



Llywodraeth Cymru  
Welsh Government

GUIDANCE

# Federation process of maintained schools: guidance for governing bodies and local authorities

Advice and information on setting up a single governing body across multiple schools.

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# Overview

This guidance provides advice and information to governing bodies of maintained schools and local authorities on the processes and practical aspects of establishing a federated school governing body. It is a refreshed version of the guidance last published in 2014.

The Welsh Government's policy objective is to promote collaboration between all parts of the education system to improve outcomes. School federation is a more formal way of extending collaboration and promoting closer working relationships. It is the principal initiative for achieving formal partnership working among schools to improve outcomes and narrow the attainment gap for deprived learners.

There are no policy changes contained within this new guidance. It is provided to clarify the federation process for both governing bodies and local authorities. Information on recent amendments to the Federation of Maintained Schools (Wales) Regulations 2014 (the 2014 Regulations) is also provided.

## Enquiries about this guidance or federation matters

Any questions or enquiries about this guidance or about any aspect of the federation process should be sent to email [SMED2@gov.wales](mailto:SMED2@gov.wales).

## What has changed since the last version of the guidance

The process for establishing, dissolving and changing a federation has been separated between those led by governing bodies ([section 4](#)) and those led by local authorities ([section 5](#)). This is intended to provide clarity for each group.

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In addition to separating the processes between governing body-led and local authority-led federations, new guidance has been provided in sections 4 and 5.

Information on recent amendments to the Federation of Maintained Schools (Wales) Regulations 2014 and how this affects federated governing bodies is provided in section 2.

The FAQs section of this guidance has been removed and published separately on the Welsh Government website. This is intended to keep this guidance document as concise as possible and enable easy access to FAQs when required.

Some annexes to this document have been rationalised and reformatted for ease of use.

## 1. Introduction

The federation of schools is a legal process enabling schools to work together through a formal structure by sharing a governing body that will make decisions in the best interests of all the schools, staff and learners in that federation.

Schools in a federation are able to work together sharing good practice, expertise and resources for the benefit of all schools in the federation with the overall aim of raising standards.

This guidance document provides step-by-step advice on the federation process as set out in the 2014 Regulations. It includes a set of annexes that provide more detail on:

- what federation means
- the formulation of a proposal for federation
- the requirements to seek the views of stakeholders

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- establishing a governing body for a federation of schools

## 2. The legislative framework

The legislative framework for federation of schools is provided by the Education Act 2002, the Education (Wales) Measure 2011 and the 2014 Regulations. These set out how a federated school governing body should be formed, how schools may join or leave a federation and how a federation may be dissolved.

Under the 2014 Regulations governing bodies continue to be able to federate their schools if they wish. In addition, the regulations provide local authorities with the power to federate schools.

The 2014 Regulations also contain an accelerated process for local authorities to federate small schools, defined in the Education (Small Schools) (Wales) Order 2014 as a school that has fewer than 91 learners (more information on federating small schools is included in section 7).

In response to the coronavirus pandemic, and in line with the Government of Maintained Schools (Wales) (Amendment) Regulations 2020, the 2014 Regulations were amended to provide clarity about how governing body business may be conducted virtually or electronically.

The Federation of Maintained Schools (Wales) (Amendment) Regulations 2021 provide a caveat for the constitution of federated governing bodies made up of only 2 schools. In respect of teacher and staff governors, the amendment makes it easier for all federated governing bodies to comply.

Staffing matters are covered by the Staffing of Maintained Schools (Wales) Regulations 2006 (the 2006 Staffing Regulations) and their subsequent amendment in 2014.

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### 3. What a federation is

The term federation describes a formal and legal agreement by which a number of schools (between 2 and 6) share governance arrangements and have a single governing body. Federations can involve a mix of maintained community and community special schools which are either nursery, primary or secondary schools, as well as a combination of Welsh medium, English medium and dual stream schools.

Schools with a faith and/or a trust, such as voluntary aided and voluntary controlled schools, can only federate with schools of the same category or with schools that have a similar charitable trust status and/or religious ethos. Foundation schools can only federate with other foundation schools.

There is no blueprint for federation and the design or operational workings of a federation will depend entirely on the circumstances of the individual schools and the focus or purpose of working together, but there are some distinct advantages to federation.

The most important reason for considering federation must be the benefits such an arrangement would bring for children and young people in the federating schools by enhancing educational provision.

### What makes a successful federation

To be successful, federation needs to be based on a commitment to work as a group of schools and a willingness to do things differently for the added benefit of all learners, their well-being and achievements. A shared vision that fosters trust and cooperation throughout the school community is essential. Experience from schools that have federated demonstrates that the development of all the schools and their communities within the federation and the sharing of best

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practice can help drive up standards and improve outcomes for learners.

Schools that federate remain in their communities and keep their individual identity. The individual schools' name, character, school uniform and ethos remain unchanged. Schools in a federation maintain their own delegated budget but are able to explore the advantages of sharing resources including facilities, IT, staff, and school buildings. However, the existing governing bodies will be dissolved and replaced by a new, single governing body which will have oversight of, and equal responsibility for, the work of all schools within the federation.

The membership of a governing body for a federation of schools is almost identical to the membership of an ordinary governing body with all stakeholders being represented although there is more flexibility in the proportions of representation of each category of governor. This means that a governing body of a federation can choose a constitution and membership that suits their particular circumstances as long as they have 15 to 27 governors and adhere to the requirements set out in the regulations.

Embedding the concept of federation and engaging staff at all levels is critical to the success of the federation. The role of the senior staff in the federating schools will be to explain the possible benefits to staff, which could include the opportunity to improve professional learning opportunities and development for teachers and to improve their subject expertise to broaden and enrich curriculum provision for all learners.

Schools will also need to demonstrate a willingness to see the potential and benefits of a formal partnership, recognising that the partnership will strengthen characteristics and qualities of individual schools within the federation.

The 2014 Regulations set out the formal process school governing bodies and local authorities must follow for seeking the views of stakeholders. Stakeholders are parents and carers, headteachers and staff, learners (including via the

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school council), the local authority, school and teaching unions, diocesan authorities and other appropriate persons, such as trustees.

