

REGULATORY AND OTHER COMMITTEE REPORT

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| NAME OF COMMITTEE: | Schools Forum |
| DATE OF MEETING: | 23 January 2013 |
| SUBJECT: | School and Early Years Finance regulations |
| REPORT BY: | Tony Warnock Head of Finance (Children's and Specialist Services) |
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| IS REPORT CONFIDENTIAL? | No |

SUMMARY

The purpose of this report is to advise the Schools Forum of the publication of the School and Early Years Finance Regulations for 2013/14.

DISCUSSION

On 7th December 2012, the DfE published the School and Early Years Finance Regulations. The regulations are 32 pages in length. A copy can be found at:

<http://www.education.gov.uk/schools/adminandfinance/financialmanagement/schoolsrevenuefunding/financeregulations/a00218106/school-and-early-years-finance-regulations>

The regulations apply to the 2013-14 financial year and come into force on 1st January 2013. They give effect to the changes to the school funding system previously announced, including simplified local funding formulae, the new “place plus” system for funding high needs and increased delegation of central budgets.

A note explaining the main features of the regulations, together with the explanatory memorandum are attached at Appendix 1. The DfE has also revised the conditions of the Dedicated Schools Grant (DSG) to ensure that academies and other providers are treated on the same basis as maintained schools where appropriate.

LA officers will ensure compliance with the regulations as the new funding arrangements for 2013/14 are developed and become operational.

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| RECOMMENDATIONS |
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The Schools Forum is asked to note the content of the report.

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| <p>APPENDICES (If applicable) - these are listed below and attached at the back of the report.</p> <p>Appendix A</p> <ul style="list-style-type: none"> • Explanatory Memorandum to the School and Early Years Finance (England) regulations 2012. • Summary of the School and Early Years Finance (England) Regulations 2012. • Additional Conditions of Grant. |
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| BACKGROUND PAPERS | | | |
|--------------------------|---|-------------------------------|---|
| PAPER TYPE | TITLE | DATE | ACCESSIBILITY |
| Statutory Instruments | School and Early Years Finance (England) Regulations 2012 | 7 th December 2012 | http://www.education.gov.uk/schools/adminandfinance/financialmanagement/schoolsrevenuefunding/financeregulations/a00218106/school-and-early-years-finance-regulations |

**EXPLANATORY MEMORANDUM TO THE SCHOOL AND EARLY YEARS FINANCE
(ENGLAND) REGULATIONS 2012**

2012 No. 2991

1. This explanatory memorandum has been prepared by the Department for Education and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 The School and Early Years Finance (England) Regulations 2012 define the local authority education budgets (the non-schools education budget, the schools budget, the central expenditure and the individual schools budget) and set out how local authorities are to allocate funding from the individual schools budget (ISB) to maintained schools and private, voluntary and independent providers of free early years provision (relevant early years providers) through a locally determined formula.

2.2 These Regulations relate only to the 2013-14 financial year.

2.3 The Regulations give effect to the decisions made to reform the school funding system through simplified local formulae, greater delegation to schools and new arrangements for funding pupils with high needs.

3. Matters of special interest to the Joint Committee on Statutory Instruments

None.

4. Legislative Context

4.1 New regulations need to be made because the School Finance (England) Regulations 2012 (S.I. 2012/445) apply only to the end of the 2012-13 financial year. These Regulations are made under the provisions of Chapter 4 of Part 2 of the School Standards and Framework Act 1998 (SSFA 1998) (financing of maintained schools), as amended.

5. Territorial Extent and Application

This instrument applies to England.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 Following two previous consultations, Ministers announced on 26 March 2012 that there would be reforms to the school funding system from the 2013-14 financial year. These Regulations give effect to the decisions announced then.

7.2 The main changes compared to the previous Regulations are set out below.

7.3 The number of different factors which can be used by local authorities in their school funding formula has been reduced from 37 to 12. These include compulsory factors for total pupil numbers and deprivation. Factors using pupil numbers will be based on the October pupil census instead of the January census as previously; this will enable local authorities to calculate school budgets earlier and they will be required to issue budgets to maintained schools by 15 March rather than 31 March as previously. Local authorities must consult all maintained schools as well as their schools forum when changing their formulae.

7.4 Local authorities are able to apply to the Secretary of State to request additional factors but these must relate to additional costs arising as a result of the nature of the school's premises.

