

**LATE ITEM FOR MEMBER MANAGEMENT COMMITTEE ON
15TH SEPTEMBER 2015**

Item 10 – Local Authority Governors

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Councillors

Legal & Democratic Services

Governance Services

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Our Ref:

Your Ref:

11 September 2015

Dear Councillor

MEMBER MANAGEMENT COMMITTEE – 15th SEPTEMBER 2015

Please find attached for your attention a late item which the Chair has agreed for consideration at the above meeting.

Please attach this item to your agenda for the meeting.

Many thanks.

Yours sincerely

Kevin Tomkinson
Principal Governance Officer



Report of Governor Support Service Children's Services

Report to Member Management Committee

Date: 15 September 2015

Subject: The process for nominating local authority governors to academies and free schools

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix Number 1 LA governors appointed to academies 2. Information for prospective governors 3. A code of conduct for governing bodies	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Summary of main issues

Academies and free schools

The local authority appoints governors to free schools and academies only where their Articles of Association allow for such an appointment. This process is currently different from that for maintained schools and is achieved through Member Management Committee's appointments to outside bodies. The LA does not have the authority to maintain a database of governors on academies. Although the new Academies Financial Handbook, which has an effective date of 1 September 2015, states that "academy trusts **must** publish on their websites up-to-date details of their governance arrangements in a readily accessible form" and "academy trusts must publish relevant business and pecuniary interests of local governors on their website" this does not always happen. GSS has therefore made every effort to obtain details of academy governors, particularly in respect of LA governors.

Members are asked to consider the current procedure for the appointment of LA governors to academies and free schools and whether it is still relevant and appropriate.

1 Purpose of this report

This report has been produced at the request of the Committee following their meeting in June 2015. The purpose of the report is to:

- 1.1 To inform Members of the legislative changes to the appointment of LA governors to academies and free schools
- 1.2 To inform Members of the current legislation for the allocation of local authority seats to particular political groups.
- 1.3 To recommend that a simpler appointment process be considered for the nomination/appointment of LA governors to academies and free schools.

2. Background information

2.1 The regulations also make clear that a key consideration in the appointment and election of all new governors should be the skills and experience the governing body needs to be effective without regard to political affiliation.

- Lord Nash in his letter to Directors of Children's Services, October 2014, states that: "Please also make every effort to nominate high quality LA governors. I understand that a few LAs still link the right to nominate LA governors to the local balance of political power. **I would like to make clear that this is unacceptable practice.**"

2.2 Of the 36 academies and free schools 26 have no LA governor place through their Articles of Association. Further details of this are given in Appendix 1. The LA has no authority to keep a record of contact details for academy governors unless permission has been given; however each school and academy should publish its governance structure on its website. The information about academy governance may therefore not be fully accurate.

2.4 The current arrangement for the allocation of local authority seats was agreed at a meeting of the whips on 3 March 2005 and confirmed as still being relevant and appropriate by the Member Management Committee on 25 October 2011. *This was prior to the new constitution regulations.* The current procedure is based on the prevailing political split of Council seats in individual wards. In wards where there is no overall control by one party (i.e. split wards) LA governor representation reflect the ward split. After a period of four month's all outstanding local authority vacancies may be filled by Governor Support Service via the pool system from application forms received through advert or through the School Governor One Stop Shop, a DfE funded charity.

3. Main issues

3.1.1 The above procedure does not conform to Lord Nash's recommendation that the right to nominate LA governors should not be linked to the local balance of political power, or to statutory guidance that:

A key consideration in the appointment and election of all new governors should be the skills and experience the governing body needs to be effective.

