

## CENTRAL BEDFORDSHIRE SCHOOLS FORUM

**Date of Meeting: 12 March 2018**

**Subject: Schools forum – proposed constitution and terms of reference**

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**Public**

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Purpose of this report: to set out a proposed constitution and terms of reference for the Schools Forum, consistent with the requirements of the Local Government Act, 2002, and subsequent regulations and statutory guidance.

### **RECOMMENDATIONS**

**Schools Forum board is asked to agree the:**

1. constitution of the Schools Forum as set out in annex 3 of this report
2. appointments process as set out under paragraph 2.5 and in paragraphs 2.7, 2.7, 2.8 and 2.9 of the report,
3. terms of reference and powers of the Schools Forum as set out in section 3 of this report, specifically under paragraph 3.1 and in paragraphs 3.2 and 3.3, under paragraph 3.4 and in paragraph 3.7.
4. Role of the local authority as set out in paragraphs 3.5 and 3.6 and under paragraph 3.8.

### **1 Background – roles, duties and responsibilities of all parties**

- 1.1 Schools forums are required (see **annex 1**) in every upper tier council (except the City of London and the Isles of Scilly). The purpose of the Schools Forum is to advise the council on matters relating to its schools budget.
- 1.2 Representatives from schools and academies make up the Schools Forum. There is also some representation from non-school organisations, such as nursery and 16-19 education providers.
- 1.3 Schools forum acts as a consultative body on some issues and a decision-making body on others. It acts in a **consultative** role for:
  - changes to the local funding formula (the local authority makes the final decision);
  - proposed changes to the operation of the minimum funding guarantee;
  - changes to or new contracts affecting schools (school meals, for example); and
  - arrangements for pupils with special educational needs, in pupil referral units, and in early years provision.

1.4 Schools forum has decision-making powers in respect of:

- how much funding may be retained by the local authority within the dedicated schools grant (for example, providing an admissions service, or providing additional funding for growing schools);
- any proposed carry forward of deficits on central spend from one year to the next;
- proposals to de-delegate funding from maintained primary and secondary schools (for example, for staff supply cover, insurance, behaviour support); and
- changes to the scheme of financial management.

## **2 Schools forums: guidance on constitution and proposals for Central Bedfordshire**

2.1 Schools and academies' (including free schools) representatives on the Schools Forum should be roughly proportionate to the number of pupils in each sector and would generally include representatives from:

- maintained nursery, primary, secondary, pupil referral units and special schools; and
- academy (including free school) primary, secondary, alternative provision and special schools.

2.2 In appointing non-schools members, the the LA can seek nominations from relevant bodies. It is recommended in the Schools Forum operational and good practice guide that such nominations should be considered from:

- post-16 providers;
- early years private, voluntary and independent providers;
- Church of England diocese(s) covering the LA area;
- Roman Catholic diocese(s) covering the LA area; and
- trades unions.

2.3 It should be noted that:

- middle schools do not form a category of schools in their own right and schools forums treat them according to their deemed status;
- where there is at least one school in a particular category, there must be at least one representative for that group on schools forum; and
- in maintained schools, governors and head teachers (or their representatives) should elect their representatives by the appropriate phase.

2.4 There is no minimum or maximum size for schools forum although it should be broadly proportionate to school phase or type. At least two thirds will be schools' representatives, including head teachers or head teachers' representatives and governors. Schools forum should have non-school members, which may number no more than one third of its total composition. The current constitution is attached as **annex 2**.

### **Appointment of members to Central Bedfordshire's Schools forum**

2.5 The LA shall:

- appoint persons to represent the different groups;
- identify bodies appropriate for representation on schools forum ('non-school members'), seek nominations from, and appoint representatives of, those bodies; and
- ensure that schools forum is constituted as per the allocations in **annex 3**.

2.6 The appointment of **head teacher** members shall be determined by the head teachers of all the schools of each category of schools listed in **annex 3**.

- 2.7 The appointment of **governor** members shall be determined by an elective process, administered by the clerk of schools forum in accordance with membership requirements.
- 2.8 In appointing non-school members the authority shall seek nominations from relevant bodies as set out under paragraph 2.2 above.
- 2.9 The membership structure of the school members on school forum will reflect most appropriately the profile of schools across the authority to ensure that there is no in-built bias toward any one group.

