

Sandwell Metropolitan Borough Council

Constitution and Functions of the Sandwell Schools Forum

1. Title

The Forum shall be known as the Sandwell Schools Forum. (referred to as “the Forum”).

2. Object and Functions

The Forum has both a consultative and decision-making role.

The Forum Structure as defined by the Department for Education (DfE) includes School Members, Academies Members and Non-School Members and is further defined in Appendix A.

The full powers and responsibilities of the Forum which details the role and responsibilities of the Local Authority, Schools Forum and the DfE is defined in Appendix B.

The Forum is constituted in accordance with the Schools Forum (England) Regulations 2012 (amended).

The Local Authority shall, in particular, consult the Forum on the following areas:

I. Contracts:

The terms of any proposed contract for supplies or services to be funded from the Schools Budget which exceeds the thresholds defined in the Public Contracts Regulations 2006 (b); at least one month prior to the issue of invitations to tender.

II. Financial issues including:

- i. amendments to the school funding formula, for which the voting is restricted by the exclusion of non-schools members except for PVI representatives;

Commented [CR1]: Appendix documents to be attached

ii. 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;

iii. 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;

iv. arrangements for early years provision;

v. administrative arrangements for the allocation of central government grants paid to schools via the local authority.

Commented [CR2]: There was a slight change in the text, the financial issues have therefore been updated.

The Forum shall inform the governing bodies of the authority of any consultation carried out by the authority under these regulations, as soon as it reasonably can.

The overarching areas on which the Forum makes decisions on local authority proposals are:

Commented [CR3]: As set out in the Schools Forum Operational and good practice guide (2021)

- de-delegation from mainstream maintained schools budgets (separate approval will be required by the primary and secondary phase members of the 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 the 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;

Commented [CR4]: The SF Working Group is looking into this and its implications.

- authorising a reduction in the schools budget in order to fund a deficit arising in central expenditure, or from de-delegated services, which is to be carried forward from a previous funding period in the 2018 to 2019 funding year the schools block is ring-fenced. Local authorities require the Forum approval in order to move up to 0.5% from the schools block to other blocks;

Commented [CR5]: This may need to be amended – seeking clarification.

In each of these cases, the local authority can appeal to the Secretary of State if the Forum rejects its proposal.

Local authorities will need to consult with the Forum on any proposals that they intend to put to the Secretary of State to:

- vary the MFG
- use exceptional factors
- vary pupil numbers (Secretary of State approval is no longer required for increases relating to changes in admission limits or reorganisations)
- 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% from the schools block, where the Forum do not agree, or move more than 0.5% from the schools block

3. **Membership**

Schools members and academies members must comprise at least two thirds of the Forum membership. Primary schools, secondary schools and academies must be broadly proportionately represented on Forum, based on the total number of pupils registered at their respective schools.

The Forum shall consist of 24? members appointed to four-year terms by the following bodies:

Table to be included after approval

Commented [CR6]: The section breakdown here reflects the three groups – School Members, Academies and Non-School Members.

3.1 School Members

The Local Authority maintains the following types of school, and therefore they must be represented on the Forum:

- Primary Schools
- Secondary Schools
- Special Schools
- PRUs

Across the 'sub-group there must be at least one headteacher (or their representative) and one governor representative.

Headteacher representatives of maintained schools will be elected by the Primary and Secondary Partnership groups.

Governor representatives will be elected by the governing bodies of maintained primary, secondary and special schools.

A clear election scheme will be established that sets out how Schools Members should be elected. Each 'sub-group' within the School Membership will be responsible for their election process. The Clerk to the Forum will support in the election process as required.

Commented [CR7]: The updated information reflects the guidance set out in the Schools Forum - Operational and good practice guide. The update relates to the election of School Members.

Any eligible member of a 'sub-group' should be given the opportunity to be involved in determining the election process and being given the opportunity to stand and be involved in the election process.

The Local Authority may set a date by which the election of a maintained School Member should take place. The Local Authority is authorised to appoint the Schools Member if the election has not taken place by that date. The person appointed would be a member of the relevant group.

In the event of a tie between two or more candidates, the Local Authority must appoint the Schools Member. The Local Authority retains the authority to appoint someone else rather than one of the candidates and might wish to take into account the experience or expertise of the individuals, and the balance between the different types of school represented on the Forum.

3.2 Academy Members

Commented [CR8]: Since the Constitution was last updated Academy Members have become a more significant part of the Forum and this inclusion reflects this.

At least one Academies Member must be a representative of mainstream academies, which includes free schools, UTCs and Studio Schools. In addition, there must be one member from the Special academies and Alternative provision academies.

The relevant proprietors of academies will elect for their group. The same factors in relation to an election scheme should be taken into account with respect of Academy Members as for the election of Schools Members.

