

REPORT TO: Executive Board

DATE: 26 February 2015

REPORTING OFFICER: Strategic Director – Children & Enterprise

PORTFOLIO: Children, Young People & Families

SUBJECT: The School Governance (Constitution) (England) Regulations 2012 as amended in 2014

WARDS: Borough-wide

1.0 PURPOSE OF THE REPORT

- 1.1 To revise the Local Authority (LA) governor appointment process in light of the School Governance (Constitution and Federations) (England) (Amendment) Regulations which came into force on 1st September 2014 regarding the constitution of, and appointment to, school governing bodies.
- 1.2 The Statutory Guidance for the amended regulations (published by the Department for Education in May 2014) outlines that all maintained school governing bodies need to reconstitute under the School Governance (Constitution) (England) Regulations 2012 (as amended), by 1st September 2015; and provides that local authority governors, foundation governors and parent governors are only eligible to be appointed where they have the skills required to contribute to the effective governance and success of the school. New procedures for the removal of surplus governors are also introduced.

2.0 RECOMMENDED: That

- 1) the process and supporting documentation set out in this report regarding the nomination of Local Authority governors to Local Authority maintained schools and Academies against criteria determined by a school's governing body is approved, and**
- 2) a Members panel consisting of the Portfolio holder – Children, Young People & Families, the Leader, and the Strategic Director or his nominee is established to put forward Local Authority nominations for schools to consider. This panel will test that individuals meet the criteria for governors for specific schools and will meet termly, or additionally as agreed by the Panel.**

3.0 SUPPORTING INFORMATION

- 3.1 The Government is seeking to strengthen the role of governing bodies in setting the strategic direction for schools and academies and in promoting school improvement. The regulations and statutory guidance place an increased emphasis on ensuring that governing bodies have the requisite skills and experience to carry out this role effectively in order to promote school improvement and support head teachers and teachers in their work. Once appointed or elected, all governors must operate in the best interest of pupils, not as representative to lobby on behalf of their constituency. Their task is to govern the school. This means focusing on the core functions of providing strategic leadership, holding the head teacher to account and making sure the school's money is well spent. This is a demanding task for which all governors need to have, or develop, relevant and appropriate skills.
- 3.2 Under the previous constitutional arrangements LA appointments were made by the political Party Groups, with LA Governor positions being broadly allocated to a Party on a proportion based on the political make-up of the Council. The Group whips co-ordinated this process for their party. The political parties currently contribute skilled and effective governors and it is anticipated that they will continue to be an important source of recruiting governors under any new arrangement.
- 3.3 The amended regulations now require LA governors to be nominated by the local authority but appointed by the governing body. The local authority can nominate any eligible person as a local authority governor, but it is for the governing body to decide whether their nominee has the skills to contribute to the effective governance and success of the school and meets any other eligibility criteria they have set. Local authorities should therefore make every effort to understand the governing body's requirements and identify and nominate suitable candidates. The Governing body may veto an LA governor nominee if they consider the person would not bring the skills the governing body requires and request the LA to make a different nomination.
- 3.4 In the following extract from his open letter to Directors' of Children's Services in October 2014, Lord Nash, Parliamentary Under Secretary of State for Schools, states the importance of nominating high-quality local authority governors without regard to political affiliation:

*'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.** The law now requires that all governors are appointed on the basis of the skills they have to contribute to effective governance, and LAs must make every effort to understand the governing body's requirements in order to identify and nominate suitable candidates. Once appointed, LA governors must govern in the interests of pupils not to represent or advocate for the political or other interests of the LA.'*

4.0 POLICY IMPLICATIONS

4.1 All governing bodies of maintained schools are required to be constituted under the School Governance (Constitution) (England) Regulations 2012 (as amended by the School Governance (Constitution and Federations) (England) (Amendment) Regulations 2014 by 1st September 2015).

4.2 The main purpose of the statutory guidance to the regulations is to highlight the direct impact that decisions about the constitution and membership of the governing body have on the governing body's ability to provide effective governance and contribute to the success of the school.

