



Education
Funding
Agency

*Chief Finance Officers,
Finance Officers,
Chairs and Clerks of Schools Forums.*

19 July 2012

Dear Colleagues,

Consultation on the School Finance regulations 2013 and additional grant conditions for the Dedicated Schools Grant

Following the announcements on 26 March and 28 June 2012 about the reforms we are making to the school funding system in 2013-14, we are now consulting on the regulatory changes which give effect to the decisions set out in these announcements.

The draft School and Early Years Finance (England) Regulations 2013 are attached, together with additional grant conditions for the Dedicated Schools Grant (DSG). The finance regulations for the most part reflect the decisions already made on formula factors, maximum delegation, central expenditure and the Minimum Funding Guarantee. We are, however, consulting on how the funding for disadvantaged two year olds should best be brought into the early years single funding formula. The amendments to the grant conditions are necessary because DSG funds most Academies and non-maintained high needs providers.

The consultation period will run through to 21 September 2012 and the intention is for the regulations to come into force by 1 January 2013. Could you send your comments to EFA reformteam.funding@education.gsi.gov.uk By 21 September 2012 please?

Yours sincerely,

Keith Howkins,
Team Leader, Funding Reform Team
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SUMMARY OF NEW FEATURES IN THE SCHOOL FINANCE REGULATIONS 2013

Regulation 3 amends the 2012 school forum regulations to provide for maintained school members of schools forums to approve de-delegation proposals for their phase for maintained schools only.

Regulation 6 extends the definition of the schools budget to include expenditure on young people aged 19 to 25 with learning difficulties.

Regulation 8(2) specifies that expenditure on certain central services can only continue if the expenditure is already committed as a result of decisions made in a previous funding period.

Regulation 8(3) specifies that planned expenditure on each service in the central schools block cannot exceed the planned expenditure on that line in the previous year.

Regulation 8(4) specifies that the schools forum must approve the criteria on which any funding retained for pupil growth is to be allocated

Regulation 8(5) specifies that schools forum approval is required for central schools and early years block items.

Regulation 8(7) enables local authorities to apply to the Secretary of State to approve other central schools budget expenditure. This would only be considered in exceptional situations – for example, where an authority was using funding from outside the DSG for particular purposes such as universal free meals.

Regulation 9 requires local authorities to consult all schools about changes to their school funding formula. The same applies to the early years formula, where there must be consultation with all providers.

Regulation 11 requires budgets to be determined by 15th March for maintained schools and pupil referral units, and by 31st March for budgets issued under the early years formula.

Regulation 11(2) provides for de-delegation for certain budgets.

Regulation 12 sets out the powers of schools forum and the Secretary of State to authorise central schools and early years block expenditure and de-delegation.

Regulation 13 sets out the simplified requirements on the use of pupil numbers in the school formula, including the ability to use an October to January uplift for reception pupil numbers.

Regulation 14 sets out the funding requirements of the place element for

special schools and pupil referral units; we are still considering issues relating to hospital schools so these are not mentioned in the draft regulations.

Regulation 15 sets out how the mandatory deprivation factors in the schools and early years formulae may be calculated.

Regulation 17 continues to allow differentiation between different types of early years providers.

Regulations 18(1) to 18(3) allow authorities to use factors set out in schedule 3 in their schools and early years formulae.

Regulations 18(4) to 18(6) allow authorities to cap or scale back gains under the new formula using the same comparisons between years as in the MFG calculation, and applied consistently to all schools in the authority.

Regulations 19(1) and 19(2) set out the MFG requirements for primary and secondary schools (in conjunction with schedule 4).

Regulation 19(3) sets out the application of the MFG to the early years formula, which applies to base rates.

Regulation 21 requires authorities to determine budgets for new schools, but only from their opening (any lead-in costs would need to be funded from a de-delegated contingency).

Regulation 24(1) provides that any redeterminations of budgets due to errors would take effect in the following funding period.

Regulation 25 allows for authorities to apply to the Secretary of State to include exceptional premises factors in their formula, to exclude factors from MFG and to vary the basis of the pupil number count.

Regulation 27 sets out that changes to schemes for financing schools must be approved by maintained school members of the schools forum.

Schedule 2 sets out the services which can be retained centrally and is split between:

- Part 1 – central services (where expenditure is restricted to what was planned in 2012-13)
- Part 2 – central schools expenditure
- Part 3 – central early years expenditure
- Part 4 – high needs pupils
- Part 5 – items which can be de-delegated for maintained schools

Schedule 3 sets out the formula factors which may be used in the schools and early years formulae.

Schedule 4 sets out the simplified MFG calculation for primary and secondary schools.

EARLY EDUCATION FUNDING

Local authorities are required to manage funding for free early education for three and four year olds through the early years single funding formula (EYSFF). The EYSFF requirements are contained in the 2012 School Finance Regulations. These draft regulations for 2013 make the changes arising from the recent school funding consultations.

As has previously been announced, funding for free early education for two year olds will be part of the Dedicated Schools Grant (DSG) from 2013-14, alongside funding for early education for three and four year olds. The free entitlement to early education will be extended to 20% of two year olds from September 2013, and to 40% of two year olds from September 2014.

