

Item 8

TITLE OF REPORT: Schools and Early Years Finance (England) Regulations 2018 (No. 2)

Purpose of the Report

The purpose of this report is to make Schools Forum aware of the changes the Department for Education (DfE) have made to the Schools and Early Years Finance (England) Regulations 2018 (No. 2) and the implications of the changes.

Background

The 2018 regulations were updated and the new regulations (No. 2) came into force on 7th December 2018, and the old regulations were revoked from 1 April 2019.

Part 3, Chapter 2, section 27 of the regulations has been updated. This section deals with the funding calculation to be recouped from mainstream schools that permanently exclude pupils. The update now includes children leaving a mainstream school and is receiving education funded by a local authority other than at a mainstream school in the local authority.

The calculation for the recoupment of funding is on the same basis as if the pupil had been permanently excluded i.e. all pupil related factors in the local funding formula and pupil premium where applicable. A copy of section 27 is in appendix 1 for information.

Proposal

It is proposed that any child leaving a mainstream school and accessing alternative provision funded by the local authority will have funding recouped from their school budget in accordance with the regulations, with the exception that calculations are undertaken on an academic year basis to better fit with the school funding cycle.

Recommendations

It is recommended that Schools Forum notes the changes to the Schools and Early Years Finance (England) 2018 (No. 2) Regulations, and that mainstream schools will have funding recouped for all children leaving a mainstream school and then attending alternative provision which is paid for by the local authority from April 2019.

It is recommended that Schools Forum notes the recoupment calculation to be carried out on an academic year basis to better align with the school funding cycle.

For the following reasons:

- To comply with Schools and Early Years (England) Regulations 2018 (No.2)
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Appendix 1

CHAPTER 2

Adjustments, Correction of Errors, and Alternative Arrangements Authorised by the Secretary of State

Pupils permanently excluded from, or leaving, maintained schools

27.(1) Where a pupil is permanently excluded from a school maintained by a local authority (other than a special school, a pupil referral unit, or a place which the authority has reserved for children with special educational needs) (“the excluding school”) the authority must redetermine the excluding school’s budget share in accordance with paragraph (2).

(2) The excluding school’s budget share must be reduced by $A \times (B / 52) + C$ where—

(a) *A* is the amount determined by the authority in accordance with this Part that would be attributable to a pupil of the same age and personal circumstances as the pupil in question at primary or secondary schools maintained by the authority for the full funding period;

(b) *B* is either—

(i) the number of complete weeks remaining in the funding period calculated from the relevant date; or

(ii) where the permanent exclusion takes effect on or after 1st April in a school year at the end of which pupils of the same age, or age group, as the pupil in question normally leave that school before being admitted to another school with a different pupil age range, the number of complete weeks remaining in that school year calculated from the relevant date; and

(c) *C* is the amount of the adjustment made to the school’s budget share under a financial adjustment order.

(3) Where a pupil has been permanently excluded from the excluding school and is admitted to another school maintained by a local authority (other than a special school, a pupil referral unit, or to a place which the authority has reserved for children with special educational needs) (“the admitting school”) in the funding period, the authority must redetermine the admitting school’s budget share in accordance with paragraphs (4) and (5).

(4) The admitting school’s budget share must be increased by an amount which is not less than $D \times (E / F)$ where—

(a) *D* is the amount by which the authority reduced the budget share of the excluding school, or would have reduced the budget share if that school had been maintained by the authority, except that any reduction in the excluding school’s budget share made under a financial adjustment order must not be taken into account for these purposes;

(b) *E* is the number of complete weeks remaining in the funding period during which the pupil is a pupil at the admitting school; and

(c) F is the number of complete weeks remaining in the funding period calculated from the relevant date.

(5) In redetermining the admitting school's budget share, the authority may increase it by any amount up to the amount of the adjustment made to the excluding school's budget share under a financial adjustment order.

(6) Where a permanently excluded pupil is subsequently reinstated by the governing body of the school, the school's budget share must be increased by an amount which is no less than $G \times (H / I)$ where—

(a) G is the amount by which the authority reduced the school's budget share under paragraph (2);

(b) H is the number of complete weeks remaining in the funding period during which the pupil is reinstated; and

(c) I is the number of complete weeks remaining in the funding period calculated from the relevant date.

(7) Paragraphs (1) and (2) also apply where a pupil leaves a maintained school (other than a special school, a pupil referral unit, or a place which the authority has reserved for children with special educational needs) for reasons other than permanent exclusion and is receiving education funded by a local authority other than at a school which is maintained by that authority.

(8) For the purposes of paragraph (2)(a), the amount attributable to a pupil is the sum of the amounts determined in accordance with the authority's formula, by reference to pupil numbers rather than by reference to any other factor or criterion not dependent on pupil numbers (except that where a sixth form grant is payable in respect of the pupil in question, the amount attributable to that pupil is £4,000 for the funding period).

(9) Where a pupil in respect of whom a pupil premium is payable has been permanently excluded from a school maintained by a local authority ("the excluding school"), the local authority must redetermine the excluding school's budget share in accordance with paragraph (10).

(10) The excluding school's budget share must be reduced by $J \times (K / 52)$ where—

(a) J is the amount of the pupil premium allocated to the excluding school for the funding period in respect of that child; and

(b) K is either—

(i) the number of complete weeks remaining in the funding period calculated from the relevant date; or

(ii) where the permanent exclusion takes effect on or after 1st April in a school year at the end of which pupils of the same age, or age group, as the pupil in question normally leave that school before being admitted to another school with a different pupil age range, the number of complete weeks remaining in that school year calculated from the relevant date.

(11) Where a pupil in respect of whom a pupil premium is payable has been permanently

excluded from a school maintained by a local authority and admitted to another school maintained by a local authority (“the admitting school”) in the funding period, the authority must redetermine the budget share of the admitting school in accordance with paragraph (12).

(12) The admitting school’s budget share must be increased by an amount which is not less than $L \times (M / N)$ where—

(a) L is the amount by which the authority reduced the budget share of the excluding school or would have reduced the budget share had that school been maintained by the authority;

(b) M is the number of complete weeks remaining in the funding period during which the pupil is a pupil at the admitting school; and

(c) N is the number of complete weeks remaining in the funding period calculated from the relevant date.

(13) Where a permanently excluded pupil in respect of whom a pupil premium is payable is subsequently reinstated by the governing body of the school, the school’s budget share must be increased by an amount which is no less than $O \times (P / Q)$ where—

(a) O is the amount by which the authority reduced the school’s budget share under paragraph (10);

(b) P is the number of complete weeks remaining in the funding period during which the pupil is reinstated; and

(c) Q is the number of complete weeks remaining in the funding period calculated from the relevant date.

(14) Paragraphs (9) and (10) also apply where a pupil in respect of whom a pupil premium is payable leaves a maintained school for reasons other than permanent exclusion and is receiving education funded by a local authority other than at a school which is maintained by that authority.

(15) For the purposes of this regulation—

(a) “the relevant date” is the sixth school day following the date on which the pupil has been permanently excluded; and

(b) “a financial adjustment order” means an order for the adjustment of a school’s budget share made under regulation 25(5)(b) of the School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012(a) in respect of the exclusion of the pupil from the excluding school.