



Department
for Education

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Respond by Friday 17 October 2014
Ref: Department for Education

School and Early Years Finance (England)

Regulations 2014

School and Early Years Finance (England) Regulations 2014

The Department for Education is seeking views on the proposed changes to the School and Early Years Finance (England) Regulations. The regulations put in place the new arrangements for local authorities to set school budgets for the financial year 2015 to 2016.

To Chief finance officers and finance officers at local authorities; chairs and clerks of schools forums; and other interested parties.

Issued 8 August 2014

Enquiries If your enquiry is related to the policy content of the consultation you can contact the Department on 0370 000 2288

e-mail:

2014SchoolFinanceRegulations.Consultation@education.gsi.gov.uk

Contact Details

If your enquiry is related to the DfE e-consultation website or the consultation process in general, you can contact the Ministerial and Public Communications Division by e-mail: consultation.unit@education.gsi.gov.uk or by telephone: 0370 000 2288 or via the Gov.UK '[Contact Us](#)' page.

1 Summary

- 1.1 The Department is proposing to amend the Schools and Early Years Finance (England) Regulations 2013. Some of the changes had previously been published as part of the [Fairer schools funding arrangements for 2015 to 2016](#) and [Schools revenue funding 2015 to 2016 – operational guide](#) published on 17 July 2014. The proposed changes will come into force in January 2015 and shall be applied for the financial year 2015 to 2016.

2 Proposed changes to the school and early years finance regulations

- 2.1 The Regulations have been updated throughout to make them relevant to the financial year 2015-16.

A number of amendments have been made to take account of the new provisions relating to special educational needs in the Children and Families Act 2014. Much previous legislation has been re-enacted with amendments. There will be a period of transition from statements of special educational needs (SEN) and learning difficulty assessments to Education Health and Care (EHC) plans, and the drafting of the regulations allows for this.

Some other changes to the regulations are as a result of the Fairer schools funding arrangements for 2015 to 2016 and its supporting operational guide published on 17 July 2014.

Below is a brief explanation of the policy behind the changes to the regulations.

- 2.2 **Regulation 3** makes amendments to the Schools Forums (England) Regulations 2012.

The principal changes to membership of the forum are:

- That if there are any special academies in the local authority's area, there must be at least one member representing them;
- That if there are any alternative provision (AP) academies in the local authority's area, there must be at least one member representing them.

The purpose of these changes is to strengthen the representation on the forum of special provision and AP respectively.

In addition, more specificity is added to the provisions for the forum to discuss SEN and AP matters. In both cases, the forum must discuss places to be commissioned by the local authority – and in the case of AP also by schools – and the arrangements for paying top-up funding. The purpose of these changes is to ensure that the forum discusses the detail of local SEN and AP arrangements.

- 2.3** In **Regulation 14(1)** the transitional provision in last year's regulations for separate levels of place funding for sixth form places in special schools has been removed. Since 1 August 2014 the value of all such places has been £10,000. We have also clarified that the provision does not include hospital places or those aged over 19 years of age.
- 2.4** **Regulation 14(1) and paragraph 18 of Schedule 2 - these changes would mean the dedicated schools grant must not be used to fund places or top-up for 19 to 25 year olds in maintained special schools and special academies.** This reflects the current position that young people with statements cannot remain in special schools beyond age 19. Without these changes, the introduction of EHC plans would otherwise create an anomaly under the existing funding regulations for maintained special schools.

The SEN reform programme is a significant culture change. We want to allow time for the SEN reforms to bed in and for local authorities and existing further education and training providers to respond to these challenges. We consider that there are a number of risks associated with extending special school provision up to 25 which may cause uncertainty and volatility in the market as the SEN reforms are introduced.

Young people with EHC plans may need longer in education or training in order to achieve their outcomes and make an effective transition into adulthood. However, this position does not mean that there is an automatic entitlement to continued support at age 19 or an expectation that those with an EHC plan should all remain in education until age 25. For those that do need more time, the core aim of this further education must be on preparing them for adulthood within an adult orientated environment. This should include opportunities to experience the world of work and to develop as far as possible independent living skills and the ability to make independent choices and decisions in an adult context.

