

Accompanying note on School Finance (England) Regulations 2006

Introduction

1. The School Finance (England) Regulations 2006 govern the operation of school and LEA funding for the multi-year funding period 2006-07 and 2007-08. This note provides an overview of the operation of these regulations.

Part 1

2. Regulation 1 sets out the definitions of various words, phrases, and references to other legislation used within these regulations. As these regulations bring together two sets of predecessor regulations¹ these definitions and references have been reviewed, updated and added to in order to reflect both the new school funding arrangements and changes in other relevant legislation.

3. Changes or additions to the definitions which should be noted are:

- a. 'capital expenditure' has been updated to make the correct references to relevant legislation.
- b. 'central expenditure' has been included as a definition in support of regulation 7 and Schedules 2 and 3 of these regulations.
- c. 'funding period 1', defined as, the financial year beginning 1st April 2006 and 'funding period 2', defined as the financial year beginning 1st April 2007, are used throughout the regulations to differentiate between the two financial years covered by these regulations.
- d. 'key stage 4' is included as a definition in support of the policy to fund, either through central expenditure or a differentiated AWPU, the costs of 14-16 year old pupils following more practical learning options.

4. As well as these changes and additions, there are a number of other new definitions within regulation 1 which support the new powers of Schools Forums. These are: 'combined service', 'prudential borrowing', 'school specific contingency', 'SEN Transport costs' and 'termination of employment costs'. Each of these descriptions of expenditure appear in paragraph 35 of Schedule 2.

¹ Previously, school and LEA funding arrangements have been governed by the LEA Budget, Schools Budget and Individual Schools Budget (England) Regulations (latest version: SI 2004/3131) and the Financing of Maintained Schools (England) (latest version: SI 2005/3130).

5. It is important to note that any expenditure retained under paragraph 35 of schedule 2 must conform to the definition set out in regulation 1 and cannot be taken to refer to expenditure whose scope is wider than that set out in the definition. So, for example, expenditure on the costs of prudential borrowing, SEN Transport or the termination of employment for the purposes of paragraph 35 of schedule 2, must meet the savings test defined for them in regulation 1 and may not under any circumstance include expenditure where this savings test is not demonstrated. Schools Forums only have the power to approve expenditure items to be included in the Schools Budget which conform to the definition set out in these regulations.

Part 2

6. This section of the regulations sets out the action that needs to be taken by a local authority in relation to its LEA and Schools Budget.

7. Regulation 3 and the accompanying schedule 1 define classes of expenditure that make up the LEA Budget. A number of local authorities have asked why, with the development of Children's Services, there is an 'LEA Budget' and why the regulations themselves still make reference to local education authorities. The reason for this is that 'local education authorities' and the duties that must be discharged by them still exist in law, and it is still currently necessary to distinguish in accounts between education and other expenditure.

8. Regulations 4, 5, 6 and 7 set out the main architecture of the school funding arrangements. Regulation 4 places a duty on a local authority to determine, before 31 March 2006, the size of its Schools Budget for funding periods 1 and 2 and notify the governing bodies of the schools it maintains of those determinations.

9. Regulation 5 then goes on to define the scope of the Schools Budget. Under the new school funding arrangements, the Dedicated Schools Grant will be the principal source of funding for the Schools Budget. 5(1)(a) and (b) limit the scope of the Schools Budget to expenditure on maintained schools, the education of pupils in them and the education of pupils at other educational establishments supported and/or funded by the local authority (Pupil Referral Units, independent schools, non-maintained special schools etc.). The scope of the Schools Budget supports Ministers' commitment to establish a ring-fenced grant for schools and pupils.

10. Having established the scope of the Schools Budget in regulation 5(1) regulation 5(2) then widens, very slightly, its scope to include expenditure on 'combined services' where certain conditions are met. This flexibility is designed to support the multi-agency work of a local authority that supports the education of those pupils referred to under regulation 5(1). In the main the kinds of activities that will be supported through a combined service are likely to relate to, but will not be restricted to, work in relation to the Every Child Matters agenda.

11. Regulation 5(2) places two conditions on the extent to which expenditure on combined services may be included in the Schools Budget. First, the service being proposed must bring educational benefit to pupils in an authority, whether they are in maintained schools or in other local authority funded provision (PRUs for instance) and second, the contribution from the Schools Budget to the service must be roughly equivalent to the educational benefit that will be derived².