Federations are considered medium to long term arrangements and will often need time to bed-in. Therefore, federated governing bodies and local authorities should think very carefully before proposing to remove a school or schools from a federation or to otherwise dissolve the federation.

## **4. Establishing a federation proposed by governing bodies**

Governing bodies who decide to federate must do so following a prescribed process set out in the 2014 Regulations after seeking the views of parents, carers, staff, learners, the local authority (or local authorities if schools from different local authorities are involved), all school staff unions, all foundation governors (if applicable), diocesan authorities or any other appropriate religious body (if applicable) and anyone else in the school community.

In order to make the federation process easier to manage the governing bodies should consider setting up a joint committee to oversee and manage the federation process.

In discussing and making decisions as to whether they pursue federation it is crucial that governing bodies:

- consider in depth the benefits and risks of establishing a federation in relation to the impact on children and young people's achievements and the quality of education in and across the schools involved in the discussions
- seek and consider information about each school involved in the discussions, particularly in relation to school performance, funding, facilities and buildings, so that decisions are taken openly and on the basis of sound

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evidence

- ensure that local authorities are kept informed of and involved in developments
- ensure the process of seeking views and decision-making process complies with the 2014 Regulations

Further detail of each step to be followed is provided below.

## Step-by-step guide to establishing federations

### Step 1: Exploration

- Invite expressions of interest from schools who may seek information and guidance from the local authority. Local authorities hold early discussions with the schools identified for federation.
- Reach general agreement to explore federation options. (Schools subject to Welsh Ministers' or local authority intervention should firstly seek agreement from the Welsh Ministers or local authority).
- Agree the drivers and purpose for federation.
- Ensure governing bodies or local authorities inform staff and school staff unions of the process and any implications.
- Set up a governor working group with representatives from all schools to lead the federation process as waiting for regular governing body meetings will make the process longer.
- Determine a date for the operative start of federation.
- Ensure local authorities and/or schools consider talking to or visiting other schools that have federated.

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## Step 2: Preparation

The governor working group should agree to prepare a proposal report to seek the views of stakeholders (for consistency, the same proposal should be used for each school, with sections covering school specific issues).

The governor working group should decide on governance structure, in consultation with the local authority – membership and constitution of the federated governing body (governing bodies should seek advice from the local authority).

- Agree a name for the federation – if the local authority and governor working group cannot reach agreement on the name of the federation, which must be included in the instrument of government, the local authority makes the final determination.
- The governor working group, in consultation with the local authority, should explore staffing structure and longer-term development of federation structure.
- Financial and HR issues should be explored and discussed between local authorities and governing bodies.
- The governor working group should consider a timetable for election and appointment of governors to the federated governing body to facilitate progress later.
- Set a date and neutral venue for the implementation meeting (see step 6).

## Step 3: The proposal

Governing bodies should seek help from the local authority on the process for the publication of proposals, including seeking the views of stakeholders which must take at least 6 weeks. Although not explicit in regulations, it is good practice to exclude holidays from this period.

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The draft report on the proposal must be an agenda item at a governing body meeting for which at least 5 clear days' notice has been given. If the next governing body meeting is some time away an extraordinary meeting could be arranged for discussion on this issue alone. Each governing body must decide if it wishes to proceed.

The stakeholders are:

- the local authorities
- parents and carers
- headteachers and staff of all schools
- learners and school councils
- school staff unions
- diocese or other relevant body if the school is of a religious character
- foundation governors or trustees where relevant
- any other persons who are considered appropriate, for example the local community including local schools not in the federation

The proposal report should:

- include full details of the proposal, including the name of the proposed federation, size, composition and name of the single governing body, staff arrangements and structure, and admissions authorities
- include the deadline for comments which is 6 weeks
- explain the reasons for federation and benefits (and how potential challenges would be met)
- include the date for when federation takes place, which must be at least 125 calendar days from the date proposals are published (sent to stakeholders)
- include any other matters that are considered appropriate to be sent to stakeholders

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## Step 4: Seeking views of stakeholders

Proposals to federate must be published by sending them to the following stakeholders:

- any relevant local authority
- the headteacher of every school included in the proposals
- the school council for each school
- all staff paid to work in the schools
- the parents or carers of registered learners
- all trade unions
- the diocese or appropriate religious body (if relevant)
- the foundation governors and any trustees for schools with a foundation
- any other relevant persons the governing body considers should see the proposals

Additionally, the proposals:

- must be made available for inspection in hard copy at the schools that are included in the federation proposals
- must also be sent to other relevant local authorities (if schools across local authority borders are being federated), all headteachers, diocesan authorities or other religious bodies (if relevant), and the foundation governors or trustees (if appropriate)

Consideration will need to be given as to how the learners and school councils receive information. Given the complexity of federation proposals this could be achieved by a member of the school's governing body (preferably the headteacher):

- explaining the proposals to the school council
- producing an information leaflet in an easy to read format

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- making all learners aware that a full copy of the proposal to federate will be made available to any learner on request

In addition:

- schools should provide parents and carers with an FAQ information leaflet covering the sorts of issues and concerns that parents and carers might raise
- where governors give parents, carers, staff, learners and school councils a summary version of the federation proposals they must also make them aware that a full copy of the proposal will be made available if requested (supplying a direct link to the local authority website or school website would also be useful)
- set a date (as soon as possible after the closing date) for a joint meeting of the governing bodies of all schools federating to consider the responses to the proposal

## **Step 5: Defining**

School leaders, the local authority and governing bodies should liaise and:

- start to scope and define leadership roles across the federation
- start to prepare job descriptions and contracts for any new posts and roles
- prepare a proposed staffing structure

## **Step 6: Actions after seeking the views of stakeholders**

- Hold a joint meeting of the full governing bodies to consider responses.
- The governor working group should produce a summary report of the responses for the full governing bodies to consider. If this is not feasible, the local authority may be asked to compile this report.

