

Date of meeting:	Thursday, 19 October 2017
Title of report:	A New Constitution for the Schools Forum
Type of report: Delete as required	For decision / discussion / information
Executive summary: Including reason for submission	Following an agreement at the last meeting to set up a separate Schools Forum, a summary of the Forum's role and responsibilities, including membership is attached here, alongside a draft new Constitution.
Budget / Risk implications:	N/A
Recommendations:	To consider, comment on and agree a new constitution for the Schools Forum
Voting requirements:	N/A
Appendices: To be attached	Appendix 1: Powers and Responsibilities of School Forums
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Presenting officer: If not the originator	

A New Constitution for the Schools Forum**1.0 PURPOSE OF THE REPORT**

1.1 To consider, comment on and agree a new constitution for the Schools Forum.

2.0 BACKGROUND

2.1 At the meeting of the Partnership in September, it was agreed that in principle the proposal to set up a Learning Trust and a separate Schools Forum be explored further with further information to be brought to the next meeting in October.

2.2 As part of that, a new draft constitution is set out here for consideration.

2.3 Before looking at this draft, it may be helpful to look at a selection of some of the guidelines, as set out by the DfE.

2.4 Role

School Forums generally have a consultative role, but have decision-making powers in the following areas:

- 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
- 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
- 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 if the schools forum rejects its proposal

2.5 Membership

- There is no maximum or minimum size of a schools forum. Authorities will wish to take various issues into account in deciding the actual size, including the need to have full representation for various types of school, and the local authority's policy on representation of non-schools members. However, care should be taken to keep the schools forum to a reasonable size to ensure that it does not become too unwieldy.
- Types of member: schools forums must have
 - schools members
 - academies member(s)
 - non-schools members
- Schools and academies members together must number at least two-thirds of the total membership of the schools forum and the balance between maintained primary, maintained secondary and academies members must be broadly proportionate to the pupil numbers in each category, so the structure of forum should be regularly reviewed. DfE suggests that we review the membership as a standing agenda item at each meeting. Academies members must represent mainstream academies and, if there are any in the local authority area, special academies and alternative provision academies. There is no requirement for academies members to represent specific primary and secondary phases, but it may be encouraged to ensure representation remains broadly proportionate to pupil numbers. Academy members must be separately elected and designated from maintained school representatives.
- Schools forum members will need the skills and competencies to manage Forum business (as detailed in school forum powers and responsibilities) and to take a strategic view across the whole education estate whilst acting as representative of the group that has elected them. Furthermore, they should be easily contactable and pro-active in raising the profile of issues and communicating decisions, and the reasons behind them, effectively.

3.0 Proposed Constitution

- 3.1 The draft constitution is set out below. Membership replicates the current set up of the NYEP but actual numbers (and split of primary-secondary-academies can be reviewed when we have details of updated pupil numbers from the October census)

THE CONSTITUTION OF THE NORTH YORKSHIRE SCHOOLS FORUM

PART 1: INTRODUCTION

1. Name of Organisation

- 1.1 The body shall be known as the “North Yorkshire Schools Forum” otherwise called “Schools Forum”.

2. Authority, Commencement and Application

- 2.1 This constitution is governed by the Schools Forums (England) Regulations and other Operational Guidance
- 2.2 This Constitution supersedes any previously approved Constitution.

PART 2: CONSTITUTION, MEETINGS AND PROCEEDINGS

3. Membership: General

- 3.1 The Schools Forum shall have a membership of 33.
- 3.2 Membership of the Schools Forum shall be made up of both schools and non-schools members where the latter forms not more than one third of the total membership.
- 3.3 The appointment and subsequent replacement of schools members and non-schools members shall be to specific named categories.

4. Composition of School Members

- 4.1 Schools members must comprise at least two thirds of the membership of the Forum.
- 4.2 Membership shall include the following:
- eight Primary headteachers – LA-Maintained Schools
 - five Secondary headteachers – LA-Maintained Schools
 - five Primary schools governors
 - three Secondary schools governors
 - one Nursery school headteacher or governor
 - one Special school headteacher or governor
 - one PRS headteacher or governor
 - four Academy representatives (Mainstream schools)
 - one Special Academy representative; and
 - one Pupil Referral Service Academy representative

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- 4.3 The number of primary, secondary and academy representatives shall be proportionate to the ratio of pupils in each.
- 4.4 The apportionment of School Member places shall be reviewed from time to time to ensure that it properly reflects any change in circumstances.