7.5 The Minimum Funding Guarantee (MFG) for schools has been set at -1.5% per pupil for 2013-14. The calculation has been simplified compared with previous years and the Regulations set out the factors which are excluded from the calculation. Local authorities can apply to the Secretary of State for other factors to be excluded from the calculation. Authorities can also cap or scale back gains schools are making as a result of formula changes, but this must be applied consistently for all schools in the authority's area.

7.6 There are greater restrictions on the expenditure which can be held centrally within the schools budget and schools forum approval is required for each heading. Some services which could previously be held centrally will now have to be delegated to schools through the formula. Others relating to historic commitments can only be retained centrally if the planned expenditure does not exceed that reported in the 2012-13 financial year.

7.7 Some budgets can be retained centrally without any limit if the schools forum agree. Local authorities will be able to retain funding centrally for pupil growth related to basic need or to enable schools to meet the requirements of the infant class size legislation. The growth criteria must be approved by the schools forum.

7.8 Some services can be retained centrally by maintained primary or secondary schools if their schools forum representatives vote to do so. This is known as "de-delegation" and means that the budgets are initially included in the funding formula calculation but are then removed before schools receive their budgets. The Regulations amend the Schools Forums (England) Regulations 2012 (S.I. 2012/266) to allow separate voting by the maintained primary or secondary representatives on the forum.

7.9 The Regulations also reflect changes to funding for pupils with high needs. Maintained special schools must receive a delegated budget of £10,000 for each agreed place, with the balance of funding paid as a "top-up" from central expenditure relating to high needs. This also applies to special units in mainstream schools. The same principles apply to pupil referral units, which will for the first time have delegated budgets from 1 April 2013. They will receive funding of £8000 for each agreed place, again with the balance of funding paid as a "top-up".

7.10 The Regulations also reflect the transfer of funding for pupils with special educational needs or in further education with a learning difficulty assessment up to the age of 25. The definitions of eligible schools budget expenditure and eligible central high needs expenditure have been amended accordingly.

7.11 Funding for disadvantaged two year olds is moving into the schools budget from 1 April 2013. The Regulations relating to the Early Years Single Funding Formula have been amended to allow

places to be funded for two year olds, to support capacity building, and to remove the requirement to have a deprivation factor for these children, as they are all from disadvantaged groups.

7.12 There are a few other changes relating to early years funding. The deprivation factor will have to relate to the characteristics of the children rather than the provider. Protection on the basic hourly rates of funding will also apply to all providers for the first time, at -1.5% in line with the MFG for schools. The schools forum will have to approve the level of centrally retained expenditure on early years.

8. Consultation outcome

8.1 As stated in paragraph 7.1, two consultations were carried out on the reforms to the school funding system prior to the announcement by Ministers on 26 March 2012. The first consultation ran from 13 April to 25 May 2011, and the second ran from 19 July to 11 October 2011. The responses to these consultations have already been published and can be found on the school funding reform page on the Department of Education's website (<http://www.education.gov.uk/schools/adminandfinance/financialmanagement/schoolsrevenuefunding/a00215225/school-funding-reform>).

8.2 As a result of this previous consultation on the principles of change, the technical consultation on the School and Early Years Finance (England) Regulations 2012 focused on proposals that were not part of the earlier consultations and subsequent announcements. The consultation lasted from 19 July to 21 September 2012. There were 37 responses – 33 from local authorities, one from a schools forum, one from trades unions and two from national organisations. This consultation focused on three questions relating to nursery education for two-year olds.

8.3 The proposals for consultation were:-

- To relax the requirement to have a mandatory deprivation supplement
- To relax the rules on place based funding to support capacity building
- To receive views on whether to have a mandatory quality supplement

8.4 For the mandatory deprivation supplement, there were 24 respondents consisting of 22 local authorities and two national organisations. 92% of respondents supported the proposal to relax the requirement to have a mandatory deprivation supplement. Respondents commented that by definition the eligible pupils will only be from disadvantaged areas, so having a deprivation supplement would not create any differential in funding.

8.5 For the place based funding, there were 21 respondents, consisting of 19 local authorities and two national organisations. 71% of respondents supported the proposals to relax the rules on place based funding in order to support capacity building. Respondents commented that relaxation will enable targeted and stable provision within local areas.

8.6 For the quality supplement, there were 24 respondents, consisting of 22 local authorities and two national organisations. 83% of respondents agreed that there should not be a mandatory quality supplement. Respondents commented that only good and outstanding providers were able to make this provision, so a quality factor would not create a differential in funding.