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In order to make this part of the process easier it is suggested that where governing bodies are establishing a federation, a working group including representatives from the governing bodies be set up. It will consider the responses to the proposal and prepare a summary for the respective local authorities and parent governing bodies. This can be the same group that has prepared the initial proposal to federate.

Working groups established to consider governing body-led federation proposals must report back to each of the school governing bodies through a joint meeting as required in the 2014 Regulations. If no responses are received in relation to the proposal, a joint meeting between the governing bodies must take place to determine whether or not the schools wish to continue with federation.

## **Step 7: Implementation**

- Individual governing bodies must meet jointly to make the final decision on whether they wish to proceed or not, or whether there are modifications to the proposal. The modifications must not include changing the schools that federate (removing a school and introducing a new one). A modification may be where the number of governors has changed or the date of federation has changed but not so that it would be at shorter than 125 days' notice.
- Local authorities must be notified of the decision.
- Governing bodies must complete the process unless a local authority proposes that another school or federation joins in the federation being considered. In such a case the local authority will take over the federation process.
- Although not stated in regulations, governors should also inform other stakeholders of the decision.
- Local authorities should discuss the implementation plan with the governors and headteachers of the relevant schools so that they are informed of the various stages of development.
- Once the decision has been made to federate, governors should liaise with

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the local authority and diocese (if appropriate) over the new instrument of government and election and appointment of new governors. A copy of the new instrument of government must be sent to Welsh Ministers (see section 10).

- The local authority should consider making arrangements for governor support for the federating schools in the interim before the joint governing body is in place.
- Formalise the senior leadership roles and responsibilities.
- Make an agreement with governor support in the local authority to provide continuity across the federated schools.

## **Step 8: Evolution**

- As a new, single joint governing body, meet to elect a chair and vice chair.
- Begin operating the new staff roles (performance management structure and process).
- Put in place a school improvement plan to target resources and expertise for raising standards across the federation.
- Align calendars and professional processes.
- Look at how new technologies can support federation development.

## **Step 9: Embedding**

- Use opportunities for resources and staffing flexibly to raise standards in schools across the federation.
- Give new members of staff appointed to schools in a federation contracts with mobility clauses to enable them to work between schools. For existing staff this portable arrangement would require negotiation with them and their union representatives and a mutual agreement to do this.
- Headteachers should build an overview of the federation's effectiveness through monitoring systems. An executive headteacher with responsibility for

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the federation may be responsible for this, if one is appointed. If no such appointment is made the headteachers of every school in the federation should work together to monitor the federation's effectiveness.

- Governors, with support from the local authority, should review the federation to have systems and structures in place to ensure a good knowledge of individual schools.
- Governors should agree committee structures and meetings calendar.

## **Step 10: Strategic development**

- Key regional consortia or local authority officers (preferably a named contact) should be able to offer well-informed support.
- Produce an overview of the federation arrangements and the impact on standards and school improvement capacity.
- Implement wider opportunities for the professional learning and development of all staff.
- Put in place model practices, processes, policies and documentation.

## **The role of local authorities in governing body-led federations**

Local authorities have a statutory responsibility for the planning of school provision. In undertaking this responsibility, it is important that local authorities have a full knowledge and awareness of any developments in relation to federation within their area.

Local authorities should provide advice and support to all governing bodies giving consideration to federation, including:

- identifying and maintaining local authority officer contact, preferably one named contact for consistency, with those governing bodies involved

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- assisting in the provision of information requested by governing bodies such as information about the schools, producing the proposal for governing bodies to consider
- ensuring that federated school governing bodies are included in governor support arrangements and governor training programmes

To ensure that the federation process operates smoothly and that the schools involved accept and support federation, where it is proposed by the local authority, the Welsh Government expects local authorities to fully engage with schools and their stakeholders as early as possible to discuss their proposals and address any concerns. They should explain why federation is being considered, and the benefits to be achieved by federation.

Local authorities must bear in mind that a decision to federate will not override the need for a local authority to intervene or act on school improvement or school organisation issues.

## **Schools leaving governing body-implemented federations**

Schools included within a governing body-implemented federation may only leave the federation if the federated governing body agrees to a written request, or if the federated governing body makes the proposal itself. A school that is subject to intervention by a local authority or Welsh Ministers cannot request to leave a federation unless those persons have firstly given their consent.

The school or schools wishing to leave the federation must ensure that the written request is signed by at least one of the following:

- 2 or more governors
- one-fifth of parents and carers of registered learners at the relevant school or schools
- two-fifths of staff who are paid to work at the relevant school or schools

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- the local authority
- the trustees of the relevant school or schools (if relevant)
- the body entitled to appoint foundation governors (if relevant)

Once the request is received the federated governing body must send notice of the request to the following persons within 5 clear working days from the date the request was received:

- all relevant local authorities
- the headteacher or the acting headteacher of the federation, or if there is no such appointment, the headteacher or acting headteacher of each school in the federation
- all staff members employed at the school or schools leaving the federation
- the parents and carers of all learners registered at the school or schools wishing to leave the federation
- all relevant trade unions
- the trustees of any school within the federation, not just the school or schools proposing to leave the federation (if relevant)
- the diocese or other appropriate religious body if the school or schools are faith schools (if relevant)
- the body entitled to appoint foundation governors (if relevant)
- any other person the governing body thinks is appropriate

The governing body will have received a copy of the notice if it is sent or given to the chair of governors or the clerk to the governing body.

The governing body will have at least 14 working days from receipt of the request to consider the proposal. Within this period, the governing body must also consider any representations made to it by any party which was formally notified of the proposals.

The decision to formally request that a school leave a federation must be discussed by the federated governing body as an agenda item, where written

notice has been given at least 5 working days in advance.

Once a decision has been taken, the federated governing body must formally notify in writing all those persons listed above, within 5 working days whether:

- the school or schools should leave the federation and if so on what date

or if there are only 2 schools in a federation

- the date the federation would be dissolved

or

- that the school or schools should not leave the federation

If it is agreed that a school or schools should leave a federation the de-federation date must be at least 125 calendar days from the date the decision is made.