Key points from the statutory guidance include:

- Governing bodies should be no bigger than necessary to secure the range of skills they need
- 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
- Anyone appointing governors to the governing body must appoint someone they believe has the skills to contribute to effective governance and the success of the school
- Governing bodies and local authorities should take steps to inform governor elections so that the electorate understands the extent to which nominated candidates possess the skill the governing body ideally requires.

4.3 The constitution requirements for all maintained schools are:

The total numbers of governors in all schools must be no fewer than seven. There is no upper limit. The Governing Body must include:

- at least 2 parent governors
- the Head Teacher (who is a member of the governing body by virtue of their office, unless they resign as a governor)
- 1 staff governor
- 1 Local Authority governor
- Co-opted governors – the governing body may appoint as many co-opted governors as they consider necessary. However, the total number of governors that qualify as staff governors (including the head teacher and staff governor) must not exceed one third of the total membership of the governing body
- Additional requirements for foundation and voluntary schools:
 - voluntary aided schools must have two more foundation governors than all other governors
 - voluntary controlled schools must have at least 2 foundation governors
- Partnership governors (foundation schools without a foundation only)

A governing body may also appoint Associate Members to serve on one or more governing body committees. They are not governors, their role is to bring expertise and experience which can add to that provided by the governor membership.

- 4.4 Academy Trusts – currently there is no requirement for academy trusts to have an LA governor on the academy governing body. However, where the academy trust decides that it wishes to have an LA governor the appointment will be made via the agreed procedure for appointment of LA governors.
- 4.5 The following supporting documents are attached to this report:

Appendix 1 – Flowchart of the appointment procedure
Appendix 2 – Revised draft procedure for the appointment of Local Authority Governors
Appendix 3 – Halton Authority Governor Role Description
Appendix 4 – Model Criteria for the Appointment of Authority Governors
Appendix 5 – Code of Conduct
Appendix 6 – Application Form
Appendix 7 – Grounds for Disqualification

5.0 OTHER IMPLICATIONS

- 5.1 The Local Authority is statutorily required to revise the way in which it appoints Local Authority governors to a school's governing body.
- 5.2 To ensure that the process for making LA Governor appointments is transparent and effective in supporting a reduction in vacancy rates and in providing schools with governors who have the time, commitment and skills to contribute to the effective governance and success of the school and meets any other eligibility criteria the school may have set.
- 5.3 School Governing Bodies have been advised that new regulations are in force, and full details of the regulations have been issued to governing bodies.

6.0 IMPLICATIONS FOR THE COUNCIL'S PRIORITIES

6.1 Children and Young People in Halton

The proposed process complies with statutory requirements in ensuring that the Local Authority nominates governors to assist the governing body in undertaking their core functions, specifically holding the head teacher to account for the educational performance of the school.

6.2 Employment, Learning and Skills in Halton

Educational achievement is critical to the life chances of all children in the borough and the governing body play a fundamental role in setting the strategic direction for the school, and Local Authority appointed governors must govern in the interests of the school.

6.3 A Healthy Halton

N/A

6.4 A Safer Halton

Governing Bodies have a key role in ensuring the safety of pupils and in determining policies to support a safe environment for the children at their school.

6.5 Halton's Urban Renewal

N/A

7.0 RISK ANALYSIS

7.1 The proposed process complies with statutory requirements, and will ensure that nominated governors have the skills and experience the governing body needs to be effective. Local Authority governors must govern in the interests of the school and not represent or advocate for the political or other interest of the local authority.

8.0 EQUALITY AND DIVERSITY ISSUES

8.1 The proposed arrangements reflect any requirements of the Equality Act 2010.

9.0 REASON FOR DECISION

9.1 The decision is required to ensure there is a clear and transparent process in place regarding the appointment of Local Authority governors.

