

Early Years Single Funding Formula: Primary Legislation Update

1. In order to support the implementation of the local Single Funding Formulae for Early Years Provision, we are changing the legal framework for the funding of the free entitlement for 3 and 4 year olds.
2. Currently, maintained settings are funded from the Individual Schools Budget, and PVI settings are funded from the Centrally Retained part of the Schools Budget. The Apprenticeships, Schools, Children and Learners Bill recently introduced in Parliament contains a clause (below) to change this.
3. The clause will ensure that funding arrangements for PVI settings more closely mirror those for maintained settings.
4. Following passage of the Bill, both maintained settings and PVI settings will be funded from the Individual Schools Budget. In addition, relevant parts of the School Finance Regulations will apply to the PVI funding.
5. The School Finance Regulations will say that in respect of early years providers:
 - a. Local authorities have to have a single formula to distribute funding to their early years providers (both maintained and PVI) from 2010-11;
 - b. This formula must include a factor for deprivation;
 - c. This formula can contain the factors already set out in Schedule 3 of the School Funding Regulations, and in addition can contain factors on quality and flexibility;
 - d. This formula can contain different criteria and values for the various factors as long as these are justified by providers' circumstances;
 - e. Local authorities must give indicative budgets to settings before 31st March 2010;
 - f. Funding must be based on planned attended hours and then adjusted to reflect actual attendance;
 - g. Funding can only be based on places for reasons of sustainability or to ensure the local authority meets its duty to secure sufficient childcare.
6. We will publish draft regulations by the time the clause is being considered by the Bill's Standing Committee.

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- (1) The School Standards and Framework Act 1998 (c. 31) is amended as follows.
- (2) In section 45A (determination of specified budgets of LEA), after subsection (4A) insert—
 - “(4B) For the purposes of this Part, the duty imposed on a local authority in England by section 7(1) of the Childcare Act 2006 (duty to secure prescribed early years provision free of charge) is to be treated as imposed on the authority in their capacity as a local education authority.”
- (3) After section 47 (determination of school’s budget share) insert—

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- (1) This section applies where a local education authority in England propose to allocate an amount of relevant financial assistance to a relevant childcare provider for a funding period out of the authority’s individual schools budget for the period.
- (2) The amount to be allocated is to be determined in accordance with regulations.
- (3) Financial assistance provided by a local education authority in England to a childcare provider is “relevant” financial assistance if it is provided—
 - (a) for the purpose of the discharge of the authority’s duty under section 7 of the Childcare Act 2006, and

- (b) in respect of the provision of childcare.
- (4) Regulations under this section may, in particular—
- (a) specify factors or criteria which an authority are to take into account in determining the amount of any relevant financial assistance to be provided by them to a relevant childcare provider;
 - (b) specify factors or criteria which an authority are to disregard in determining such an amount;
 - (c) specify requirements as to other matters with which an authority are to comply in determining such an amount;
 - (d) make provision about consultation to be carried out by an authority in connection with determining such an amount;
 - (e) authorise an authority, in prescribed circumstances and to a prescribed extent, to determine such an amount in accordance with arrangements approved by the Secretary of State (instead of in accordance with arrangements provided for by the regulations);
 - (f) require an authority to provide relevant childcare providers with prescribed information relating to their determination of such an amount;
 - (g) make provision about the circumstances in which an authority are required to redetermine such an amount;
 - (h) specify a time by which an authority's determination of such an amount is to take place.
- (5) For the purposes of this section—
- (a) “childcare” has the meaning given in section 18

of the Childcare
Act 2006;

- (b) “relevant childcare provider” means a provider of childcare other than the governing body of a maintained school;
- (c) a reference to an authority’s determination of the amount of any relevant financial assistance includes a reference to the authority’s redetermination of such an amount.”