Once it has been decided that a school is to leave a local authority-established federation the local authority must establish a temporary governing body for the de-federated schools in accordance with the New Maintained Schools (Wales) Regulations 2005 and the Government of Maintained Schools (Wales) Regulations 2005.

The local authority must also consider giving the de-federated schools a delegated budget in accordance with their scheme for financing schools and must transfer any land or property or rights and liabilities.

## **Dissolution of a governing body-led federation**

Where the governing body of a federation decides to dissolve the federation or decides that one of only 2 schools in a federation should leave, the governing

body must notify the following persons of this within 14 days of the decision:

- all relevant local authorities
- the headteacher or acting headteacher of the federation, or if no such person is appointed the headteacher or acting headteacher of the schools in the federation
- every member of staff paid to work in the schools in the federation
- the parents and carers of all registered learners in the schools in the federation
- the foundation governors (if applicable)
- any trustees of a school with a trust (if appropriate)
- the relevant diocese or other religious body (if appropriate)
- all relevant trade unions
- any other person that is deemed appropriate

The notice must contain the proposed date of the dissolution, which must be at least 125 calendar days after the date on which the notice is given so that the local authority will have sufficient time to establish temporary governing bodies.

When a local authority receives notice that a federation is to be dissolved they must set up a temporary governing body in accordance with the New Maintained Schools (Wales) Regulations 2005 and the Government of Maintained Schools (Wales) Regulations 2005, and issue a new instrument of government for each school. On the date of dissolution the temporary governing body of each school is incorporated as the governing body. Local authorities must also determine the amount of delegated budget each school should receive and settle issues surrounding any transfer of land, property, rights and liabilities.

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## 5. Establishing a federation proposed by a local authority

The process a local authority would use to federate schools is almost identical to the one governing bodies would follow. If a local authority is considering federating a voluntary-aided, voluntary-controlled or foundation school it should first of all contact the Charity Commission to discuss proposals. It must also obtain the consent of the relevant diocesan authority, trustees or persons who are responsible for appointing the foundation governors before continuing with the steps below.

In particular, local authorities should:

- consider federation as an option within their strategic plans for effective and efficient school provision in or across communities
- ensure that school organisation plans are sufficiently detailed and transparent to inform decisions about federation within and across school governing bodies
- consider the impact of their federation programme on voluntary-aided, voluntary-controlled and foundation schools where federation may not be easily achieved
- identify any small schools with fewer than 91 learners as the process of seeking the views of stakeholders to federate these small schools is shorter

The Education (Wales) Measure 2011 gave local authorities the power to make proposals for federation. The 2014 Regulations detail how local authorities can propose and implement the federation process for:

- 2 but no more than 6 community, community special or maintained nursery schools
- 2 but no more than 6 voluntary-aided schools
- 2 but no more than 6 voluntary-controlled schools

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- 2 but no more than 6 voluntary aided and voluntary controlled schools
- 2 but no more than 6 foundation schools
- enlarging an existing federation by adding one or more maintained schools provided the total number of schools is no more than 6
- merging 2 or more existing federations provided the total number of schools is no more than 6

In the case of local authority-led federations, the decision whether or not to federate is made by the local authority after giving careful consideration to the use of federation as a strategic tool to drive improved outcomes and deliver resource efficiencies in their areas. Throughout the federation process, from initial exploration stage to implementation and embedding, it is vital that local authorities engage with the federating governing bodies to provide them with an opportunity to make representations and foster a sense of ownership within the process and for the new federation.

As in governing body-led federations, the local authority is required to formally consult on proposals with parents, carers, staff, learners, all school staff unions, foundation governors, other local authorities (for cross-boundary federations) and diocesan authorities or persons who appoint foundation governors (where prior consent has been sought to federate).

Throughout the process for local authority-led federations, governors continue to play an important role in the establishment of proposals. Much like the process for governing body-led federation proposals it is vital that the local authority:

- considers the benefits and risks of establishing a federation and what the impact of federation might be for the quality of education and the achievements of children and young people in and across the federating schools
- ensure that staff, parents, carers and learners are kept informed and involved in developments during the federation process

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A step-by-step guide on the process local authorities should use to federate schools is set out below.

## Local authority-led federation process

### Step 1: Exploration

- Agree drivers and purpose for federation
- Hold early discussions with the schools identified for federation
- Support a governor working group with representatives from all schools
- Determine a start date for the federation
- Visit established federations to learn lessons

### Step 2: Preparation

- Prepare a proposal to seek views of stakeholders
- Decide on governance structure
- Agree a name for the federation
- Support governing bodies to consider staffing structures, financial and HR issues
- Support governing bodies in thinking about a timetable for election and appointment of governors

### Step 3: The proposal

- Prepare a proposal containing the consent of other local authorities (where applicable)
- Also include the consent of relevant diocesan authorities (where applicable)

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## **Step 4: Seeking views**

- Send proposals and invite feedback from stakeholders (allow a minimum of 6 weeks)
- Publish proposal of local authorities' websites
- Provide 'easy-read' copy of proposal to school councils and all pupils
- Provide an FAQ information leaflet for parents or carers

## **Step 5: Defining**

- Support governing bodies to scope and define leadership and staffing structure
- Support governing bodies to prepare job descriptions for new posts

## **Step 6: Action after seeking views**

- Consider views of stakeholders and refine the proposal where necessary

## **Step 7: Implementation**

- Inform governing bodies of decision
- Inform stakeholders of the decision and publish on the local authority's websites
- Liaise with other local authorities and diocese (where appropriate) over the new instrument of government and appointment and election of new governors
- Send new instrument of government to Welsh Government
- Support governing bodies to establish senior leadership structure and roles

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## Step 8: Evolution

- Support governing bodies to establish as a new single governing body with elected chair and vice chair
- Support new governing body to embed new staff structure and roles and ensure the school improvement plan targets resources and expertise at raising standards for all schools in the federation
- Support new governing body to exploit ICT to support collaborative working and learning and teaching across the federation

## Step 9: Embedding

- Support new governing body to realise opportunities for resources and staffing to be used flexibly across the federation
- Support new governing body to ensure headteachers' overview of effectiveness across the federation and ensure systems are in place to monitor individual schools as well as federation as a whole
- Support new governing body to agree committee structures and meeting frequency

## Step 10: Strategic development

- Create an overview of federation arrangements and impact on standards and improvement capacity
- Support new governing body to ensure wider opportunities for professional development for all staff are implemented
- Support new governing body to verify that model practices, processes, policies and documentation are in place

## 6. Federating new schools

Local authorities may federate any new school (a school being built or a single new school created through the merger or closure of existing schools) with another school or schools, or federate it within an existing federation. If a temporary governing body has not been established for the new school the local authority is responsible for carrying out the process governing bodies would follow to federate. If a temporary governing body has been established for the proposed new school or schools, then the temporary governing body is responsible for managing the federation process.

