



15 October 2015

TITLE OF REPORT: **Schools and Early Years Schools Finance Regulations Consultation**

Purpose of the Report

To bring to Schools Forums attention the current School and Early Years School Finance Regulations consultation and to ask Schools Forum if they would like to make a response in the name of Gateshead Schools Forum.

Background

The DfE usually update the Schools and Early Years Finance Regulations annually. As part of this process the DfE release a consultation on the proposed changes. The regulations provide how local authorities set their education budgets and how they allocate funding to schools and providers of free early years provision in their area.

The summary of proposed changes is at appendix 1 and a copy of the LA's response is included as a starting point at appendix 2.

Schools and governing bodies are also able to submit their individual responses.

Proposal

That Schools Forum consider if they would like to make a response to the current Schools and Early Years Finance Regulations consultation, and that any response be debated during the meeting of the 15th October to ensure a response can be made to the DfE in time for the deadline of 13th November.

Recommendations

The Schools Forum considers responding to the current Schools and Early Years Finance Regulations consultation.

For the following reasons:-

To put forward their views on the proposed changes to the Schools and Early Years Finance Regulations.

CONTACT: Carole Smith

Appendix 1

The follow changes are minor updates to the regulations.

1) Regulation 3: Amendments to the School Forums (England) Regulations

Regulation 8 of the School Forums (England) Regulations refers to the School and Early Years Finance Regulations 2013. Regulation 8 has been updated so that it refers to the 2015 School and Early Years Finance Regulations.

The Department is considering the ways in which the interaction between the School and Early Years Finance Regulations and the School Forums Regulations might be improved, without changing the underlying policy as reflected in the regulations.

2) Regulation 14: Transitional arrangements

The transitional provision in the School and Early Years Finance (England) Regulations 2014 for separate levels of funding for Alternative Provision no longer applies. Since September 2015 the value of all such places has been £10,000.

Regulation 8: Determination of the individual schools budget for the funding period and limit on increase in central expenditure

Background

Regulation 8 (7) makes amendments to how local authorities calculate individual schools budgets, and the funding they can retain centrally.

Proposal and rationale

Any expenditure deducted by the local authority to support outstanding or good schools with falling pupil numbers where their capacity will be needed within three years, which is unspent can be carried forward to use on these funds.

Any expenditure incurred before the opening of new schools to fund the appointment of staff and to enable the purchase of any goods and services, which is unspent can be carried forward to use for this purpose.

The purpose of this change is to allow local authorities to carry forward any unspent falling rolls fund or new schools fund for the same purpose in the following year, in line with their ability to carry forward any unspent funding for growing pupil numbers and extra infant classes.

Regulation 16: Early Years provision

Background

Currently, local authorities can fund early years providers on a place- based (as opposed to participation-based) approach in certain circumstances. This allows local authorities to give early years providers a guaranteed level of funding when

needed. For 3 and 4 year olds, this is limited to SEN children and children in need.

When the 2 year old entitlement was introduced, the option of using place-based funding was extended to all eligible 2 year olds on a temporary basis to help local authorities grow the offer and allow them to offer providers a guaranteed income even if the places were not filled.

Proposal and rationale

Local authorities will no longer be able to fund all 2 year olds eligible for the early years entitlement using place-based funding. This is to be limited to SEN children and children in need.

The flexibility to allow place-based funding for all eligible 2 years olds was a temporary measure whilst local authorities developed their offer. The two year old programme is now embedded and from 2015-16, the Department has used participation-based funding. The circumstances for participation-based funding for 2 year olds are to be brought in line with those for 3 and 4 year olds. Regulation 16 (8) provides for this change.

Regulation 21: New schools, merged schools and closing schools

Background

Regulation 21 of the School and Early Years Finance (England) Regulations 2014 required local authorities to calculate the budget share of a new, amalgamated school by adding together the budget share of the discontinued schools which it replaced. In the following financial year, the amalgamated school was then entitled to 85% of the total lump sums the predecessor schools would have received. In the regulation, amalgamations of schools were defined only to include cases where two or more schools have closed and a new successor school has opened.

Proposal and rationale

A frequent way of amalgamating is where one school closes and the other extends its age range. Currently, local authorities have to submit a written request to treat these as amalgamated schools. Additionally, this type of amalgamation is specifically referred to in the department's statutory guidance on school organisation.

The definition of amalgamated schools has therefore been expanded, so that the requirements outlined above also apply where a school has had their upper or lower age range changed as a direct consequence of another school's closure. This is provided for by regulation 21(7) and 21(8).

The purpose of this change is to bring the regulations into line with current practice and departmental guidance (which envisages amalgamations of this sort), and specifically to avoid the need for local authorities to submit requests to disapply the regulations in these cases.

