

SUMMARY OF NEW FEATURES IN THE SCHOOL AND EARLY YEARS FINANCE (ENGLAND) REGULATIONS 2013 AND THE DSG CONDITIONS OF GRANT FOR THE FINANCIAL YEAR 2014-15

This note does not draw attention to changes made purely to improve the drafting of the regulations.

The consultation version of the regulations included an amendment to the Order made in 1999 that transferred responsibility for school meals from local authorities to schools with delegated budgets, to make it clear that this transfer applies to schools even where the local authority does not provide a specific amount of funding to the school for lunches. This is a clarification of existing policy. Schools already fund lunches from their mainstream budgets rather than from a specific grant. This clarification has gone ahead, but has been made as a separate Order for legal reasons.

Regulation 3 includes an amendment to the Schools Forums (England) Regulations 2012 to require the election of a representative of providers of 16 to 19 education to the schools forum, and to remove the inclusion of a representative of the local authority's 14 to 19 partnership on the forum. Eligible institutions are those in the FE sector (FE and sixth form colleges) and other post-school institutions that specialise in SEN and LDD provision (ISPs), where 20% or more of their students reside in the authority's area. This change comes into force on 1 January 2014. We will update our material on schools forums to reflect this.

Regulation 5 and regulation 11 require local authorities to make an initial determination of their 2014-15 schools budget, individual schools budget and the amount of each school's budget share by 28th February 2014 (except in relation to sixth form funding, and to special schools, pupil referral units and nursery provision). In the previous Regulations the date for doing this was 15th March.

Sixth form funding must be determined within a reasonable period of notification to the authority by the Secretary of State, and funding for special schools, PRUs and nursery provision must be determined by 31st March.

Regulation 8(7) allows local authorities to carry over any unspent money from the 2013-14 growth and infant class size funds to be used for the same purposes in 2014-15. This is a change from the draft regulations, which proposed instead that unspent money should be included in the Individual Schools Budget. The new provision will simplify the procedure for constructing a growth and infant class size fund for 2014-15.

Regulation 8(8) allows local authorities to carry over into 2014-15 unspent de-delegated central expenditure to be used for the same purpose as it was used in 2013-14. In other words, it can be used for de-delegated services without having to allocate through the formula again. This responds to representations that this money

de-delegated by maintained schools should continue to be available for the use of maintained schools.

Regulation 11(3) has been changed to require local authorities, in identifying funding for SEN pupils in individual primary and secondary school budgets (the notional SEN budget), to calculate that sum with reference to a threshold of £6,000. Schools are expected to meet the costs of the additional support required by pupils with SEN up to that cost threshold. The great majority of local authorities implemented the £6,000 threshold in 2013-14.

Regulation 11(8) prevents local authorities from redetermining a school's or early years provider's 2014-15 budget once it has been set, except in specific circumstances. This provision to limit in-year redeterminations was introduced for 2013-14 but there has been some confusion about it so we are clarifying the position.

The definition of "pupils" for **regulation 13 and elsewhere (other than regulations 15 and 16 in so far as they relate to early years)** has been amended to clarify that pupils only count if they are single registered or dual main registered at the school.

Regulation 13(2) provides that reserved SEN places, whether filled or unfilled, do not in general count towards a school's pupil numbers for the purpose of calculating its budget through the mainstream local funding formula. For 2013-14 the regulation provided that pupils in reserved SEN places did not count. The change is to avoid double funding. However, the number of reserved SEN places deducted is to be reduced by any place occupied by a nursery age child or by a child not registered at the school, since these children would not be included in the pupil numbers anyway.

Regulation 13(5) provides that the basic per pupil amount (the age-weighted pupil unit) in a local authority's formula must be at least £2000 for primary and £3000 for secondary pupils.

Regulation 14 has been amended to ensure that, for maintained special schools, the separate calculation of funding for sixth form places ceases with effect from 1st August 2014, and all places (including sixth form places) other than hospital education places will then attract £10,000 per annum. The EFA will also apply this change to special academies and to non-maintained special schools. The purpose is to simplify the arrangements for special schools, who do not in general organise themselves with separate sixth forms.

Regulation 16 has been expanded to include exempt early education providers and community early years provision in maintained schools. The first of these changes reflects the revised Early education and childcare: Statutory guidance to local authorities, which came into effect in September 2013. Section A4 of this guidance makes clear that LAs should fund providers who have exemptions from the Early Years Foundation Stage Learning and Development requirements if a parent wants

their child to attend that provider. The second change brings in provision made by maintained schools for children not registered at the school, under their community provision powers (section 27 of the Education Act 2002). The two changes allow this types of funding to count as part of the individual schools budget.

