

department for
education and skills
creating opportunity, releasing potential, achieving excellence

CONSULTATION PAPER

SCHOOLS FORUMS

Respond by: 26 June 2002

A consultation paper on schools forums, addressing issues of the membership, proceedings, expenses and functions of the forums. Responses will inform the regulations and guidance to be issued in July 2002 prior to the commencement of forums from 31 October 2002. This is subject to Parliamentary approval for, and Royal Assent to, the Education Bill 2001; Clause 41 of the Bill, establishing forums, is subject to further scrutiny in Parliament. This paper sets out for consultation the Government's current intentions.

Reference number: LEA/0164/2002
22 May 2002

SCHOOLS FORUMS

A Consultation

To: Local Education Authorities
Organisations listed at Annex A

Issued: 22 May 2002

Enquiries to:

John Hall
Area 3Q19
School and LEA Funding Division
Department for Education and Skills
Sanctuary Buildings
Great Smith Street
London
SW1P 3BT

Telephone: 020 7925 6422
Email: schools.forums@dfes.gsi.gov.uk
Facsimile: 020 7925 5852

SUMMARY

The Education Bill 2001, currently before Parliament, will require LEAs to establish schools forums. This consultation paper seeks views on the following main issues:

- a. Membership
- b. Proceedings
- c. Expenses
- d. Functions

The Government's proposals on these matters are set out in the draft regulations at Annex C, and in the main body of this document.

The Government will consider responses to this consultation exercise and take them into account in the drafting of finalised regulations and supplementary guidance to LEAs. It is hoped that these will be issued in late July (the regulations cannot precede Royal Assent to the Bill).

CONTENTS

1. Background
2. Consultation questions
3. Consultation issues:
 - a. Membership
 - b. Proceedings of forums
 - c. Expenses
 - d. Functions
4. How to respond

Annex A: organisations consulted

Annex B: primary legislation

Annex C: draft regulations

Annex D: specimen forum membership breakdown

Annex E: responses pro-forma

Background

1.1 Clause 41 of the Education Bill 2001, now before Parliament, proposes an amendment to the Fair Funding legislation in the School Standards and Framework Act 1998, so as to require each LEA in England – except the City of London and the Isles of Scilly, which are exempt by virtue of their small size – to establish a schools forum. The clause, as sent to the House of Lords from the House of Commons, is reproduced at Annex B.

1.2 The function of a schools forum is to advise its LEA on matters relating to the Schools Budget (established under clause 39 of the Bill). It will also have limited decision-making powers. Although made up mainly of representatives of headteachers and governing bodies, it will also have non-school members representing relevant organisations. Apart from early years partnerships, appointment of such non-school members will be at the LEA's discretion.

1.3 Many LEAs already have a consultative body concerned with school finance. But they have no statutory basis; their composition is entirely at the behest of the LEA, and they may be dominated by particular types of school. Other LEAs have no such body, and practice on consultation is inconsistent across the country. The creation of the Schools Budget, designed to give schools a greater sense of ownership over the majority of funds spent on education, reinforces the need for a good dialogue between schools and LEAs, with an active interchange of advice and consultation. Forums will spread best practice more widely, and have been welcomed by organisations representing schools.

1.4 The Government intends that schools forums should be operational by 31 October 2002 so that they may have an influence on the setting of budgets for 2003-04 – the planned first year of the new funding system for LEAs. Before that can happen regulations and guidance need to be produced to set parameters for the implementation of this new policy; this consultation paper deals with issues which will need to be covered by those regulations and guidance. Responses to the consultation paper will be considered carefully by Ministers before the regulations are made and guidance issued to authorities. The current draft of proposed regulations is at Annex C. The regulations are intended to set parameters for local discretion on many aspects of the operation of forums. The Government does not wish forums to be subject to detailed central prescription, but rather for a common pattern to be adapted to suit local circumstances.

1.5 At Annex D is a hypothetical example of the membership breakdown of a schools forum.

Questions to which responses are sought

2.1 The following section lists the various consultation questions which appear in the main text. They may also be found in the response pro-forma

Consultation Question 1: Are the rules set out in the draft regulations for minimum and maximum forum size satisfactory?

Consultation Question 2: Is 25% an appropriate maximum proportion for non school member representation?

Consultation Question 3: Do you agree that elected members of the relevant LEA should not be eligible for membership of the schools forum?

Consultation Question 4: Should electing head teachers and governing bodies have one vote or as many votes as there are places for the relevant category?

Consultation Question 5: Is proposed special school representation adequate?

Consultation Question 6: are the proposed arrangements for allocating places between phases and 'constituencies' satisfactory?

Consultation Question 7: Should Parent Governor Representatives have any particular arrangements made for them in elections to forums?

Consultation Question 8: Are the proposed arrangements for non-schools members satisfactory?

Consultation Question 9: Is three times a year an appropriate minimum requirement for the number of meetings for forums?

Consultation Question 10: Is a 50% quorum requirement appropriate?

Consultation Question 11: Are there any further procedural matters which should be dealt with in (a) regulations or (b) guidance?

Consultation Question 12: Do you agree that operating costs of the schools forum should be chargeable to the authority's Schools Budget?

Consultation Question 13: Do you think that there should be more specific requirements on LEAs to provide data on costs?

Consultation Question 14: What should the guidance document to be issued by DfES say about members' expenses?

Consultation Question 15: Do you agree that consultation on the LEA school funding formula should be a required function of the forum?

Consultation Question 16: What matters additional to those listed at paragraph 3.35 should the forum be consulted on?

Consultation Question 17: Are any matters listed in paragraph 3.35 inappropriate for consultation with the forum?