If a local authority proposes that 2 or more new schools should federate, or they should federate with one or more other schools, or should join an existing federation, the local authority may set up a single temporary governing body for the new schools. If the 2 new schools are maintained by different local authorities, those local authorities must agree between them which local authority may make arrangements for the constitution of a single temporary governing body.

If a local authority proposes to federate a new voluntary school it must first seek the consent of the promoters before taking any action, informing the promoters of the date when the local authority proposes to commence the federation process.

## 7. Federating small schools

The Education (Wales) Measure 2011 (the 2011 Measure) allows Welsh Ministers to make a **Small Schools Order** which defines the size of a small school. A small school is defined as having fewer than 91 learners on the second Tuesday in January (unless 1 January is after a Monday) immediately

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preceding the date on which a proposal is made under section 11 of the 2011 Measure (which is the date of the proposals to federate are published) to federate the school in question. This date has been selected to coincide with the date in January that schools complete the statistics and information for the Pupil Level Annual School Census (PLASC) return.

Any school falling within this criterion can be federated, but the federation process will be slightly shorter and differ from the regular federation process in the following ways:

- the local authority is only required to seek the views of the governing body and school council
- the period to seek views is reduced from 6 weeks to 20 school days
- following publication of proposals the implementation date is reduced from 125 calendar days to 100 calendar days

After the proposal has been published, if a school has an increase in learners that takes the total number of learners in a small school to more than 90 then the local authority can continue to federate that school as if it was a small school.

Where a federation proposal includes both small and ordinary-sized schools then the usual federation process must be adhered to, which includes seeking the views of a wider stakeholder group on the proposals for a 6-week period and a longer time (125 calendar days) for implementation of the federation.

The local authorities' published proposals for the federation must be sent to the governing body and school council of every school and must contain the following information:

- the name or names of the governing bodies the local authority is proposing to federate
- the proposed size of the federated governing body
- the proposed numbers of each category of governor

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- the proposed staffing arrangements for all schools in the federation
- the proposed federation date, which will be at least 100 calendar days after the publication of the notice of proposals to federate
- the name of the admissions authority or authorities of the schools within the federation
- the date, not less than 6 weeks after the publication of the proposals, by which written representations may be made to the local authority regarding the proposals and the address to which they should be sent
- confirmation that the consent of any other local authority has been obtained if cross- local authority federation is being considered
- confirmation that the consent of any diocese, trust or person who appoints the foundation governors has been obtained
- any other matters the local authority considers is appropriate

Local authorities will wish to consider making the information for school councils user-friendly and appropriate for the learners' age. It would also be useful if a member of the local authority was available to talk to the school council and directly address any concerns they may have about how federation might affect them and what they can expect post-federation. Similarly, local authorities may wish to produce a summary version of the proposals for the parents and carers. If this is done, they must also make it clear where a full copy of the proposals can be found on the local authority's website or that copies are available for inspection at the school.

As well as publishing the proposals on the local authority's website and making copies of it available in all schools within the federation, the local authority must send copies of the published notice to:

- any relevant local authority
- the headteacher of every school
- foundation governors and trustees (if applicable)
- diocesan authorities or other religious bodies (if applicable)

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After the local authority has sought views on the proposals, it must consider the responses received and decide whether to go ahead with the federation proposals as published, whether to amend or modify it, or whether not to go ahead. A modification cannot include introducing or removing a school into the federation that did not form part of the original proposal. This decision must be sent to those persons listed above and any other person the local authority considers appropriate, including the governing bodies of the schools concerned.

The 20 school days required in the regulations for local authorities to allow for responses to the proposals to be sent to the local authority only includes days when the school is in session and does not include INSET days. Pragmatically, the 20 school days equates to 4 school weeks. A federation of small schools cannot be established until a period of at least 100 calendar days has expired following publication of the proposals to federate. Allowing for the 20-day consultation, the remainder of the time will be used by the local authority to consider the responses to the consultation and make arrangements for the establishment of the governing body and the transfer of resources, property, land, assets and liabilities.

## **Schools leaving local authority-implemented federations**

Schools included within a local authority-implemented federation may only leave the federation if the lead local authority agrees to a written request. However, if a school is subject to intervention by Welsh Ministers or a local authority, consent to leave a federation must be sought from those persons.

In seeking formal consent from the local authority for a school to leave a federation, the governing body must ensure that the written request is signed by at least one of the following:

- 2 or more governors
- the local authority and one-fifth of parents, carers of registered learners at

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the relevant school

- two-fifths of staff under a contract of employment at the relevant school
- the trustees of the school or schools (if relevant)
- the body entitled to appoint foundation governors (if relevant)

When making a formal request to a local authority to leave a federation, the maintaining local authority must ensure that within 5 clear days of receipt of the request to leave the federation notice of the request is given to:

- all relevant local authorities
- the headteacher or acting headteacher of the federation if one is appointed, or where no such appointment has been made, the headteacher or acting headteacher of each school in the federation
- all staff members employed to work at the school or schools wishing to leave the federation
- the parents and carers of all learners registered at the school or schools wishing to leave the federation
- all relevant trade unions
- the trustees of any school within the federation, not just the school proposing to leave the federation (if relevant)
- the diocese or other appropriate religious body if the school is a faith school (if relevant)
- the body entitled to appoint foundation governors (if relevant)
- any other persons the local authority thinks appropriate

The local authority will have received a copy of the request if it is sent to the Chief Education Officer.