12. These two tests provide some flexibility to local authorities to manage combined support services for pupils in a strategic and controlled manner. However, in order to place an additional control on the extent to which the Schools Budget can be used for such purposes, a local authority must gain approval from its Schools Forum in order to incur such expenditure and, importantly, how much expenditure may be incurred each year (see also paragraphs 56-59 below).

13. As with the existing Budget Regulations, there are a number of types of expenditure that may not be charged against either the LEA Budget or the Schools Budget. These are listed in regulation 6. One issue to note here is that capital financing costs may not be incurred in either the LEA Budget or the Schools Budget with the exception of prudential borrowing costs that come within the scope of the definition provided for the purposes of these regulations.

14. Once the size of the Schools Budget has been established, regulation 7 requires a local authority to split its Schools Budget between those resources delegated to the schools (the Individual Schools Budget) and those resources that are retained centrally (the central expenditure). This split must be made for both funding periods and, by virtue of regulation 7(2), the amount that may be retained for each funding period is subject to the limit placed on it by the calculation set out in schedule 3 ('Maximum increases in Central Expenditure' – see also paragraphs 60-67 below)..

15. Regulation 8 places a duty on a local authority to consult their Schools Forum on any changes to the factors or criteria used in their formula for funding periods 1 and 2. This is a change to the current arrangement, whereby local authorities are required to consult all head teachers and governing bodies on such changes. A local authority is free, if it chooses, to continue to consult all its head teachers and governing bodies over any changes to its funding formula. Feedback from local authorities in relation to this amended requirement has indicated that many plan to continue to do so in relation to significant and widespread changes to their funding formula. The flexibility provided here though means that less important or minor technical matters need only be discussed with the Schools Forum. It remains good practice for all schools to understand the basic principles underpinning, and any changes made to, a local authority's formula. Schools Forums and local

² The Schools Forum guidance note on central expenditure contains further guidance on combined services: <http://www.teachernet.gov.uk/management/schoolfunding/schoolsforums/>

authorities will want to consider how best this can be achieved. The Schools Forum Operational and Good Practice Guide provides further guidance and advice on the important issue of communication between a local authority, its Schools Forum and the wider school and educational community it represents³.

16. Regulation 9 relates to the requirements on local authority formulae and the limitations placed on them. Before the beginning of funding period 1 a local authority must set the formulae to be used in both funding periods of the multi-year period, though the formula may be different from one funding period to the next. By enabling a formula to be different in funding period 2 from that in funding period 1 formula review will be able to flow during the course of the multi-year period. The intention of this regulation, though, is to ensure that the impact of such formula review is planned and agreed prior to the start of the multi-year period.

17. This regulation also requires a local authority to set out in its formula how it will 'determine and redetermine schools' budget shares'. This provision, therefore, requires formulae to specify how non-AWPU data will be updated (to reflect for example changes to the funding of named SEN pupils). Further guidance on the operation of non-AWPU data has been provided in a Schools Forum technical guidance note⁴.

18. While the presumption is that the formula for funding period 2, set prior to 31 March 2006, will not change, there may be exceptional circumstances where a local authority does need to propose a change to it after the start of the multi-year period: for instance, where a particular change to the formula that was introduced in funding period 1 has not been successful the local authority may wish to consider correcting or altering it for funding period 2. In these circumstances regulation 9(3) makes provision to allow Schools Forums to agree such a change. However, in order to support the predictability in school budget shares that the provision of multi-year budgets offers, such changes should only be considered in very exceptional cases and Schools Forums must be convinced that the benefit of changing the formula sufficiently out-weighs the benefit for schools of having certainty over the operation of the formula over two years.

19. Regulation 10 requires a local authority, before 31 March 2006, to allocate the total ISB for both funding period 1 and 2 in the form of budget shares for schools. There is no longer any provision to enable local authorities to retain any unallocated ISB: additional funding beyond the ISB needed to fund in-year redeterminations of school budget shares must be met from school specific contingency expenditure within the central expenditure

³ This can be found at:

<http://www.teachernet.gov.uk/management/schoolfunding/schoolsforums/>

⁴ This can be found at:

<http://www.teachernet.gov.uk/management/schoolfunding/schoolsforums/>

and/or other relevant expenditure headings (threshold and performance pay costs for instance).