Consultation Question 18: Is the function of being consulted on terms of service contracts above a stipulated value, appropriate for schools forums?

Consultation Question 19: What expenditure items within the schools budget should be subject to forum agreement before they can be centrally retained?

Consultation Question 20: Are the proposals for other functions as described at paragraphs 3.43 to 3.44 satisfactory?

Consultation Question 21: Do you support the introduction of schools forums?

Consultation issues**Membership**

3.1 The draft regulations at Annex C set the broad parameters for membership of the forums. They would still leave LEAs with a degree of flexibility as to membership, especially insofar as non-schools members are concerned.

3.2 The first issue dealt with in the regulations is the size of the forum. Because there is a very large variation in size of local education authority, the ideal size will also vary considerably. The draft regulations would establish a minimum size of 12 members. Even in very small authorities, a lower number than this would produce too narrow a representation. A maximum size is also specified, on a two step basis, using a formula related to the number of pupils in the LEA's schools in January 2002 (obtained by dividing total pupil numbers by 2,000) but subject to an absolute maximum of 50 members. For a medium sized authority, the formula will yield a maximum size of around 36 members. LEAs will however be able to have smaller total forum memberships if they wish.

Consultation Question 1: Are the rules set out in the draft regulations for minimum and maximum forum size satisfactory?

3.3 The primary legislation provides for forums to have 'schools members' representing schools and 'non-schools members' representing other bodies. It will be for each LEA to decide whether to allocate places to non-schools members, and if so, how many, subject to a maximum proportion of 25% of the total. More detailed issues relating to non-schools members are dealt with below.

Consultation Question 2: Is 25% an appropriate maximum proportion for non school member representation?

3.4 Another general provision in the draft regulations relates to elected members of LEAs. Ministers propose that such members should not be eligible for places on forums, whether as schools members or non-schools members. Although existing local consultative bodies sometimes have LEA councillors in membership, Ministers believe that on balance the role of schools forums is best preserved by keeping a distinct separation between them and the LEA. Such a separation is in the interests of the LEA as well as schools. However, persons who are elected members of other councils (including other LEAs) would be eligible for membership.

Consultation Question 3: Do you agree that elected members of the relevant LEA should not be eligible for membership of the schools forum?

3.5 LEAs would be able to end appointments of any member who ceased to hold the office by virtue of which he or she became eligible for appointment. This would arise if a headteacher ceased to be a head in that LEA; if a governor ceased to be a school governor of a school of the relevant category; or if a non-schools member ceased to work for or belong to the organisation which nominated him or her. The LEA would be able to make replacements under the appropriate procedure for that type of member. The general question of reappointments is not dealt with in this consultation paper but Ministers do not intend to bar reappointments to forums.

3.6 It should be borne in mind that the Secretary of State will have power to make Regulations specifying the membership of a particular LEA's schools forum if she concludes that the LEA has not made satisfactory arrangements for membership. It is not envisaged that it will be necessary to use this power; but it exists. In the autumn of 2002 the Department will be seeking from each LEA required to establish a schools forum, a report on the outcome of the establishment and membership appointment process.

3.7 Schools members would be appointed following elections in the following voter groups:

- a. governing bodies of primary schools;
- b. governing bodies of secondary schools;
- c. head teachers of primary schools;
- d. head teachers of secondary schools;
- e. governing bodies and headteachers of special schools.

Members representing these groups would be elected by the relevant constituents in each group: that is to say all primary school governing bodies for the first group, and so on. For this purpose the governing body of each school is the elector, not individual governors. There is a combined group for special schools. No provision is currently planned to be made for nursery schools to be specifically represented: where they exist, such schools are likely to enter the Fair Funding system in 2004.

3.8 Each 'constituent' would have only one vote. Although it could be argued that each should have as many votes as there are places allocated to the groups concerned (so as to obviate the risk that some places will be unfilled, or members elected only on their own vote), Ministers take the view that such a course risks 'slates' of members being elected, increasing the risk of domination of membership by certain groups of schools.

Consultation Question 4: Should electing head teachers and governing bodies have one vote or as many votes as there are places for the relevant category?

3.9 In determining the number of places for the various groups the starting point would be the number of special schools maintained by the LEA: if there are between one and six such schools there would be one special school place; if more than six special schools, two such places. If there is no special school maintained by the LEA there would be no such place.

Consultation Question 5: Is proposed special school representation adequate?

3.10 It is proposed that the remaining number of school places (which will depend on decisions to be taken by the LEA on total size of the forum and the non-schools membership) should then be divided between primary and secondary phases according to the numbers of pupils in each phase on 17 January 2002, and the resultant numbers of places in each phase split equally between governing bodies and headteachers.

3.11 It may be that - although school category does not greatly affect funding levels - an LEA would wish to further sub-divide places according to category of school (community, voluntary and foundation). The regulations permit this, although some LEAs with small forums may find it impracticable. Other detailed arrangements for election of school members are for each LEA to decide according to their own circumstances.

Consultation Question 6: are the proposed arrangements for allocating places between phases and 'constituencies' satisfactory?

3.12 It is proposed that the term of office for schools members should be 2, 3 or 4 years. All school members would have to be appointed for the same period.

3.13 Parent Governor Representatives elected in accordance with section 9 of the School Standards and Framework Act 1998 would be eligible for election as governor school members in the same way as other school governors. It is not proposed that the regulations should require any special arrangements for them, but their breadth of knowledge of schools in an area will obviously enhance their potential usefulness to a forum.

Consultation Question 7: Should Parent Governor Representatives have any particular arrangements made for them in elections to forums?