Academies members are there to represent the proprietor bodies of academies and are, therefore, not necessarily restricted to principals, senior staff or governors.

There is no requirement for academies members to represent specific primary and secondary phases, though proportionality across primary and secondary is encouraged.

Where there is only one academy in a 'sub-group' in the Local Authority's area, then their proprietor body must select the person who will represent them.

As with Schools Members, the Local Authority may set a date by which the election should take place and must appoint an Academies Member if the election does not take place by that date, or if an election results in a tie between two or more candidates.

3.3 Non-School Members

Non-schools members may number no more than a third of the Forum's total membership.

Non-school members (excluding 16 to 19 Provider) are to be appointed by the Local Authority after seeking nominations from the respective bodies.

The Local Authority must appoint at least one person to represent Early Years providers from the private, voluntary and independent (PVI) sector.

The 16 to 19 Provider is to be elected by all eligible 16 to 19 providers.

The Clerk to the Forum will maintain a record of the process by which the relevant schools within each group and 'sub-group' elect their nominees to the Forum. The Clerk to the Forum will be in a position to advise the Chair and Local Authority of any action that needs to be taken, where necessary, to seek new nominees.

The Local Authority may appoint to the Forum a non-executive elected member. The selection of any member would be approved at Full Council as an Outside Bodies appointment.

3.4 Terms of Office

A forum member shall remain in office until:

- (a) The member's term of office expires; the term of office being 4 years.
- (b) The member ceases to hold the office by virtue of which the member became eligible for election or appointment to the forum;
- (c) The member resigns from the forum by giving notice in writing to the authority;
- (d) In the case of a non-schools member, the member is replaced by the authority, at the request of the body which the member represents, by another person nominated by that body;
- (e) The member has failed to attend 3 consecutive meetings and the Forum votes whether their membership should be revoked.

3.5 Substitute Members

- (a) Each representative group may nominate a named substitute for each of their members. Substitute members must be named on appointment of the substantive member or, where the position of a named substitute becomes vacant in year, as soon as a replacement substitute is identified. The Secretary to the Forum must be notified in writing of the name of a substitute and written confirmation of acceptance issued by the Secretary before a substitute can act.
- (b) Where a duly appointed member attends for the whole of, or any part of a meeting, a substitute member may not attend any part of that meeting.

- (c) Substitute members will receive a copy of any distributed papers for meetings of the Forum to assist them in keeping abreast of its deliberations.

3.6 Cessation of Membership

- (a) If a member of the Forum ceases to be a member of the body who appointed him/her to the Forum, he/she shall immediately cease to be a member of the Forum. Any resulting casual vacancy shall be filled as soon as possible by the appointing body and notification sent to the Secretary to the Forum;
- (b) A non-schools member of the Forum will cease to be a member on the direction of the Secretary of State that the appointing body may not be a member of the Forum. Any resulting vacancy shall be filled as soon as possible by the identification of a replacement member body or the re-allocation of the place amongst the remaining member bodies as determined by the Local Authority.
- (c) If a maintained school converts to an academy, the maintained school representative must stand down;
- (d) a Schools Member representing community primary school governors who is no longer a governor of a community primary school in the relevant local authority must cease to hold office on the Forum even if they remain a governor of a school represented by another group or sub-group.

4. Chair of the Forum

- 3.7 The Chair and Vice-Chair of the Forum shall be elected by the Forum at its first meeting of the new academic year or in the event of a vacancy arising in the position of Chair or Vice-Chair, at the first subsequent meeting.
- 3.8 The Chair and Vice-Chair shall not both be representatives of the same appointing body and shall not be related or in a personal relationship.
- 3.9 In the absence of both the Chair and Vice-Chair at any meeting or in the event of their inability to act, a Chair for the meeting shall be elected from amongst those duly appointed persons present (substitute members may not take the Chair)
- 3.10 Once elected the Chair and Vice-Chair will hold terms of two-years, Forum may re-elect the Chair and Vice-Chair at the end of each term.

- 3.11 It's not legal for the Chair to take a decision on behalf of the Forum, no matter how urgent the matter in question; but Forum may put in place a procedure for the Chair to give the Local Authority a view on an urgent issue.
- 3.12 The Forum must elect a Chair from amongst its own members, (there cannot be an independent Chair). In addition, any elected member of the local authority or officer of the local authority who is a member of a schools forum may not hold the office of Chair.

5. **Officer Support**

The following persons may speak at meetings of the forum, even though they are not members of the forum-

- (a) the director of children's services at the authority or their representative;
- (b) the chief finance officer at the authority or their representative;
- (c) any elected member of the authority who has primary responsibility for children's services or education in the authority;
- (d) any elected member of the authority who has primary responsibility for the finances and resources of the authority;
- (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; and any person presenting a paper or other item to the forum that is on the meeting's agenda, but that person's right to speak shall be limited to matters related to the item that the person is presenting.

