

Item No 09 Review of the Schools Forum Constitution, Appendix B, Draft Revised Constitution Durham Schools Forum Constitution

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Preamble

- 1 Local authorities are required to establish and maintain a schools forum in their area, to advise on school funding matters. This is a requirement of s.47A of the School Standards and Framework Act 1998. The operation of forums must comply with the requirements of The Schools Forums (England) Regulations 2012.
- 2 This document sets out the Constitution of the Durham Schools Forum (the Forum), covering the administrative area served by Durham County Council (the council).
- 3 This Constitution succeeds any previously approved constitution.

Membership of the Forum

- 4 Membership of the Forum shall consist of School Members, Academy Members and Non-school Members, with School and Academy Members being at least two-thirds of the membership and representative of the number of pupils in the council's area.

School Members

- 5 School Members of the Forum shall consist of:
 - (a) One maintained nursery school headteacher or headteacher's representative
 - (b) One maintained nursery school governor

- (c) Nine primary school headteachers or headteacher's representatives
 - (d) Five primary school governors
 - (e) One secondary school headteacher or headteacher's representative
 - (f) One secondary school governor
 - (g) One special school headteacher or headteacher's representative
 - (h) One special school governor
 - (i) One representative of maintained pupil referral units. (This category of member shall cease in the event that the existing pupil referral unit converts to an alternative provision academy).
- 6 School Members shall be headteachers, headteachers' representatives or governors of maintained schools or a member of a management committee of a maintained pupil referral unit.
- 7 Maintained schools are:
- (a) Community schools
 - (b) Foundation schools
 - (c) Voluntary aided schools
 - (d) Voluntary controlled schools

Academy Members

- 8 The number of Academy Members shall be:
- (a) Twenty-three members elected to the Forum by the proprietors of mainstream academies in the council's area.
 - (b) One member elected to the Forum by the proprietors of special academies in the administrative area served by the council. Where there is only one special academy in the

council's area, the proprietor of that special academy must select the person who will represent it on the Forum.

- (c) One member elected to the Forum by the proprietors of alternative provision academies in the council's area. Where there is only one alternative provision academy in the administrative area served by council, the proprietor of that alternative provision academy must select the person who will represent it on the Forum.

- 9 For the avoidance of doubt, free schools, university technical colleges and studio schools count as academies for this purpose, and there is no distinction between sponsored, non-recoupment and convertor academies.

Proportion of School and Academy Members

- 10 The numbers of members in clauses 5 and 8 shall be reviewed annually by the council, which shall recommend amendments to the Constitution to the Forum at its March meeting, taking account of the distribution of pupils between maintained schools and academies, as recorded in the previous October's census.

Nomination and Election of School and Academy Members

- 11 It is for each representative body (including the proprietors of academies) to determine its own process for determining who shall be nominated, but as a minimum, all members of the body should be able to vote on who should be nominated to be a Forum member, and all members of the body should be able to put themselves forward as a candidate to be nominated. It is not acceptable for a member to be nominated by the chair of the representative body, or by any steering group of that body.
- 12 The appropriate representative body (including the proprietors of academies) shall advise the clerk to the Forum of the School Members that have been nominated, and also the process by which they were selected. This should include the following details:
- (a) The process for collecting names of those wishing to stand for election;

- (b) The timescale for notifying all members of the representative body of the election and those standing;
- (c) The arrangements for dispatching and receiving ballots;
- (d) The arrangements for counting and publicising the results;
- (e) Any arrangements for unusual circumstances such as only one candidate standing in an election;
- (f) Whether existing members can stand for re-election;
- (g) The term for which a member is elected;
- (h) Any procedure for replacing a member before the end of their term.

Nomination and election of headteachers

- 13 School Members of the Forum who are headteachers or headteacher's representatives shall be nominated by the appropriate representative body:
 - (a) Durham Nursery School Headteachers (to nominate the maintained nursery school headteacher)
 - (b) Durham Association of Primary Headteachers (to nominate the primary school headteachers or headteacher's representatives)
 - (c) Durham Association of Secondary Headteachers (to nominate the secondary school headteachers or headteacher's representatives)
 - (d) Durham Special School Heads Association (to nominate the special school headteacher or headteacher's representative)
 - (e) The management committees of pupil referral units (to nominate the maintained pupil referral unit member)
- 14 Headteachers' representatives shall be senior members of staff, as defined in s.1, paragraph (3) of the 2013 regulations.