3.14 Forums will be able to have non-schools members, so as to give the schools members the benefit of a wider perspective from bodies concerned with the way in which funding affects the operation of schools. However, there will be no obligation on LEAs to arrange for this, except in relation to early years partnerships - it is proposed that the LEA be obliged to appoint a representative of the partnership as a non-schools member. As noted above, the maximum proportion of such members is proposed to be 25% of the total. It is envisaged by Ministers that amongst the organisations which would commonly be represented are trades unions; diocesan education authorities, and the local Learning and Skills Council. The local LSC would be entitled to claim observer status if it does not have 'non-school' membership; Ministers believe that it is essential for the LSC's role in sixth form organisation and funding that it is aware of local school funding issues.

3.15 The proposed method for selecting such members is that the LEA will decide which organisations it wishes to fill the places, and seek nominations from those bodies. If the LEA does not find a person nominated acceptable it may tell the organisation concerned why that is so and seek an alternative nomination from the same body.

3.16 Under the draft regulations, LEAs would be required to give their schools details of non-schools members appointed to the forum. The Secretary of State proposes to reserve power within the regulations to require an LEA to end the appointment of particular non-schools members if she receives a complaint which leads her to conclude that the organisation concerned should not be represented on that forum. The Secretary of State would expect to use this power only in exceptional circumstances.

3.17 LEAs would be able to appoint non-schools members for initial periods of two, three or four years; these would not necessarily be for the same length for all such members.

Consultation Question 8: Are the proposed arrangements for non-schools members satisfactory?

Proceedings of forums

3.18 The Government's starting point is that although regulations may set out requirements as to the proceedings of forums, there should be as much local discretion as possible, both for the LEA and for the forum itself.

3.19 The draft regulations at Annex A would therefore establish only very basic requirements. The first of these is a requirement as to the number of meetings to be held each year. No upper limit is proposed but there is a requirement that from their inception on 31 October 2002 until 31 March they should meet twice; and three times a year thereafter.

Consultation Question 9: Is three times a year an appropriate minimum requirement for the number of meetings for forums?

3.20 The second requirement relates to quorums. The draft regulations require that one half of the membership be present if the forum is to be quorate. This is a relatively high proportion, reflecting the importance of a collective view on the issues involved.

Consultation Question 10: Is a 50% quorum requirement appropriate?

3.21 Each forum would be required to elect its own chair, at inception and on an annual basis

3.22 Guidance to be issued by DfES will cover other procedural matters, but the general expectation is that each forum will draw up its own procedures, taking account of DfES guidance and the LEA's views. The draft regulations are deliberately silent on issues of procedure such as opening meetings to the public (and schools), voting and decision-taking. Ministers believe that it is inappropriate for detailed central prescription on such matters, but intend that the guidance document will cover all these topics and others suggested in the consultation exercise.

3.23 As noted above, the local Learning and Skills Council may be asked to nominate a non-schools member. If it is not, however, it will be entitled to nominate a non-voting observer to attend all meetings of the forum.

3.24 The LEA would be responsible for appointing a clerk. The duties of the clerk would include arrangements for meetings, recording meetings and general co-ordination between the forum, its chair and the LEA. Although not legally necessary, it would normally be the case that the clerk would be an LEA employee. The draft regulations provide a right of attendance for the Chief Education Officer or the CEO's representative, since there needs to be an active dialogue between each forum and the senior officers of the authority.

Consultation Question 11: Are there any further procedural matters which should be dealt with in (a) regulations or (b) guidance?

Expenses

3.25 Schools Forums will not be cost-free, and regulations may make provisions as to the expenses which arise in operating them. There is also the question of expenses payable to members of forums.

3.26 The initial set up and operating costs of forums in 2002-03 will be retainable by LEAs as a central item within the Local Schools Budget (LSB), and the Financing of Maintained Schools Regulations have been amended to permit this. From 2003-04, under the planned changes to LEA and school funding, the LSB will no longer exist and education costs will be met from either the Schools Budget or the LEA Budget of each authority. The first issue which arises is whether operating costs (including members' expenses) should be charged to the Schools Budget or to the LEA Budget. The main argument for the latter is that the forum is connected with the role of the LEA in budget management, and the overhead costs of that function are met from the LEA budget. It is also argued that the forum should not be a charge on schools because it reduces the funding available for pupils.

3.27 The arguments for charging costs to the Schools Budget are first, that it is right that schools should see the forums as theirs and that the scale of its activities, by impacting directly on schools, will be the concern of schools. Secondly, charging costs to the Schools Budget means that if an LEA reduced forum costs this would produce no increase in resources available for LEA activities. As to the impact on pupils, the cost in an average sized LEA would make no significant difference to the amount of funding per pupil.

3.28 The Government believes that the balance of advantage is for operational expenses to be charged to the Schools Budget and the draft Regulations are based on this approach.

Consultation Question 12: Do you agree that operating costs of the schools forum should be chargeable to the authority's Schools Budget?

3.29 The draft regulations also provide for the LEA to produce by 30 June each year two statements, one showing the cost of servicing the forum, which may be construed as the cost of the forum discharging its functions under the regulations as required by the LEA, and the other showing the cost of any additional work which the forum itself may initiate. The regulations do not prescribe the format or level of detail necessary for these statements.

Consultation Question 13: Do you think that there should be more specific requirements on LEAs to provide data on costs?

3.30 The draft regulations provide that the LEA shall pay reasonable expenses for forum members. This would apply to both school and non-school members. It would be for the LEA to decide what expenses were reasonable, but the DfES guidance document is likely to indicate the general approach to be taken by LEAs.

