

EXPLANATORY MEMORANDUM TO
THE SCHOOLS FORUMS (ENGLAND) REGULATIONS 2010

2010 No. 344

1. This explanatory memorandum has been prepared by the Department for Children, Schools and Families and is laid before Parliament by Command of Her Majesty.

2. **Purpose of the instrument**
 - 2.1 The instrument revokes and replaces the Schools Forum (England) Regulations 2002 (“the 2002 Regulations”), as amended, with a few changes, principally relating to the membership of Schools Forums.
 - 2.2 Where local authorities have at least one Academy within their area, there must be Academy representation on the Forum.
 - 2.3 A small number of local authorities do not have non-school representatives on their Forum. The instrument makes it a requirement to have this category, which includes representation from the early years private, voluntary and independent sector, and from the 14-19 partnership.
 - 2.4 Where an election in any category results in a tie, then the local authority must appoint the member.
 - 2.5 There are various other minor changes to improve the clarity of the Regulations, but these do not affect their substance.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**
 - 3.1 None

4. **Legislative Context**
 - 4.1 These Regulations are made under section 47A and 138(7) of the School Standards and Framework Act 1998. (Section 47A requires every local authority to establish a schools forum in their area, specifies their purpose and makes provision for regulations to provide for the membership, constitution, meetings and proceedings of the schools forum.)
 - 4.2 They revoke and replace the 2002 Regulations, which have been amended three times, with a few changes.

5. **Territorial Extent and Application**
 - 5.1 This instrument applies to England.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- *What is being done and why*

- 7.1 The 2002 Regulations set out that different types of school should be proportionally represented on the Forum. Academies are growing in number and their budgets are calculated on the basis of their local authority's formula for funding schools and are therefore directly affected by decisions the Schools Forum may take. In some authorities, the proportion of secondary age pupils in Academies is significant and it is only right, therefore, that these pupils' needs are represented. Arrangements for the clawback of funding from Academies for permanently excluded pupils are also being brought into line with other maintained schools. A change from observer to membership status is therefore considered desirable.
- 7.2 Currently, local authorities have the option of whether to have non-school members on their Forums; only a small number have chosen not to. However, with the planned introduction of a common Early Years Single Funding Formula (EYSFF) across both the maintained and private, voluntary and independent (PVI) sector, it is necessary to ensure that there is PVI representation on Schools Forums. The EYSFF was to have been fully implemented from April 2010, but this has now been delayed until April 2011 following a ministerial announcement in December. Some local authorities will still implement in 2010/11 as pathfinders. Representation will also be required for the local 14-19 partnership – this is necessary because of policy developments in this area, in particular the introduction of diplomas.
- 7.3 A new provision has been introduced to require local authorities to appoint a schools or Academies member if an election results in a tie between two or more candidates. No procedure was previously specified for what should happen in these circumstances; in many authorities there are two or four Academies. Under previous regulations, they took turns for observer status but with elections for membership there is a need for a procedure to resolve ties.
- 7.4 The requirement to reconstitute Schools Forums in accordance with the Regulations must be complied with by 1st September 2010. This gives local authorities reasonable time to organise elections, where necessary.
- 7.5 A number of other minor changes have been made but these do not impact on the substance of the Regulations. Reference to the Learning and Skills Council (LSC) has also been removed because it ceases to exist from 1st April 2010 and those of its functions most relevant to Schools Forums transfer to local authorities from that date.

- ***Consolidation***

7.6 The instrument revokes and replaces the 2002 Regulations and three sets of amending Regulations.

8. Consultation outcome

8.1 A full consultation took place with stakeholders from June to August 2009. There were 95 responses – 73 from local authorities, 6 from Schools Forums, 3 from individual schools and 13 from other organisations.

8.2 Most responses agreed that the proposed Regulations achieved their purpose and were clearer. The most contentious issues related to whether Academy representation could be disproportionate in authorities which have only a small number of Academies and over the transparency of Academies funding. The department's response on proportionality is that the proposal is consistent with the requirement to have separate representation for special and nursery schools, where these exist. The response on transparency of funding is that Academy revenue budgets are calculated from the local authority's school funding formula and that funding agreements with individual schools are available on the department's website.

9. Guidance

9.1 A guidance note is to be sent to Chairs and Clerks of Schools Forums, and to local authorities outlining the new requirements.

10. Impact

10.1 There is an impact on charitable bodies because Academy trusts are charities. There is no other direct impact on business, charities or voluntary bodies other than ensuring that there is early years private, voluntary or independent representation on Schools Forums through the requirement to have non-schools members.

10.2 The impact on the public sector is that Schools Forums should be more representative of the schools and other bodies affected by decisions on Schools Budget funding.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 The implementation of this instrument will be monitored by the School Funding Team through its usual contact with local authorities and Schools Forums, and by the Academies Team through its usual contact with Academies.

13. Contact

Keith Howkins at the Department for Children, Schools and Families Tel: 020 7227 5163 or email: keith.howkins@desf.gsi.gov.uk can answer any queries regarding the instrument.