Nomination and Election of Governors

- 15 School Members of the Forum who are governors shall be appointed by an annual ballot open to all governors of maintained schools in the relevant phase (nursery, primary, secondary or special).
- 16 Governors can include interim executive members of an interim executive board constituted in accordance with paragraph 2 of Schedule 6 to the Education and Inspections Act 2006.
- 17 The ballot shall take place in the summer term, using the procedure set out below:
 - (a) Ballots shall be held in the summer term. All governors of maintained schools in the relevant phase (nursery, primary, secondary or special) shall be invited to nominate themselves for election, and to vote in the subsequent election, except where a governor holds that post by virtue of being a headteacher. For the avoidance of doubt, headteachers who are governors of a school other than that for which they are the headteacher shall be allowed to nominate themselves for election and to vote in the subsequent election.
 - (b) Ballots shall be organised by the council, who will write to all governors in that phase, inviting them to complete a nomination form. A ballot shall be held including all nominated governors.
 - (c) Following the ballot, the governor who receives the most votes shall be deemed to be elected. Where there is more than one vacancy the governors deemed elected shall be those that received the most votes, counting down until all vacancies have been filled, followed by vacancies for substitute members.
 - (d) The final date for the return of nomination forms shall be three weeks from the date of the letter inviting nominations and the date of the letter shall be the date that letters are posted by second class post.

- (e) Following the return of nomination forms, the council shall write to all governors in the relevant phase within two weeks of the final date for the return of nomination forms, enclosing a ballot paper. The ballot paper shall clearly identify the school(s) of which the candidate is a governor and the school number, as listed on the Schools Directory on the Schools Extranet at the time of preparing the ballot paper and the number of pages in the ballot. The ballot paper shall include space for a statement by each candidate.
- (f) The final date for the return of ballot papers shall be two weeks from the date of the letter enclosing the ballot paper and the date of the letter shall be the date that letters are posted by second class post.
- (g) The council shall count the number of votes for each candidate and notify the outcome of the ballot to candidates within one week of the final date for the return of nomination forms. Candidates shall have one week from the date of the notification to raise any objections to the outcome of the ballot, including requesting a recount.
- (h) The date of notification shall be the date that letters are posted by second class post. At the close of that week the council shall announce the result of the ballot on the schools Extranet and by email to all Forum members.
- (i) The notification to candidates and the announcement of the result shall both include the names and schools of all those governors listed on the ballot paper and the number of votes cast for these governors.

Nomination and Election of Academy Members

- 18 Academy Members shall be appointed by the proprietors of academies in the council's area. It is for the proprietors to determine who shall be appointed a member, and they shall not be restricted to headteachers, headteachers' representatives or governors and there shall be no restrictions on the numbers from each mainstream phase (primary or secondary). The council shall, however, advise the proprietors of the outcome of the

annual review and set out its view of what would be an appropriate representation to reflect the numbers of pupils in each phase.

Nomination by the Council

- 19 If the appropriate representative body is unable to nominate School or Academy Members within three months of a vacancy arising, then the council shall appoint a member instead.

Non-school Members

- 20 Non-school Members of the Forum shall be:
- (a) A representative of providers of 16 to 19 education (as defined in s.1, paragraph (3) of the 2012 regulations)
 - (b) Two members to represent early years providers (as defined in s.1, paragraph (3) of the 2012 regulations)
 - (c) A representative of the Roman Catholic Diocese of Hexham and Newcastle
 - (d) A representative of the Church of England Diocese of Durham
 - (e) A representative of the National Education Union
 - (f) A representative of the National Association of Schoolmasters Union of Women Teachers
 - (g) A representative of the Association of School and College Leaders
 - (h) A representative of the National Association of Headteachers
 - (i) A representative of UNISON
 - (j) A representative of the GMB
 - (k) A representative of looked after children/children with SEN/children in non-maintained and independent special schools and children educated in hospital

- (l) The executive officer of the Durham Association of Secondary Headteachers (observer)
- 21 The representative of providers of 16 to 19 education shall represent those in the FE sector (further education and sixth form colleges) and other institutions that specialise in Special Educational Needs (SEN) and Learning Difficulties and Disabilities (LDD) provision, where 20% or more of their students reside in the council's area. The council shall be responsible for identifying those institutions and arranging a ballot to select a representative.
- 22 A member cannot be a member in more than one of the categories listed in paragraphs 5 and 20.