20. As primary legislation⁵ already places a duty on a local authority to give the schools it maintains their budget share for each financial year, regulation 10 does not repeat this requirement. It does, however ensure that the determination of such allocations are made in line with the provisions laid down by these regulations and goes on to require local authorities to notify the governing bodies of the schools they maintain of what the initial determination of their budget share is for funding period 2. Primary legislation does not place this latter requirement on local authorities, hence its inclusion in regulation 10(2).

21. Regulations 11 and 12 make provision for the initial determinations of the Schools Budget, Individual Schools Budget and school budget shares for funding periods 1 and 2, made prior to 31 March 2006, to be redetermined under certain circumstances.

22. Regulation 11 is specifically designed to enable a local authority to account for the finalisation of their DSG after the initial determination of the Schools Budget, in the light of finalised PLASC data. As this will take place sometime after the start of each funding period to which the data relates there is a need to allow such redeterminations to occur.

23. A local authority has a number of choices in managing the effects of the finalisation of the DSG. It may correct school budget shares to take into account situations where incorrect PLASC data had been submitted, it may carry forward any upward or downward adjustment to the DSG into the subsequent year or it may increase or decrease its central expenditure. Regulations 11(3) and (4) address the circumstance where a local authority wishes to apply some or all of any additional funding in the finalised DSG to its central expenditure by making any increase, from what was initially determined under regulation 7, subject to School Forum approval. This applies in general terms to the overall level of central expenditure and individually to those expenditure items where limits on the amounts that can be retained are imposed by paragraph 35 of Schedule 2 (see paragraphs 4 and 5 above).

24. Regulation 12 places a duty on the local authority to redetermine school budget shares for funding period 2 to take account of fact that the budget shares for funding period 2 notified to schools prior to 31 March 2006 will be based on estimated/projected pupil numbers. These must be updated to reflect the January 2007 PLASC data. However, this provision will also enable a local authority to redetermine any notified budget share where it is appropriate to do so as a result of other updating of or changes to data. For instance, where, before 31 March 2006, a local authority had notified a school of their budget share for funding period 2 which took into account a planned change (such as the addition of a floor area allocation for a new build or

⁵ See s.45(1) of the School Standards and Framework Act 1998

introduction of a PFI scheme for instance) but which is not now occurring, a local authority must appropriately redetermine that school's budget share prior to 31 March 2007.

25. This kind of change is in addition to the normal working of the local authority's formula that determines the non-AWPU allocations of a school's budget share for each funding period under regulation 9 where the decision has been taken to update some or all of such data each year.

26. Regulation 13 provides the mechanism by which a local authority may, through application to its Schools Forum or the Secretary of State:

- a. increase the amount of funding it retains centrally from what it planned to retain under regulation 7 or 11(3);
- b. exceed its central expenditure limit; and
- c. exceed the limit placed on the amount of funding it is able to retain against the items of expenditure listed in paragraph 35 of schedule 2.

27. This regulation along with regulation 25 has the effect of giving Schools Forums their approval powers over certain elements of the new school funding arrangements. Guidance notes for Schools Forums have been produced that outline the kinds of issues that Schools Forums should take into account when considering any application from their local authority⁶.

28. Now that Schools Forums have been given a number of decision-making powers Ministers have agreed some amendments to the regulations governing the operation and constitution of Schools Forums⁷. These regulations have now come into force.

⁶ These can accessed at:

<http://www.teachernet.gov.uk/management/schoolfunding/schoolsforums/>

⁷ These can accessed at:

<http://www.teachernet.gov.uk/management/schoolfunding/schoolsforums/>

Part 3

29. This part of the regulations sets out the framework and requirements on the operation of local authorities' funding formulae.

30. Regulation 14 relates to the use of pupil numbers. The major change in relation to the manner in which pupil numbers must be used to determine budget shares is the requirement to use a single pupil count. A specific guidance note on this requirement has been produced⁸.