Consultation question 14: What should the guidance document to be issued by DfES say about members' expenses?

Functions

3.31 The Government believes that forums have an important role in helping LEAs manage the Schools Budget. However, their statutory role needs to be circumscribed: a forum should be a genuine conduit for schools' views, not an alternative power base which undermines the LEA's democratic mandate.

3.32 With this in mind, the Government intends that Regulations will stipulate four main functions for forums. However, LEAs will also be able to use them for other purposes; and the forums themselves will be able to initiate work on school funding.

3.33 The first of the four functions that will be required under regulations is to be consulted on changes to the LEA school funding formula. This is not a substitute for the statutory right of governing bodies and headteachers to be consulted on an individual basis – a right which will continue. Rather, it is intended to ensure that LEAs develop these changes in full knowledge of the forum's views on the best overall approach to the funding formula. Any LEA's funding formula has to make certain compromises between different priorities and pressures, and the forum is an ideal body to alert the LEA to those issues. Although the draft regulations are written in terms similar to those requiring consultation with individual schools, it is not axiomatic that consultation should take place with the forum at exactly the same time as that with individual schools. Indeed, there would often be advantage in earlier consultation.

3.34 Unlike the required consultation with individual schools, consultation on the formula with the forum would include proposed changes to the relative amounts of money applied to particular factors in the formula as well as changes in methodology, criteria, weightings etc. 'Consultation' does not imply any right of veto for the forum: but the LEA would be obliged to take account of its views in deciding whether to implement changes.

Consultation Question 15: Do you agree that consultation on the LEA school funding formula should be a required function of the forum?

3.35 The second proposed function for forums is to be consulted annually on issues relating to the management of the Schools Budget. This is to allow the forum to influence LEA policy on these matters. The list included in the draft regulations is:

- (a) the arrangements to be made for the education of pupils with special educational needs;
- (b) arrangements for the use of pupil referral units (PRUs) and the education of children otherwise than at school;
- (c) arrangements for insurance;
- (d) prospective revisions to the relevant authority's scheme for the financing of schools;
- (e) administrative arrangements for the allocation of central government grants paid to schools via the relevant authority;
- (f) arrangements for free school meals.

3.36 All of these either affect maintained schools directly, or indirectly through their impact on the Schools Budget. PRUs are an example of the latter; so is the use made of special schools outside the LEA for pupils with statements.

3.37 The detailed arrangements for such consultation will be a matter for the LEA to decide. The normal pattern would be that at a suitable point in each year the LEA would present the forum with papers setting out the current policy, any proposed changes to that policy and the financial implications for the Schools Budget for the following financial year, for the subjects listed in the regulations. Again, the LEA would be obliged to take account of the forum's views rather than gaining the endorsement of the forum for proposed action.

Consultation question 16: What matters additional to those listed at paragraph 3.35 should the forum be consulted on?

Consultation question 17: Are any matters listed in paragraph 3.35 above inappropriate for consultation with the forum?

3.38 The third function envisaged in the draft regulations is to be consulted on the terms of contracts to be let by the LEA for services to schools. As set out in the draft regulations, such consultation would have to take place at least a month before invitations to tender issued. The purpose of this is to ensure that the LEA has a collective school view of service needs before it finalises the specifications for the contract. Only contracts having a value equal to or exceeding the threshold specified from time to time as requiring advertisement in the EU Journal would be subject to this requirement (although there would be nothing to stop LEAs consulting their forums about contracts with smaller values). Only contracts funded from delegated budgets (on buyback) or from retained funds within the Schools Budget will fall within the scope of this requirement.

3.39 It has been said that this role would in some cases allow schools to have a say in contracts which they have no direct concern with: for example, secondary schools which have delegated funding for meals and have made other arrangements for meals provision. In the Government's view, this need not represent a conflict of interest. On the contrary, it could well be that such schools would be able to bring to the forum's deliberations experience of the relevant issues and thus assist the LEA and other schools.

Consultation Question 18: Is the function of being consulted on terms of service contracts above a stipulated value, appropriate for schools forums?

3.40 The fourth and final mandatory function envisaged by the regulations is the taking of decisions on central retention of funds for a limited range of expenditure items. The regulations to be made under section 45A(3) of the School Standards and Framework Act (reproduced in partial draft at Annex C) will list the expenditure items which are in the Schools Budget but which may be centrally retained by LEAs. Some of these will involve expenditure on matters which the forums are to advise on (eg - PRUs and education otherwise), as outlined above. But Ministers believe that for a few items, including some where schools may already opt for delegation if they wish, it is appropriate for forums to have the final say. This means that LEAs would only be able to retain funding for the items in question if the forum agreed. If it did not, the LEA would have to delegate the funding to all schools. The expenditure items

currently proposed for this function are:

- a. primary/special meals
- b. licence fees and subscriptions
- c. museum and gallery services
- d. primary/special library services

3.41 One consequence of treating certain items in this way is that de-delegation might take place if a forum decides that delegation of one of the listed items is not in the interest of schools. Under the new School and LEA budgets system, it is not intended that there will be delegation targets.

Consultation Question 19: What expenditure items within the schools budget should be subject to forum agreement before they can be centrally retained?

Other functions

3.42 It is proposed that LEAs should be able to consult their schools forum on other school funding matters. This would be at the discretion of the LEA. Although Regulations would specifically authorise this for matters connected with the Schools Budget there would be no bar to consultation on expenditure funded from the LEA budget or other items (eg capital) outside both those budgets provided that this did not result in significant additional expenditure on forum activity.