Regulation 21 (9) enables a local authority to transfer any budget surplus of a closing school directly to the replacement school, in whole or in part, without

having to channel it through the de-delegated contingency. We also propose to amend paragraph 4.8 of the Department's statutory guidance "Scheme for financing schools", which currently encourages local authorities to have a scheme which expressly prohibits the transfer of a surplus to another school.

Schedule 1: Additional education and training for children, young persons and adults

Background

Section 15B of the Education Act 1996 outlines the functions of a local authority in respect of education for persons over 19. A local education authority may secure the provision of education, training, of organised leisure time occupation and other provision.

Proposal and rationale

Schedule 1 of the Regulations outlines the expenditure a local authority can incur from their non-schools education budget.

In order to bring the Regulations in line with policy intention, paragraph 18 has been amended so that local authorities' functions outlined under section 15B of the Education Act 1996 are included under Schedule 1.

Schedule 2 Part 4: Children and Young People with High Needs

Background

The matters listed in Schedule 2 to the Regulations are part of the schools budget, on which local authority expenditure is authorised. Paragraph 17 of Schedule 2 specifies expenditure in respect of pupils at special schools and special academies, or in reserved places at primary or secondary schools, where the expenditure cannot be met from the place funding described in Regulation 14. Paragraph 21 of Schedule 2 makes similar provision in relation to Pupil Referral Units.

Proposal and rationale

Paragraph 17 of Schedule 2 has been updated to allow local authorities to authorise expenditure in respect of pupils at special academies, where it is unreasonable for the expenditure to be met from the general annual grant paid to an academy.

This change is to bring the regulations in line with current practice. Special academies do not receive place funding from the local authority under Regulation 14, but instead receive equivalent funding direct from the Education Funding Agency.

Paragraph 21 of Schedule 2 has also been updated so that it makes explicit reference to alternative provision academies. Local authorities are able to authorise expenditure in respect of pupils at alternative provision academies, where it would be unreasonable for such expenditure to be met from the general annual grant paid to an alternative provision academy. Similarly to the above,

alternative provision academies do not receive place funding from the local authority under Regulation 14, but receive equivalent funding from the Education Funding Agency.



Department
for Education

Appendix 2

Consultation response form

Consultation closing date: 13 November 2015

Your comments must reach us by that date

School and Early Years Finance (England) Regulations 2015

If you would prefer to respond online to this consultation please use the following link: <https://www.education.gov.uk/consultations>

The School and Early Years Finance (England) Regulations 2014 put in place arrangements for local authorities to set school budgets for the financial year 2015 to 2016 only.

We are drafting the School and Early Years Finance Regulations 2015, which will apply for the financial year 2016 to 2017.

Information provided in response to this consultation, including personal information, may be subject to publication or disclosure in accordance with the access to information regimes, primarily the Freedom of Information Act 2000 and the Data Protection Act 1998.

If you want all, or any part, of your response to be treated as confidential, please explain why you consider it to be confidential.

If a request for disclosure of the information you have provided is received, your explanation about why you consider it to be confidential will be taken into account, but no assurance can be given that confidentiality can be maintained. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Department will process your personal data (name and address and any other identifying material) in accordance with the Data Protection Act 1998, and in the majority of circumstances, this will mean that your personal data will not be disclosed to third parties.

Please tick if you want us to keep your response confidential.	<input type="checkbox"/>
Reason for confidentiality:	

Name: Carole Smith	
Please tick if you are responding on behalf of your organisation.	<input checked="" type="checkbox"/>
Name of organisation (if applicable): Gateshead Council	
Address: Civic Centre, Regent Road,	

Gateshead,
NE8 1HH

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 email: consultation.unit@education.gsi.gov.uk or by telephone: 0370 000 2288 or via the Department's ['Contact us'](#) page.

Please insert an 'x' into one of the following boxes which best describes you as a respondent.

<input checked="" type="checkbox"/>	Local authority	<input type="checkbox"/>	Schools forum	<input type="checkbox"/>	Governor
<input type="checkbox"/>	Other				

Comments:

Regulation 8 makes amendments to the unspent funding centrally retained by local authorities which can be carried forward. Any unspent funding retained centrally to cover falling pupil numbers and to cover the

opening of new schools, can now be carried forward to use for the same purpose.

- 1 a) Do you agree that local authorities should be able to carry forward any unspent funding retained centrally to support outstanding or good schools with falling pupil numbers where their capacity will be needed within three years, for the same purpose?

<input checked="" type="checkbox"/>	Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Not sure
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Comments: Yes, where LA's have top sliced the schools block for this purpose, this will enable a more efficient system of maintaining levels of centrally retained support, without having to add the top sliced funding back to the schools block and then top slicing again.