3.1.2 An academy trust can determine whether or not it wishes to include LA governors in its Articles of Association. Currently the LA does not provide information to schools converting to academy on the benefits of there being an LA governor in the Articles of Association. Although LA governors are not there to represent the local authority, *“Once appointed, LA governors must govern in the interests of pupils not to represent or be an advocate for the political or other interests of the LA”*, however, they have an awareness and understanding of Leeds City Council priorities and policies to enable them to be appropriately informed when debating priorities at school level. The perspective they bring is about how the academy fits into the wider provision of education, and they play a key role in linking the governing body to information about educational developments and Council priorities

3.1.4 The model Articles of Association, issued by the DfE, state in Article 46 (c) and Article 51 that “the LA may appoint the LA governor”. Therefore, where the local authority is approached it is a matter for the authority to decide who it wishes to appoint to the governing body of the academy. The Council may wish to delegate the management of the appointment of academy LA governors to GSS with the delegated decision being with Head of Learning Improvement. All academies current in October 2011 were issued with a letter informing them of the method by which the local authority appoints LA governors to academies. However, GSS does not currently hold full information on academy governing bodies and would not always be aware when a vacancy has arisen. Similarly, although GSS does request the information on the make-up of the governing body in new academies is not always known.

3.1.5 It is recommended that a simpler appointment process be considered for the nomination/appointment of LA governors to academies and free schools. A specific LA governor application form should be completed irrespective of whether a vacancy has arisen and should include the body making the nomination and the particular schools or wards in which the prospective governor would wish to be considered. Before being appointed, all prospective governors should also be helped to understand the role of a governor and the governing bodies’ code of conduct. Prospective governors should also be made aware of the information that will be published on the school website.

- The clerk or chair should advise the Governor Support Service of the LA vacancy within five school days of it arising.
- The chair must also advise the Governor Support Service of the skills and attributes required of the new governor. (The expectation is that the governing body will have carried out a skills audit within the last twelve months).
- When advised of a LA nominated governor vacancy the Governor Support Service will match the requirements of the governing body against the application forms received.
- The matching will be carried out against:
 - Skills
 - Experience
 - Locality
- The Head of Learning Improvement will be advised by Governor Support Service of any suitable candidates and the proposed will be appointed as governor to the academy or free school.
- Academies and free schools will also be advised at this stage of the appointment

3.1.6. In order to support leadership and management in all Leeds schools and settings Governor Support Service will continue to promote the nomination/appointment of local authority governors.

3.1.7 An annual report will be provided for Member Management Committee on the nomination/appointment of LA governors to academies and free schools.

Corporate Considerations

3.2 Consultation and Engagement

3.2.1 Senior School Improvement Advisor for Leadership and Management and Head of Learning Improvement 28 August 2015. Member management committee for consultation 16 September 2015.

3.3 Equality and Diversity / Cohesion and Integration

3.3.1 All prospective governors are asked to complete a governor profile form which includes ethnicity and whether the governor considers they have a disability as specified in the Disability Discrimination Act. Statistics are kept and regularly updated on the information provided.

3.4 Council Policies and City Priorities

3.4.1 Best Council Plan - Building a child-friendly city. We know that strong governance plays a vital role in driving up school standards and enhancing pupil performance; ensuring that every child in Leeds has the very best education within a vibrant learning community. We can contribute to this by ensuring that every LA nominated governor has the skills and experience required by the governing body, understands the role of a governor and accepts the code of conduct for governing bodies.

3.5 Resources and Value for Money

3.5.1 The recommended method of appointment of LA governors to academies and free schools would ensure better value for money in terms of a better quality service and more economical use of staff time.

3.6 Legal Implications, Access to Information and Call In

Currently appointment of LA governors to academies and free schools is through the Member Management Committee.

3.7 Risk Management

3.7.1 A report on the implementation of the procedure for the nomination/appointment of LA governors will be produced for Member Management Committee annually. The process will therefore be monitored and amendments suggested to ensure its efficacy.

Conclusions

3.8 With the changes both politically and to the categories of schools within Leeds members may wish to consider whether the current protocol for the appointment of LA governors is still relevant and appropriate.