10.0 ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

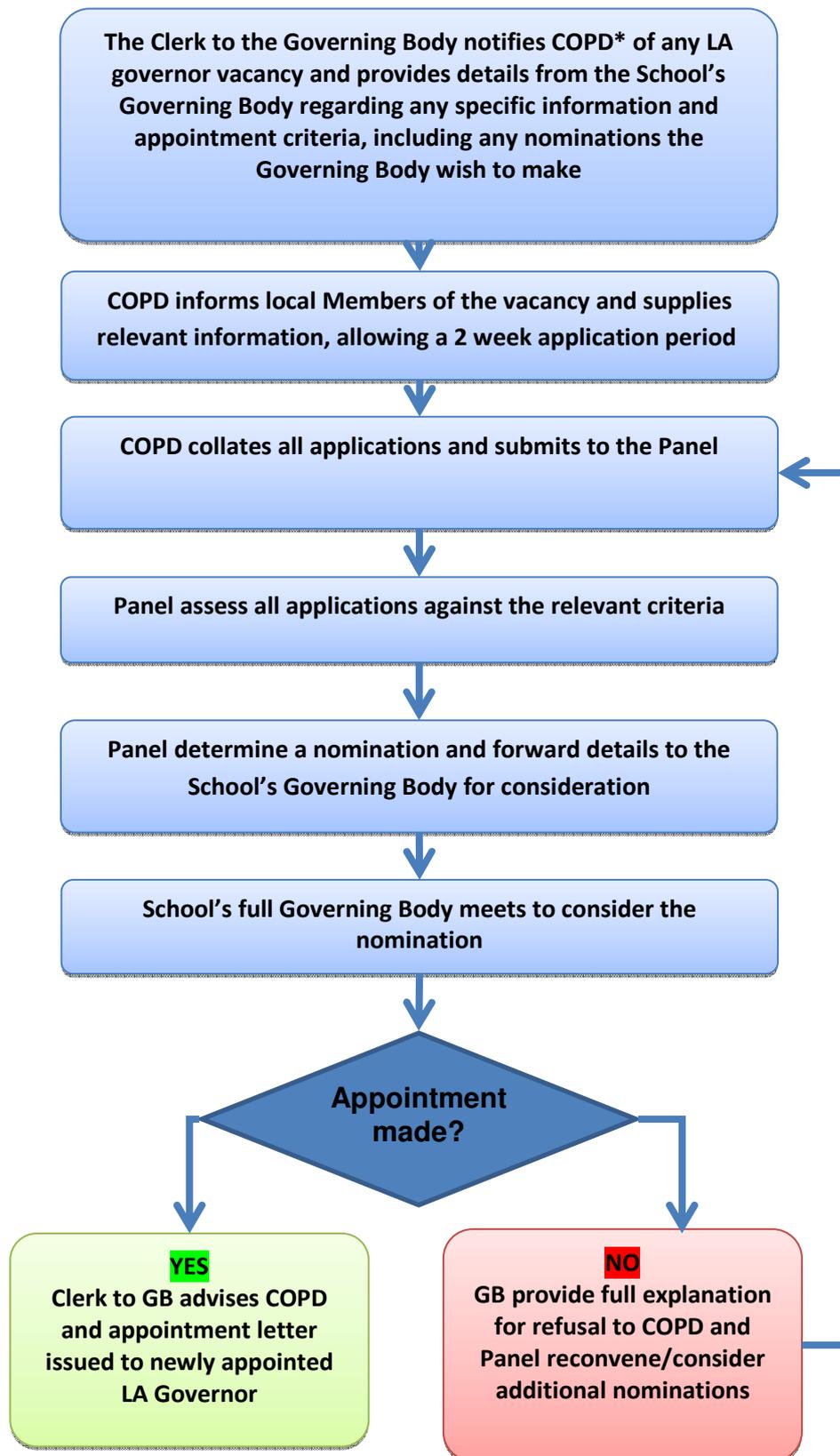
10.1 One option considered and rejected was to remain with the present appointment process, i.e. Local Authority appointments being made by the political Party Groups, with Local Authority Governor positions being broadly allocated to a Party on a proportion based on the political make-up of the Council. The Group whips co-ordinating this process for their party. However, Lord Nash has confirmed this is unacceptable practice and the law now requires that all governors are appointed on the basis of the skills they have to contribute to effective governance, and Local Authorities must make every effort to understand the governing body's requirements in order to identify and nominate suitable candidates. Once appointed, Local Authority governors must govern in the interests of pupils, not to represent or advocate for the political or other interests of the Local Authority.