### **3 Schools forum proposed terms of reference and powers**

- 3.1 Schools forum has a consultative role, but has decision making powers in specified areas. The respective roles of schools forums, local authorities and the department are summarised [here](#) and in **annex 4**. The overarching areas in which schools forums make decisions on local authority proposals are:
- de-delegation from mainstream maintained schools budgets (separate approval will be required by the primary and secondary phase members of schools forum), for prescribed services to be provided centrally;
  - to create a fund for significant pupil growth in order to support the local authority's duty for place planning (basic need), including pre-opening and diseconomy of scale costs, and agree the criteria for maintained schools and academies to access this fund;
  - to create a fund for falling rolls for good or outstanding schools if the schools' surplus capacity is likely to be needed within the next three years to meet rising pupil numbers and agree the criteria for maintained schools and academies to access this fund;
  - agreeing other centrally retained budgets, including for local authority statutory responsibilities (where these relate to maintained schools only, voting is by the primary, secondary, special and PRU members of schools forum);
  - funding for central early years expenditure, which may include funding for checking eligibility of pupils for an early years place, the early years pupil premium and/or free school meals; and
  - authorising a reduction in the schools budget in order to fund a deficit arising in central expenditure, or from de-delegated services, that is to be carried forward from a previous funding period.
- 3.2 Note that in the 2018/19 financial year the schools block is ring-fenced. Local authorities require schools forum approval in order to move up to 0.5% from the schools block to other blocks. In each of these cases, the local authority can appeal to the secretary of state for education if the schools forum rejects its proposal.
- 3.3 Schools forum is convened and managed by the local authority, and the provisions of the Local Government Act, 2000 (see [here](#)) restrict the delegation of local authority decisions to cabinet, a member of cabinet, a committee of cabinet or an officer of the council, which does **not** include schools forums. As a result, the local authority cannot delegate its decision-making powers to schools forum, for example, decisions on the funding formula. In Central Bedfordshire, the council's cabinet approves all funding decisions.

- 3.4 Regulations state that the local authority must consult the schools forum annually in connection with various schools budget functions, namely:
- amendments to the school funding formula, for which the voting is restricted by the exclusion of non-schools members except for PVI representatives;
  - arrangements for the education of pupils with special educational needs, in particular the places to be commissioned by the local authority and schools and the arrangements for paying top-up funding;
  - arrangements for the use of pupil referral units and the education of children otherwise than at school, in particular the places to be commissioned by the local authority and schools and the arrangements for paying top-up funding;
  - arrangements for early years provision; and
  - administrative arrangements for the allocation of central government grants paid to schools via the local authority.
- 3.5 There is no specific definition of these consultation requirements over and above the wording in the regulations. Central Bedfordshire council determines the appropriate level of detail required to generate a sufficiently informed response from schools forum members.
- 3.6 Consultation must also take place when a local authority is proposing a contract for supplies and services that is to be funded from the schools budget and is in excess of the EU procurement thresholds. The consultation must cover the terms of the contract at least one month prior to the issue of invitations to tender.
- 3.7 Schools forum has the responsibility of informing the governing bodies of all schools maintained by the local authority and academy schools of the results of any consultations carried out by the local authority relating to the issues set out under paragraph 3.4 above.
- 3.8 The LA will discuss with schools forum any proposals that it intends to put to the secretary of state to:
- vary the MFG;
  - use exceptional factors;
  - vary pupil numbers;
  - allow additional categories of, or spending on, central budgets;
  - amend the sparsity factor;
  - vary the lump sum for amalgamating schools;
  - vary the protection for special schools and special academies;
  - move up to 0.5 per cent from the schools block, where the schools forum does not agree, or move more than 0.5 per cent from the schools block
- 3.9 In any of the above cases, proposals will be considered by the secretary of state.