9. Guidance

A guidance note is to be sent to all local authorities outlining the changes, together with the Regulations, and these will be published on the Department for Education website:

www.education.gov.uk

10. Impact

10.1 The impact on business, charities or voluntary bodies is that relevant early years providers will continue to be funded in respect of the free entitlement for three and four year olds through the same formula that the local authority will use to determine the funding of this free entitlement in maintained schools. As noted above, protection on the hourly base rates will apply to non-maintained providers for the first time, while funding for disadvantaged two year olds will also be distributed through this formula.

10.2 The impact on the public sector is that local authorities must comply with these Regulations when allocating their schools budget and determining budget shares for schools and amounts for early years providers.

10.3 An Impact Assessment has not been prepared for this instrument, but an Equality Impact Assessment was produced alongside the funding reform consultation documents published on 26 March 2012 and 28 June 2012. The Impact Assessment can be accessed here:
<http://media.education.gov.uk/assets/files/pdf/s/school%20funding%20equia.pdf>

11. Regulating small business

The legislation does not apply to small business.

12. Monitoring & review

12.1 The regulatory framework will be considered as part of the continuing review of school funding and potential movement towards a national funding formula.

12.2 The changes will be monitored through the usual contact which the School Funding Team within the Department for Education has with schools and local authorities. It will log and review any correspondence from schools and local authorities relating to the instrument.

13. Contact

Keith Howkins at the Department for Education can answer any queries regarding the instrument. Tel: 020 7227 5163 or email: keith.howkins@education.gsi.gov.uk

SUMMARY OF THE SCHOOL AND EARLY YEARS FINANCE (ENGLAND) REGULATIONS 2012

Regulation 1 includes various definitions and interpretation of terms used elsewhere in the regulations and schedules. There are some changes and new definitions compared to previous regulations. In particular:

- The definition of contingencies, which can be de-delegated for maintained primary and secondary schools is restricted to expenditure which it would be unreasonable to expect governing bodies to meet from their budget share. This may include schools in financial difficulty; deficits of closing schools; new, amalgamating or closing schools or other unforeseen expenditure.

- Hospital education is defined as a form of provision, normally on a temporary basis, for certain children with medical needs. In the case of:

(a) children who require alternative provision for other reasons, and

(b) children and young people with special educational needs, learning difficulties or disabilities,

the local authority and/or school (if the child is on roll) decides the best place for an individual child or young person to receive its education and commissions the education required. For those with high level needs the local authority or school contributes towards the cost from funds set aside by the authority under paragraphs 14, 15 and 19 of schedule 2, part 4 (top-up funding). The term “hospital education” is intended to apply only where the local authority and/or school responsible for the pupil has their discretion to decide on and commission the education of the individual fettered by a health care decision by a medical practitioner (hospital doctor, psychiatrist, etc.). Hospital education is relevant only when that health care decision determines where the child or young person receives their health care, and that they cannot attend the mainstream or specialist setting that would normally provide their education. Hospital education is usually provided in a special school (often known as a hospital school), in a pupil referral unit (PRU), or by means of a centrally funded service under paragraph 22 of schedule 2.

- References to governing bodies now includes management committees of PRUs, which will have delegated budgets from April 2013.

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

Regulation 5 brings forward from 31st March to 15th March the date by which local authorities must make an initial determination of their schools budget and notify this to their maintained schools.

Regulation 6 extends the definition of the schools budget to include expenditure on young people in further education aged under 19 with learning difficulties, and those aged 19 to 25 subject to learning difficulty assessment.

Regulation 8(1) brings forward from 31st March to 15th March the date by which local authorities must have decided on their levels of central schools budget expenditure.

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 certain central services cannot exceed the planned expenditure on that line in the previous year, unless the Secretary of State agrees on application by the local authority.

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 9(5) requires local authorities to consult their schools forum before any allocations are made from the growth fund.

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. These must then be notified to the governing bodies by 31st March.

Regulation 11(2) formalises the requirement for local authorities to identify, within a mainstream school's budget share, a notional special educational needs budget. We expect the factors listed in regulation 15, and paragraphs 2 and 3 of schedule 3 to be most relevant to the calculation of this notional budget but other factors can also be used.

Regulation 11(3) provides for de-delegation for certain budgets in maintained primary and secondary schools.