11.0 IMPLEMENTATION DATE

11.1 The process will commence from approval of this Policy.

12.0 LIST OF BACKGROUND PAPERS UNDER SECTION 100D OF THE LOCAL GOVERNMENT ACT 1972

Document	Place of Inspection	Contact Officer
School Governance (Constitution) (England) Regulations 2012	Children & Young People's Directorate	Martin West
School Governance (Constitution and Federations) (England) (Amendment) Regulations 2014	Children & Young People's Directorate	Martin West
Statutory guidance for governing bodies of maintained schools and local authorities in England (DfE, 2014)	Children & Young People's Directorate	Martin West

Draft Procedure for the Appointment of Local Authority Governors

*COPD – Children's Organisation & Provision Department, Children & Enterprise Directorate

Children and Enterprise Directorate

Draft Procedure for the Appointment of Local Authority Governors

Local Authority Governor Appointment Panel Membership:

The Panel will consist of the Portfolio Holder for Children, Young People and Families, Lead Member, and Strategic Director – Children & Enterprise (or nominee).

Meetings:

To be held at least once every school term or additionally as agreed by the Panel.

Terms of Reference:

1. To consider and determine the selection of Local Authority Governors to all educational establishments, where governors are nominated or appointed by Halton Borough Council, including maintained schools, colleges, academies and free schools in order that appointments can be made in accordance with the agreed criteria.
2. To monitor vacancy rates of Local Authority Governors based on information provided by Children's Organisation and Provision Department (COPD), with a view to ensuring that nominations or appointments are made within no more than one school term of notification of the vacancy.
3. To note the appointment of additional governors and any urgent appointment to schools in the 'Schools Causing Concern' category as designated by the Local Authority or Ofsted.
4. To consider and, where appropriate, agree, terminating appointments, or the removal of nominated Local Authority governors where the governor has clearly breached confidentiality or brought the school/college or the Local Authority into disrepute, or otherwise failed to fulfil the role according to the code of conduct. This may be on the recommendation of officers and/or at the request of the governing body of the school/establishment concerned. This is in addition to situations where governors are automatically disqualified under Schedule 4 (9) of the School Governance (Constitution) (England) Regulations 2012 (see below).

Appointment Procedure for vacancies in establishments not identified as Schools Causing Concern by the LA or Ofsted, or not agreed to be urgent by the Chair of the Panel:

1. The clerk to governors will notify COPD of any Local Authority governor vacancy and provide details from the school governing body regarding any specific information and appointment criteria that may assist the