Recommendations

3.9 That Members support the report to modify the nomination/appointment of LA governors to Academies and free schools.

Background documents

None

ACADEMIES - NUMBER OF LA PLACES INCLUDED IN ARTICLES OF ASSOCIATION

SCHOOL	LA PLACES	GOVERNORS IN PLACE	WARD	WEDGE
Abbey Grange C of E Academy	0	n/a	Kirkstall	WNW
Brownhill Primary School	1	Andy Charlwood from 1/12/2012 - 1/12/2015	Burmantofts and Richmond Hill	ENE
City of Leeds School	0	n/a	Hyde Park and Woodhouse	WNW
The Cooperative Academy	1	Cllr Brian Selby	Burmantofts and Richmond Hill	ENE
Cottingley Primary Academy	0	n/a	Beeston and Holbeck	SSE
Crawshaw School	0	n/a	Pudsey	WNW
David Young Academy			Killingbeck and Seacroft	ENE
East Garforth Primary School	0	n/a	Garforth and Swillington	SSE
Farnley Academy	0	n/a	Farnley and Wortley	WNW
Garforth Academy	0	n/a	Garforth and Swillington	SSE
Green Lane Primary Academy	0	n/a	Garforth and Swillington	SSE
Hillcrest Primary (Academy)	1	Cllr Dowson until 31/12/17	Chapel Allerton	ENE
Horsforth School	1	Cllr Chris Townsley from 23/08/2010 on a 12 month term and re-appointed Sept 2014.	Horsforth	WNW
John Smeaton Community College	not yet known	John Smeaton converted to Academy status on 1st January 2014. School Improvement Board in place as at Nov 2014 prior to transition to a Local Governing Body.	Cross Gates and Whinmoor	SSE
Khalsa Science Academy	0	n/a	Chapel Allerton	ENE
Leeds East Academy	0	n/a	Killingbeck and Seacroft	ENE
Leeds West Academy	0	n/a	Bramley and Stanningley	WNW
Manston St James CE	0	n/a	Cross Gates and Whinmoor	SSE
(The) Morley Academy	0	n/a	Morley South	SSE
Nightingale Primary Academy	1	Currently vacant	Gipton and Harehills	ENE
Oakwood Primary (academy)	1	Cllr Roger Harington from 01/09/2013 - 01/09/2016	Gipton and Harehills	ENE
Otley Prince Henry's Grammar School	0	n/a	Otley and Yeadon	WNW
Park View Academy	0	n/a	City and Hunslet	SSE
Rodillian Academy	0	n/a	Ardsley and Robin Hood	SSE
Rothwell C of E Primary School	No information on the school website July 2015	n/a	Rothwell	SSE
Ryecroft Primary School	0	n/a	Farnley and Wortley	WNW
South Leeds Academy	2	Cllrs Blake and Gabriel both on a 1 year term from 01 Sept 2014	City and Hunslet	SSE
St Benedicts Catholic Primary	0	n/a	Garforth and Swillington	SSE
St Josephs Catholic Primary, Otley	0	n/a	Otley and Yeadon	WNW
St Josephs Catholic Primary, Pudsey	0	n/a	Pudsey	WNW
St Mary's Catholic Comprehensive School, Menston	0	n/a	Guiselley and Rawdon	WNW
St Mary's Catholic Primary School, Horsforth	0	n/a	Horsforth	WNW
SS St Peter and Paul Catholic Primary, Yeadon	0	n/a	Guiselley and Rawdon	WNW
Swallow Hill Community College	1	Cllr Jim McKenna on a 4 year term from July 2014	Armley	WNW
Woodlands Primary School	1	currently vacant	Gipton and Harehills	ENE
Woodkirk Academy	0	n/a	Morley South	SSE

Information for prospective governors – August 2015

- **What is the purpose of the governing body?**

Governing bodies in maintained schools are there to ensure that every child in the school gets the very best education; this is set out in the law:

The governing body shall conduct the school with a view to promoting high standards of educational achievement at the school¹.

- **What are the functions of governing bodies?**

The Governors' Handbook (revised January 2015) defines the three key functions of governing bodies as:

1. **Ensuring clarity of vision, ethos and strategic direction;**
2. **Holding the headteacher to account for the educational performance of the school and its pupils, and the performance management of staff; and**
3. **Overseeing the financial performance of the school and making sure its money is well spent.**

- **What skills and experience do governors need?**

The regulations¹ include an explicit requirement that all appointed governors have the skills required to contribute to effective governance and the success of the school.

