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STATUTORY INSTRUMENTS

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**2008 No. 228**

**The School Finance (England) Regulations 2008**

**PART 2**

**ACTION TO BE TAKEN BY A LOCAL EDUCATION AUTHORITY**

**CHAPTER 2**

**DETERMINATION OF SCHOOLS BUDGETS, INDIVIDUAL SCHOOLS BUDGETS, AND BUDGET SHARES FOR FUNDING PERIODS 1, 2 and 3**

**Initial determination of a local education authority's schools budgets**

- 4.** A local education authority must not later than 31st March 2008—
- (a) make an initial determination of their schools budgets for funding periods 1, 2 and 3; and
  - (b) give notice of any such determination to the governing bodies of the schools they maintain.

**The schools budget**

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

- (a) expenditure on the provision and maintenance of maintained schools and on the education of pupils registered at maintained schools;
- (b) expenditure on the education of pupils at independent schools, non-maintained special schools<sup>(1)</sup>, pupil referral units, at home or in hospital, and on any other arrangements for the provision of primary and secondary education for pupils otherwise than at schools maintained by a local education authority; and
- (c) all other expenditure incurred in connection with the authority's functions in relation to the provision of primary and secondary education, insofar as that expenditure does not fall within paragraphs (a) or (b).

(2) Where a local education authority operates a combined service for the benefit of pupils referred to in paragraph (1), expenditure referred to in paragraph 36(c) of Schedule 2 is only expenditure prescribed for the purposes of section 45A(2) of the 1998 Act and the determination of a local education authority's schools budget, provided that any expenditure is incurred in providing an educational benefit to those pupils.

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(1) Non-maintained special schools are approved and regulated by regulations made under section 342 of the 1996 Act. Section 342 was substituted by paragraph 82 of Schedule 30 to the 1998 Act.

## Exceptions

6. A local education authority's LEA 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, or
  - (ii) for the purpose of meeting the costs of financing the payment of pay arrears referred to in paragraph 6(a)(ii);
- (c) expenditure for the purposes of section 26 of the Road Traffic Regulation Act 1984<sup>(2)</sup> (arrangements for patrolling school crossings); and
- (d) expenditure met by the local education authority under section 51A of the 1998 Act<sup>(3)</sup> (community purposes).

## Determination of the individual schools budget for funding periods 1, 2 and 3 and limit on increase in central expenditure

7.—(1) Subject to paragraphs (2) to (4), not later than 31st March 2008, a local education authority must deduct from their schools budgets such of the classes or descriptions of planned expenditure set out in Schedule 2 (“the central expenditure”) as they propose to deduct, in order to determine their individual schools budgets for funding periods 1, 2, and 3.

(2) In deducting central expenditure under paragraph (1), a local education authority must limit any increase in deductions, from one funding period to the next, by ensuring that it does not exceed the percentage of any increase in the authority's schools budget for the relevant funding period, unless they obtain the approval of their schools forum under regulation 14(1)(b) or the Secretary of State under regulation 14(3) to vary this limit on any such increase.

(3) For the purpose of calculating the limit referred to in paragraph (2) only, the amount of any funding deducted under paragraph 26 of Schedule 2 (funding for PVI providers) must be treated as though it were part of the individual schools budget.

(4) In deducting the central expenditure referred to in paragraph 36 of Schedule 2, a local education authority must not exceed the limit referred to in that paragraph, unless they have obtained the approval of their schools forum under regulation 14(1)(b) or the Secretary of State under regulation 14(3) to do so.

(5) References to planned expenditure in this regulation are references to that expenditure net of—

- (a) all related specific grants;
- (b) all related fees, charges and income; and
- (c) any funding received from the Secretary of State in respect of PFI scheme unitary payments.

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(2) 1984 c.27. Section 26 has been amended by section 8 of, and Schedule 5 to, the Local Government Act 1985 (c.51), and sections 288 and 423 of and Schedule 34 to, the Greater London Authority Act 1999 (c.29), and sections 270 and 274 of, and Schedule 31 to, the Transport Act 2000 (c.38).

(3) Section 51A was inserted by section 40 of the 2002 Act.

## **Consultation**

**8.—(1)** A local education authority may make changes to the formulae they have used in the financial years beginning 1st April 2006 and 1st April 2007.

(2) Subject to paragraph (3), a local education authority must consult their schools forum 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) Paragraph (2) does not apply to changes made relating to matters referred to in regulation 21 (sixth form funding) or 23 (excluded pupils).

## **Formulae for determination of budget shares**

**9.—(1)** A local education authority must, before the beginning of funding period 1 and after the consultation referred to in regulation 8, decide upon the formulae which they will use to determine and redetermine schools' budget shares in funding periods 1, 2 and 3, having regard to the factors, criteria and requirements set out in Part 3 of these Regulations.

(2) A local education authority may not make changes to their formula for funding period 1 after the beginning of that funding period.

(3) A local education authority may make changes to the formula they will use for funding period 2 or 3 before the beginning of the funding period to which the changes relate where any such changes have been approved by their schools forum or the Secretary of State under regulation 25 (additional arrangements).

(4) Any formulae determined by a local education authority under paragraph (1) may include different factors, criteria and requirements for different funding periods.

(5) A local education authority may not use factors or criteria in their formulae under this Part which make an allowance, in whole or in part, for any amount allocated to a school from any School Standards Grant paid to the authority.

(6) A local education authority must use the formulae determined under paragraph (1), subject to any changes made under paragraph (3) and regulation 25 (Additional arrangements), in all determinations and redeterminations of budget shares in respect of funding periods 1, 2 and 3.

## **Initial determination of allocation of schools' budget shares for funding periods 1, 2 and 3**

**10.** Not later than 31st March 2008, a local education authority must—

- (a) initially determine the allocation of their individual schools budget for funding periods 1, 2 and 3 as the budget shares of the schools which they maintain for each of those funding periods in accordance with Part 3 of these Regulations; and
- (b) give notice of schools' budget shares for funding periods 2 and 3 to the governing bodies of each of the schools they maintain.

## **Delegated budgets for new schools**

**11.—(1)** A new school must have a delegated budget from the appropriate date.

(2) Subject to paragraphs (3) and (6), the appropriate date is either—

- (a) the date which is fifteen calendar months before the opening date of the new school; or
- (b) the date upon which a temporary governing body is constituted for that school,

whichever is the later.

(3) On the application of a local education authority, their schools forum may—

- (a) vary the appropriate date to a date proposed by the authority;

- (b) vary the appropriate date to a different date; or
  - (c) refuse to vary the appropriate date.
- (4) Where—
- (a) a schools forum
    - (i) vary the appropriate date to a different date, or
    - (ii) refuse to vary the appropriate date; or
  - (b) a local education authority are not required to establish a schools forum for their area(4), the authority may make an application to the Secretary of State for variation of the appropriate date.
- (5) On the application of a local education authority, the Secretary of State may—
- (a) vary the appropriate date to a date proposed by the authority;
  - (b) vary the appropriate date to a different date; or
  - (c) refuse to vary the appropriate date.
- (6) A local education authority must determine the amount of a new school’s delegated budget for the period from the appropriate date to the opening date as an amount which is sufficient to fund the appointment of staff and to enable the purchase of any goods and services necessary in order to admit pupils.
- (7) After the opening date, a school’s delegated budget must be determined in accordance with the local education authority’s formula for the relevant funding period.

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(4) Section 47A(2) of the 1998 Act provides that the requirement in section 47A(1) of that Act to establish school forums for their area does not apply to the Common Council of the City of London or the Council of the Isles of Scilly.