Special schools can still set up provision for 19 to 25 year olds that is a legally separate entity from the school through the Education Funding Agency's (EFA) market entry process. This ensures the policy objectives are embedded fully in new provision and helps manage the market.

As the reforms bed in we will keep the provision for 19 to 25 year olds with EHC plans under review.

- 2.5 Regulation 14(3)** implements, with transitional provision, the change in value for an AP place from £8,000 to £10,000 a year. Regulation 14(4) makes clear that places in pupil referral units include those to be commissioned by schools as well as directly by the local authority, and that the local authority is responsible for including the appropriate sum in the pupil referral unit's budget share for all such places. This was always the Government's intention but has not happened in all authorities in previous years.
- 2.6 Regulation 16 and Schedule 2, paragraph 15(c)** require local authorities to pay the early years pupil premium (of 53p per hour) to all early years providers that are delivering Government-funded early education to eligible three- and four-year-olds. Children will be eligible if: they meet the eligibility criteria for free school meals; they have been looked after by the local authority for at least one day; they have been adopted from care; they have left care through special guardianship; or they are subject to a child arrangement order.
- 2.7 Regulation 21(2)** makes revised provision for the determination of budgets for new maintained schools and for schools that have opened in recent years and are still adding year groups. Such schools are to be funded on the basis of estimated rather than actual pupil numbers. Any difference between estimated and actual numbers may be corrected for in the following financial year. The purpose of this change is to allow more discretion to local authorities in funding such schools, rather than requiring them to apply to the Secretary of State for a variation in every case. Local authorities will be expected to follow the same principles in setting budget shares for new and recently opened academies and free schools.
- 2.8 Schedule 1, paragraph 10(e) and Schedule 2, paragraph 13:** we have noticed that the previous regulations split local authority functions in relation to remission of boarding fees between the two schedules. We have put all these provisions in Schedule 2 to indicate that we regard expenditure on them as falling within the schools budget.

- 2.9** The former **paragraph 26 of Schedule 1**, relating to teachers' emoluments in circumstances where they have failed to complete induction satisfactorily, has been deleted. We no longer regard this expenditure as falling outside the schools budget.
- 2.10** **Schedule 2, paragraph 14** has been extended so that early years expenditure held centrally cannot relate to an excluded provider. An excluded provider is defined as an independent school that: does not meet the spiritual, moral, social and cultural development of pupils set out in the Independent School Standards; does not actively promote fundamental British values; or promotes, as evidence-based, views and theories which are contrary to established scientific or historical evidence and explanations. A definition of excluded provider has been added to **Regulation 1**.
- 2.11** **Paragraph 18 of Schedule 2** has been amended to reflect the provisions in the Children and Families Act. It now includes persons aged between 19 and 25 years of age with an EHC plan, but not where they are attending schools or academies.
- 2.12** **Schedule 3, paragraphs 14 and 15** have been amended to reflect our new policy for 2015-16 of setting thresholds for average year-group size rather than school size to decide whether a school should receive funding through the sparsity factor. Detail of the new policy is in chapter 3 of Fairer schools funding arrangements for 2015 to 2016.

3 Proposed changes to the conditions of grant

- 3.1** The dates in the conditions of grant will be updated by one year so that they relate to the financial year 2015-16. There are no other proposed changes.

4 How to respond

- 4.1** Consultation responses can be completed online at: <https://www.education.gov.uk/consultations/>

by emailing:

2014SchoolFundingRegulations.Consultation@education.gsi.gov.uk

or by downloading a response form which should be completed and sent to:
Department for Education
Beth O'Brien
Department for Education
Great Smith Street
London
SW1P 3BT

5 Additional Copies

- 5.1** Additional copies are available electronically and can be downloaded from the [Gov.UK](http://www.gov.uk) website.

6 Plans for making results public

- 6.1** The Department will publish our response to the consultation on the [Gov.UK](http://www.gov.uk) website and lay the Regulations before Parliament by early December 2014.