It will be the responsibility of the Clerk for Forum to call meetings of the Forum, to keep a non verbatim record of the matters discussed by the Forum at any meeting and to maintain a record of the decisions of the Forum.

6. **Meetings**

- 6.1 The Forum shall meet at least four times per year in accordance with a programme of meetings agreed at the first meeting of the Forum convened in the new academic year.
- 6.2 All meetings of the Forum must be public meetings.

6.3 Under the School and Early Years Finance (England) Regulations 2021 permanent provisions enables the Forums meetings to be held remotely.

Forum meetings can therefore be held via but not limited to:

- telephone conferencing;
- video conferencing;
- live webcast;
- and live interactive streaming.

6.4 Provision must be provided to ensure all interested parties including Forum members, Local Authority Officers and the public can access and attend virtual meetings.

6.5 Non school members, other than those who represent early years providers, must not vote on matters relating to the 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 47 and 47ZA of the Act. All members are entitled to vote on all other matters.

6.6 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;
- (c) any defect in the election of the Chair

6.7 Additional meetings may be called;

(a) at the discretion of the Chair/Vice Chair at times to be determined by the Clerk to the Forum in consultation with the Director of Children's Services.

(b) by six members of the Forum who shall submit a written request to the Clerk to the Forum stating the reason for calling the meeting. On receipt of such a request, the Clerk to the Forum will call a meeting as soon as is practicable but within ten working days of the date of the receipt of the request unless a later date is agreed with the persons having submitted the request.

7. Papers and Advice

(a) The Chair/Vice Chair, in consultation with the Clerk to the Forum, will determine the content of any agenda. Any individual member may request the Clerk for the Forum to include an item on the agenda for consideration at a particular meeting. The Clerk to the

Forum reserves the right to use discretion to include/not include such an item except where the request for inclusion of an item is given in writing from at least two representative groups, and is supported by six members of the Forum;

- (b) The Clerk to the Forum shall be responsible for the distribution of the agenda and any supporting papers for each meeting of the Forum;
- (c) Papers shall normally be circulated to all members with the notice of the meeting, six working days before the meeting;
- (d) Agendas, minutes and all papers will be recorded promptly on the Councils Corporate Committee Management System, and all documents and papers will be held on the Schools Virtual Office Website;
- (e) Any questions regarding the entitlement of any person to receive such papers shall be determined by the Chair/Vice Chair;
- (f) The notes of the meetings of the Forum, prepared by the Clerk to the Forum, will be submitted to the next succeeding meeting of the Forum for confirmation as a correct record and to discuss any matters arising.

8. **Rules for Conduct of Meetings**

- I. Meetings of the Forum **including virtual online meetings** are open to the public. Persons other than those identified in this Constitution may only speak with the consent of the Forum. Such persons may be permitted to speak at the discretion of the Chair.
- II. The meeting shall commence at the time and place stated in the notice of the meeting, subject to a quorum being present.

III. **Quorum**

- (a) A meeting will only be quorate if 40% of the total active membership is present (Voting Members Only **and excludes observers and vacancies**). Where a substitute member is in attendance on behalf of a duly appointed member, he/she shall be included in the number of persons present for the purposes of determining if a quorum has been achieved.

- (b) If the meeting is inquorate it will be able to proceed but cannot legally take decisions (Eg: Election of a Chairperson, or a decision relating to funding conferred by the funding regulations). An inquorate meeting can respond to authority consultation, and give views to the authority. The authority can take account of such views
- IV. The meeting shall consider items of business in the order in which they appear on the Agenda unless agreed otherwise by the Chair/Vice Chair.
- V. No business shall be considered by the Forum which does not appear on the Agenda, otherwise than with the consent of the majority of members present at the meeting.
- VI. Where an item has been raised by a representative body of which no representative is present at the meeting, that item shall be deferred and placed on the agenda for the next meeting of the Panel, unless the matter is of such urgency that it cannot be reasonably delayed.