3.43 It is proposed that from April 2003 a forum would be able to commission and publish reports and research into school, funding issues within the LEA area. Once again these could only concern schools budget matters. The start date of April 2003 reflects the proposal to charge cost to the Schools Budget from that date.

3.44 It is proposed that the forum will be obliged to give schools an account of consultations carried out in accordance with the regulations and action taken or not taken by the LEA in consequence. It will be for each forum to decide how such feedback to schools should be given. In addition, DfES guidance will recommend that individual members of forums should make arrangements to provide 'feedback' for the 'constituencies' which elected them.

Consultation Question 20: Are the proposals for other functions as described at paragraphs 3.43 to 3.44 satisfactory?

Conclusion

3.45 As well as responses the detailed issues raised in this consultation paper, the Government would also find it useful to be able to judge the general level of support for the introduction of schools forums. The final consultation question is therefore:

Consultation Question 21: Do you support the introduction of schools forums?

How to respond

4.1 Responses to this consultation should be made on the pro-forma at Annex E, and sent to:

John Hall
Area 3Q19
School and LEA Funding Division
Sanctuary Buildings
Great Smith Street
London
SW1P 3BT

Fax: 020 7925 5852

4.2 Alternatively, from the end of May, this document can be downloaded from the Department's Fair Funding website at:

www.dfes.gov.uk/fairfunding

and the pro-forma emailed to schools.forums@dfes.gsi.gov.uk

Closing date for responses: 26 June 2002

Plans for making results public

4.3 A summary of the response to this consultation exercise will be published at the same time as regulations and guidance for schools forums are issued. Respondents should note that their responses may be made publicly available, unless they request otherwise at the time of submission.

SLEAFD
DfES
22 May 2002

ORGANISATIONS CONSULTED

This consultation paper is being sent to the following bodies:

LEAs in England

Local Government Association

Association of London Government

ACEO/SEO

National Association of Head Teachers

Secondary Heads Association

National Union of Teachers

NAS/UWT

Professional Association of Teachers

Association of Teachers and Lecturers

GMB

TGWU

UNISON

National Association of Governors and Managers

National Governors Council

Catholic Education Service

General Synod Board of Education

AFVAS

AHFAS

FAVASA

Audit Commission

CIPFA

HSE

LSC

National Bursars Association

SEC

PRIMARY LEGISLATION

The following is the text of Clause 41 of the Education Bill 2001, following initial consideration by the House of Commons:

After section 47 of the School Standards and Framework Act 1998 (c.31) there is inserted –

“Schools forums

47A Schools forums

- (1) Every local education authority shall in accordance with regulations establish for their area before such date as may be prescribed a body, to be known as a schools forum, representing the governing bodies and head teachers of schools maintained by the authority and, if the authority so determine, also representing such bodies as the authority may from time to time in accordance with regulations determine.
- (2) Subsection (1) does not apply in relation to the Common Council of the City of London or the Council of the Isles of Scilly.
- (3) The purpose of a schools forum is to exercise –
 - (a) such functions as may be conferred on a schools forum by regulations under section 45A(3), and
 - (b) such other functions relating to the relevant authority’s schools budget as may be prescribed by regulations under this section.
- (4) Regulations may make provision as to the constitution, meetings and proceedings of a schools forum.
- (5) Regulations made by virtue of subsection (4) may include provision enabling the Secretary of State in prescribed circumstances to remove from membership of a schools forum any non-schools member.
- (6) Regulations may make provision with respect to the expenses of a schools forum.
- (7) Except as provided by regulations, the expenses of a schools forum shall be defrayed by the relevant authority.
- (8) The relevant authority shall indemnify the members of a schools forum against any reasonable costs and expenses reasonably incurred by those members in connection with any decision or action taken by them in good faith in pursuance of their functions as members of the forum.
- (9) Each of sections 496 and 497 of the Education Act 1996 (default powers of the Secretary of State) shall apply in relation to a schools forum as it applies in relation to a body falling within subsection (2) of that section.

(10) In this section –

“non-schools member”, in relation to a schools forum, means a member other than a schools member;

“relevant authority”, in relation to a schools forum, means the local education authority by which the forum is established;

“schools member”, in relation to a schools forum, means a member elected to represent governing bodies or head teachers of schools maintained by the relevant authority.

DRAFT REGULATIONS

These are the second draft versions of two sets of proposed Regulations. The first set is the main Schools Forums regulations, to be made under s.47A of the School Standards and Framework Act (as inserted by the Education Act 2002).

The second set is an extract from what will be regulations made under s.45A(3) of the School Standards and Framework Act 1998 (as inserted by the Education Act 2000). These list categories of permitted central expenditure by LEAs within the Schools Budget, and the categories listed in this extract are those on which a role for the forum is anticipated in the proposals outlined in this paper.

STATUTORY INSTRUMENTS

2002 No.

EDUCATION, ENGLAND AND WALES

The Schools Forums (England) Regulations 2002

Made

Laid before Parliament

Coming into force 1 September 2002

ARRANGEMENT OF REGULATIONS

PART 1

INTRODUCTION

1. Citation, commencement, application and interpretation

PART 2

ESTABLISHMENT, CONSTITUTION, MEETINGS AND PROCEEDINGS

2. Establishment of schools forum
3. Membership: general
4. Election and appointment of schools members
5. Appointment of non-schools members
6. Meetings and proceedings of schools forum
7. Clerk to schools forum

PART 3

FUNCTIONS

8. Consultation on school funding formula
9. Consultation on service contracts
10. Consultation on financial issues
11. Reports by forums
12. Other functions
13. Provision of account to schools

PART 4

EXPENSES

14. Charging of expenses
15. Members' expenses

In exercise of the powers conferred on the Secretary of State by sections 45A(3), 47(2)(f) 47A and 138(7) of the School Standards and Framework Act 1998⁽¹⁾ the Secretary of State for Education and Skills hereby makes the following Regulations:

PART 1

INTRODUCTION

Citation, commencement, application and interpretation

1. – (1) These regulations may be cited as the Schools Forums (England) Regulations 2002 and shall come into force on 1 September 2002.

