



Education
Funding
Agency

Funding for school admission appeals

Government consultation

Launch date 5 November 2015

Respond by 3 December 2015

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Introduction

The Department for Education is seeking views on the proposed change to section 6.2 of the [Scheme for financing schools](#) guidance, as part of its arrangements for local authorities. Local authorities are required to publish schemes for financing schools setting out the financial relationship between them and the schools they maintain. The Scheme for financing schools guidance lists the provisions which a local authority's scheme must, should or may include. Section 6.2 of this guidance lists the main circumstances in which a local authority can charge school budgets for agreed services and concerns maintained schools only. This consultation relates to proposals to extend this list to provide additional flexibility for funding admission appeals

Who this is for

- Chief finance officers and finance officers at local authorities
- Governors
- Chairs and clerks of schools forums
- Diocesan representatives
- Other interested parties

Issue date

The consultation was issued on 5 November 2015.

Enquiries

If your enquiry is related to the policy content of the consultation you can contact the team at:

fundingadmissionappeals.consultation@education.gsi.gov.uk

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

Additional copies

Additional copies are available electronically and can be downloaded from [GOV.UK DfE consultations](#).

The response

The results of the consultation and the Department's response will be [published on GOV.UK](#) in winter 2015.

About this consultation

Summary

The Department is proposing to make a change to section 6.2 of the Scheme for financing schools guidance, to include admission appeals as one of the services in which a local authority can charge school budgets for agreed services. The change provides additional local flexibility.

Context

Paragraph 1.14 of the School Admission Appeals Code states that: *“Local authorities must allocate reasonable funds to governing bodies of maintained schools which are admission authorities to meet admission appeals costs.”*

Therefore, local authorities currently have a duty to support maintained schools (Voluntary Aided, Foundation and Trust schools) which are admission authorities. This is in addition to authorities’ responsibilities where they act as the admissions authority for maintained Community and Voluntary Controlled schools.

However, the 2013 to 2014 funding reforms removed the ability of local authorities to specifically allocate funding for own admissions authority schools and ended the separate grant paid to academies for admissions. The reforms also restricted local authorities’ ability to increase the amount of budget retained centrally for admissions, to ensure that as much money as possible was allocated to schools.

Proposed changes

For schools for which the local authority is the admission authority, and for which the authority therefore must provide an appeals service, the additional flexibility the Scheme for financing schools will allow local authorities to use their powers under the Financial Management Scheme to charge those schools. All other schools and academies would be responsible for their own admission appeals, with funding for this function included in their delegated budgets. No separate funding will be available to help cover the costs of providing this service. The local authority could offer a traded service, which schools and academies which are their own admissions authorities would be free to decide whether to use individually.

If a local authority wished to make use of this additional flexibility, a change to the local scheme would be needed. Local authorities must consult all schools in their area and receive the approval of the members of their schools forum representing maintained schools. Should they wish to do so, local authorities will be able to use this approach to admission appeal arrangements for 2016-17. Schools would be protected, as an

authority cannot act unreasonably in the exercise of any power given by the scheme, or it may be the subject of a direction under s.496 of the Education Act 1996. Furthermore, for each of the circumstances in which an authority can charge a school, the authority has to be able to demonstrate that the authority had necessarily incurred the expenditure now charged to the budget share.

The existing option whereby a local authority, in agreement with its schools forum, can retain funding centrally to cover admission appeals for all types of schools and academies remains, should a local authority and its school forum desire and agree to use this approach.

If agreed, the operational guide for schools will also be updated to reflect this change.

We would like to hear your views on our proposals.

How to respond

Respond online

To help us analyse the responses please use the online system wherever possible. Visit www.education.gov.uk/consultations to submit your response.

Other ways to respond

If for exceptional reasons, you are unable to use the online system, for example because you use specialist accessibility software that is not compatible with the system, you may download a word document version of the form and email it or post it.

By email

fundingadmissionappeals.consultation@education.gsi.gov.uk

By post

AMSG: Funding Division
Level 4
Department for Education
Great Smith Street
London
SW1P 3BT

Deadline

The consultation closes on 3 December 2015.