31. Other than this significant policy change there have been some other amendments to the operation of pupil numbers in local authority formulae. These are:

- a. the redrafting of the provisions relating to the counting of pupils funded via places. This has not affected the policy intention, but has made it clearer. Regulation 14(2) lists the pupils that should not be taken into account in the number of registered pupils for the purposes of determining budget shares (pupils funded through places, pupils in nursery classes and boarding accommodation, pupils funding by LSC grant and pupils in infant classes where the local authority chooses to provide class funding). Regulation 14(3) then provides discretion to local authorities to 'add back' to the number of registered pupils those who are funded through places under regulation 15(1) if they choose to.
- b. the addition of a new AWPU weighting that local authorities can choose to use in order to recognise any differential costs of pupils following more practical learning options at key stage 4 (regulation 14(4)(h));
- c. the addition of the relevant dates under the requirement to use a single pupil count (regulation 14(6)); and
- d. the provision to enable (but not require) the third term admission of nursery and reception pupils to be taken into account. The intention of this provision (regulations 14(7) and (8)) is to allow a local authority to adjust the number of registered pupils used to determine a school's budget share by a figure that represents the previous summer term's admission of nursery or reception pupils. The number of pupils used in the calculation of this figure cannot be greater than the actual number of pupils

⁸ This can be accessed at:

http://www.teachernet.gov.uk/management/schoolfunding/2006-07_funding_arrangements/schoolbudgets200608/

admitted in that term. It is expected that, where this provision is made use of, in the majority of cases, the figure used will be 5/12ths of the previous summer term's admission number; however, this is not specified precisely in regulations as local authorities may choose to operate different arrangements. The guidance note on the single pupil count provides further information on this issue (see paragraph 30).

32. Regulation 15 makes provision for local authorities to include place funding within their formula. There have been no changes of substance to this provision, however, it should be noted that, as with regulation 14(5) in respect of pupil numbers, 15(4) requires local authorities to make an estimate of the number of places they will fund in funding period 2 when notifying schools of their budget shares prior to 31 March 2006.

33. Regulation 16 sets out the extent to which a local authority must differentiate between the factors and criteria used to determine school budget shares to account for any difference in functions of Governing Bodies or relevant choices they have made in relation to the kinds of expenditure they wish to receive. There has been no policy change within this regulation: however, the previous regulation (regulation 13 of the FMS Regulations 2004) contained a provision that allowed a local authority not to include in a closing school's budget share any new factor or criteria introduced in their formula for the year in which that school closed. This has been deleted in this new regulation as provision to allow specific factors or criteria to be included in a local authority's formula to take account of closing schools is included in regulation 20 (see paragraph 38 below). Such factors or criteria could include the removal of any new ones introduced in the year in which a particular school is to close.

34. Regulation 17 sets out the manner in which additional factors or criteria may be used in local authority formulae. There has been no change in the policy intention of this regulation from the previous set of regulations though there has been some minor tidying-up of the drafting and the deletion of the provision in relation to nursery schools. This latter provision allowed a local authority to include funding in the budget share of a nursery school to account for the difference between its delegated budget share and the level of funding received prior to delegation (2004-05). This provision is now redundant as nursery schools have had a delegated budget for some years. Any ongoing protection needs of nursery schools in respect of their size or other relevant circumstance can be provided via appropriate factors in schedule 4.

35. Regulation 18 places a requirement on local authorities to ensure that school budget shares increase from one year to the next by at least the level of the Minimum Funding Guarantee. A separate technical note on the MFG along with a calculator has been produced.⁹

⁹ This can be accessed at : http://www.teachernet.gov.uk/management/schoolfunding/2006-07_funding_arrangements/schoolbudgets200608/

36. Regulation 19 relates to the inclusion of sixth form funding delivered via LSC grant within school budget shares. It has been amended to reflect the changes to the LSC grant allocation methodology that will be introduced in 2006-07. Specifically, as the LSC will be using a single pupil count from 2006-07 there is no longer any requirement for the complex provisions needed to manage the pupil number adjustments that LSC used to make to sixth form allocations. Instead a simple provision (regulation 19(4)) places a duty on a local authority to make any adjustment to an LSC allocation in the event of it receiving notification from the LSC to do so.

37. Regulation 19(2) and (3) continue to allow local authorities to make non-AWPU adjustments to the pre-16 funding allocation of schools to the extent that any double funding exists between it and the LSC allocation¹⁰.

38. Regulation 20 concerns new, reorganised and closing schools and places a duty on a local authority to make provision in its formula to recognise the specific needs of such schools. In the case of schools who are gaining a new class or year group part way through a financial year (perhaps over the course of a number of years) the expectation is that local authorities will ensure funding is provided in the initial budget share of a school to reflect the fact that they will need to fund at least 7/12ths of costs of a new class or classes that would otherwise not be recognised under the single pupil count arrangements.

