protected" by the MFG if they are no longer eligible for the relevant funding – for example, if the school is no longer located over more than one site, or if its PFI contract has come to an end.

5.13 This change is reflected in the 2025 Regulations at Schedule 3 (paragraphs 1 and 5).

Early Years Funding

5.14 The Government funds, and local authorities are required to provide, the following FEYEs:

1) 15 hours a week for 38 weeks of the year for all three and four year olds (the "universal entitlement");
2) An additional 15 hours (30 hours in total) for 38 weeks of the year for eligible three and four year-olds of working parents (the "extended or working parent entitlement");
3) 15 hours per week for eligible disadvantaged two-year-olds (the "entitlement for children from families receiving additional support");
4) 15 hours for 38 weeks of the year for eligible working parents of children aged two years, increasing to 30 hours for 38 weeks of the year from 1 September 2025 ("the working parent entitlement");

5) 15 hours for 38 weeks of the year for eligible working parents of children aged nine months to two years, increasing to 30 hours for 38 weeks of the year from 1 September 2025 ("the working parent entitlement").

5.15 In addition to funding early years providers to deliver these FEYEs, local authorities are required to provide an additional amount of funding to providers for each qualifying disadvantaged and disabled three and four year old child through the Early Years Pupil Premium ("EYPP") and the Disability Access Fund ("DAF") respectively. This additional amount, which is funded by the Government, helps children eligible for the FEYEs to access the universal entitlement.

5.16 The requirements relating to early years funding largely remain unchanged from 2024-25 with the exception of Regulation 37 concerning the pass-through rate. The change is set out below.

Increase in early years pass-through to 96%

5.17 For some years, including the financial year 2024-25, local authorities have been required to pass-through at least 95% of the funding they receive through the government funding hourly rate to their early years providers. For 2025-26, the Department for Education is increasing the minimum pass-through requirement to 96% and will increase this further to 97% once the new entitlements are sufficiently embedded. We have made the decision to phase the approach to increasing the minimum pass-through requirement, with an initial move to 96%, as we recognise that 2025-26 is a crucial delivery year for local authorities as they continue implementing the expansion of the early years entitlements. This change is reflected in the 2025 Regulations at regulation 37.

5.18 This approach recognises the overall increase in the early years entitlements funding for 2025-26, and the need to maximise funding reaching early years providers as much as possible, whilst also acknowledging the need for local authorities to be appropriately funded through a critical period of delivery.

6. Legislative and Legal Context

How has the law changed?

6.1 These Regulations are made under Chapter 4 of Part 2 of the School Standards and Framework Act 1998 ("SSFA 1998"), which concerns the financing of maintained schools and of the FEYEs. They relate to the 2025-26 financial year and need to be made because the School and Early Years Finance and Childcare (Provision of Information About Young Children) (Amendment) (England) Regulations 2024 apply to the 2024-25, but not to the 2025-26, financial year.

Why was this approach taken to change the law?

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

7. Consultation

Summary of consultation outcome and methodology

7.1 The treatment of "split sites" funding for schools was included in the Department for Education's public consultation *Implementing the Direct National Funding Formula* in 2022. 39 respondents (32%) raised the issue of funding protections – through the minimum funding guarantee (MFG) – for schools with split sites, with some respondents arguing that while protections should be in place for the first year of the

changes to split sites funding in 2024-25, it would be unfair on other schools to continue protecting "split sites" funding for schools that no longer had split sites beyond this point. The Department for Education confirmed in the response to the consultation in April 2023 that split sites funding would not be protected through the MFG from 2025-26.

7.2 The other changes on schools funding mentioned above – the removal of the "reception uplift" flexibility and the removal of PFI funding from the MFG calculation – were not subject to public consultations, as they are technical in nature and as they only affect a minority of schools. However, the Department did discuss these changes in advance of their implementation with its school funding stakeholder groups of local authorities and unions. It also discussed the change to the reception uplift with the eight local authorities which made use of that flexibility in 2024-25.

8. Applicable Guidance

8.1 Operational guidance for 2025-26 on schools funding is available at: Pre-16 schools funding: local authority guidance for 2025 to 2026 - GOV.UK

8.2 Operational guidance for local authorities for 2025-26 on high needs funding is available at: High needs funding arrangements: 2025 to 2026 - GOV.UK

8.3 Operational guidance for local authorities for 2025-26 early years funding is available at: Early years entitlements: local authority funding operational guide 2025 to 2026 - GOV.UK

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because it has minimal impact on businesses, civil society organisations, and on the public sector.

Impact on businesses, charities and voluntary bodies

9.2 The impact on business, charities or voluntary bodies is that local authorities will continue to fund relevant early years providers, including maintained nursery schools, in respect of the existing free entitlements for disadvantaged two-year-olds and three- and four-year-olds from April 2025.

9.3 These Regulations do not impact small or micro businesses, except for the early years providers referred to above.

9.4 The Regulations put no requirements on early years providers; rather, they impose requirements on local authorities, whose responsibility it is to fund providers locally with the money they receive from government.

9.5 The impact on the public sector is that local authorities must comply with these Regulations when allocating their schools budget and determining budget allocations for schools and amounts for early years providers.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The approach to monitoring of this legislation is through the usual contact that the Funding Policy Unit within the Department for Education has with schools and local

authorities. The team will log and review any correspondence from schools and local authorities relating to the instrument.

10.2 The instrument does not include a statutory review clause.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

12. European Convention on Human Rights

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

13. The Relevant European Union Acts

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