The charging of school budget shares

Background

Section 6 of any Financial Management Scheme should contain a provision which allows the budget share of a school to be charged by the authority without the consent of the governing body **only** in circumstances expressly permitted by the scheme. It requires authorities to consult schools as to the intention to charge, and notify schools when it has been done.

The following has been extracted from section 6 of the current '*Scheme for financing schools*'.

Circumstances in which charges may be made

- 6.2.1 Where premature retirement costs have been incurred without the prior written agreement of the authority to bear such costs (the amount chargeable being only the excess over any amount agreed by the authority);
- 6.2.2 Other expenditure incurred to secure resignations where the school had not followed authority advice;
- 6.2.3 Awards by courts and industrial tribunals against the authority, or out of court settlements, arising from action or inaction by the governing body contrary to the authority's advice

Awards may sometimes be against the governing body directly and would fall to be met from the budget share. Where the authority is joined with the governing body in the action and has expenditure as a result of the governing body not taking authority advice, the charging of the budget share with the authority expenditure protects the authority's position.

Authorities should ensure in framing any such advice that they have taken proper account of the role of aided school governing bodies.

- 6.2.4 Expenditure by the authority in carrying out health and safety work or capital expenditure for which the authority is liable where funds have been delegated to the governing body for such work, but the governing body has failed to carry out the required work;
- 6.2.5 Expenditure by the authority incurred in making good defects in building work funded by capital spending from budget shares, where the premises are owned by the authority or the school has voluntary controlled status;
- 6.2.6 Expenditure incurred by the authority in insuring its own interests in a school where funding has been delegated but the school has failed to demonstrate that

it has arranged cover at least as good as that which would be arranged by the authority;

See also 10.1. The authority itself needs to consider whether it has an insurable interest in any particular case.

6.2.7 Recovery of monies due from a school for services provided to the school, where a dispute over the monies due has been referred to a disputes procedure set out in a service level agreement, and the result is that monies are owed by the school to the authority;

6.2.8 Recovery of penalties imposed on the authority by the Board of Inland Revenue, the Contributions Agency, HM Revenue and Customs, Teachers' Pensions, the Environment Agency or other regulatory authorities as a result of school negligence.

6.2.9 Correction of authority errors in calculating charges to a budget share (eg pension deductions)

Before applying any such provision the authority should consider whether it is reasonable to do so. If the error dates back several years it may be questionable whether such charging is reasonable.

6.2.10 Additional transport costs incurred by the authority arising from decisions by the governing body on the length of the school day, or failure to notify the authority of non-pupil days resulting in unnecessary transport costs.

6.2.11 Legal costs which are incurred by the authority because the governing body did not accept the advice of the authority (see also section 11).

6.2.12 Costs of necessary health and safety training for staff employed by the authority, where funding for training had been delegated but the necessary training not carried out.

6.2.13 Compensation paid to a lender where a school enters into a contract for borrowing beyond its legal powers, and the contract is of no effect.

6.2.14 Cost of work done in respect of teacher pension remittance and records for schools using non-authority payroll contractors, the charge to be the minimum needed to meet the cost of the authority's compliance with its statutory obligations;

6.2.15 Costs incurred by the authority in securing provision specified in a statement of SEN where the governing body of a school fails to secure such provision despite the delegation of funds in respect of low cost high incidence SEN and/or specific funding for a pupil with High Needs;

6.2.16 Costs incurred by the authority due to submission by the school of incorrect data;

6.2.17 Recovery of amounts spent from specific grants on ineligible purposes;

6.2.18 Costs incurred by the authority as a result of the governing body being in breach of the terms of a contract.

6.2.19 Costs incurred by the authority or another school as a result of a school withdrawing from a cluster arrangement, for example where this has funded staff providing services across the cluster.

Proposal and rationale

We propose to make the following minor change to section 6.2 of the Scheme for financing schools, so that local authorities are able to include funding for admission appeals in their Financial Management Schemes.

6.2.20 Costs incurred by the authority in administering admissions appeals, where the local authority is the admissions authority and the funding for admission appeals has been delegated to all schools as part of their formula allocation.



Department
for Education

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