#### **4 Proposed rules on membership and meeting conduct**

- 4.1 **Restrictions on membership:** Any elected member who holds an executive role in the local authority as a lead member or portfolio holder is barred from being either a schools member, by virtue of being a school governor or a non-schools member. Officers who are employed by the council and work in the children services directorate who have a role in strategic resource management are also barred from membership of schools forum.

4.2 **Length of office:** the term of office of all members is three years.

4.3 **Rules of conduct:** members of schools forum should:

- behave in accordance with the seven principles of public life (called the ‘Nolan’ principles: selflessness, integrity, objectivity, accountability, openness, honesty and leadership);
- declare any personal or prejudicial interest, which shall be circulated to the members of schools forum by the clerk;
- notify the Clerk at the earliest available opportunity if unable to attend a meeting for whatever reason.

4.4 **Meetings:** schools forum must meet at least five times a year or as is otherwise necessary in order to ensure the smooth running of the its business

4.5 **Proceedings:** a meeting is only quorate if 40% of the total membership is present, excluding any observers – this is defined in Central Bedfordshire as eight members. Should a meeting be inquorate, the meeting should proceed but the council is not obliged to take account of any recommendations arising from that meeting. Proceedings of schools forum are not invalidated by any defects in elections or appointments (including the chair and vice chair), or any member vacancies.

4.6 **Elections of the chair and vice chair:**

- Schools forum shall elect the chair and vice-chair annually at the first meeting of the autumn term, with nominations sought prior to the first meeting of the school year and approved by a simple majority of votes cast by individual members during that first meeting (during this procedure nominees shall be required to leave the meeting room until a decision is reached);
- the chair and vice-chair shall serve office for 12 months and until the first meeting of schools forum in the autumn term in the following year;
- both the chair and vice-chair are eligible for re-election after the 12 months has elapsed provided they continue to occupy the office for which they were nominated to represent;
- In the case of a resignation of the chair, the election of a replacement will be for the period between the election and the first meeting of the following autumn term;
- the Chair (or vice chair in his / her absence) is responsible for chairing and managing meetings of schools forum with advice and support from the clerk; and
- if both the chair and vice-chair are absent from the meeting, the members present at the meeting should elect an acting chair.

4.7 **Voting:** where schools forum members vote on matters before them, decisions will be determined by a simple majority of members present. The exceptions are voting on:

- the funding formula is limited to schools members, academies members and PVI representatives; and
- de-delegation, which will be limited to specific primary and secondary phase of maintained schools members.

4.8 **Urgent business:** unscheduled urgent meetings may be called where the business of school forum is urgent. The Clerk shall arrange such meetings, with appropriate consultation from each of the members. The Chair is **not** entitled to take a decision on behalf of school forum, no matter how urgent the business

4.9 **The role of the clerk:** the council is responsible for the appointment of a clerk, whose responsibility is to oversee its smooth running. The cost of the clerking service shall be set-aside in schools forum's budget. The details of the clerk's role and responsibilities is set out in **annex 6** below.

4.10 **Observers and speakers:**

- as the meetings have open access, any person may attend the meeting as a member of the public but cannot participate in the meeting in any way.
- if a person wishes to attend and speak at a schools forum meeting, they must notify the clerk at least three days before the meeting. The clerk will notify the chair of the request. The Chair's decision on whether to allow this participation will be final, but will not be unreasonably withheld.
- schools forum may also ask other people to attend and speak at meetings.

4.11 **Communication:**

- schools forum will ensure that all its agenda, minutes and papers are publicly available through the local authority intranet / webpage;
- members of the representative sub-groups have responsibility for ensuring that feedback is given to their sub groups;
- schools forum may also consider e-mailing all schools and other stakeholder groups after each meeting informing them of the discussions and decisions with a link to the full papers and minutes on the internet.

4.12 **Expenses:** all claims for reasonable expenses in connection with the attendance at meetings shall be met by the Schools Forum budget.

