

EXPLANATORY MEMORANDUM TO
THE SCHOOLS FORUMS (ENGLAND) REGULATIONS 2012
2012 No. 2261

1. This explanatory memorandum has been prepared by the Department for Education and is laid before Parliament by Command of Her Majesty.
2. **Purpose of the instrument**
 - 2.1 The Schools Forums (England) Regulations 2012 (the 2012 Regulations) set out how the membership of schools forums should be constituted, requirements relating to meetings of forums and their proceedings and financial issues on which forums must be consulted.
 - 2.2 The 2012 Regulations revoke the Schools Forums (England) Regulations 2010.
 - 2.3 To a degree, the 2012 Regulations re-enact provisions in the Schools Forums (England) Regulations 2010 (the 2010 Regulations) but there are some substantive changes relating to the proceedings of the forum.
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 the provisions of sections 47A and 138(7) of the School Standards and Framework Act 1998 (SSFA 1998) (financing of maintained schools). The instrument is being made to reflect the latest policy developments in school funding.
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**
 - 7.1 Following two previous consultations, Ministers announced on 26 March 2012 that there would be reforms to the school funding system from the

2013-14 financial year and that these would include changes to the schools forums regulations.

7.2 Responses to the previous consultations had shown concerns that some forums were not operating sufficiently transparently and were too large to enable effective discussion. Ministers decided that regulations should be changed to improve confidence in the workings of forums.

7.3 One of the key changes announced was that forum meetings should be held in public, like Council committees, and that papers and minutes should be published promptly on local authority websites.

7.4 In response to concerns that some forum meetings were too dominated by local authority representatives, the decision was made that local authority participation in forum meetings should be restricted to the director of children's services, chief finance officer or their representatives, and to the elected members with responsibility for children's services, education or resources. It was also decided that non-schools members of the forum, with the exception of those representing early years private, voluntary and independent providers, would not be able to take part in votes on the funding formulae.

7.5 It was also announced that the requirement to have a minimum 15 members on the forum would be removed.

7.6 The final decision was that the Secretary of State would be able to appoint an observer to attend schools forum meetings. The purpose of this is to support local decision-making through providing a national perspective, particularly where forum members consider this helpful or if there were concerns about the running of the forum.

7.7 Most of the proposals in the draft regulations reflected these decisions which had previously been announced. There were, however, two new proposals. The first suggested that Pupil Referral Units (PRUs) should have separate representation on forums, as they will have delegated budgets from April 2013.

7.8 The second new proposal was that local authorities should no longer have to consult forums on arrangements for free school meals and insurance, as these budgets will have to be delegated from April 2013.

7.9 Ministers have also announced that they will consider making further changes in the future to the operation of schools forums, which may include setting a maximum cap on the number of members, significant reduction or removal of non-schools members and requiring an independent secretariat to service schools forums.

8. Consultation outcome

8.1 Consultation on the Schools Forum Regulations 2011 lasted from 13 June to 11 July 2012. The consultation period was short because most of the changes to the regulations had already been announced following previous school funding consultations.

8.2 There were 49 responses - 32 from local authorities, 7 from trades unions, 8 from national bodies, 1 from a local partnership and 1 from the public.

8.3 Within the 49 responses, there were 104 comments. 36 of these related to the decisions already announced in March and a further 19 to unamended provisions carried over from the 2010 regulations. No action is proposed in relation to these as they relate to decisions already made or will be considered as part of a future review of forums.

8.4 There were four comments relating to the representation of Pupil Referral Units. One was supportive, one disagreed with the proposal while the others had concerns over timing or identifying a representative. As PRUs will be directly affected by the funding reforms, it is proposed to go ahead with this proposal.

8.5 There were 23 comments proposing greater clarity in the regulations. Most of these were operational issues and these will be considered in the updated guidance which will be published with the regulations.

8.6 There were 11 comments relating to the specific drafting of the regulations. Most were technical drafting amendments, but there was one substantive proposal. This suggested that maintained secondary schools should be entitled to representation if there is at least one in the local authority. The large number of Academy conversions in some areas means that maintained secondaries might not be entitled to a member under a proportionate calculation. This change would be consistent with the position of Academies, and maintained special and nursery schools.

8.7 There were seven comments relating to membership, particularly the balance between phases within Academies members. These will be considered at a future review.

8.8 Four comments related to the timescale for the consultation and implementation of the new regulations.

9. Guidance

9.1 An updated guidance note is to be sent to all local authorities outlining the changes, together with the Regulations, and these will be published on the Department for Education website www.education.gov.uk.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies.

10.2 The impact on the public sector is that local authorities must comply with these Regulations when operating their schools forums and that they will, in particular, need to ensure that meetings of schools forums are held in public and that papers and minutes are published on their website. The evidence, however, from discussions with local authorities is that most already do so.

10.3 An Impact Assessment has not been prepared for this instrument, but an Equality Impact Assessment was produced alongside the consultation documents published on 26 March 2012 and 28 June 2012. The Impact Assessment can be accessed here:
<http://media.education.gov.uk/assets/files/pdf/s/school%20funding%20equia.pdf>

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 The regulatory framework will be considered as part of the continuing review of school funding and potential movement towards a future national funding formula.

12.2 The changes will be monitored through the usual contact which the Funding Reform Team within the Department for Education has with schools and local authorities. It will log and review any correspondence from schools and local authorities relating to the instrument.

12.3 The Secretary of State has the power to appoint observers to schools forums and they will also be able to monitor the implementation of the instrument.

13. Contact

Keith Howkins at the Department for Education Tel: 020 7227 5163 or email: keith.howkins@education.gsi.gov.uk can answer any queries regarding the instrument.