The local authority will have at least 14 working days from the date the notice of the request to leave a federation is received to consider the proposal and any representations made by any party which was formally notified of the proposals as outlined above.

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Once a decision has been taken, the local authority should formally notify all relevant people, as described above, in writing within 5 working days:

- of whether the school or schools should leave the federation and if so on what date

or where there are only 2 schools in a federation at the time of the request

- of the date the federation would be dissolved

or

that the school or schools should not leave the federation

If it is agreed that a school should leave a federation, or that a federation should in any other way be dissolved, the local authority should agree a date on which this action will take place which must be at least 125 calendar days from the date the decision is made. This 125-day period also applies to small schools leaving a federation as this time will be used by the local authority to establish a temporary governing body.

Once it has been decided that a school is to leave a federation, or a federation is to be dissolved, the local authority should establish a temporary governing body for the de-federated schools in accordance with the New Maintained Schools (Wales) Regulations 2005 and the Government of Maintained Schools (Wales) Regulations 2005. The local authority must also consider the amount of budget that should be allocated to a temporary governing body and the transfer of any land, property, rights or liabilities. The temporary governing body is incorporated as the governing body of the school on the de-federation date.

## **Dissolution of a local authority-implemented federation**

A federation is considered to be established by a local authority if a local

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authority initiates the federation process in the first stage or where a local authority adds a school to an existing federation established by governing bodies. Where a local authority wishes to dissolve a federation or decides that one of only 2 schools in a federation should leave a federation, it must first give notice of its intention to do so within 14 days of its decision. The notice must be sent to:

- all relevant local authorities
- the headteacher or acting headteacher of the federation, or if no such person has been appointed, the headteacher or acting headteacher of the schools in the federation
- every member of staff paid to work in the schools in the federation
- the parents and carers of all registered learners in the schools in the federation
- the foundation governors (if applicable)
- any trustees of a school with a trust (if appropriate)
- the relevant diocese or other religious body (if appropriate)
- the body entitled to appoint foundation governors
- all relevant trade unions
- any other person that is deemed appropriate

Following a period of at least 14 days a local authority must consider all the responses to the dissolution proposals and make its decision about whether the dissolution will go ahead or not and if so the date of the dissolution. The local authority must notify the people listed above within 5 days of its decision and complete the process as set out below.

No timescale has been set out in the regulations for local authorities to dissolve a federation and establish a temporary governing body for schools. This is because a local authority would know in advance of its own plans to dissolve any federation and would have received the request from a governing body to dissolve a federation, which will give a local authority sufficient time to make the necessary arrangements for the setting up of temporary governing bodies.

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## Process for a governing body to suggest dissolution of a local authority-established federation

Where a governing body of a local authority-established federation decides that the federation should be dissolved, or that one of only 2 federated schools should leave the federation, the governing body must first obtain the consent of the maintaining local authority.

If consent is given, the governing body must give notice of this and the proposed date of the dissolution (which must be at least 125 days after the date the notice is served) to the following persons, within 14 days of the local authority's consent being given:

- all relevant local authorities
- the headteacher or acting headteacher of the federation, or if no such person is appointed the headteacher or acting headteacher of the schools in the federation
- every member of staff paid to work in the schools in the federation
- the parents and carers of all registered learners in the schools in the federation
- the foundation governors (if applicable)
- any trustees of a school with a trust (if appropriate)
- the relevant diocese or other religious body (if appropriate)
- all relevant trade unions
- any other person that is deemed appropriate

## 8. Federating voluntary-aided, voluntary-controlled and foundation schools

Neither local authorities nor governing bodies have powers to federate voluntary (voluntary-aided and voluntary-controlled) or foundation schools with community schools, community special schools and maintained nurseries. An explanation as to why this arrangement cannot be permitted is set out below.

The governing bodies of foundation and voluntary schools, and other specified foundation bodies were created under the School Standards and Framework Act 1998 which provided that the governing bodies of foundation and voluntary schools are exempt charities.

In law it is the governing body of a foundation or voluntary school that is the charity (the school is the activity of that charity). The Charities Act 2011 also confirms the exempt charity status of the governing bodies of foundation and voluntary schools. On 1 August 2011, the Welsh Ministers were appointed principal regulator for these charities in Wales, and as principal regulator, they have a duty to do all they reasonably can to promote compliance with charity law by these charities.

The Welsh Government holds the view that local authorities are best placed, given their overarching view of education development in their areas, to see federation in its full strategic context. They are able to see options and opportunities that individual schools and governing bodies may not. However, charity trustees' primary duties are to act solely in the interests of a charity and its beneficiaries, and to apply the resources of a charity solely in furtherance of its charitable objects. Therefore, in the case of a charitable governing body, the charity trustees must only take account of considerations that are relevant to the best interests of their charity, its beneficiaries and potential beneficiaries. Some of the wider considerations of local authorities might be matters that the trustees

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would be under a duty to disregard as irrelevant.

If local authorities or governing bodies were to federate schools the effect of this action would be to dissolve and reconstitute governing bodies. In the case of a foundation or voluntary school governing body, this would mean dissolving and reconstituting the charity itself.

Any governors appointed to a federated governing body for foundation or voluntary schools would become charity trustees, taking on all the legal responsibilities of charity trustees with respect to those schools' resources. They would have an overriding duty to act in the interests of the charity and its beneficiaries. However, it is legally impossible for an entity to be partly charitable in law, or simultaneously a charity and not a charity. This would be the position if a local authority dissolved the governing bodies of a mixture of voluntary and/or foundation and community schools and constituted a single governing body for them.

Any proposals therefore to permit local authorities to federate these schools would lead to them creating a structure that would be incompatible with the charitable status of those governing bodies of foundation and voluntary schools that are charities.

Charities can collaborate with, and use their resources in conjunction with, non-charitable bodies (such as community schools), but only to the extent that the charity trustees (in this case members of the governing body) are satisfied that this furthers the objects of their charity. If a local authority took the decision to federate one or more foundation or voluntary schools, it would be substituting its judgement for that of the charity trustees. This could have legal implications for local authorities and any such arrangements to federate these schools could make the position of the single governing body untenable.