- nomination/appointment process, and include any nomination the governing body wishes to make to the next meeting of the Panel.
2. COPD will inform the local members and supply any relevant information, with a copy of the Local Authority governor application form, enabling them to make a nomination to the next meeting of the Panel.
 3. Local Authority governors reaching the end of their terms of office will be approached by the clerk as to whether they wish to be considered for nomination/re-appointment.
 4. All applicants must complete the Local Authority governor application form and confirm their agreement to comply with the code of conduct, and any code of conduct adopted by the governing body of the school concerned. Applicants are expected to provide sufficient detail of the skills and attributes they believe they are able to offer. Electronic applications will be accepted with accompanying emails accepted in lieu of a signature.
 5. COPD will provide the Panel with details of applications received for nomination/appointment as Local Authority governors and details of Local Authority Governors nearing the end of their term of office who have advised COPD they wish to be nominated or re-appointed, together with recommendations for nominations/appointments to posts at specified establishments. This information will be provided prior to the meeting, but the Panel may agree to accept late applications, up to and including those tabled at the meeting. In all cases governors seeking re-appointment or nomination must complete the application form and provide details of their contribution as a governor during their term of office. This information will be shared with the clerk to the governing body concerned, the headteacher, and the chair of governors.
 6. Where there is more than one application for a vacancy, all applications will be given equal consideration by the Panel and a decision will be made in line with agreed procedure, taking full account of any particular skills and attributes provided to the Panel, and any advice offered by officers.
 7. At the meeting the Panel will select individuals for nomination/appointment in line with the criteria for the nomination/appointment of Local Authority governors in effect for Halton Borough Council at the time, and in accordance with regulations and any associated statutory guidance.
 8. Where the termination of a governor's appointment is being considered a report will be made by COPD. This report will be made available to the individual in advance of the meeting and the individual will have the opportunity to make a response in writing for the Panel to consider, but the Panel's decision will be final.
 9. Where a governor is automatically disqualified from being a governor under the statutory criteria, members of the Panel will be informed.
 10. COPD will send nomination/appointment letters with copies to the Headteacher, chair of governors and clerk to the governing body.
 11. COPD will retain a record of the meeting.
 12. The governing body of the school/establishment concerned will be expected to consider nominations from the Panel at its next full governing body meeting and advise COPD of the appointment or non-appointment of the nominee, with written details to explain the reason

for any rejection of a nomination. The decision of the governing body will be reported to the Panel at the next termly meeting. Should the rejection of any nominee cause concern to COPD they shall make further enquiries of the school and report these to the Chair of the Panel, and at the next meeting of the Panel.

Nomination/Appointment procedure for Establishments identified as Schools Causing Concern by the LA or Ofsted, or agreed to be urgent by the Chair of the Panel

1. Nominations may be put by officers from the COPD to the Chair of the Panel, between meetings of the Panel, where the appointments are to establishments identified as Schools Causing Concern by the LA or Ofsted or otherwise deemed to be urgent. In the case of schools where Local Authority statutory intervention powers apply, the procedure will be for an appointment to be made, although COPD will ensure there is consultation with the school concerned prior to the appointment being made.
2. All potential nominees/appointees must have completed the Local Authority governor application form and signed the code of conduct.
3. Where such nominations/appointments are agreed by the Chair of the Panel, these appointments will be confirmed with immediate effect and then reported to the next meeting of the Panel.

Role Description

Halton Authority Governor

Purpose of Post

The role of a governor is to contribute to the work of the Governing Body in raising standards and maximising outcomes for all pupils. This involves:

- a. Ensuring clarity of vision, ethos and strategic direction
- b. Holding the Headteacher to account for the educational performance of the school and its pupils, and the performance management of staff; and
- c. Overseeing the financial performance of the school and making sure its money is well spent.

Some governing bodies of maintained schools, and all academy boards of trustees, have additional functions and responsibilities. Depending on the category of school, they may own land, act as employers, admission authorities, or boards of charitable trustees and company directors.

Local Authority Governors are nominated or appointed by the Local Authority and are expected to discharge their duties giving due consideration to relevant Local Authority policies, however they are not mandated by the Local Authority.

Responsibilities include:

- developing the strategic plan for the establishment;
- determining aims, policies and priorities of the establishment;
- setting statutory and non statutory targets;
- monitoring and evaluating the work of the establishment;
- appointment of staff and ensuring the implementation of a range of personnel procedures;
- management of the budget;
- securing high levels of attendance and good standards of pupil behaviour;
- ensuring that all children in the establishments have access to a broad and balanced curriculum which is suitable to age, aptitude and ability, which prepares them for adult life;
- ensuring the health and safety of pupils and staff.

Tasks include:

- to get to know the establishment: its needs, strengths and areas for development;
- to attend meetings (full governing body, committees and working groups);
- to work as a member of a team;
- to speak, act and vote in the best interests of the establishment;
- to respect all Governing Board decisions and to support them in public;
- to act within the framework of the policies of the Governing Board and legal requirements;
- to commit to training and development opportunities.