VII. **Speeches**

- (a) While a member is speaking, the other members shall not speak. Only the Chair/Vice Chair may intervene in order to seek clarification on a point raised, seek guidance from an officer/advisor present on a point raised or to prevent a speaker speaking further where the Chair/Vice Chair considers the matter has been sufficiently debated or he considers the speaker is abusing the privilege of holding the floor.
- (b) The right of members to speak is at the discretion of the Chair/Vice Chair, however, the Chair/Vice Chair must act reasonably in preventing a member from speaking.
- (c) The following must be given the opportunity to speak on a matter before it is put to a vote:
 - (i) the director of children's services at the authority or their representative;
 - (ii) the chief finance officer at the authority or their representative;
 - (iii) any elected member of the authority who has primary responsibility for children's services or education in the authority;

- (iv) any elected member of the authority who has primary responsibility for the resources of the authority;
- (v) any person who is invited by the forum to attend in order to provide financial or technical advice to the forum;
- (vi) an observer appointed by the Secretary of State; and
- (vii) any person presenting a paper or other item to the forum that is on the meeting's agenda, but that person's right to speak shall be limited to matters related to the item that the person is presenting.

VIII. Consent of the Forum

Where a decision needs to be made and there is general consensus, a formal vote will not be necessary. If the Chair determines a vote is necessary, voting will take place by a show of hands by members and decided by simple majority. Where there is an equality of votes, the Chair has a second and casting vote. If the voting is deemed to be a contentious issue by the members of the Forum, then a named vote can be sought and maintained by the clerk.

IX. Prevention of Disorderly Conduct

If the Chair/Vice Chair is of the opinion that any member has misconducted him/herself by persistently disregarding the ruling of the Chair or behaving inappropriately, he/she may ask that the Forum:

- (a) agree, without debate, that the member may not speak further during the course of the meeting;
- (b) in the event of the disruption continuing, agree, without debate, that the member leaves the meeting.
- (c) where a member believes the Chair is acting unreasonably in preventing debate or is otherwise considered to be abusing the privilege of holding the Chair, the member, on a point of order, may move:
 - (i) that the person(s) be permitted to speak; or
 - (ii) a vote of no confidence in the Chair.

If such a motion is seconded the Vice Chair (or his/her representative) shall assume control of the meeting and shall put the motion to the vote without debate. (The Chair is unable to vote). There must be a majority in favour of the motion for it to succeed. Following the conclusion of the vote the Chair shall resume control of the meeting or the procedure under Paragraph 4 above shall be instigated.

X. Members Interests

- a) If a member has any interest to declare in any matter to be discussed at a meeting, he/she must declare the interest orally at the commencement of the meeting or where during the debate on an item it becomes apparent he/she has an interest, as soon the member becomes aware that he/she has an interest.
- b) Subject to (c) below, where a member declares an interest he/she shall take no further part in the debate nor attempt to influence the debate on that item and shall not vote on any proposal in relation to that item or attempt to influence the vote on that item.

At the discretion of the Chair, or of their own volition, a member having an interest may be asked to leave the meeting during the debate on the item in which they have declared an interest.

- c) A member will be considered to have an interest where:
 - the issue affects them, the appointing representative body, a partner, relative or friend, more than it would affect any one else *;
 - another person who knows the relevant facts, would view the personal interest in the issue to be so great as to prejudice the members judgement.

(* A member will be judged to have an interest where a matter directly affects a clearly identified individual school with whom the member is associated but will not be considered to have an interest where the school is one of a type or group of schools similarly affected)

9. **Working Groups**

- I. The Forum may make provision for the establishment of working group(s) in order to facilitate detailed consultative discussions on any of the matters within **Section 2 of the Forum Constitution and detailed in Appendix 2**. The Forum will be responsible for determining the terms of reference, duration and membership of any working group.
- II. Working groups may only comprise members of the Forum (or their substitutes where one has been appointed under paragraph 3 above) but may be supported in an advisory capacity only by officers of the Council or the appointing bodies. Any dispute in relation to the appropriateness of the persons advising a working group will be determined by the Chair/Vice Chair of the working group.
- III. Formal decisions cannot be made by the working group. All recommendations will be referred to the Forum for consideration and final decision.
- IV. The working groups can also include wider representation and draw on professional experience as required.
- V. **The Working Group protocol sets out the recommended guidelines for the organisation of any Working Group (Appendix 3)**.

Commented [CR9]: A Protocol to be completed and shared before any confirmation.

10. **Communications**

All communications relating to the work of the Forum shall be addressed care of the Clerk to the Sandwell Schools Forum.

Any enquiry should be directed to Sandwell Council Democratic Services.

11. **Members Expenses**

Members may claim expenses for attendance at meetings of the Forum in accordance with a scheme of allowances from time to time approved by the Local Authority.

12. **Charging of Schools Forum's Expenses**

The local authority must pay the expenses of the Forum and charge those expenses to the schools budget.

13. **Amendments to the Constitution and Functions**

This constitution may not be amended unless notice of the proposed amendment is circulated to each member of the Forum at least **six** working days prior to the day of the meeting at which the proposed amendment is to be considered. No amendment to the constitution shall be deemed to be approved unless and until it has been approved by the Forum.

End