5. Election and Appointment of Schools Members

- 5.1 The election of the Nursery, Primary, Secondary and Special Schools headteacher and governor representatives shall be conducted by the Corporate Director, Children and Young People's Service and the Clerk to the Forum.
- 5.2 The election of the Academy representatives shall be conducted by the governing bodies of the Academies.
- 5.3 The Clerk to the Schools Forum shall provide advice as to the options for selection processes upon request.
- 5.4 All elections to the Schools Forum shall be conducted in accordance with the principles enshrined in "Schools Forums: Operational and Good Practice Guidance" issued by Department for Education and dated September 2017 or such other relevant guidance as may be issued by the Department from time to time.
- 5.5 Nothing in this constitution shall prevent the election of "a Principal", "deputy headteacher", "bursar" or other such person responsible for the financial management of the school in substitution for a headteacher representative.
- 5.6 If for any reason, an election for a schools member does not take place within three months of the vacancy arising or any such election results in a tie between two or more candidates, the Local Authority shall appoint the schools member to the Schools Forum instead.

6. Election and Appointment of Non-School Members

- 6.1 The Local Authority shall appoint non-school members to the Schools Forum to represent relevant stakeholder bodies, the total number of which shall constitute not more than one third of the Schools Forum membership. Membership shall include:
- one representative of the Diocesan Board of Education for any diocese of the Church of England, any part of which is comprised in the County of North Yorkshire; and
 - one representative of the Bishop of any Roman Catholic Church Diocese, any part of which is comprised in the County of North Yorkshire;
 - two staff representatives, one each from UNISON and Teachers Unions;
 - one representative from Early Years and Childcare Providers; and
 - one representative of 16 to 19 education providers¹.
- 6.2 The bodies listed are responsible for the election of their representative.

¹ Eligible institutions are those in the FE sector (FE and sixth form colleges) and other post-school institutions that specialise in SEN and LDD provision (SSPs), where 20% or more of their students reside in North Yorkshire.

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- 6.3 Where there are schools or academies in the local authority area with an officially recognised religious character other than those listed in paragraph 6.1, the appropriate faith group may be considered for representation on the Education Partnership.
- 6.4 The appointment of any non-schools member shall be revoked if any instruction so to do is received from the Secretary of State, Department of Education.

7. Substitutes

- 7.1 The Clerk to the Schools Forum shall maintain a register of persons prepared to act as substitutes for representatives elected under paragraphs 5 and 6 above.
- 7.2 The Register of Substitutes shall comprise:
- Governors who were unsuccessful in being elected to the Schools Forum and who are willing to act as a substitute;
 - One person nominated by each nursery, primary, secondary, special and academy school headteacher elected to the Schools Forum on the basis of one substitute for each headteacher representative;
 - One person nominated by the Pupil Referral Service representative;
 - One person from and nominated by each of the relevant Diocesan Boards of Education;
 - One person from and nominated by the Bishop of each relevant Roman Catholic Diocese;
 - One person nominated by Unison and one person nominated by the Teachers Unions;
 - One person nominated by the Early Years and Childcare Providers; and
 - One person nominated by 16 to 19 education providers.
- 7.3 Any person elected under paragraph 5 above and who is unable to attend a meeting of the Schools Forum shall notify the Clerk to the Schools Forum not less than 5 clear days before the meeting. It is the responsibility of that person to arrange for their substitute to attend on their behalf. In the case of School Governors, the Clerk to the Schools Forum will arrange for a substitute from the Register. Substitute representatives shall have the same rights of participation and voting as if they had been formally elected under paragraphs 5 and 6 above.

8. Membership Restrictions

- 8.1 The authority shall not appoint any executive member or relevant officer of the authority to the Forum as a non-schools member.
- 8.2 “Relevant officer” is defined as:
- the Director of Children’s Services;
 - any officer employed or engaged to work under the management of the Director of Children’s Services, other than one who directly provides education to children or who manages such a person; or
 - any officer whose work involves the management of, or advice on, school funding.

A New Constitution for the Schools Forum**9. Terms of Office**

- 9.1 All Members of the Schools Forum shall be elected/appointed for a term of 4 years and may serve a maximum period of two terms (8 years).

10. Cessation of Term of Office

- 10.1 Membership of the Schools Forum shall cease in the following circumstances:
- i. if the representative ceases to occupy the office by virtue of which they became eligible for election;
 - ii. at the end of their term of office unless the representative is re-appointed or re-elected;
 - iii. the resignation of the member in writing to the local authority; or
 - iv. in the event of the school at which they are employed or at which they are a Governor converts to Academy status.