Model Criteria for the Appointment of Authority Governors Halton Council

Local Authority Governors will be nominated for appointment/appointed to establishments within Halton by the Local Authority Governor Appointments Panel, in accordance with the following criteria, as evidenced in the Local Authority Governor application form:

Criteria	Essential / Desirable
<ul style="list-style-type: none"> • Able to demonstrate relevant and appropriate ability, experience or skills or a willingness and capacity to acquire them. • Displaying support for the main strategic aims of the Service for Children and Enterprise in Halton with regard to achieving the best outcomes for children. • Display an interest and/or involvement in children's education. • A commitment to attend/undertake training and governor briefing sessions. • Demonstrate good interpersonal, teamwork and communication skills • A commitment to attending meetings and contributing to the work of the governing body, including membership of a committee. • Involvement in the establishment's community through local groups such as voluntary groups, churches or work in the community. • Connection with local business/Council partners. • Interest in and/or links with the establishment such as ex-parent, voluntary helper, ex-employee at the establishment. 	<p>E</p> <p>E</p> <p>E</p> <p>E</p> <p>E</p> <p>E</p> <p>D</p> <p>D</p> <p>D</p>
<p><i>Disqualification Criteria</i></p> <ul style="list-style-type: none"> • Any Local Authority Governor who has been disqualified through non-attendance will not normally be re-appointed; • Anyone who is disqualified by virtue of Regulation 9 (Schedule 4) of the School Governance (Constitution) (England) Regulations 2012 cannot be appointed as a governor at that school for a period of twelve months (see appendix 7); • A person is disqualified from appointment as an LA Governor if s/he is eligible to be a Staff Governor of the school. 	

Code of Conduct Halton Local Authority Governors

Local Authority Governors should:

- Act in the best interests of the pupils/students at the establishment having considered the views and advice of the Local Authority. Governors may need to balance long and short term issues, establishment and community issues.
- Work as a member of a team at all times and be loyal to collective decisions made by the governing body.
- Recognise that all governors have the same rights and responsibilities unless particular responsibilities are conferred on them by the full governing body.
- Understand that no governor can act alone except in exceptional circumstances prescribed in the regulations – the power of the governing body rests in it acting as a single body.

All governors must:

- Respect confidentiality.
- Listen to and respect the views of others.
- Express their own views clearly and succinctly.
- Take their fair share of work/positions of responsibility.
- Know, understand and work within the prescribed regulatory framework.
- Report any evidence of fraud, corruption or misconduct to an appropriate person or authority.
- Respect any code of conduct agreed by the governing body.

In addition Local Authority Governors are expected to:

- Prepare for meetings by reading papers beforehand.
- Take responsibility for their own learning and development as a governor, including attending training.
- Attend meetings promptly, regularly, and for the full time.
- Read any briefings specifically for Local Authority governors.
- Familiarise themselves with Local Authority policy and guidance and, where necessary, be able to explain this to other governors on the governing board.

Halton Local Authority Governor Declaration

I confirm that I am not disqualified by any of the above regulations and therefore I am eligible to serve on governing bodies within Halton Borough Council. I have read the code of conduct and I am willing to abide by it. I also give my permission for Halton Borough Council to make arrangements with me to make a Disclosure and Barring Service (DBS) check, and to check my details against any such list that replaces this in the future.

Signed:

Print name:

Date:

If you are appointed to a Local Authority Governor position, your appointment will be for four years.

Please outline your reasons for showing an interest in becoming a governor – including details of personal qualities, relevant experience or skills (attach an additional sheet if required):

If you are not applying to a specific establishment please indicate any area you would prefer or the distance you are prepared to travel:

If you are not applying to a specific establishment please indicate whether you have a preference for establishments with a particular religious ethos

Catholic Schools Church of England Schools

Other (please specify) _____

Please give details of any particular provision you would require eg wheelchair access:

Grounds for Disqualification from Membership of a Governing Body

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.

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.

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 under section 113B of the Police Act 1997(c) for a criminal records certificate.