The specific skills that governing bodies need to meet their particular challenges will vary. However, experience has shown that all governors need:

- **a strong commitment to the role and to improving outcomes for children**
- **the inquisitiveness to question and analyse**
- **the willingness to learn**
- **good inter-personal skills**
- **appropriate levels of literacy in English (unless a governing body is prepared to make special arrangements),**
- **sufficient numeracy skills to understand basic data**
- **the willingness to attend appropriate training**

- **Who can be a governor in maintained schools?**

You do not need to be a parent of a child to be a school governor. However, anyone applying to become a governor should ensure that they are not disqualified on the grounds given in the Appendix.

- **What types of governors are there?**

Maintained schools

The constitution, or structure, of the governing body in maintained schools determines how many and what type of people govern the school and is set out in the Instrument of Government. Despite representing different groups, all governors

¹ Section 21(2) of the Education Act 2002.

have exactly the same role and voting rights and all governors must operate in the best interest of pupils, not as representatives to lobby on behalf of their constituency². The recent changes to the regulations enables governing bodies to have smaller more focussed governing bodies with every member actively contributing relevant skills and experience.

Governing bodies will have the following categories of governors:

- The headteacher
- Parents
- Staff
- Co-opted
- Local authority
- *Foundation* (voluntary controlled, voluntary aided and trust schools only)

- **Parent governors**

Parent governors are elected by other parents at the school. Any parent, or carer, of a child registered at the school at the time of election is eligible to stand as a parent governor. Parent governors are there to govern the school in the best interests of the pupils, not to try and represent the interest of all other parents. Notification should be sent out by the headteacher when a vacancy arises. The headteacher or chair of governors should inform prospective candidates as to the nature of the role and secure agreement to the school's code of conduct for the governing body.

- **Staff governors**

Teaching and support staff who, at the time of election, are employed either by the governing body or the local authority to work at the school under a contract of employment, are eligible to be staff governors. Staff governors are elected by the staff at the school and cease to hold office when they cease to work at the school. The role of staff governors is not to stand alongside the headteacher in being held to account by the governing body, or to represent staff, but to operate as part of the governing body to provide strategic leadership and hold the headteacher to account.

- **Local authority governors**

Local authority governors are nominated by the local authority but appointed by the governing body on the basis of the skills and experience required. In Leeds the local authority governor nominations will in the first instance come through the relevant political party. As with other categories of governors, local authority governors must operate in the best interest of pupils not as representatives to lobby on behalf of their constituency. An individual eligible to be a staff governor at the school may not be appointed as a local authority governor.

- **Co-opted governors**

This category of governor is appointed by the governing body. They are people who in the opinion of the governing body have the skills required to contribute to the effective governance of successful schools. If you know of someone who would be

² Notwithstanding the role of Foundation governors to preserve and develop the school's character (including religious character where it has one) and where the school has a foundation, ensure that the school is conducted in accordance with the foundation's governing documents.

interested in becoming a co-opted governor please contact Katy Hockridge:
katy.hockridge@leeds.gov.uk.

- **Foundation governors**

Foundation governors are appointed by the body identified in the Instrument of Government; this could be the church or a trust. A foundation governor is someone who, in the opinion of the person entitled to appoint them, has the skills to contribute to effective governance and success of the school. Foundation governors should also ensure that the school's character (including religious character where there is one) is preserved and developed and that the school is conducted in accordance with the foundation's governing documents.

Academies

The governing body of academies will be structured according to the academy's own articles of association

- **What is the time commitment?**

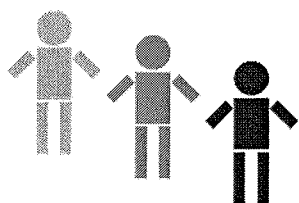
The average time commitment is 10-15 hours per term; this includes attending meetings, background reading and school visits.