11. Meetings and Proceedings of the Schools Forum

- 11.1 The Forum shall meet at least five times each year.
- 11.2 All meetings of the Schools Forum will be public meetings.
- 11.3 The quorum for a meeting shall be 40% of the total membership excluding observers and vacancies.
- 11.4 Participation is limited to:
- A Lead Member for Education, Children's Services or Resources;
 - The Director of Children's Services or their representative;
 - The Chief Financial Officer or their representative;
 - Officers providing specific financial or technical advice to the Forum; and
 - An observer appointed by the Secretary of State².
- 11.5 The participation of other officers who are presenting a report is limited to their specific agenda item.
- 11.6 The Forum shall elect a chair from amongst its membership, though not an elected member or officer of the authority. The term of office of the chair shall be 4 years and the chair shall be eligible to serve for a maximum of 2 terms (8 years in total).
- 11.7 Voting in respect of the funding formulae to be used by the local authority to determine the amounts to be allocated to schools and early years providers in accordance with regulations made under sections 47 and 47ZA of the School Standards and Framework Act 1998, shall be by Schools members and representatives of the Private, Voluntary and Independent sector only; all Schools Forum members can vote on non-funding formulae decisions.
- 11.8 Voting in respect of the de-delegation of funding per phase shall be by the maintained primary or secondary Schools members only.

² The Education Skills and Funding Agency (ESFA) has been granted observer status at Schools Forum meetings (regulation 8 (4) (f)) to provide support to the local process and provide a national perspective if members think it helpful.

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- 11.9 In extreme cases, as determined by the Corporate Director, Children and Young People's Service, and where it is not expedient to call a meeting, urgent matters may be decided by a vote of members undertaken by e-mail and reported to the next ordinary meeting of the Schools Forum. In the event of an e-mail vote of members, the period allowed for voting shall be not less than 5 working days including the day that the e-mail is sent to members. For the purpose of this sub-section working days are Monday to Friday inclusive but excluding Bank and Public Holidays.
- 11.10 The agenda and associated papers for any meeting of the Schools Forum shall be despatched to all members of the Schools Forum at least 7 clear days prior to the meeting.
- 11.11 At the first meeting of the Schools Forum in the autumn term it shall consider and approve a calendar of meetings for the ensuing year and the Clerk to the Schools Forum shall provide all members with a copy of the calendar of meetings within 14 days of its approval.
- 11.12 Any committees or working groups appointed by the Forum shall submit their recommendations to the Forum for approval.
- 11.13 All agendas and papers shall be published on the cypsinfo site on the day of the Forum meeting. There shall be a link to this site from the public website, www.northyorks.gov.uk.

12. Conflict of Interests

- 12.1 If at any time a Forum member has an interest in any Forum business beyond the generality of the group s/he represents, or a personal interest in any business of the Forum, s/he shall declare the existence and nature of that interest to his/her organisation and to any Forum and/or Forum Group meetings at which the matter arises and where the member is in attendance. The member concerned may address the meeting to explain any issues but must 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.
- 12.2 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.
- 12.3 However, Forum members need not withdraw from a meeting because of an interest that is no greater than that of other members of the Forum, e.g. primary school representatives should not withdraw from discussions on general primary school funding.
- 12.4 It is recognised that Forum members may have a particular interest in one or more schools (e.g. a school at which they are a head teacher/governor or which their children attend) 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.

A New Constitution for the Schools Forum**PART 3: FUNCTIONS****13. Consultation**

- 13.1 The authority must consult the Schools Forum in respect of any changes to the schools funding formulae and any revisions to the scheme for the financing of schools.
- 13.2 The authority must consult the Schools Forum annually in respect of the following:
- Arrangements for the education of pupils with special educational needs;
 - Arrangements for the use of pupil referral units and the education of children otherwise than at school;
 - Arrangements for early years provision;
 - Administrative arrangements for the allocation of central government grants paid to schools via the authority.
- 13.3 The authority may consult the forum on such other matters concerning the funding of schools as they see fit.
- 13.4 The authority must consult the schools forum on the terms of any proposed contract for supplies or services (being a contract paid or to be paid out of the authority's schools budget) where the estimated value of the proposed contract is not less than the threshold which applies to the authority for that proposed contract pursuant to regulation 8 of the Public Contracts Regulations 2006 at least one month prior to the issue of invitations to tender.
- 13.5 A detailed description of the Schools Forum powers and responsibilities – as defined by the DfE – is attached as Appendix 1 to this constitution.

PART 4: FINANCE**14. Charging of Expenses**

- 14.1 The expenses of running the Forum by the Local Authority shall be charged to the schools budget. Such expenses shall include the direct servicing of meetings, the underlying overheads and the re-imbursment of reasonable out of pocket expenses incurred by members in connection with their attendance at meetings of the Forum.
- 14.2 Travel expenses will be paid at the actual costs incurred on public transport or a mileage allowance based on the prevailing teaching car user rate of the Local Authority. Non-teaching school staff will be paid at the equivalent non-teaching mileage rate as per their terms and conditions of employment.

End of Constitution



Schools forum powers and responsibilities

A summary of the powers and responsibilities of schools forums.