39. Similarly, where a school is subject to reorganisation or closure, factors must be used to recognise the particular circumstances of those schools. Such factors could include, for example, the reduction of a full year's AWPU and non-AWPU data funding allocation to reflect the removal of classes and year groups from a particular school as at an appropriate date. Again, further guidance and advice of this aspect of the regulations can be found in the note on the single pupil count (see paragraph 30).

40. Regulation 20(2) requires new schools to be given a budget share during the preceding funding period that is sufficient to cover the start up costs of that school. This is a change to the existing requirement that includes the provision to enable a local authority to set at nil the budget share of a new school in the year before it first admits pupils. As outlined in the consultation on the draft version of these regulations the current provision does not reflect developments in policy and the new provision, therefore, aims to ensure that new schools which are not community schools receive sufficient funding to support the start up costs of advertising for and recruiting staff and procuring services and equipment as appropriate. The amount that this budget share should be is not specified in regulations: local authorities should make appropriate professional judgements in this regard.

41. Regulations 21 and 22 allow a local authority to make prior year adjustments in respect of 2005-06 to the budget share of funding period 1.

¹⁰ The Department consulted on the proposal to remove this provision in the regulations from 2008-09 onwards. Ministers are still considering this policy change. A decision on this matter will be made in due course.

This will allow the 2005-06 formula to 'run-out' in funding period 1 where appropriate. From funding period 2 onwards, however, prior-year adjustments will no longer be permitted. These regulations, therefore, only relate to adjustments in funding period 1 that relate to the 2005-06 budget year. It is important to note that this provision relates only to prior-year adjustments and does not relate to the general correction of errors: such issues are dealt with under regulation 24 (see paragraph 44).

42. Regulation 23 relates, in the main, to the adjustment of a school's budget share to account for the removal from a school's roll, or admission, of a permanently excluded pupil. Regulation 23(6) is a new provision and has the effect of applying the same adjustment to a school's budget share for a pupil who is the subject of a 'managed move' as is applied for the removal of a permanently excluded pupil. This provision has been added to support the inclusion agenda for those young people whose school career 'breaks down' but who is not permanently excluded and who then either finishes their compulsory schooling, or has a period of schooling provided, either at a college, PRU, training provider or, as is increasingly the case, through some form of 'virtual' educational provision provided in whole or in part via the internet.

43. In relation to this new provision it should also be noted that schedule 4 paragraph 34 extends the ability of a local authority to include an additional factor in its formula to account for both permanently excluded pupils and those groups of pupils referred to in regulation 23(5).

44. Regulation 24 provides a broad power to allow a local authority to adjust school budget shares in order to correct any errors and/or take account of the notification of actual non-domestic rate liabilities where previously estimates had been made. This regulation also replaces the complex 'additional provisions' regulations (regulations 23-25) of the FMS Regulations 2004.

45. Regulation 24(3) places a requirement on local authorities, in correcting any error, to take account of any regulations in force during the year in which the error occurred. This ensures that a school's budget share for the relevant year cannot be reduced, through correction, to a level below its GFL or other protection mechanism that may have been in force at the time.

46. Regulation 25 provides the Secretary of State with a broad power to agree alternative arrangements to those set out in these regulations. It also prescribes the limits on the powers that Schools Forums have in this regard. Specifically, regulation 25(2) provides Schools Forums with the power to agree changes to the calculation of the guaranteed funding level and changes to a local authority's formula for funding period 2 that had been set prior to 31 March 2006. Regulations 25(3) and (4), however, limit the first of these powers in certain respects.

47. Regulation 25(3) places a limit on the number of schools in a local authority for which a Schools Forum can agree variations to the GFL. The limit is set at 20% of the total schools in a local authority. This provision must not be interpreted to refer to 20% of a single phase or other grouping of schools nor must a local authority and Schools Forum 'double count' schools who may be subject to more than one variation. The policy intention of this provision is to clearly limit the numbers of individual schools that can be affected by variations to the GFL on the basis that variations that individually or in aggregate affect more than 20% of a local authority's schools must be the subject of consideration by the Secretary of State.