Local authorities will be required to fund free early education for two year olds through the EYSFF, as they do for three and four year olds. This requirement will start when these regulations commence, 1 April 2013, and in advance of the commencement of the regulations which extend the free entitlement in September 2013. Extending the EYSFF to two year olds has a number of advantages:

- It recognises the two year old entitlement as an extension of the three and four year old entitlement, and may be delivered by many of the same providers. Thus, it is only sensible it is funded in the same way.
- The EYSFF requires authorities to work with providers to determine the cost of delivery and calculate fair funding rates accordingly. As part of this, we call on providers and authorities to work together and engage afresh in an open and honest way.
- The EYSFF enables the Department more easily to collect data on funding rates (base rates and supplements) paid to providers. This data is then more easily comparable across areas. Not using the EYSFF would make collecting comparable data more difficult.

However, we are proposing adjustments to how the EYSFF operates for two year olds. These are:

- To relax the requirement to have a mandatory deprivation supplement (regulation 15(6)). Local authorities would still be able to use a deprivation supplement if they wish, but making it mandatory in an already targeted entitlement does not seem necessary.
- To relax the rules on place based funding to support capacity building. Currently, authorities must fund on the basis of participation except for children with SEN or children in need, where they can continue to fund on a place basis. We will extend this place-based approach for two year olds, to support LAs working with providers to increase capacity in advance of delivering the 20% and 40% entitlements (regulation 16(7)).

We anticipate this as a time-limited approach to support preparation for the entitlement, and not a permanent approach for funding two year old early education.

We would welcome views on these adjustments – are they suitable and are there others we should consider?

The availability of high quality early education places is of course critical to the success of the two year old entitlement. We expect LAs and providers to work together to improve the quality of provision on offer. As with provision for three and four year olds, carefully targeted funding can have a powerful role to play supporting increases in quality. The quality supplement in the EYSFF gives LAs a simple means to target funding at incentivising increases in quality in provision for two year olds. It would be possible through these regulations to require LAs to operate a mandatory quality supplement in their EYSFF for two year olds. Alternatively, all decisions about the design of the EYSFF for two year olds, including supplements, could remain a matter for local discretion.

We would be grateful for views on whether to require a mandatory quality supplement in the EYSFF for two year olds.

ADDITIONAL GRANT CONDITIONS UNDER SECTIONS 14-16 OF THE EDUCATION ACT 2002

The School Standards and Framework Act 1998, under which the School Finance Regulations are made, was enacted before the introduction of Academies and of the Dedicated Schools Grant (DSG). Sections 14-16 of the Education Act 2002, under which the DSG is paid, enable the Secretary of State to make the grant on such terms as he considers appropriate, and to enforce such terms.

The DSG covers pupils at most Academies (other than a few mostly early Academies which are not funded by way of the DSG and recoupment), and from 2013-14 will encompass also funding for high needs pupils and students aged 16-24.

So far as Academies are concerned, they will from 2013-14 be funded using the local authority's formula for the current financial year. Funding for Academies' actual budget shares is recouped from local authorities, but as the pupils in Academies are taken into account in the initial DSG allocated to authorities, they are contributing to the remaining funding retained for central services. The first three proposed additional grant conditions – (a) to (c) – reflect these considerations.

Local authorities will be responsible from 2013-14 for funding of all high needs pupils and students, apart from the base funding of £10,000 per place (SEN) and £8,000 per place (Alternative Provision) in non-maintained institutions. This funding will be part of local authorities' central spend and is covered in Part 4 of Schedule 2 to the Regulations.

The remaining proposed additional grant conditions – (d) to (g) – relate to high needs pupils and students. The first requires local authorities to treat different kinds of providers on an equal basis. The second implements the equivalent to the MFG for maintained special schools and Special Academies. The third and fourth cover transition to the new funding system for high needs.

The following additional conditions of grant are imposed:

(a) the authority must maintain a single formula for funding both maintained schools and Academies in its area;

(b) in constructing the formula, the authority must take account of the circumstances of all Academies and maintained schools in its area;

(c) in using funding held centrally within DSG, other than funding that has been de-delegated by maintained schools, the authority must treat maintained schools and Academies to which recoupment applies on an equivalent basis;

(d) in making arrangements for funding young people with high needs, the authority must treat those placed in maintained provision, in Academies and

Free Schools, in the FE sector, and in non-maintained and independent provision on a fair and equivalent basis;

(e) in deciding on top-up funding rates for the pupils it will place in special schools maintained by the Authority and Special Academies formerly maintained by the authority, the authority must ensure that the rates for each school are set no lower than at such a rate or rates that, if all the pupils in the school or Academy were placed by the authority, and the number of places remained the same in the two financial years, the school or Academy's budget would reduce by no more than 1.5% in cash between 2012-13 and 2013-14;

(f) when a pupil who would require top-up funding has already been placed in an institution by the authority at the time the new funding system for high needs pupils has introduced, the authority must enter into a contract with the institution to make such top-up payments until such time as the pupil has left the institution, or the contract is replaced by another. When such a pupil is placed by the authority in an institution at a later date, the authority must likewise enter into such a contract;

(g) when making top-up payments to institutions for high needs pupils, the authority must make the payments in a timely fashion on a basis agreed with the institution, which should be monthly unless otherwise agreed.