

REGULATORY AND OTHER COMMITTEE REPORT

NAME OF COMMITTEE:	Schools' Forum
DATE OF MEETING:	10 July 2012
SUBJECT:	Education Funding Agency Consultation on draft Schools Forums (England) Regulations 2012
REPORT BY:	Tony Warnock (Head of Finance – Children's and Specialist Services)
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IS REPORT EXEMPT?	No

SUMMARY

The purpose of this report is to advise the Schools' Forum of the Education Funding Agency's (EFA) consultation on the draft Schools' Forums (England) Regulations 2012, and to seek its views.

DISCUSSION

On 13 June 2012, the EFA issued draft Schools Forums (England) Regulations 2012. The EFA has set a four week consultation period and has explained that this short period is due to its aim for the regulations to be in force in early October 2012. Responses to the consultation are required to be submitted by 11 July.

The EFA's covering letter and the draft regulations are attached at Appendix 1.

The key points to note are:

- The operation of Lincolnshire's Schools Forum is consistent with most of the points highlighted in the EFA's covering letter in Appendix 1.
- A key challenge will be to ensure that the representation of academies on the Schools Forum is balanced, as more schools convert.
- From 2013/14, some members of the Schools Forums will have additional powers as a result of the DfE school funding reforms. These relate to decisions over whether to de-delegate funding for certain services for maintained schools only.
- The EFA will have observer status at Schools Forum meetings. The Local Authority (LA) considers this unnecessary because, in its view, the operation of the Schools Forum and its engagement with the LA has always been effective.
- A representative from the PRU will need to be one of the school members.

The main points that the LA is minded to make in response to the EFA consultation are:

- The proposals are broadly supported.
- The EFA's observer status is unnecessary.
- Practical advice should be offered to LAs as to how frequently membership of the Schools Forum should change as more schools convert to academies.
- The EFA should clarify which aspects of special needs, PRUs, education otherwise, early years provision and government grants ought to be considered by Schools Forum each year.

The Schools Forum is asked to express its views on the draft regulations. Those views will then be considered by the Director for Children's Services and the Lead Executive member, before the LA's submission is made to the EFA on 11 July 2012. If the views of the LA and Schools Forum are aligned, a joint response can be issued. Alternatively, the Schools Forum can submit its own response.

Once the final regulations are published, the LA will take steps to ensure that all aspects are complied with.

RECOMMENDATIONS

The Schools Forum is asked to:

- a. Note the contents of the report;
- b. Consider the key points referred to in the report;
- c. Outline its views on the consultation document and highlight any other issues that should be referred to in the response to the EFA;
- d. Confirm whether it wishes its views to be reported to the EFA as part of the consultation exercise.

APPENDICES (If applicable) - these are listed below and attached at the back of the report.

Appendix 1 – EFA correspondence and draft Schools Forum regulations

BACKGROUND PAPERS			
PAPER TYPE	TITLE	DATE	ACCESSIBILITY
EFA Consultation letter	Consultation on changes to the Schools Forums regulations 2010	13 June 2012	County Offices, Newland, Lincoln, LN1 1YQ



Education Funding Agency

Chief Finance Officers,
Finance Officers,
Chairs and Clerks of Schools Forums.

School Forum Regulations 2010
13 June 2012

Dear Colleagues,

Consultation on changes to the Schools Forums regulations 2010:

On 26 March 2012 the Secretary of State published *School funding reform: next steps towards a fairer system*. This explains how the Department plans to proceed until the end of the current spending review period. The document can be downloaded below:

[School funding reform: Next steps towards a fairer system](#)

In **Section 1.6** we refer to Improved Schools Forum arrangements and the need for local decision-making to operate in a consistently fair and effective way and in consultation with schools and academies. We have therefore reviewed the legislation relating to Schools Forums, proposing to revoke and replace the Schools Forums Regulations 2010. Attached are proposed new draft regulations which are consistent with the decisions we have already announced.

For 2013-14 we have said that we will take the following steps to amend the Schools Forums Regulations as stated below:

1. We are removing the requirement to have a minimum of 15 people on a Forum
2. We are restricting other local authority attendees from participating in meetings unless they are a relevant Lead Member, Director of Children's Services (or their representative), Chief Finance Officer (or their representative), or are providing specific financial or technical advice (including presenting a paper to the Forum) (*regulation 8(3)*).
3. We are restricting the voting arrangements by allowing only schools and Academy members (and the private, voluntary and independent sector - PVI members) to vote on the funding formulae (*regulation 8(11)*). Additionally, draft regulation 8(12) covers the items we have announced which will be subject to de-delegation. These will be specified in the finance regulations and only the relevant maintained school members of the forum will be able to vote.
4. We are requiring local authorities to publish Forum papers, minutes and decisions promptly on their websites (*regulation 8(13)*).
5. We are requiring Forums to hold public meetings, as is the case with other Council Committees (*regulation 8(1)*).