(2) These Regulations shall apply only in relation to England.

(3) In these Regulations –

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

“full-time equivalent” means the number of full-time pupils plus half the number of part-time pupils;

⁽¹⁾ 1998 c.31. Section 45A was inserted by section [39] and section 47A was inserted by section [41] of the Education Act 2002.

“part-time pupil” means a pupil who attends school other than on the basis that he should attend both morning and afternoon sessions at least five days each week;

“schools maintained by the relevant authority” means all community, community special, foundation or voluntary schools maintained by the relevant authority;

“school category” means the category of community, voluntary or foundation schools as defined in Part II Chapter I of the 1998 Act.

(4) 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 a “new school” has the meaning given by section 72(3) of the 1998 Act.

PART 2

ESTABLISHMENT, CONSTITUTION, MEETINGS AND PROCEEDINGS

Establishment of schools forum

2.(1) A local education authority shall establish a schools forum for their area by 31st October 2002.

(2) Paragraph (1) does not apply in relation to the Common Council of the City of London or the Council of the Isles of Scilly.

Membership: general

3. – (1) A forum shall have at least 12 members.

(2) The maximum number of members shall be calculated according to the following formula:

$$\frac{a}{2000} = \text{maximum number}$$

where ‘a’ is the total number of full-time equivalent pupils registered at schools maintained by the relevant authority on 17 January 2002, provided that in any event the maximum number shall not exceed 50.

(3) Each member of the forum shall be a schools member except that the relevant authority may appoint not more than one quarter of the total membership as non-schools members to represent relevant bodies as defined in regulation 5.

(4) No person who is an elected member of the relevant authority may be appointed as a member of the forum.

(5) The relevant authority may end the appointment of any forum member before the expiry of his term of membership if the member concerned ceases to hold the office by virtue of which he became eligible for appointment to the forum.

Election and appointment of schools members

4. – (1) The relevant authority shall appoint as schools members for a specified term those persons elected as a result of votes cast in accordance with paragraph (2) below by head teachers and governing bodies of schools maintained by the relevant authority (“eligible voters”).

(2) Eligible voters shall be members of the following groups (“groups”) in respect of schools maintained by the relevant authority and shall be entitled to one vote only –

- (i) governing bodies of primary schools (excluding special schools) who may vote only for primary governors
- (ii) governing bodies of secondary schools (excluding special schools) who may vote only for secondary governors
- (iii) head teachers of primary schools (excluding special schools) who may vote only for primary heads
- (iv) head teachers of secondary schools (excluding special schools) who may vote only for secondary heads
- (v) head teachers and governing bodies of special schools who may vote only for special schools representatives.

(3) In this regulation,

- (a) a “primary head” must be serving at the time of election as the head teacher of a primary school maintained by the relevant authority;
- (b) a “secondary head” must be serving at the time of election as the head teacher of a secondary school maintained by the relevant authority;
- (c) a “primary governor” must be serving at the time of election as a governor of a primary school maintained by the relevant authority and shall not be the head teacher of that school;
- (d) a “secondary governor” must be serving at the time of election as a governor of a secondary school maintained by the relevant authority and shall not be the head teacher of that school;
- (e) a “special schools representative” must be serving at the time of election either as a governor or as a head teacher of a special school maintained by the relevant authority; and
- (f) a “specified term” shall be a period of time determined by the relevant authority being not less than two years and not more than four for which all schools members shall serve on the forum, subject to paragraph (7) below.

(4) Of the total number of places on the forum available for schools members, one shall be reserved for a head teacher or governor of a special school if any such school is maintained by the relevant authority. If the relevant authority maintains more than six special schools, two places on the forum shall be so reserved.

(5) Subject to regulation 4, places shall be allocated as follows:

- (a) Places shall be divided between primary heads and primary governors on the one hand (“primary places”), and secondary heads and secondary governors on the other (“secondary places”), in proportion to the number of full-time equivalent pupils registered at, respectively, primary and secondary schools on 17 January 2002;
- (b) Subject to regulation 3(2), where the number of primary places under paragraph (a) above is not a whole even number, the relevant authority shall round it up to the nearest whole even number;
- (c) Subject to regulation 3(2), where the number of secondary places under paragraph (a) above is not a whole even number, the relevant authority shall round it up to the nearest whole even number;
- (d) There shall be an equal number of primary heads and primary governors; and
- (e) There shall be an equal number of secondary heads and secondary governors

(6) A relevant authority may divide each group (other than the group referred to in sub paragraph 2(v) of this regulation) into smaller groups (“sub-groups”), each representing one school category, and may allocate places to each sub-group in accordance with the proportion of each school category constituted by the schools maintained by the relevant authority.

(7) If a member of a forum appointed under this regulation resigns or otherwise ceases to serve as a member, the relevant authority may replace that member in accordance with further procedures under paragraph (1) of this regulation.

Appointment of non-schools members

5. – (1) Where the relevant authority determine that they will appoint non-schools members to the forum, they shall seek nominations for such members from relevant bodies.

(2) The relevant authority shall, on receipt of a nomination under paragraph (1) or (3) –

- (a) make an appointment pursuant to that nomination, or
- (b) provide the relevant body with the grounds on which they determine not to make such an appointment.