The provision formerly made in this regulation, enabling LAs to vary funding paid to providers of funded early education if the number of children admitted by a provider was in excess of any number agreed by the LA, has been deleted. This provision, by potentially reducing the funding paid for some children, risked constraining parental choice about where to access their funded early education.

Regulation 18(7) excludes schools that opened in the previous seven financial years and are still adding year groups from the capping and scaling of budgets under regulation 18(4) to pay for the minimum funding guarantee. This is because the capping of budgets for schools in such circumstances on a per pupil basis can produce distorting effects.

Regulation 21 makes revised provisions for new, merged and closing schools.

Where a new school opens after 1 April 2014 as a replacement for two or more maintained schools, its budget for the remainder of the financial year is to be calculated by adding together the budget shares of the predecessor schools.

Where a new school has resulted from the merger of two or more schools in 2013-14 or on 1 April 2014, the local authority must pay the merged school a lump sum equal to 85% of the two lump sums that the schools would have received in 2014-15 if they had not merged.

Any other new school opening in 2014-15 is to have a budget share calculated under the regulations for the appropriate period.

Any school closing during 2014-15 is to have a budget share calculated under the regulations up to the date of closing.

Local authorities may apply to the Secretary of State to alter the operation of any part of this regulation.

Regulation 23(8) provides that the sum to be determined for an excluded pupil in a sixth form is £4,000 on an annual basis. This sum has been brought into line with the base funding for a full-time sixth form pupil in the academic year 2013/14.

Schedule 2, paragraph 9 allows local authorities to retain centrally a falling rolls fund for outstanding or good schools (including academies) if the schools' capacity is likely to be needed within the next three years to meet rising pupil numbers. There is a correction from the draft which mentioned only outstanding academies.

The previous provision in **Schedule 2** allowing local authorities to retain funding for CRC allowances for schools centrally has been deleted since schools will be

excluded from the CRC scheme with effect from 1 April 2014. However, pupil referral units remain within the scheme so there is a new provision at **paragraph 26** allowing the retention of funding for PRUs only.

Schedule 2, paragraph 12 allows authorities to retain funding for licences purchased centrally by the Secretary of State, following the introduction of the new Copyright Licensing Agency and Music Publishers Association licences in 2013-14. The Department is in negotiations with some other licensing bodies.

Schedule 2, paragraph 25 has been extended to cover central retention of PFI and Building Schools for the Future (BSF) costs in relation to special academies, PRUs and alternative provision academies, as well as maintained special schools.

Schedule 3, paragraphs 1 and 2 allows local authorities to set a lump sum of up to £175,000 and set a different lump sum for primary and secondary schools. Lump sums for middle schools are to be calculated as an average of the primary and secondary sums. For 2013-14 the lump sum limit was £200,000 and had to be the same for primary and secondary schools.

Schedule 3, paragraph 3 has been amended to reflect the use of data from the new early years foundation stage profile in deciding whether a pupil attracts prior attainment funding. Because the percentage of pupils qualifying under the new profile across an authority may be much higher than under the old profile, and this could have a distorting effect for some schools (eg infant schools), the paragraph allows local authorities to adjust the figure under the new profile down towards, but no further than, the local percentage under the old profile. This is a change from the consultation.

Schedule 3, paragraph 4 allows pupils who did not achieve level 4 in maths or English to attract prior attainment funding. In 2013-14 the regulations provided that only those who did not achieve a level 4 in both English and maths attracted the funding.

Schedule 3, paragraphs 7 and 8 provides that the allocation of funding through the mobility factors applies only where more than 10% of pupils in a school are mobile. For 2013-14 the factors applied where a school had any number of mobile pupils.

Schedule 3, paragraph 9 provides that pupils who were being looked after on 31st March 2013, regardless of how long they had been looked after, can attract funding through the looked after children factor. In 2013-14 local authorities had a choice of whether to apply the factor to those who had been looked after for at least a day, at least six months or at least 12 months.

Schedule 3, paragraphs 14 and 15 provides for the new sparsity factor. Details were set out in the operational guidance for local authorities in June 2013. The text has been clarified from the consultation version, including a provision that separate

minimum distances may be set for secondary schools, middle deemed secondary schools and all through schools.

DSG Conditions of Grant

New condition (c) requires local authorities to allocate at least 80% of funding through pupil-led factors.

New condition (d) allows local authorities to cap or scale school budgets only to the extent that is required to fund the minimum funding guarantee. The purpose of this is to make the operation of both the formula and the MFG more transparent, so that schools know what they would have received without the operation of the MFG.

Conditions (g) and (h) relating to the operation of top-up funding for high needs pupils have been updated.