Regulation 12 sets out the powers of the 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 how authorities must calculate the budget shares –

- for their maintained special schools, and special units and resourced provision in mainstream schools (base funding of £10,000 per place); and
- for their maintained pupil referral units (PRUs) (base funding of £8,000 per place).

In both special schools and PRUs hospital education places are to be funded at the same rate per place as applied in 2012-13.

In special schools some places will count as dedicated sixth form places with effect from August 2013, as their base funding will come through sixth form grant under regulation 20. For the period from April to July 2013 all places should be treated as not being funded through sixth form grant.

There has been dialogue over the period from July to November 2012 about the number of places that local authorities wished to fund in their special schools and PRUs, and the numbers as confirmed in December should be used as the starting point for Regulation 14. It is however open to local authorities to fund additional places from their high needs block where they believe this is justified.

In the case of hospital education the method of calculating place numbers should be consistently applied between 2012-13 and 2013-14 in determining the per place funding to be included in the budget share. Local authorities should only make changes to the budget if there is clear evidence of a change in provision.

Regulation 15 sets out how the mandatory deprivation factors in the schools and early years formulae may be calculated. For disadvantaged two year olds, there will not be a requirement to have a mandatory deprivation supplement because this is already a targeted entitlement (regulation 15(6)) though authorities may do so.

Regulation 16 sets out the arrangements for funding children through the early years single funding formula. The rules on place based funding are being relaxed to support capacity building for disadvantaged two year olds. 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 local authorities working with providers to increase capacity in advance of delivering the 20% and 40% entitlements (regulation 16(7)). We expect this to be a time-limited approach to support preparation for the entitlement, and not a permanent approach for funding two year old early education.

Regulation 17 allows 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 Minimum Funding Guarantee (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 20 enables authorities to include a formula factor for sixth form pupils where they have previously funded them out of the DSG, but they cannot allocate more per pupil than in 2012-13.

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 the growth fund).

Regulation 22 enables authorities to issue a single budget share for federated schools, but if they do so then this must be calculated by combining the budget shares of the individual schools.

Regulation 23 carries forward the existing arrangements for reducing or increasing schools' budget shares as a result of the movement of permanently excluded pupils to and from a school. The amount of the reduction or increase is the amount attributable to a registered pupil of the same age and personal circumstances as the excluded pupil (regulation 23(2)(a)). Local authorities which have

changed their formula to meet the requirements elsewhere in these regulations will need to reassess the pupil-related amount that should be applied in these circumstances. Those factors listed in regulations 13 and 15, and paragraphs 2-8 of schedule 3, part 1, may be relevant. Amounts equivalent to the pupil premium also transfer for eligible pupils, while the excluding school's budget must also be reduced by the amount of any financial adjustment order.

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:

- allow increases in, or additional categories of, central expenditure budgets;
- include exceptional premises factors in their school formula;
- exclude factors from MFG;
- vary the basis of the pupil number count;
- vary the way in which pupil referral unit places are calculated;
- include additional factors in the early years single funding formula.

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

Schedule 1 sets out what services are in the non-schools education budget; this means they are outside the schools budget and would therefore normally be funded from general local authority resources.

Schedule 2 sets out the services which can be retained centrally within the schools budget and is split into five parts:

- Part 1 – central services (where expenditure is restricted to what was planned in 2012-13)
- Part 2 – central schools expenditure, which is not restricted. This includes the growth fund to support increases in pupil numbers relating to basic need. The definition now includes start-up costs for new schools after the completion of the capital project and prior to opening; these usually include staffing costs such as those of the headteacher and caretaker and relevant premises and resources costs. We also expect the growth fund to cover post opening costs due to diseconomies as new schools grow to full capacity. We will discuss this on a case by case basis to identify and agree the most appropriate mechanism to meet these. The growth fund does not apply to existing non-recoupment Academies. Part 2 now also includes the carbon reduction commitment. As costs may rise in 2013-14, this will not be restricted to 2012-13 levels.
- Part 3 – central early years expenditure
- Part 4 – pupils with high needs.
 - o Paragraph 15 covers –
 - funding held centrally for distribution to mainstream schools and Academies as top-up funding in respect of individual pupils with special educational needs;
 - funding held centrally for distribution to early years providers;
 - funding in respect of pupils with special educational needs which can be targeted to particular mainstream schools and Academies, additional to their budget share, where the amount calculated under regulation 11(2) (the notional special educational needs budget) is not sufficient to allow the school to meet these pupils' needs below the threshold for top-up funding. We have advised authorities to apply consistent principles for the distribution of such funds where they are needed.
 - o Paragraph 16 is funding held centrally for distribution to special schools and Academies, and to special units and resourced provision in mainstream schools and Academies, as top-up funding in respect of pupils with special educational needs.