- 1 b) Do you agree that local authorities should be able to carry forward any unspent funding retained centrally to support the opening of new schools (funding the appointment of staff and enable the purchase of any goods and services), to be used for the same purpose?

Agree

Disagree

Not sure

Comments: Yes, where LA's have top sliced the schools block for this purpose, this will enable a more efficient system of maintaining levels of centrally retained support, without having to add the top sliced funding back to the schools block and then top slicing again.

- 2) Regulation 16 (8) amends the provision for local authorities to fund all 2-year-olds eligible for the early years entitlement using place-based funding. This is to be limited to SEN and children in need. For all other eligible 2-year-olds, local authorities are to use participation-based funding. Do you agree with this change?

Agree

Disagree

Not sure

Comments: Now 2 year old funding is more established, there is less need for guaranteed place funding for new provision. However the hourly rate of £4.85 per hour needs to be reviewed upwards to reflect the increased employment costs and the difficulty that schools have providing 2 year old places because of funding levels.

Regulation 21 amends the definition of amalgamated schools, so that the requirement to add together budget shares also applies in situations where a school has closed and another school has had its upper or lower age range changed. The regulation also enables local authorities to transfer budgets of closing schools.

- 3 a) Do you agree that the definition of amalgamated schools should be extended to include situations where a school has closed and another school has had its upper or lower age range changed?

Agree

Disagree

Not sure

Comments:

3 b) Where a school's age range is expanded, or a new school is established, as a result of the closure of another school, the local authority is allowed to add all or part of the unspent budget of the closed school to the budget of the successor or, expanded school. This is provided for by regulation 21(8) and (9). Do you agree with this change?

Agree

Disagree

Not sure

Comments: It should be at the LA's discretion how much of any unspent balances can be added to the successor or expanded school. The successor's schools financial position as well as the strain put on their budget by taking the additional students should be taken into consideration.

- 4) Schedule 1 paragraph 18 has been updated so that local authorities' functions under section 15B of the Education Act 1996 are included under the agreed expenditure that can be incurred from their non-schools education budget. Do you agree with this change?

<input checked="" type="checkbox"/>	Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Not sure
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Comments: As this brings 19 year olds into line with 16-18 year olds in terms of education funding.

5 a) Paragraph 17 of Schedule 2 has been updated to allow local authorities to authorise expenditure in respect of pupils at special academies, where it is unreasonable for the expenditure to be met from the general annual grant paid to an academy. Do you agree with this change?

<input checked="" type="checkbox"/>	Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Not sure
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Comments:

5 b) Paragraph 21 of Schedule 2 has been updated so that it also allow local authorities to authorise expenditure in respect of pupils at alternative provision academies, where it is unreasonable for the expenditure to be met from the general annual grant paid to an alternative provision academy. Do you agree with this change?

Agree Disagree Not sure

Comments:

- 6) The other changes introduced by the regulations reflect current practice, as well as updating references to reflect the financial year 2016 to 2017. For these changes we are therefore only consulting on the drafting of the regulations rather than the substance of the policy. Do you have any comments on the drafting?

Comments:

Regulation 16 (8) of the 2014 regulations mentions regulation 3 (2) of the 2014 Early Years Regulations. I could not find a copy of this document to check the reference.

Thank you for taking the time to let us have your views. We do not intend to acknowledge individual responses unless you place an 'X' in the box below.

Please acknowledge this reply.

X

Email address for acknowledgement: carolesmith@gateshead.gov.uk

Here at the Department for Education we carry out our research on many different topics and consultations. As your views are valuable to us, please confirm below if you would be willing to be contacted again from time to time either for research or to send through consultation documents?

Yes

No

All DfE public consultations are required to meet the Cabinet Office [consultation principles](#)

The key consultation principles are:

- departments will follow a range of timescales rather than defaulting to a 12-week period, particularly where extensive engagement has occurred before
- departments will need to give more thought to how they engage with and use real discussion with affected parties and experts as well as the expertise of civil service learning to make well informed decisions
- departments should explain what responses they have received and how these have been used in formulating policy
- consultation should be 'digital by default', but other forms should be used where these are needed to reach the groups affected by a policy
- the principles of the Compact between government and the voluntary and community sector will continue to be respected.

If you have any comments on how DfE consultations are conducted, please email: consultation.unit@education.gsi.gov.uk

Completed responses should be sent by **13 November 2015**

Send by post to:

Amy Sullivan, Department for Education, Sanctuary Buildings, Great Smith Street, London SW1P 3BT

Send by email to:

2015SchoolFinanceRegulations.Consultation@education.gsi.gov.uk

Thank you for taking time to respond to this consultation.