Nomination of Non-school Members by the Council

- 23 If the appropriate representative body is unable to nominate School or Academy Members within three months of a vacancy arising, then the council shall appoint a member instead.
- 24 Non-school Members nominated by the council may not be:
 - (a) Any elected member of the council appointed to the Cabinet of Durham County Council, or any replacement executive group;
 - (b) The Corporate Director of Children and Young People's Services of the council;
 - (c) Any officer employed or engaged to work under the management of the Corporate Director of Children and Young People's Services of the council, other than one who directly provides education to children or who manages such a person; or
 - (d) Any officer whose work involves management of, or advice on, school funding.
- 25 Within one month of the council appointing a Non-school Member to the Forum, it shall inform governing bodies of maintained schools and academies of the name of the member and the name of the body that member represents.

Substitute Members

- 26 Each body nominating a member is entitled to nominate a named substitute member for each member that they nominate.
- 27 Bodies nominating substitute headteacher or headteacher's representative School Members should be nominated according to the same method used for nominating members (clauses 12 to 14 of this Constitution).
- 28 Substitute governor members of the Forum shall be elected according to the same procedure for the election of governor members.
- 29 For categories of governor member where there is only one member, (currently maintained nursery schools and special school governor members), two substitute governors shall be elected. This is to recognise that governor elections are only held in the summer term and that substitute members may need to attend the Forum on a more regular basis following the resignation of the full member during the year.
- 30 School Members may ask any of the equivalent substitute members to attend in their place. Equivalent substitute members are those from the same category (headteacher, headteacher's representative or governor) and the same phase (nursery, primary, secondary or special).
- 31 A substitute member may attend Forum meetings in place of a member and with the same rights to speak and vote. Substitute members shall be nominated by the relevant body and only those individuals named by relevant bodies as substitute members may attend in place of a member.
- 32 It is the responsibility of the relevant member to arrange for a substitute to attend in place of a member, or if they are unable to do so, for the body that nominated them to do so.

Terms of Office

- 33 Forum members and substitute members remain in office until the earliest of:
- (a) The fourth anniversary of their appointment; or
 - (b) The member being replaced by the nominating body; or
 - (c) The member ceasing to hold the office by virtue of which the member became eligible for election, selection or appointment to the forum; or
 - (d) The member resigning from the forum by giving notice in writing to the council.
- 34 Retiring members may be re-appointed to the Forum by either the body which originally nominated them or another body.

Recording and Reviewing of Membership

- 35 The council shall maintain a written record of members and substitute members of the Forum, noting by which body they were nominated and noting whether they are School, Academy or Non-school Members. The record shall also show when the member was appointed and the date on which their current membership ends.
- 36 The council shall keep membership of the Forum under review to ensure that it continues to be representative, taking account of:
- (a) Changes in the number of academies in the council 's area;
 - (b) The establishment of any additional schools designated as having religious character where the faith group is not the Church of England or The Catholic Church in England and Wales.

Meetings and proceeding of the Forum

Meetings of the Forum

- 37 The Forum shall meet at least four times a year.
- 38 Dates for regular meetings for the next twelve months shall be agreed at the first meeting of the Forum after the start of the autumn term.
- 39 Dates for additional meetings shall be agreed at the preceding meeting, or in exceptional circumstances by the Chair.
- 40 Papers shall be circulated by email at least five working days in advance of the meeting and hard copies shall be posted to members no later than four working days in advance of the meeting. In exceptional circumstances this requirement may be suspended with the agreement of both the Corporate Director of Children and Young People's Services of the council and the Chair.
- 41 The council shall promptly publish all papers considered by the forum and the minutes of their meetings on their website. Papers shall be published on the council's website at least five working days in advance of a meeting. Minutes of meetings shall be published on the council's website as soon as they are available.
- 42 All meetings of the Forum shall be public meetings.
- 43 Meetings shall be quorate if at least two fifths of the total members are present at the meeting.
- 44 If a meeting is inquorate it can proceed but it cannot legally take decisions (e.g. election of a chair, or a decision relating to funding conferred by the funding regulations). An inquorate meeting can respond to consultation by the council.