We will also give the EFA observer status at School Forum meetings (*regulation 8(3f)*) with the right to participate in discussions. This will enable the EFA to support the local process and to provide a national perspective. .

As a result of other funding changes, we also propose to:

1. Include Pupil Referral Units as a separate group among schools members, to reflect their receipt of delegated budgets from April 2013 (*regulation 5(2)(e)*)
2. Remove the requirement for local authorities to consult schools forums annually about arrangements for free school meals and insurance as these are to be allocated through the formula in future (*current regulations 10(1)(d) and 10(1)(f)*).

To summarise:

- Regulations 3 to 8 provide for the constitution of a schools forum, including the election of schools members, the election or selection of Academies members and the appointment of non-schools members to the schools forum, their meetings and proceedings.
- Regulations 9 to 11 require the authority to consult their schools forum before entering into certain types of contract and annually in relation to a range of financial issues and the governing bodies of schools maintained by them to be informed of any such consultation.
- Regulations 12 and 13 require the authority to pay the expenses of their schools forum out of the schools budget and the reasonable expenses of its members.

A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

The draft Schools Forums (England) Regulations 2012 are attached .We are setting a four week consultation period, unfortunately this has to be a short period as the aim is for the regulations to be in force by early October 2012. Therefore, comments need to be returned by 11 July 2012.

Could you send your comments to EFA reformteam.funding@education.gsi.gov.uk
By 11 July 2012 please?

Yours sincerely,

Keith Howkins,
Team Leader, Funding Reform Team
Education Funding Agency, Department for Education

2012 No.

EDUCATION, ENGLAND

THE SCHOOLS FORUMS (ENGLAND) REGULATIONS 2012

<i>Made</i>	- - - -	2012
<i>Laid before Parliament</i>		2012
<i>Coming into force</i>	- -	2012

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The Secretary of State for Education makes the following Regulations in exercise of the powers conferred by sections 47A and 138(7) of the School Standards and Framework Act 1998⁽¹⁾:

Citation, commencement, application and interpretation

—(1) These Regulations may be cited as the Schools Forums (England) Regulations 2012 and come into force on [].

These Regulations apply only in relation to England.

In these Regulations—

“the Act” means the School Standards and Framework Act 1998;

“Academies member” means a member who represents the governing bodies of the Academies situated in the authority's area;

“authority” means the local authority in whose area the schools forum is established;

⁽¹⁾ 1998 c.31. Section 47A was inserted by section 43 of the Education Act 2002 (c.32) and has been amended by section 101 of, and paragraph 7 of Schedule 16 to, the Education Act 2005 (c.18); sections 57 and 184 of, and paragraphs 2(1), (3) and (4) of Schedule 5 and Part 6 of Schedule 18, to the Education and Inspections Act 2006 (c.40) and by sections 165 and 169 of and Schedule 2 to the Education and Skills Act 2008 (c.25). For the meaning of “prescribed” and “regulations” see section 142(1) of the School Standards and Framework Act 1998.

“early years providers” means—

persons who are registered as early years childminders or other early years providers under Chapter 2 of Part 3 of the Childcare Act 2006⁽²⁾ (which provides for the compulsory registration of persons providing early years provision) or are exempt from compulsory registration by order of the Secretary of State under section 33(2) or 34(3) of that Act;

independent schools; and

non-maintained special schools,

who provide early years provision;

“early years provision” has the meaning given by section 20 of the Childcare Act 2006;

“executive member” means any elected member of the authority appointed to the executive of that authority;

“governor” includes any interim executive member of an interim executive board;

“head teacher’s representative” means a senior member of staff representing a head teacher;

“interim executive board” is to be construed in accordance with paragraph 2 of Schedule 6 to the Education and Inspections Act 2006⁽³⁾;

“local authority 14-19 partnership” means the arrangements described in section 85(2) and (3) of the Education and Skills Act 2008⁽⁴⁾;

“nursery school” means a nursery school maintained by the authority;

“primary school” means a primary school maintained by the authority;

“relevant officer” means—

(a) the director of children’s services of the authority; or

any officer employed or engaged to work under the management of the director of children’s services, other than one who directly provides education to children or who manages such a person.