The 2014 Regulations therefore only allow schools with a similar charitable trust status and/or religious ethos to federate. In doing so local authorities and

governing bodies must work with the relevant trusts and diocesan authorities to ensure that all legal considerations have been given to a merger of charitable trusts and potential transfer of assets. Local authorities and governing bodies are strongly advised to seek advice from the Charities Commission when considering such an arrangement.

If a local authority wishes to include a voluntary-aided, voluntary-controlled or foundation school in their federation proposals they must firstly seek the consent of the relevant diocese and/or trust before taking any further steps.

Foundation schools can only be federated with other foundation schools.

However, the Welsh Government is aware that many of these schools already work closely together and that learners often transfer between the schools. Not being able to federate voluntary-aided, voluntary-controlled and foundation schools with community schools may affect local authority planned school organisation proposals and previously agreed arrangements for mixed categories of schools to work together under a federation.

## **9. Powers of Welsh Ministers to direct federation of schools causing concern**

Under the School Standards and Organisation (Wales) Act 2013 (the 2013 Act) the Welsh Ministers have the power to intervene in the conduct of a school that is causing concern and to direct the federation of such a school where one or more of the grounds for intervention below exists and the school has failed to comply with a warning notice issued by the local authority:

1. The standards of performance of learners at the school are unacceptably low.
2. There has been a breakdown in the way the school is managed or

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governed.

3. The behaviour or actions of learners at the school or their parents or carers is severely prejudicing, or is likely to severely prejudice, the education of any learners at the school.
4. The safety of learners or staff of the school is threatened (whether by a breakdown of discipline or otherwise).
5. The governing body or headteacher has failed, or is likely to fail, to comply with a duty under the Education Acts.
6. The governing body or headteacher has acted, or is proposing to act, unreasonably in the exercise of any of its or their functions under the Education Acts.

In addition, the Welsh Ministers may intervene without issuing a warning notice where one of the following has occurred:

- they are satisfied that one or more of the grounds listed in 1 to 6 above exists, and there is a related health and safety risk that calls for urgent intervention
- the school has been deemed to require significant improvement or special measures by Estyn

The Welsh Ministers will only use their powers of intervention where the local authority has failed to do so or done so inadequately.

Before issuing a written direction Welsh Ministers must consult all relevant stakeholders, which are defined in section 15 of the 2013 Act as being:

- the local authority
- the governing bodies concerned
- the person who appoints foundation governors (if applicable)
- the appropriate religious body (if applicable)

Once a direction has been issued, the school governing body or local authority

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must ensure that it is complied with.

## 10. Constitution and membership of federated governing bodies

The membership of the various federation models is set out in Annex 6 and has the following key characteristics:

- there is a limit of no more than 2 parent governors per school for all schools, excluding voluntary-aided schools
- there is a limit of no more than 4 local authority governors
- there is a limit of no more than 4 community governors
- in order to preserve the majority of foundation governors and ensure the governing body membership does not exceed the maximum of 27 governors, a federation of voluntary-aided schools cannot have a sponsor governor
- the headteacher governor will either be the head or acting head of the federation if one has been appointed, or if no such person has been appointed, the headteacher or acting headteacher of every school in the federation (this excludes any person who is not a properly qualified and appointed headteacher)

### Parent governors

The regulations require at least one parent governor from every school in the federation to be a member of the governing body. If no parent governor stands for election the governing body of the federation may appoint:

- a) a parent governor who is the parent or carer of a registered learner at the school where there is the vacancy

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b) the parent or carer of another registered learner at any school in the federation

c) the parent or carer of a child of compulsory school age (or under compulsory school age in the case of a nursery school) from anywhere in the local authority area

Governing bodies must not appoint a parent or carer from (b) or (c) unless they have firstly ensured that no parent or carer wishes to be appointed from the school where there is the vacancy as in (a) above.

It is not possible to have equitable numbers for other categories of governors as the size of the governing body would be too large and become unmanageable, especially where a federation could have up to 6 schools. Governing bodies and local authorities will therefore have to decide on how other governors are appointed or elected. Governing bodies must remember that all schools in a federation are to be regarded as equal, regardless of the numbers of learners or staff. The principle of federation is that all of the governors on a governing body of a federation must work in the interests of all of the learners and staff in the schools. The Welsh Government expects that the adopted approach is fair. When making choices, governing bodies and those that appoint governors may also wish to keep in mind the benefits of having governors with specific skills that can enhance and improve governing body's effectiveness.

## **Elected teacher and staff governors**

It may not be possible to have a teacher and staff governor from every school in the federation. Governing bodies and local authorities may have to ask the staff of all of the schools in a federation whether they wish to stand for election, taking care to ensure fair representation across the schools in the federation as far as is practicable.

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The 2014 Regulations recognise this difficulty. Regulation 36(5) requires all teacher and staff governors to have a 2-year term of office instead of 4. Regulations 15 and 16 do not allow a teacher or member of staff to be elected as a governor if:

- they have previously been a governor on the governing body within the previous 2 years
- they are employed to work at the same federated school as any teacher or member of staff who has been elected as a governor to that governing body within the previous 2 years.

These conditions do not apply to federations made up of only 2 schools, as to do so would make it unnecessarily difficult for those governing bodies to comply with the Regulations. This amendment can be found in the Federation of Maintained Schools (Wales) (Amendment) Regulations 2021.

These arrangements should provide some flexibility for federations and will help to ensure that there will be a rota and opportunities for teachers and staff in all the schools to stand for election as governors.

## **Local authority and foundation governors**

It is for the local authority and the body who appoints the foundation governors to determine the criteria for appointment of governors to represent their interests. Where there are more governors eligible for appointment than are needed, consideration must be given by the appointers to how those governors are to be selected using equitable and fair selection criteria, taking into account the needs of the governing body and the skills they may require to help them be effective.