- o Paragraph 17 covers top-up funding for students in further education up to the age of 25 who have learning difficulties. Funding for those aged 19-25 is limited to students who are subject to a learning difficulty assessment.
- o Paragraph 18 allows authorities to retain funds for support services for pupils with special educational needs, whether or not they have statements. Such services include, for example, sensory support and other specialist services.
- o Paragraph 19 enables an authority to set aside funds for promoting the integration of pupils with special educational needs in mainstream schools.
- o Paragraph 20 is funding held centrally for distribution to PRUs as top-up funding or for central services in respect of pupils in other alternative provision. This would include, for example, an authority's home tuition service. Funds for supporting children with behavioural difficulties or to prevent exclusions can also be retained centrally under paragraph 24, but only with the approval of the schools forum as a de-delegated item (see part 5 below).
- o Paragraph 21 allows authorities to retain funding for fees in respect of the placement of pupils with special educational needs in independent schools, non-maintained special schools and schools outside England and Wales. In 2013-14 non-maintained special schools will receive base funding of £10,000 per place from the Education Funding Agency; independent special schools and schools outside England will not.
- o Paragraph 22 allows authorities to provide centrally funded hospital education services which are not classed as special schools or PRUs.
- o Paragraph 23 allows authorities to retain funding to provide support to special schools or PRUs in financial difficulty. This provision is made because these schools cannot de-delegate funding for this purpose under Part 5.
- o Paragraph 24 allows authorities to retain funding to meet ongoing revenue costs relating to special schools which have been built or refurbished under a Building Schools for the Future (BSF) or other private finance initiative (PFI) project. This is because there is no facility to have a PFI factor for special schools.

- Part 5 – items which can be de-delegated for maintained primary and secondary schools. These are allocated in schools' formula budgets initially but can then be taken out and retained centrally where approved by the relevant schools forum members.

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.

Schedule 5 sets out the items which must be included in local authority schemes for financing schools.

Conditions of grant

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 additional grant conditions – (a) to (c) – reflect these considerations.

New condition (a) requires local authorities to maintain a single formula to be used for funding both maintained schools and Academies, while new condition (b) requires them to take account of the circumstances of local Academies as well as maintained schools.

New condition (c) requires local authorities to use centrally retained funding for the benefit of maintained schools and of recoupment Academies on an equivalent basis. The exception is funding that has been de-delegated by maintained schools.

New condition (d) requires local authorities, when they make arrangements for funding children and young people with high needs, to treat various kinds of provision on a fair and equivalent basis. This includes maintained provision, Academies and Free Schools, the further education sector, and non-maintained and independent provision. Authorities must not make placements on the basis of the type of provider (eg whether the provider is a maintained school or in the private sector), but rather on the suitability of the provision and the wishes of the child's parents or young person, and whether the proposed provision offers value for money.

New condition (e) requires authorities to put minimum protections in place when setting top-up funding rates for maintained special schools or special Academies formerly maintained by the authority. This protection is analogous to the MFG. It takes account of changes in pupil numbers and types of provision between 2012-13 and 2013-14. The condition does not apply formally to special units and resourced provision because of the difficulty of defining their base budgets in 2012-13, but we expect the same principles to be applied. It should be stressed, however, that this condition is a minimum level of protection, and we expect authorities generally to set top-up funding rates at a level that would maintain the budgets of special schools and units close to 2012-13 levels, unless there are planned changes in provision.

New condition (f) requires authorities to maintain placements already in existence at 1 April 2013 by entering into an agreement to provide top-up funding to the relevant institution. It also requires authorities to enter into agreements for top-up funding in respect of pupils placed at later dates

New condition (g) requires payments of top-up funding to be made to providers on a monthly basis unless otherwise agreed with the institution. The purpose of this is to ensure that top-up funding to support pupils is received by the institution in good time, to help with cash flow management

ADDITIONAL CONDITIONS OF GRANT

- (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 total number and type 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 an agreement 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 an agreement;
- (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