Meetings by Remote Means

- 45 Meetings can be held through remote means and members shall be considered to be present if they are able to hear and be heard by, and where practicable, see and be seen by any members

present; and be heard and, where practicable, seen by any members of the public at the meeting.

- 46 A public meeting includes a meeting of the Forum that the public can access through remote means.

Additional Speakers

- 47 In addition to members of the Forum, the following may speak at Forum meetings:
- (a) The Corporate Director for Children and Young People's Services of the council or their representative
 - (b) The Corporate Director for Resources of the council or their representative
 - (c) Any elected member of the council who has primary responsibility for children's services or education in the council
 - (d) Any elected member of the council who has primary responsibility for the resources of the council
 - (e) Any person who is invited by the forum to attend in order to provide financial or technical advice to the forum
 - (f) An observer appointed by the Secretary of State
 - (g) Any person presenting a paper or other item to the forum that is on the meeting's agenda.
- 48 In respect of (g), that person's right to speak shall be limited to matters related to the item that the person is presenting

Chair and Vice-chair

- 49 The members of the forum shall elect a person as chair from among their number and determine the chair's term of office, which shall not exceed two years.
- 50 The members of the forum shall elect a person as vice-chair from among their number and determine the vice-chair's term of office, which shall not exceed two years.

- 51 In the absence of both the chair and vice-chair, the members present at the meeting shall determine who shall chair that meeting and their decision shall be recorded in the minutes.
- 52 The members of the forum may not elect as chair any member of the forum who is an elected member or officer of the council.
- 53 The chair of the forum shall decide upon an agenda for the meeting of the forum following consultation with members of the forum.

Voting Procedures

- 54 Members of the forum may determine their own voting procedures, excepting that all members of the Forum shall be entitled to vote on all matters put to a vote with the exception of:
 - (a) Matters relating to the formulas to be used by the council 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 School Standards and Framework Act 1998, where voting is restricted to School and Academy Members and Non-school Members representing Early Years Providers;
 - (b) Decisions about de-delegation, where voting is restricted to School Members whose phase is affected by the decision (decisions shall be made separately for each phase).
 - (c) Decisions about retaining funding for statutory duties relating to maintained schools only is limited to maintained primary, secondary, special and maintained pupil referral unit members
- 55 Votes shall take place in respect of:
 - (a) Recommendations in reports presented to the Forum by the council
 - (b) Motions proposed by Forum members
- 56 Votes shall be taken by a show of hands.
- 57 In the event of a tie the chair shall have a casting vote.

- 58 The proceedings of the forum are not invalidated by—
- (a) Any vacancy among their number;
 - (b) any defect in the election or appointment of any member; or
 - (c) any defect in the election of the chair.

Working Parties

- 59 The Forum shall have the discretion to convene working parties of the Forum, either with a nominated membership, or open to all members of the Forum wishing to attend.
- 60 Working parties shall report to the Forum on the outcome of their meeting.
- 61 The Forum can invite other persons to participate in working groups, but should agree this in advance and such a decision should be recorded in the minutes of the meeting at which this was decided.

Decisions on Behalf of the Forum

- 62 The Forum shall have the discretion to nominate named members of the Forum to take decisions on its behalf where an item has been discussed at a meeting, but a final decision cannot be taken because information is not available at the time of the meeting. Decisions taken in this way shall be recorded in the minutes of the meeting.

Conflict of Interest

- 63 All members of the Forum shall complete an annual return of member's interests to record any interests that they or their families have outside of their normal employment in a school or nominating body, or membership of a governing body. Any financial benefit received from a school, either through employment or providing goods or services should be declared. Interests do not include the attendance of a family member as a pupil or student at a school. of the information to be included in the return is attached as Appendix A to this Constitution.