“representative” means either a head teacher or head teacher’s representative or a governor of a school maintained by the authority, save for in regulation 8 where it means a representative of the positions mentioned in that regulation;

“school” means a school maintained by the authority;

“school category” means one of the following categories of school—

(a) community schools,

foundation schools,

voluntary aided schools,

voluntary controlled schools,

as described in Chapter 1 of Part 2 of the Act;

“secondary school” means a secondary school maintained by the authority;

“senior member of staff” means a principal, deputy head teacher, bursar or other person responsible for the financial management of the school;

“special school” means a community special school or a foundation special school.

In these Regulations, a reference to a governing body does not include a reference to the temporary governing body of a new school and a reference to a governor does not include a reference to a member of the temporary governing body of a new school, where “new school” has the meaning given by section 72(3) of the Act⁽⁵⁾.

Revocations

The Schools Forums (England) Regulations 2010⁽⁶⁾ are revoked.

⁽²⁾ 2006 c.21.

⁽³⁾ 2006 c.40.

⁽⁴⁾ 2008 c.25.

⁽⁵⁾ Section 72(3) was amended by section 215(1) of, and paragraph 106 of Schedule 21 to, the Education Act 2002.

⁽⁶⁾ S.I. 2010/344.

Constitution of schools forum

Every authority must ensure that the schools forum for their area is constituted in accordance with regulations 4 to 7 by 1st October 2012

Membership: general

—(2) Subject to the following paragraphs of this regulation, an authority may determine the size and composition of their schools forum and the forum members' terms of office.

Subject to paragraph (3), a forum must comprise—

- schools members elected in accordance with regulation 5;
- if there are any Academies in the authority's area, at least one Academies member elected or selected in accordance with regulation 6; and
- non-schools members appointed in accordance with regulation 7.

If, for any reason, an election for a schools member under regulation 5(1) or an Academies member under regulation 6(1) does not take place by any date set by the authority or any such election results in a tie between two or more candidates, the authority must appoint the schools member or Academies member to their schools forum instead.

Schools members and Academies members must together comprise at least two thirds of the membership of the forum.

Subject to paragraphs (6) to (9), primary schools, secondary schools and Academies must be broadly proportionately represented on the forum, having regard to the total number of pupils registered at them.

Where the authority maintain one or more special schools, at least one schools member must be a representative of a special school.

Where the authority maintain one or more nursery schools, at least one schools member must be a representative of a nursery school.

Where the authority maintain one or more pupil referral units, at least one schools member must be a representative of a pupil referral unit.

An authority may determine that the number of members representing schools in a particular school category must be broadly proportionate to the total number of schools in that category when compared with the total number of schools maintained by the authority.

A forum member remains in office until—

- the member's term of office expires;
- the member ceases to hold the office by virtue of which the member became eligible for election, selection or appointment to the forum;
- the member resigns from the forum by giving notice in writing to the authority; or
- in the case of a non-schools member, the member is replaced by the authority, at the request of the body which the member represents, by another person nominated by that body,

whichever comes first.

The authority must maintain a written record of the composition of their forum, to include—

- the number of schools members and by which group or sub-group they were elected;
- the number of Academies members; and
- the number of non-schools members, their terms of office, how they were chosen and whom they represent.

Schools members

—(3) Schools members must be elected to the schools forum by the members of the relevant group, or sub-group, in the authority's area.

The groups are—

- representatives of nursery schools, where there are any such schools in the authority's area;
- representatives of primary schools other than nursery schools;
- representatives of secondary schools;
- representatives of special schools, where there are any such schools in the authority's area; and

representatives of pupil referral units, where there are any such schools in the authority's area.

Each group referred to in paragraph (2) may consist of one or more of the following sub-groups—

where the authority exercises its discretion under paragraph (4)(a), representatives of head teachers of schools in each group;

where the authority exercises its discretion under paragraph (4)(b), representatives of governors of schools in each group;

where the authority exercises its discretion under paragraph 4(c), representatives of head teachers and governors of schools in each group;

where the authority exercises its discretion under regulation 4(8), representatives of the particular school category.

The authority may determine that a certain number of representatives of each group must be—

head teachers or head teachers' representatives;

governors; or

head teachers or head teachers' representatives and governors.

Academies members

—(4) Subject to paragraph (2), Academies members must be elected to the schools forum by the governing bodies of the Academies in the authority's area.

Where there is only one Academy in the authority's area, the governing body of the Academy must select the person who will represent them on the schools forum.

Non-schools members

—(5) The authority must appoint non-schools members to their schools forum comprising—

one or more persons to represent the local authority 14-19 partnership; and

one or more persons to represent early years providers.

Subject to paragraph (3), the authority may appoint additional non-schools members to their forum to represent the interests of other bodies.