48. Regulation 25(3) does not allow a local authority to propose to their Schools Forum the removal of the LSC grant or LSC pupil numbers from the calculation of the GFL for schools with sixth forms. This does not preclude a Schools Forum from agreeing to a variation to the GFL for an individual school with a sixth form which is receiving a clearly anomalous budget outcome, as a result of significant changes in the circumstances of the school from one year to the next (which may or may not relate to the sixth form element of a school's budget share). However, it does safeguard the intention of Ministers to ensure that the GFL is applied to both the pre- and post-16 elements of a school's budget share.

Part 4

49. Regulations 26 and 27 set out the required content of schemes and the arrangements for how they should be published.

Schedules

50. There are six schedules to these regulations.

51. Schedule 1 relates to the LEA Budget defined in regulation 3. There has been only one change to this schedule from the current schedule 1 of the Budget Regulations 2004: paragraph 25 now reflects the fact that, under certain circumstances, there is a possibility that costs incurred on the termination of the employment of staff may be included in the central expenditure of the Schools Budget.

52. Schedule 2 lists the types of expenditure that local authorities may retain as central expenditure. A number of specific points should be noted.

53. Paragraph 1: this allows funding to be held centrally for those grants falling within the Schools Budget that will continue to require match funding¹¹;

54. Paragraph 3: this allows funding to be held centrally for threshold and performance pay costs where a local authority has chosen to do so¹²;

¹¹ See: http://www.teachernet.gov.uk/management/schoolfunding/2006-07_funding_arrangements/specificgrants200608/

55. Paragraph 34: this allows a local authority to support the costs of more practical learning options for pupils at Key Stage 4 over and above those provided by school budget shares¹³;

56. Paragraph 35: this lists the kinds of expenditure that can be retained only with the permission of the Schools Forum. Local authorities may only include expenditure under this paragraph that conforms to the definitions of such expenditure provided in regulation 1 (see paragraphs 4 and 5 above). In addition, this paragraph imposes limits on the amount that a local authority may retain against any of these types of expenditure. Specifically, the amount retained in funding period 1 and funding period 2 may not exceed the amount retained against the same type of expenditure in 2005-06. However, by virtue of regulation 7(3) a local authority may retain more funding for these types of expenditure than this limit imposes where it has the approval of its Schools Forum to do so. This is achieved by enabling Schools Forums to substitute a different limit, on the basis of a proposal from their local authority, from that prescribed in paragraph 35 of Schedule 1.

57. The policy intention here is to ensure that a Schools Forum not only agrees to a local authority retaining funding for any or all of the items listed in paragraph 35 but also agrees the amount held for each item.

58. So, for example, where a local authority has retained £50,000 for prudential borrowing in 2005-06 it may retain no more than that amount in funding period 1 or 2 unless it applies to its Schools Forum to retain (say) £60,000 in period 1 and £70,000 in period 2. As this particular power of Schools Forums is drafted in terms which allow them to lift the limit imposed in regulation, a Schools Forum may also impose an alternative limit to the one proposed. For instance, in place of the £60,000 proposed for period 1 it could substitute £55,000.

59. This principle is applied to each kind of expenditure in paragraph 35. However, because in 2005-06 a local authority was not able to hold funding in their central expenditure for the termination of employment costs, combined services and SEN Transport costs, the amount held in 2005-06 is for the purposes of the limit considered to be nil. This therefore means that any amount of funding for these items that a local authority wishes to include in its central expenditure in funding period 1 or 2 must be agreed by the Schools Forum.

60. Schedule 3: This schedule sets out the operation of the limit on central expenditure for funding period 1 and 2. The Department has produced a calculator and technical guidance note for local authorities on its operation along with a note for Schools Forums on the operation of the central

¹² For further information on the management of threshold and performance pay costs now that grant funding has ceased see <http://www.teachernet.gov.uk/docbank/index.cfm?id=9411> (in particular paragraphs 32-34).

¹³ See <http://www.teachernet.gov.uk/docbank/index.cfm?id=9412>

expenditure and its limits which includes guidance on the issues Schools Forums should consider when being asked to agree an increase to the limit.¹⁴

61. In addition to this guidance a number of local authorities have raised some queries regarding the precise treatment of threshold and performance pay costs in relation to the CEL.