(3) Where a relevant authority have proceeded under paragraph (2)(b), they shall seek a further nomination from the relevant body concerned.

(4) Within one month of any appointment under paragraph (2)(a), the relevant authority shall inform schools maintained by them of the name and relevant body of all non-school members appointed to the forum.

(5) If, on notification of a complaint by any person, the Secretary of State determines that a non-schools member appointed by a relevant authority represents a relevant body which in her opinion should not be represented on that relevant authority’s forum, she may direct the relevant authority to end the appointment of that person forthwith.

(6) If a member of a forum appointed under this regulation resigns or otherwise ceases to serve as a member, the relevant authority may replace that member in accordance with procedures under this regulation.

(7) All members shall be appointed for an initial period of not less than two and not more than four years.

(8) The relevant authority shall invite a nomination under paragraph (1) of this regulation from the Early Years Development Partnership⁽²⁾ established by the relevant authority

(9) In this regulation, "relevant body" means a body identified by a relevant authority as appropriate for representation on a forum

Meetings and proceedings of schools forum

6. – (1) The forum shall meet at least twice in the period from 31st October 2002 to 31 March 2003, and at least three times in every twelve months thereafter.

(2) The forum shall be quorate if at least one half of the total membership is present at a meeting.

(3) The forum shall elect a chair from its own membership at its first meeting, and annually thereafter.

(4) The Learning and Skills Council⁽³⁾ for the relevant authority ("the LSC") shall be entitled to nominate an observer, who shall be entitled to attend all meetings of the forum, unless a member representing the LSC is appointed under regulation 5.

(5) The Chief Executive Officer of the relevant authority shall be entitled to attend all meetings of the forum or, at his discretion, to nominate a representative who shall attend any or all such meetings in his place.

Clerk to schools forum

7. The relevant authority shall appoint a clerk to the forum.

(2) The Early Years Development Partnership was established under section 119 of the 1998 Act.

(3) The Learning and Skills Council was established under section 19 of the Learning and Skills Act 2000 c.21.

PART 3
FUNCTIONS

Consultation on school funding formula

8. – (1) The relevant authority shall consult the forum on:-

- (a) any proposed changes in relation to the factors and criteria that were taken into account, or the methods, principles and rules that have been adopted, in their formula made in accordance with regulations made under section 47 of the School Standards and Framework Act 1998, and
- (b) the financial effect of any such change.

(2) Consultation under paragraph (1) shall take place in sufficient time to allow the views expressed to be taken into account in the determination of the relevant authority's formula and in the initial determination of schools' budget shares before the beginning of the financial year.

Consultation on service contracts

9. The relevant authority shall at least one month prior to the issue of invitations to tender consult the forum on the terms of any proposed contract being a contract paid out of the schools budget for services to schools, where such contract is to be let by the relevant authority to a value equal to or exceeding the local government threshold stipulated in EU Procurement Directive xxxxx(4)

Consultation on financial issues

10. – (1) The relevant authority shall consult the forum annually in respect of the relevant authority's functions relating to the schools budget, in connection with the following::

- (a) the arrangements to be made for the education of pupils with special educational needs;
- (b) arrangements for the use of pupil referral units and the education of children otherwise than at school;
- (c) arrangements for insurance;
- (d) prospective revisions to the relevant authority's scheme for the financing of schools;
- (e) administrative arrangements for the allocation of central government grants paid to schools via the relevant authority;
- (f) arrangements for free school meals.

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

Reports by forums

(4) xxxxxxxxxxxxxxxxxxxx. This Directive was implemented by the Public Services Contracts Regulations 1993 [check updates]

11. The forum shall, as soon as reasonably practical and in any event by any date specified by the relevant authority, provide the relevant authority with a report in writing in response to any consultation by the relevant authority under regulations 8, 9 or 10.

Other functions

12. The forum may from 1 April 2003 commission and publish reports and research into school funding issues within the area of the relevant authority.

Provision of account to schools

13. The forum shall, as soon as reasonably possible, inform the governing bodies of schools maintained by the relevant authority of:

- (1) all consultations carried out under this Part of these regulations, and
- (2) any reports provided by the forum under regulation 11.

PART 4

EXPENSES

Charging of expenses

14. – (1) All expenses of the forum shall be met by the relevant authority, and charged to the local schools budget until 1 April 2003 and thereafter to the schools budget.

(2) (a) The relevant authority shall publish by 30 June 2003, a statement setting out the costs of servicing the forum which have been charged to the local schools budget for the preceding financial year.

(b) The relevant authority shall publish by 30 June 2004 and by 30 June of each year thereafter, a statement setting out the costs of servicing the forum which have been charged to the schools budget for the preceding financial year

(3) (a) The relevant authority shall publish by 30 June 2003, a statement setting out the costs of additional work commissioned by the forum which has been charged to the local schools budget for the preceding financial year.

(b) The relevant authority shall publish by 30 June 2004, and by 30 June of each year thereafter, a statement setting out the costs of additional work commissioned by the forum which has been charged to the schools budget for the preceding financial year.

Members' expenses

15. The relevant authority shall reimburse all reasonable expenses of members in connection with attendance at meetings of the forum.

July 2002

Minister of State,
Department for Education and Skills

STATUTORY INSTRUMENTS

2003 No.

EDUCATION, ENGLAND AND WALES

Financing of Maintained Schools (England) Regulations 2003

<u>Made</u>	.	.	.	.	.	.
<u>Laid before Parliament</u>	.	.	.	.	.	.
<u>Coming into force</u>	.	.	.	.	.	10 January 2003

Individual Schools Budget

X. A local education authority may deduct from their Schools Budget any or all of the classes or descriptions of planned expenditure set out in Schedule 1, in whole or in part, in order to arrive at their individual schools budget for the financial year.