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## Additional community governors

These governors are nominated by the community council and represent their interests on the governing body of a federation, where the federation includes primary or nursery schools, of any category, situated within a community council area. These governors have a duty to focus on improving the quality of life and the local environment for the residents in the area. Their role is quite separate from those of local authority-appointed governors and community governors.

The membership of the governing body of a federation includes representation for one additional community governor. If there is more than one community council serving a federation and therefore more than one person eligible for nomination to the governing body, the governing body may seek nominations from all the community councils and choose a governor.

## Community governors and partnership governors

It is inevitable that a federation will cover more than one school community, and with the numbers of governors set out in the regulations it may not be possible to have community governors to represent the interests of all the communities. All governing bodies need skilled governors to be effective. Making the community governor appointments is one way for the governing body to add value to the skills pool of the governors and to control who could become a governor. Before making the community governor appointment it would be useful if the governing body carried out a skills audit of the existing governors to determine what additional skills they could need to help them discharge their functions.

Similarly, where a governing body seeks nominations for partnership governors from the parents and carers of registered learners and the school community, the same principles apply and the governing body should be quite clear about the criteria of eligibility for nomination.

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## Excess governors

When making decisions about the numbers of governors they would like to have or the Regulations will allow them to have, governors may be concerned that the restriction on numbers means they will not be able to include all of the persons they would like. This expertise and personnel need not be lost to the governing body and could be used through committees.

Governors know that much of the discussion and work is carried out at committee level, leaving the governing body to focus on its strategic role. This is especially relevant in a federation. In order to do this successfully the governors will need a supportive and reliable committee structure consisting of governors and perhaps non-governors who have the drive, relevant expertise and knowledge to make decisions and report back. Using former governors from each of the schools in this way may also help a new federated governing body to work together more effectively.

## 11. Instruments of government

Local authorities are required to ensure that a federation of schools has an instrument of government in place on the federation date, which must be at least 125 calendar days from the date proposals for federation are published or 100 calendar days if a federation of small schools is being established.

Regulation 43 of the 2014 Regulations sets out the information that must be recorded in the instrument of government, which includes the name of the federation and the names and categories of the schools to be federated.

Regulation 46 also requires local authorities to send copies of the instrument of government, free of charge, to the Welsh Ministers and:

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- every member of the governing body of the federation
- the headteacher of the federation where one is appointed (if no such appointment has been made the headteacher of every school in the federation irrespective of whether the headteacher is a member of the governing body)
- the relevant diocese or religious body (if appropriate)

These persons must also be informed of any variations to the instrument which could include but is not limited to:

- changes to the numbers of governors
- change to the name of the federation
- the name of any school that leaves the federation and the date
- the date the federation is to be dissolved

It is expected that the local authority and governing body will reach agreement on any proposed changes to the instrument of government. However, regulation 44 (6) of the 2014 Regulations makes it clear that in the event of a dispute over the information contained in the instrument, the local authority will make the final decision.

In order to fulfil the requirement to send copies of the instrument of government to Welsh Ministers, electronic copies should be email: [SMED2@gov.wales](mailto:SMED2@gov.wales) or paper copies sent to:

Legislation and Governance Branch  
Welsh Government  
Cathays Park  
Cardiff  
CF10 3NQ

Welsh Government officials will supply the local authority with a federation reference number, which must be supplied on each school in the federation's

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PLASC return.

## **12. Appointment of headteachers and deputy headteachers**

The headteacher and deputy headteacher posts in a school are the most important appointments that governors have to make. Having a headteacher and supporting deputy headteacher with the appropriate skills, experience and knowledge is critical if schools are to improve, especially in a federation where one headteacher and deputy headteacher could have responsibility for a number of schools.

In order to assist schools that are federating to create a senior management structure that suits their needs, governing bodies will want to ensure that the most appropriate persons are appointed to these posts. The Staffing of Maintained Schools (Wales) (Amendment) Regulations 2014 permit governing bodies to decide not to nationally advertise headteacher and deputy headteacher posts in certain circumstances, as set out below.

### **Appointment of an executive headteacher and deputy headteacher of a federation**

Where a single executive headteacher and deputy headteacher are being appointed to have responsibility for all schools in a federation, an existing headteacher or deputy headteacher of the schools being federated may express an interest to apply for the executive headteacher or deputy headteacher posts. Where more than one existing headteacher or deputy headteacher expresses an interest in the vacant executive headteacher or deputy headteacher post, the applicants should be interviewed in order to select the most appropriate person.

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The schools that are federating may establish a joint interview panel consisting of governors from the schools that are federating. If there is only one headteacher or deputy headteacher in the schools to be federated who is interested in the posts, the governing bodies should still consider interviewing that person to ensure that the right candidate will be selected.

If no headteachers or deputy headteachers express an interest in applying for the executive headteacher and deputy headteacher roles, the posts must be advertised nationally in accordance with the 2006 Staffing Regulations. If the single headteacher or deputy headteacher vacate the posts after federation, the posts must also then be advertised nationally. The governing bodies of the schools to be federated would need to form an appointment panel, which could consist of governor representatives from the schools that are federating, to carry out the applicant sift and interviews.

The modified process set out above does not permit a deputy headteacher or acting headteacher of a school in the federation who has expressed an interest in the executive headteacher post to simply be interviewed for that post. In order for a deputy headteacher or acting headteacher to apply for a headteacher post it must be advertised nationally.

## **Appointment of headteachers and deputy headteachers in each federated school**

Where the governing bodies of the schools to be federated decide that they wish to retain a headteacher and deputy headteacher in each school in the federation, and after federation one of the headteachers or deputy headteachers vacate the posts, and one of the remaining headteachers or deputy headteachers in another school in the federation has the capacity to take over the vacant headship or deputy headship, the governing body may decide not to nationally advertise those posts. This process does not allow a deputy headteacher to simply be appointed to a vacant headship post.

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If there no headteacher (or deputy headteacher) in the other schools in the federation expresses an interest in the vacant posts then the individual headteacher and deputy headteacher posts in each of the schools must be advertised nationally when they become vacant. The governing body of the federation must form an appointment panel in accordance with the 2006 Staffing Regulations to sift and interview applicants.

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