

Appendix 2

Responses to the consultation on the review of the constitution of Herefordshire Schools Forum and replies to comments made

Response A – academy representative

Comment
It all seems clear and fair and I have no other comments to make.
Reply
Noted

Response B – TU representatives

Comment
<p>In Appendix A in the table of membership it states that Trade Union representatives are appointed by the LA.</p> <p>Technically they are nominated by the staff side of the Schools Consultative Committee.</p> <p>This is in line with with Section 9 of Constitution Review 2017 which states:-</p> <p>“Criteria published by the Education Funding Agency notes that the relevant group or sub group is probably best placed to determine how members should be elected....”</p>
Reply
Noted. Appendix A has been updated to correct this.
Comment
<p>Secondly it is disappointing that Non School Members of the Forum have no right of representation on the Budget Working Group, I acknowledge that they could be co-opted although I am not aware that any have been.</p> <p>This could be remedied by increasing the membership of the BWG by 1, for non school members. As well as changing Appendix B Membership (of the Budget Working Group) from “as appointed by HASH, Primary Head Teachers and Early Years Forum” to, “as appointed by Schools Forum”.</p>
Reply
The composition of the budget working group is a matter for the schools forum to determine. It is not required to be proportionate or to include representation from all groups on the forum. The budget working group membership is intended to be a cross section of knowledgeable and informed heads and early years reps so that the working group can challenge, debate and test budget proposals before recommending a decision

to Forum where all members will have the opportunity to discuss. The budget working group has no decision making powers, any recommendations it makes are reported to the schools forum. The local authority is not minded to recommend any change to the membership of the working group at this time.

Response C – academy representative

Comment

I've had a very quick look and it appears that nothing major has changed. In which case, I will support it.

Reply

Noted.

Response D – HGA (full copy of response is overleaf)

Comment

Appendix A – suggested clarity that special school governor representative be marked as LA maintained, with HGA as electing / appointing body.

Reply

As Herefordshire LA has both LA maintained and academy special schools, regulations require at least one seat for a representative of LA maintained special schools and at least one seat for a representative of academy special schools.

The LA has the authority to determine if the representative of LA maintained special schools is a headteacher, a governor or to leave it open to either. Currently the constitution stipulates one seat for a LA maintained special schools' headteacher representative so this meets the requirements of the regulations.

The current constitution then goes on to say there will be one seat for a special schools' governor representative. It does not specify if this is to be a governor of a LA maintained special school or from an academy special school. It is for the academy special school proprietors to determine if their representative should be a headteacher, governor or other member of staff.

Currently this seat is occupied by an academy special school governor. Consequently the composition of the forum meets regulations. However for the sake of clarity in future elections it is recommended that the membership be updated to show one seat for an academy special school representative, to be elected by the proprietors of the academy special schools. The LA could determine that an additional seat be added for a LA

maintained special school governor but this is not required by regulations and is not recommended.

Comment

Appendix A – suggested that additional text be added to academies entry to identify that at least one member must be representative of mainstream academies and in addition there must be one member for special academies and one for alternative provision academies

Reply

As explained in the response above, the seat for an academy special school representative will be listed separately. Herefordshire does not have an alternative provision academies so it not required to allocate a seat for this sub-group. Therefore it is recommended that the entry in the membership table and appendix A be amended to read “7 Mainstream academies’ representatives”

Comment

Suggested amendment for clarity to section 6 (Election and nomination arrangements):

The clerk to the forum will notify the agreed electing or appointing body of a vacancy and the date by which a new member must be notified to the clerk. The deadline will be not less than six weeks (being designated term time weeks and excluding any school holiday dates) from the date of notification.

Reply

The definition has been revised to clarify that the minimum period which will be applied is six weeks, excluding any school holiday dates.

Comment

Suggested amendment to section 6 (Election and nomination arrangements):

If the electing or appointing body is unable to name a new member by the date specified, the Local Authority will may appoint a member to that vacancy or may extend the deadline for the electing /appointing body, subject to a request to do so being made by either the schools forum, or by the electing /appointing body with the subsequent agreement of the schools forum.

Reasoning - Allows for flexibility in extenuating circumstances. There may be a genuine reason why a body may need an extension of time and there should be scope in the Constitution for this to be permissible, particularly as the term of office for a representative is 3 years. To restrict the electing/appointing body strictly to a 6 week maximum is unreasonable.

Reply

It is noted that there may be exceptional circumstances where it is not possible to name a new member by the deadline set. However regulations and guidance state that where, for any reason, an election does not take place by the date set the LA must appoint a member to that vacancy. It should be noted that the LA does not have to set a deadline for elections, but it is considered sensible to do so to ensure that groups do not remain unrepresented or under represented for long periods. The forum is asked to consider whether the six week term time minimum period is a reasonable timescale for an election to take place.

Comment

Suggested amendment to section 8 (Tenure of Office)

Each member will have a three-year term of office. ~~(unless they become chair or vice-chair).~~

Reasoning - This clause should be struck out. There is no qualification provided: does becoming Ch/VC mean the term of office is somehow over-ridden? And if so by how much?

A Ch/VC can ONLY be in post within the confines of their own membership term of office, and as such this clause is misleading and appears contrary to the guidance.