Prior to making any appointment under paragraph (2), the authority must consider whether the following bodies should be represented on their forum—

the Diocesan Board of Education for any diocese any part of which is situated in the authority's area;

the Bishop of any Roman Catholic Diocese any part of which is situated in the authority's area;

where there are any schools or Academies within the authority's area that are designated under section 69(3) of the Act⁽⁷⁾ as having a religious character (other than Church of England or Roman Catholic schools), the appropriate faith group in respect of any such school or Academy.

The authority may not appoint any executive member or relevant officer of the authority to their forum as a non-schools member.

Within one month of the appointment of any non-schools member, the authority must inform the governing bodies of schools maintained by them and of Academies within their area of the name of the member and the name of the body that member represents.

Meetings and proceedings of schools forum

—(6) The schools forum must meet in public at least four times a year and is quorate if at least two fifths of the total membership is present at a meeting.

The members of the forum must agree an agenda for the meeting of the forum.

The following persons may speak at meetings of the forum, even though they are not members of the forum—

the director of children's services at the authority or their representative;

the chief finance officer at the authority or their representative;

⁽⁷⁾ Section 69(3) also applies to independent schools (which includes Academies) by virtue of section 124B, which was inserted by regulations 2 and 3 of S.I. 2003/2037.

- any elected member of the authority who has primary responsibility for children’s services or education in the authority;
- any elected member of the authority who has primary responsibility for the resources of the authority;
- any person who is invited by the forum to attend in order to provide financial or technical advice to the forum;
- an observer appointed by the Secretary of State; and
- any person presenting a paper or other item to the forum that is on the meeting’s agenda, but that person’s right to speak shall be limited to matters related to the item that the person is presenting.

Subject to paragraph (5), the members of the forum must elect a person as chair from among their number and determine the chair’s term of office.

The members of the forum may not elect as chair any member of the forum who is an elected member or officer of the authority.

Subject to paragraphs (8) to (11), the members of the forum may determine their own voting procedures.

The proceedings of the forum are not invalidated by—

- any vacancy among their number;
- any defect in the election or appointment of any member; or
- any defect in the election of the chair.

The authority must make arrangements to enable substitutes to attend and vote at meetings of the forum on behalf of schools members, Academies members and non-schools members, in consultation with members of the forum.

Apart from as provided for by paragraphs (11) and (12) all members must be entitled to vote on all matters put to a vote.

Where a member votes the member must only cast one vote and each member’s vote must have an equal weighting, save that in the event of a tie in the number of votes the members may determine such other voting procedures as they see fit.

Non-school members, other than those who represent early years providers, must not vote on matters relating to the funding formulae to be used by the local authority to determine the amounts to be allocated to schools and early years providers in accordance with regulations made under sections 47 and 47ZA of the Act.

Where the Secretary of State specifies in regulations made under sections 47 and 47ZA of the Act that only certain members of the forum may authorise certain matters, only those members must be entitled to vote.

The authority must promptly publish all papers considered by the forum and the minutes of their meetings on their website.

Consultation on contracts

The authority must consult the schools forum on the terms of any proposed contract for supplies or services (being a contract paid or to be paid out of the authority’s schools budget⁽⁸⁾) where the estimated value of the proposed contract is not less than the threshold which applies to the authority for that proposed contract pursuant to regulation 8 of the Public Contracts Regulations 2006⁽⁹⁾ at least one month prior to the issue of invitations to tender.

Consultation on financial issues

—(7) The authority must consult the schools forum annually in respect of the authority’s functions relating to the schools budget, in connection with the following—

- arrangements for the education of pupils with special educational needs;
- arrangements for the use of pupil referral units⁽¹⁰⁾ and the education of children otherwise than at school;
- arrangements for early years provision;
- administrative arrangements for the allocation of central government grants paid to schools via the authority.

The authority may consult the forum on such other matters concerning the funding of schools as they see fit.

⁽⁸⁾ “Schools budget” has the meaning given in section 45A(2) of the Schools Standards and Framework Act 1998.

⁽⁹⁾ S.I. 2006/5.

⁽¹⁰⁾ “Pupil referral units” has the meaning given in section 19(2) of the Education Act 1996.

Information about consultations

The schools forum must inform the governing bodies of schools maintained by the authority of any consultation carried out by the authority under regulation 9 or 10, as soon as it reasonably can.

Charging of schools forum's expenses

The authority must pay the expenses of the schools forum and charge those expenses to the schools budget.

Members' expenses

The authority must reimburse all reasonable expenses of members in connection with their attendance at meetings of the forum and charge those expenses to the schools budget.