Function	Local authority	Schools forum	DfE role
Formula change (including redistributions)	Proposes and decides	Must be consulted (voting restrictions apply). See schools forum structure document that informs the governing bodies of all consultations	Checks for compliance with regulations
Movement of up to 0.5% from the schools block to other blocks	Proposes	Decides	Adjudicates where schools forum does not agree LA proposal
Contracts (where the LA is entering a contract to be funded from the schools budget)	Proposes at least one month prior to invitation to tender, the terms of any proposed contract	Gives a view and informs the governing bodies of all consultations	None

Function	Local authority	Schools forum	DfE role
Financial issues relating to: <ul style="list-style-type: none"> • arrangements for pupils with special educational needs, in particular the places to be commissioned by the LA and schools and the arrangements for paying top-up funding • arrangements for use of pupil referral units and the education of children otherwise than at school, in particular the places to be commissioned by the LA and schools and the arrangements for paying top-up funding • arrangements for early years provision • administration arrangements for the allocation of central government grants 	Consults annually	Gives a view and informs the governing bodies of all consultations	None
Minimum funding guarantee (MFG)	Proposes any exclusions from MFG for application to DfE	Gives a view	Approval to application for exclusions
De-delegation for mainstream maintained schools for: <ul style="list-style-type: none"> • contingencies • administration of free school meals 	Proposes	Maintained primary and secondary school member representatives will decide for their phase. Middle schools are treated	Will adjudicate where schools forum does not agree LA proposal

Function	Local authority	Schools forum	DfE role
<ul style="list-style-type: none"> • insurance • licences/subscriptions • staff costs – supply cover • support for minority ethnic • pupils/underachieving groups • behaviour support services • library and museum services • School improvement 		according to their deemed status	
<p>General Duties for maintained schools</p> <ul style="list-style-type: none"> • Contribution to responsibilities that local authorities hold for maintained schools (please see operational guide for more information) 	Proposes	Would be decided by the relevant maintained school members (primary, secondary, special and PRU).	Adjudicates where schools forum does not agree LA proposal
<p>Central spend on and the criteria for allocating funding from:</p> <ul style="list-style-type: none"> • funding for significant pre-16 pupil growth, including new schools set up to meet basic need, whether maintained or academy 	Proposes	Decides	Adjudicates where schools forum does not agree LA proposal

Function	Local authority	Schools forum	DfE role
<ul style="list-style-type: none"> • funding for good or outstanding schools with falling rolls where growth in pupil numbers is expected within three years 			
<p>Central spend on:</p> <ul style="list-style-type: none"> • early years block provision • funding to enable all schools to meet the infant class size requirement • back-pay for equal pay claims • remission of boarding fees at maintained schools and academies • places in independent schools for non-SEN pupils • admissions • servicing of schools forum • Contribution to responsibilities that local authorities hold for all schools 	Proposes	Decides	Adjudicates where schools forum does not agree LA proposal
<p>Central spend on:</p> <ul style="list-style-type: none"> • capital expenditure funded from revenue: projects must have been planned and decided 	Proposes up to the value committed in the previous financial year and where expenditure has already been committed.	Decides for each line	Adjudicates where schools forum does not agree LA proposal

Function	Local authority	Schools forum	DfE role
<p>on prior to April 2013 so no new projects can be charged</p> <ul style="list-style-type: none"> • contribution to combined budgets: this is where the schools forum agreed prior to April 2013 a contribution from the schools budget to services which would otherwise be funded from other sources • existing termination of employment costs (costs for specific individuals must have been approved prior to April 2013 so no new redundancy costs can be charged) • prudential borrowing costs – the commitment must have been approved prior to April 2013 	<p>See table four page 31 to 35 for Information on historic commitments. Read establishing local authority DSG baselines for more information.</p>		
<p>Central spend on:</p> <ul style="list-style-type: none"> • high needs block provision • central licences negotiated by the Secretary of State 	<p>Decides</p>	<p>None, but good practice to inform forum</p>	<p>None</p>
<p>Carry forward a deficit on central expenditure to the next year to be funded from the schools budget</p>	<p>Proposes</p>	<p>Decides</p>	<p>Adjudicates where schools forum does not agree LA proposal</p>

Function	Local authority	Schools forum	DfE role
Any brought forward deficit on de-delegated services which is to be met by the overall schools budget.	Proposes	Decides	Adjudicates where schools forum does not agree LA proposal
Scheme of financial management changes	Proposes and consults the governing body and Head of every school	Approves (schools members only)	Adjudicates where schools forum does not agree LA proposal
Membership: length of office of members	Decides	None (but good practice would suggest that they gave a view)	None
Voting procedures	None	Determine voting procedures	None
Chair of schools forum	Facilitates	Elects (may not be an elected member of the Council or officer)	None