4.13 **Induction and training:** any new member who joins schools forum shall be given appropriate induction materials, **training and support**. These should include the following:

- schools forum constitution;
- a list of members and contact details and their terms of office;
- contact details of the clerk;
- copies of the minutes of previous meetings;
- the programme of schools forum meetings for that year;
- details of schools forum's website;
- the Education and Skills Funding Agency's (EFA) schools forums: operational and good practice guide, 2015 (see the link in paragraph 3.1 above)

4.14 **Evaluation:** the chair should, on an annual basis, conduct with members an evaluation of schools forum's through an assessment of its strengths and areas for development. The Department for Education has published a toolkit (see [here](#)) that is designed as a set of questions that can be considered by individuals or schools forum as a whole.

4.15 Any training that may be required in order to fully meet the business of schools forum shall be provided by the local authority or the appropriate professional body. Training should be based on an objective assessment of need. The costs of training shall be borne by schools forum.

- 4.16 **Indemnity:** Central Bedfordshire council will indemnify members of schools forum against any reasonable legal costs and expenses reasonably incurred by them in connection with any decision or action taken by them in good faith in pursuance of their functions as members of schools forum.
- 4.17 **Removal and resignation:** as well as the term of office coming to an end any member may resign from schools forum at any time provided notice in writing is given to the clerk.
- 4.18 Where a member fails to attend two consecutive meetings without submitting a reason that is acceptable to schools forum, their non-attendance must be drawn to the attention of schools forum by the clerk and a decision must be taken by schools forum as to whether to accept their non-attendance or whether to invoke removal procedures.
- 4.19 The chair and / or vice-chair or any member of schools forum may be removed from office. Any such action can only follow appropriate legal advice.

## **5 Financial and risk implications**

- 5.1 The dedicated schools grant is a council budget, and it is the responsibility of the council to set the schools budget annually. Therefore, it is imperative that schools forum is constituted appropriately, and has terms of reference that set out clearly and unambiguously its duties and powers. Should the recommendations of the report be agreed by schools forum:
- the constitution will ensure appropriate representation from all relevant sectors, in line with the government's statutory guidance;
  - the terms of reference will give schools forum members clarity of purpose, as well as clarity of decisions delegated to them; and
  - the local authority's financial and legal risks will be appropriately mitigated.

## **6 Governance and delivery implications**

- 6.1 The local authority, as the convening body for schools forum, must have assurance that appropriate governance arrangements, in particular with regard to the proper constitution and clear terms of reference are in place.
- 6.2 The agreement of current schools forum members to the recommendations will ensure schools forum is convened and operates consistently within the legal framework set out in the relevant legislation, regulations and guidance.

## **7 Equalities implications**

- 7.1 The PSED requires public bodies to consider all individuals when carrying out their day to day work in shaping policy, in delivering services and in relation to their own employees. It requires public bodies to have due regard to the need to eliminate discrimination, harassment and victimisation, advance equality of opportunity, and foster good relations between in respect of nine protected characteristics; age disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 7.2 The constitution proposed will ensure equitable representation of the groups on schools forum, and terms of office that are clear. There will be reconstitution of schools forum on the expiry of members' terms of office.

## **8 Implications for work programme**

- 8.1 There are no implications for the work programme.

## **9 Conclusion and next steps**

9.1 The recommendations set out at the top of this report are commended to schools forum members. The next steps are:

- the reconstitution of schools forum, with vacancies to be filled in the spring and summer terms 2018, and elections for members whose terms of office have expired in the summer and autumn terms 2018, and spring term 2019; and
- the immediate adoption of the terms of reference agreed by schools forum members from the summer term 2018.

## **10 Appendices**

10.1 The following annexes are attached:

Annex 1: the Education Act, 2002 - (s47A), schools forums

Annex 2: Central Bedfordshire's schools forum – present constitution

Annex 3: Central Bedfordshire's schools forum – proposed constitution

Annex 4: roles and responsibilities of schools forum members, the LA and the DfE

Annex 5: resolutions of schools forum at its meeting of 29 January 2018 – resolved

Annex 6: the clerk.

## **11 Background papers**

11.1 The following background papers, not previously available to the public, were taken into account and are available on the Council's website:

Local Government Act, 2000

The Education Act, 2002.

Schools forums operational guidance and good practice guidance (2015) – DfE

Schools forum powers and responsibilities

Schools forums structure

Schools forum guidance (Norfolk, Hampshire, North Tyneside, Nottingham).