62. With the transfer of the Threshold and Performance Pay Grant into the DSG baseline, a local authority will be required to take some action regarding the treatment of such costs. At the very least, a local authority's centrally retained budget will include additional funding for the threshold and performance pay costs of those centrally employed, eligible teachers. Local authorities may also choose to retain the school-related costs centrally. Where such a decision is taken the central expenditure will increase significantly above any increase that would be incurred if only the non-devolved costs transferred in.

63. The operation of the central limit as set out in schedule 3 does not make a baseline transfer to account for any funding that automatically comes into (i.e non-devolved funding) or is added to (i.e. devolved funding) the central expenditure in funding period 1 and that was previously met by grant. While this will inevitably place a pressure on the limit on the central expenditure and may well require a local authority to seek approval from their Schools Forum to increase the limit, the Department believes this is the right policy approach to take to ensure that the transfer-in of these costs in funding period 1 is done in a transparent manner.

64. The Department takes the view that any increase as a result of this transfer is of a technical nature and that where there is clear information provided Schools Forums should not object to such an increase in the level. However, this approach does ensure that any increase in the central limit for the purposes of threshold and performance pay costs relate only to such costs, whereas an automatic baseline transfer could under certain circumstances mask other increases in the central expenditure of a local authority. Other such increases should be considered on their own merits and not in any way be 'covered' by the transfer-in of the pay costs. This approach will allow Schools Forums to take informed decisions as to the increases needed to the central expenditure limit.

65. For funding period 2, however, any costs that were included in a local authority's central expenditure 'roll into' the base. This means that the 07-08 base (i.e. the 06-07 adjusted central expenditure or legal limit if that is lower) used within the 07-08 CEL calculation must include any devolved funding for threshold and performance pay costs (it will also automatically include the non-devolved costs since they are no longer separately identified but are instead included in the relevant expenditure headings under schedule 2).

¹⁴ http://www.teachernet.gov.uk/management/schoolfunding/2006-07_funding_arrangements/schoolbudgets200608/

and

<http://www.teachernet.gov.uk/management/schoolfunding/schoolsforums/>

66. A similar principle applies to the treatment of school specific contingency which for the purposes of 2006-07 remains outside the CEL to facilitate the effect of local authorities not being able to retain an unallocated ISB from April 2006. So, for the purposes of the 07-08 baseline the school specific contingency should be included. It should be noted, however, that the amount of school specific contingency held is specifically subject to Schools Forum approval as provided for under paragraph 35 of schedule 2.

67. Finally, any funding provided by the LSC remains entirely outside the CEL calculation. This applies to the main sixth form grant as well as any funding received for post-16 threshold and performance pay costs.

68. Schedule 4 lists the additional factors and criteria that may be taken into account within a local authority's funding formula by virtue of regulation 17. Changes and additions to this schedule from the previous schedule to the FMS Regulation 2004 are:

- a. the extension of paragraph 34 so that it now relates to all pupils within the scope of regulation 23;
- b. a factor to account for infant classes or vacant places in such classes (previously provision was made for this kind of funding under regulation 12 of the FMS Regulations 2004); and
- c. a factor to recognise the incidence of threshold and performance pay costs in schools. This factor may take account of actual or estimated costs.

69. Schedule 5 sets out the detailed calculation of the Minimum Funding Guarantee (see paragraph 35).

70. Schedule 6 lists the items that should be included in a local authority's scheme for financing schools.

Further Information

71. The Department has produced a range of support materials for local authorities and Schools Forums in relation to the new school funding arrangements. This note has made reference to some of this material, but all of it can be accessed at:

http://www.teachernet.gov.uk/management/schoolfunding/2006-07_funding_arrangements/

72. Other queries relating to these regulations, not covered by this material, should be addressed to:

Philip Moss

Tel: 0207 925 3756

email: Philip.Moss@dfes.gsi.gov.uk

John Hall

Tel: 0207 925 6443

email: John.Hall@dfes.gsi.gov.uk

Steve Catchpole

Tel: 0207 925 6350

email: Steven.Catchpole@dfes.gsi.gov.uk

Paul Wright

Tel: 0207 925 6083

email: Paul.Wright@dfes.gsi.gov.uk

The postal address of the Department is:

School and LEA Funding Division
Sanctuary Buildings
Great Smith Street
Westminster
London
SW1P 3BT

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Department for Education and Skills