SCHEDULE 1 Regulation X

**CLASSES OR DESCRIPTIONS OF PLANNED EXPENDITURE
WHICH MAY BE DEDUCTED FROM THE SCHOOLS BUDGET
OF A LOCAL EDUCATION AUTHORITY**

Expenditure of a class or description referred to in this Schedule includes expenditure on associated administrative costs and overheads.

- A.
- B.
- C.

V. Expenditure in respect of meals at any primary or special school which is not a former grant-maintained or grant -maintained special school, provided that either –

(a) the schools forum for the relevant authority has determined that such expenditure shall be so deducted; or

(b) the governing body have elected to receive funding for meals as part of their school's budget share.

W. Expenditure on licence fees or subscriptions paid on behalf of schools, provided that the schools forum for the relevant authority has determined that such expenditure shall be so deducted.

X. Expenditure on services to schools provided by museums and galleries, provided that the schools forum for the relevant authority has determined that such expenditure shall be so deducted.

Y. Expenditure on library services for primary and special schools, other than schools which received funding for library services as part of their budget shares for the financial year beginning on 1st April 1999 and whose governing bodies have elected to receive funding for those same library services as part of their schools' budget shares for the financial year beginning on 1st April 2003, provided that the schools forum for the relevant authority has determined that such expenditure shall be so deducted.

Specimen schools forum membership breakdown

1. Barsetshire LEA had 76,790 pupils in its maintained schools on 17 January 2002.
2. The size of its forum must therefore be between 12 places (the minimum) and a maximum of 76,790 divided by 2,000: 38 places. The LEA decides that it will have 32 places of which 6 (below the maximum 25% proportion) will be for non-schools members.
3. There would therefore be 26 schools places. The LEA maintains eight special schools so two of the schools places are for the special schools governing body/headteachers group.
4. On 17 January 2002 the number of pupils in primary and secondary schools were 44,924 and 30,260 respectively. This produces a split of 14.3 primary places and 9.65 secondary places. However, under the rounding up rules these become 16 and 10 places respectively. These are further split evenly between headteacher and governing body places. The total size of the forum is therefore finalised at 34 places rather than 32.
5. The forum is therefore constituted as follows:
 - 8 places for the primary headteacher group
 - 8 places for the primary governing body group
 - 5 places for the secondary headteacher group
 - 5 places for the secondary governing body group
 - 2 places for the special school headteacher/governing body group
 - 6 places for non-schools members
 - Total 34 places

The LEA therefore needs to decide whether to have a 34 member forum or reduce the number of non-schools members by 2.

26th June 2002
DJS/Jay/1806022002
Jackie Strong
(0116) 265 6300

Dear Mr Hall,

LEICESTERSHIRE COUNTY COUNCIL'S RESPONSE TO THE CONSULTATION ON SCHOOLS FORUMS

Leicestershire County Council does not support the introduction of Schools Forums as proposed in the consultation paper.

The proposals are over-costly and will not generate much interest as the forum would be largely advisory and would not bring together the main stakeholders.

Although the proposed Schools Forum is in the main an advisory body, the exclusion of elected members is seen as a further diminution by Central Government of the local democratic process.

The separation of resource planning from other aspects of strategic planning is out of step with views expressed elsewhere by DfES and OFSTED that development planning is a holistic process. There is already an effective Forum in Leicestershire on which governors, headteachers and elected members are represented. The remit of this Forum is wide ranging with resource issues placed in the overall context of school improvement. The future of this Forum could be undermined by the presence of a narrowly focused but legislatively empowered Schools Forum.

In many LEAs, schools have been dependent upon well informed elected members prepared to top-up inadequate ESSA allocations each year. In Leicestershire in 2002/03 this top-up from local resources amounts to £9.6M. Unless there is elected member control over this top-up funding it may well be withdrawn.

In addition to our major concerns relating to the Forum that are expressed above, we would offer the following specific comments:

/continued.....

Mr John Hall
Area 3Q19
School and LEA Funding Division
Sanctuary Buildings
Great Smith Street
London
SW1P 3BT

- 2 -

- one vote per headteacher or governing body is unlikely to result in all Forum places being filled in the first ballot. It is difficult to see how Forums will be fully constituted by 31st October 2002 based on the current timescales and voting proposals.
 - special schools are under-represented on the proposed Forum and there is no obvious rationale for lumping together headteachers and governors of special schools.
 - secondary schools will be suspicious of DfES motivation for providing more primary places than secondary ones on virtually every Forum
 - it is not clear what should happen if the Forum fails to hold three quorate meetings in any year. A 50% quorum requirement will exacerbate this issue.
 - there is a significant funding issue in 2002/03. LEAs will need regulations that will allow costs incurred in 2002/03 to be a retrospective adjustment to 2002/03 schools' budgets.
- the requirement to consult both the Forum and individual governing bodies on the LEA funding formula is an unnecessary duplication of effort.
 - most contracts do not include all schools. It is a matter of grave concern that the Forum could interfere with a contract even if most Forum members' schools were not included in the contract.
 - it is not clear whether an LEA can refuse Forum advice that a currently delegated function should be de-delegated.

In summary, the County Council believes that these proposals will weaken local democracy and fragment planning processes and are wasteful of scarce resources. We do not believe that these proposals will contribute to improving pupils' achievements.

Yours sincerely

Director of Education