Being a governor is a public duty; therefore governors have a right to reasonable time off work, although this may be without pay. You should look at your company's policy to see what entitlement you have.

- **Training**

The regulations set clear expectations that the governors' role is one of professionalism. The expectations include that governors undertake whatever training or development activity is needed to fill any gaps in the skills they have to contribute to effective governance. The governing body should therefore make sure that governors are made aware of induction and any other training that they may need. Governors who persistently fail to take up the training required may be sanctioned in accordance with the code of conduct.

- **Each and every pupil**



"Being a school governor is about each and every pupil. Not one child should go through my school without the best education possible."

Tom, School Governor, Hertfordshire

(Source - School Governors One Stop Shop)

Appendix

Qualifications and disqualifications (regulation 17 and Schedule 4 to the Regulations)

Grounds for disqualification fall into three broad categories:

1. **general grounds;**
2. **grounds that apply to particular categories of governor; and**
3. **grounds that arise because of particular failings or actions on the part of the governor.**

All the grounds for disqualification apply also to associate members except that associate members can be registered pupils at the school and can be under 18.

1. General grounds

Registered pupils cannot be governors.

A governor must be aged 18 or over at the time of election or appointment.

A person cannot hold more than one governor post at the same school at the same time.

2. Grounds that apply to particular categories of governor

A person is disqualified from being a parent governor if they are an elected member of the LA or paid to work at the school for more than 500 hours (i.e. for more than one-third of the hours of a full-time equivalent) in any consecutive twelve month period (at the time of election or appointment).

A person is disqualified from being a local authority governor if they are eligible to be a staff governor at the school.

A person is disqualified from being a partnership governor if they are:

- a parent of a registered pupil at the school;
- eligible to be a staff governor at the school;
- an elected member of the LA; or
- employed by the local authority in connection with its education functions.

3. Grounds that arise because of particular failings or actions on the part of the governor

A person is disqualified from being a governor of a particular school if they have failed to attend the meetings of the governing body of that school for a continuous period of six months, beginning with the date of the first meeting they failed to attend, without the consent of the governing body. This does not apply to the headteacher or to foundation governors appointed by virtue of their office.

A foundation, local authority, co-opted or partnership governor at the school who is disqualified for failing to attend meetings is only disqualified from being a governor of any category at the school during the twelve month period starting on the date on which they were disqualified.

A person is disqualified from holding or continuing to hold office if that person:

- is the subject of a bankruptcy restrictions order or an interim order, debt relief restrictions order, an interim debt relief restrictions order or their estate has been sequestrated and the sequestration has not been discharged, annulled or reduced is subject to a disqualification order or disqualification undertaking under the Company Directors Disqualification Act 1986, a disqualification order under Part 2 of the Companies (Northern Ireland) Order 1989, a disqualification undertaking accepted under the Company Directors Disqualification (Northern Ireland) Order 2002, or an order made under section 429(2)(b) of the Insolvency Act 1986 (failure to pay under county court administration order)

- has been removed from the office of charity trustee or trustee for a charity by the Charity Commission or Commissioners or High Court on grounds of any misconduct or mismanagement, or under section 34 of the Charities and Trustee Investment (Scotland) Act 2005 from being concerned in the management or control of any body
- is included in the list of teachers or workers considered by the Secretary of State as unsuitable to work with children or young people
- is barred from any regulated activity relating to children
- is subject to a direction of the Secretary of State under section 128 of the Education and Skills Act 2008
- is disqualified from working with children or from registering for child-minding or providing day care
- is disqualified from being an independent school proprietor, teacher or employee by the Secretary of State
- has been sentenced to three months or more in prison (without the option of a fine) in the five years before becoming a governor or since becoming a governor
- has received a prison sentence of two years or more in the 20 years before becoming a governor
- has at any time received a prison sentence of five years or more
- has been fined for causing a nuisance or disturbance on school premises during the five years prior to or since appointment or election as a governor
- refuses a request by the clerk to make an application to the Criminal Records Bureau for a criminal records certificate.