- 64 Returns shall be completed annually and forwarded to the clerk to the Forum, who shall retain these forms. A copy of the forms shall be placed on the Schools Forum sections of the Schools Extranet and the council's internet website.
- 65 If at any time a member of the Forum has an interest in any Forum business beyond the generality of the group that they represent, or a personal interest in any business of the Forum, that member shall declare the existence and nature of that interest to the body that nominated them and to any Forum or Forum working party meeting at which the matter arises and where the member is in attendance. The member concerned may address the meeting to explain any issues, but shall then leave the meeting room before the matter is considered and should not have any involvement in any decision making, voting or consequent action in relation to that matter.
- 66 A personal interest means any situation where the personal well-being or financial position of the individual, or of any relative, friend or close associate of theirs, may be affected (or may appear to a reasonable person having knowledge of the facts to be affected or likely to be affected) by a decision in relation to the matter in question.
- 67 However, members need not withdraw from a meeting because of an interest that is not greater than that of other members, e.g. primary school representatives should not withdraw from discussions on general primary school funding.
- 68 Members may have a particular interest in one or more schools or organisations represented on the Forum. Members should declare an interest and not take part in any decision on matters which uniquely change funding for, or materially affect, such bodies. For the avoidance of doubt, this does not apply to decisions about funding formulas or methods of distributing funding that affect all schools, but would apply to decisions that only affect to a specific school, such as an application by a school for additional funding from the Growth Fund.
- 69 In the case of a member supplying goods or services to schools or academies, paragraph 69 would only apply where the member was supplying goods or services to a specific school that was the

subject of a decision, such as an application by a school for additional funding from the Growth Fund.

Consultation on contracts

- 70 The Forum shall be consulted by the council on the terms of any proposed contract for supplies or services (being a contract paid or to be paid out of the council's schools budget, (which has the meaning given in section 45A(2) of the Schools Standards and Framework Act 1998), where the estimated value of the proposed contract is not less than the threshold which applies to the council for that proposed contract pursuant to regulation 8 of the Public Contracts Regulations 2006. Such consultation shall occur at least one month prior to the issue of invitations to tender.

Consultation on Financial Issues

- 71 The council shall consult the Forum annually in respect of the council's functions relating to the schools budget, in connection with:
- (a) Arrangements for the education of pupils with special educational needs, and in particular:
 - the places to be commissioned by the council in different schools and other institutions, and
 - the arrangements for paying top-up funding to schools and other institutions;
 - (b) Arrangements for the use of alternative provision settings and the education of children otherwise than at school, and in particular:
 - the places to be commissioned by the council and by schools in alternative provision settings, and
 - the arrangements for paying top-up funding to alternative provision settings;
 - (c) Arrangements for early years provision;

- (d) Administrative arrangements for the allocation of central government grants paid to schools via the council.
- (e) Such other matters concerning the funding of schools as the council sees fit.

Information about consultations

- 72 The Forum shall inform the governing bodies of schools maintained by the council of any consultation carried out by the council in respect of contracts or financial issues, as soon as it reasonably can. This requirement shall be deemed to have been met through the placing of a notice on the Durham Schools' Extranet News Page, to be current for at least five school days.

Charging of Forum's expenses

- 73 The council shall pay the expenses of the Forum and charge those expenses to the Schools Budget (centrally retained DSG).

Members' expenses

- 74 The council shall reimburse all reasonable expenses of members in connection with their attendance at meetings of the forum and charge those expenses to the Schools Budget.

Appendix A: Return of Interests

Name

Category of Membership

Interests

School(s) at which employed

(Only required for a member who is employed at a school and this is not the capacity in which they are a member, for example a governor member of the Forum who works at another school).

School(s) at which a member of the governing body

(Only required for a member who is a governor at a school and this is not the capacity in which they are a member, for example a headteacher member of the Forum who is a governor at another school).

Employment by an entity that sells services to schools

Ownership of an entity that sells services to schools

Other

(any other interests which a member wishes to place on record)