Reply

As the term of office for members is three years but the term of office for the chairmanship or vice-chairmanship is two years, where a member becomes the chair or vice chair of the forum their term of office as a member of the forum is extended as necessary to allow them to serve the full two year term in that position.

Guidance allows for the LA to stipulate the term of office for each member, following published rules. The terms should be applied in a consistent manner but need not be identical. Having a continuity of experience rather than a complete change in membership at a single point helps the forum at times of transition.

The wording of section 8 has been amended to clarify the arrangements.

Alternatively the LA could determine that the term of office for members be reduced to two years, or the term of office as chair or vice-chair be extended to three years, from the next general election of members in 2018 to achieve consistency.

Comment

Suggested amendment to section 8 (Tenure of Office)

In the event that a member of the forum leaves office before the end of their term of office, an alternative appointment must be made. The replacement appointee will serve the remainder of the original term.

Reasoning – for clarity

Reply

Agreed, paragraph has been updated.

Comment

Suggested amendment to section 14 (Administration of the Forum)

Papers for meetings of schools forum must be circulated ten ~~five~~ clear working days before the Schools Forum date of the meeting. Reports must be They are required to be signed off by relevant officers prior to circulation.

Reasoning - There would appear to be no good reason in the interests of the HSF why the circulation time for papers prior to the meeting should be reduced.

As ten days is allocated for the distribution of draft minutes AFTER the meeting (later in the same paragraph), it would be reasonable and consistent to use the same definitive for distribution of papers PRIOR to the meeting.

It is an important principle that adequate time be fairly allowed prior to the meeting for members and the wider school family to:

1) pre-read papers,

2) obtain clarification if necessary of any item within the papers, in order to fully understand issues prior to the meeting.

Reducing the time allowed for papers to be pre-read & checked/clarified could, in some instances, be detrimental to due process within the HSF.

Reply

Regulations require only that the authority promptly publish all papers considered by the forum and the minutes of the meetings on their website. No specific timescales are specified. Guidance published by the DfE expands on the regulations by saying that it is good practice that papers are published at least a week in advance. The guidance further notes that some schools forums operate along the lines of the local authority committee and states that “this is perfectly legitimate and will provide a consistent framework for the running of meetings that are open to the public...”.

The proposed amendment to publishing agenda papers five clear working days before the meeting and draft minutes within ten clear working days seeks to bring the Herefordshire schools forum in line with the practices adopted by Herefordshire Council for other public meetings.

It should be noted that the publication deadline is a minimum and that where possible papers will be made available earlier.

Comment

Suggested amendment to section 15 (Decision Making):

In the event of an urgent decision being required an email will be sent to all schools forum members fully explaining the issue on which a decision is required. Forum members will be required to submit their response via email to the date required. No decision will formally be made until a quorate number of responses has been received. This process will be administered by Democratic Services, ensuring all emailed responses are minted, along with the subsequent decision (or notice of why a decision was not made). Such minutes will be documented and made available to members of the schools forum, and subject to public scrutiny as if they were minutes of a schools forum meeting.

In addition, schools forum should receive feedback on the decisions made by Herefordshire Council that.....

Reasoning - It is unclear where in the current regulations there is provision for remote decision making? This item may be a hang-on from an earlier version and if not referenced in current regulations should be struck out in entirety.

If however such a remote decision making process is to be included within the HSF Constitution it must be an evidenced, fair and transparent due process.

It is essential that members of the forum, and of the public, are able to see evidence, email trails and rationale of emergency decisions that have been taken/influenced following email consultation.

The phrase that email consultation responses are minuted "as if they were minutes of a schools forum meeting" ensures the records are filed/circulated in line with regulations & due process, taking into account any sensitive/restricted items and Data Protection guidance.

Reply

It should be noted that no change was proposed to this section of the constitution, the text is as agreed in the 2012 constitution review.

Regulations are silent on the option of making decisions in this manner. However DfE guidance notes that:

"Where the regulations make no provision on a procedural matter, local discretion should be exercised. It is for the local authority to decide how far it wishes to establish rules for the schools forum to follow, in the form of standing orders."

The guidance goes on to say that it is good practice for the local authority to agree with its schools forum an urgency procedure to be followed when there is a genuine business need for a decision or formal view to be expressed before the next scheduled meeting.

In such circumstances the local authority could seek to call an additional unscheduled meeting. However if the decision is urgent and the meeting called with minimal notice, there would be a high likelihood of the meeting being inquorate.

The section has been amended to include the requirement to explain the reasons for the urgency in communication with members and sets out a requirement for decisions taken

through this urgency procedure to be reported and explained to the next scheduled meeting of the forum in order that a public record is made of the decision, the reasons for urgency and the feedback received from the forum members.

Verbal Comment

The procedure to follow when a meeting of the forum was deemed to be inquorate was questioned (section 9 Quorum).

Reply

The proposed alterations to the constitution sought to clarify that in the event that a meeting was inquorate, although no legally binding decisions could be taken, the members present could still provide feedback on issues and the LA could choose to take account of these views. This is in line with guidance issued by the DfE. The procedure is only expected to be used on rare occasions. The wording of the new paragraph has been amended to clarify that arrangements for meetings will seek to minimise the likelihood of problems with the quorum.

The alternative would be for inquorate meetings to be abandoned, with remaining items of business deferred to the next scheduled meeting or dealt with under urgency procedures.