Anyone proposed or serving as a governor who is disqualified for one of these reasons must notify the clerk to the governing body.

ⁱ The regulations referred to in this document are "The constitution of governing bodies of maintained schools – Statutory guidance for governing bodies of maintained schools and local authorities in England August 2015"

A CODE OF CONDUCT FOR THE GOVERNING BODY

SCHOOL NAME:

Introduction

The following is not a definitive statement of responsibilities but is concerned with the common understanding of broad principles by which the Governing Body and individual governors will operate.

The Governing Body accepts the following principles and procedures:

General

1. We have responsibility for determining, monitoring and keeping under review the broad policies, plans and procedures within which the school operates.
2. We recognise that the Headteacher is responsible for the implementation of policy and internal organisation and management of the school, and the implementation and operation of the curriculum.
3. We accept that all governors have equal status, and although appointed by different groups (i.e., parents, staff, Diocese) and that every governor's role is to govern the school; in the best interest of pupils, not to represent the interests of the constituency form which they were elected or appointed.
4. We have no legal authority to act individually, except when the Governing Body has given us delegated authority to do so.
5. We have a duty to act fairly and without prejudice, and in so far as we have responsibility for staff, we will fulfil all the legal expectations as, or on behalf of, the employer.
6. We will encourage open government and shall be seen to be doing so.
7. We will consider carefully, how our decisions may affect other schools.
8. The following details for each governor and associate member will be published on the school's website
 - name
 - category of governor
 - which body appointed them
 - date of appointment
 - term of office
 - date when stepped down (where applicable)
 - names of committees the governor serves on
 - details of any responsibility, e.g. chair or vice chair.

- relevant business and pecuniary interests (as recorded in the register of interests)
- attendance record at governing body and committee meetings over the last academic year

Commitment

9. We acknowledge that accepting office as a governor involves the commitment of significant amounts of time and energy.
10. We will each involve ourselves actively in the work of the Governing Body, attend meetings regularly, and accept our fair share of responsibilities, including membership of committees or working groups.
11. We will get to know the school well and respond to opportunities to involve ourselves in school activities.
12. Every member of the governing body will actively contribute relevant skills and experience
13. We uphold an ethos of professionalism and have high expectations of the governors' role, including an expectation that they undertake whatever training or development activity is need to fill any gaps in the skills they have to contribute to effective governance. If a governor fails persistently to do this they will be in breach of the code of conduct and may bring the governing body or the office of a governor into disrepute – and as such provide grounds for the governing body to consider suspension.

Relationships

14. We will strive to work as a team.
15. We will seek to develop effective working relationships with our Head, staff, parents, the Local Authority, and other relevant agencies (including the Diocesan Authorities where appropriate), and the community.

Confidentiality

16. We will observe confidentiality regarding proceedings of the Governing Body in meetings and from our visits to school as governors.
17. We will observe complete confidentiality when required or asked to do so by the Governing Body, especially regarding matters concerning individual staff or students.
18. We will exercise the greatest prudence if a discussion of a potentially contentious issue affecting the school arises outside the Governing Body.

Conduct

19. We will encourage the open expression of views at meetings, but accept collective responsibility for all decisions made by the Governing Body or its delegated agents.
20. We will only speak or act on behalf of the Governing Body when we have been specifically authorised to do so.
21. In making or responding to criticism or complaints affecting the school we will follow the procedures established by the Governing Body.

22. Our visits to school will be undertaken within the framework established by the Governing Body, in agreement with the Head and staff.
23. In discharging our duties we will always be mindful of our responsibility to maintain and develop the ethos and reputation of our school.

Suspension

24. If the need arises to use the sanction of suspending a governor, we will do so by following legal requirements so as to ensure a fair and objective process.

Removal

25. We recognise that removing a governor from office is a last resort, and that it is the appointing bodies which have the power to remove those they appoint.
26. If the need arises to use the sanction of removing a governor or removing the Chair, we will do so by following legal requirements so as to ensure a fair and objective process.

SIGNED.....DATE.....

