

CLERKS' HANDBOOK – MAINTAINED SCHOOLS

Royal Borough of Kensington & Chelsea

Westminster City Council

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Version IV

Produced by
Governor Support Team

Shared Services Clerks' Handbook

Introduction

We hope you will find this booklet useful, it contains information that all clerks should be aware of with regards to their important role. Although the booklet is aimed at new clerks the information it contains is helpful for established clerks, chairs and governors who want information and guidance on best practice. The guide is also a useful aide memoire for clerks and chairs on procedures that they might not carry out on a regular basis.

For information on the current statutory guidance and legislation please also refer to the GovernorHub and the current DfE Governance Handbook. The guidance in this handbook is applicable to governing bodies of maintained and federated maintained schools which are constituted under the School Governance (Constitution) (England) Regulations 2012. Clerks should always refer to the Constitution Regs and the School Governance (Roles, Procedures and Allowances) (England) Regulations 2013.

Clerks must ensure that information on governing body membership is kept up to date on GovernorHub. Newsletters will be circulated on GovernorHub and training courses are bookable on GovernorHub from September 2019 onwards.

<https://app.governorhub.com>

If a governing body is **not** using GovernorHub – then please make sure that governing body amendments are sent to the Governor Support section as changes occur and at least following the first meeting of the Autumn term when key appointments are made. The list should clearly mark the Chair of the Governing Body. Any updates need to be sent to julie.farmer@rbkc.gov.uk. Updates can be in the form of a short email as and when they occur. Due to the volume of emails received, we ask that you title the email 'GB updates' and include the name of the school in your correspondence.

Summary - Please make sure that Governors Services are informed as soon as possible if there is a change in Chair, Clerk or if the LA nominated governor has resigned. It is important to keep the LA informed and ensure that the LA contact details for the Chair are up to date. The LA send out information to Chairs and Clerks on a regular basis.

Format for informing the Governor Support team – Governing body information should include the following details -

<Name of Governor> <role> <Category of Governor> <current term of office, include appointment and end date> <email address> <mobile number > <address>

Example

Joe Bloggs Chair Parent Governor 2/4/17-1/4/2021 joebloggs@gmail.com
m:0123456789 - One Hyde Park, Knightsbridge, London, SW1X

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- 1. NEW CLERKS**

When you assume the role of clerk ensure that you -

- Have been given an up-to-date list of the members of the governing body by the previous clerk or the school and a copy of the school's Instrument of Government.
- Inform the Governor Support team of your appointment, so that you can be added to the Clerks mailing list. Following your enrolment, you will be able to access training information on GovernorHub, newsletters and you will be able to book and attend the termly Clerks briefing meeting.
- Remember to keep GovernorHub information up to date - the Governor Support team regularly send out information to governors via GovernorHub. The service also needs to keep current mailing lists and contact details for the Chair and the clerk to the Governing Body.
- Receive a job description – your precise duties will be set out in the job description provided by the school that employs you.

Pre-meeting

- Discuss and plan the agenda with the Chair and Head, the Chair approves the final agenda;
- Ensure you have copies of all paperwork relating to the agenda – Headteacher's Report, Committee minutes, last Full Governing Body Meeting minutes etc. In an emergency papers may be tabled at the meeting although this is not recommended;
- Using the Governing Body's preferred method of communication, send the agenda and the supporting papers to all the governors **at least** seven days in advance of the meeting.

At the meeting

- Ensure everyone present at the meeting signs the attendance sheet;
- Ensure all apologies and their approval/non-approval are recorded. Any non-attendance without an apology should also be noted;
- Ensure that Declarations of Interest are made and minuted;
- Record approval of minutes of last meeting, Chair to sign and date;
- Note the Clerk is required to chair the meeting for the item 'Electing the Chair'.

Good Practice - each page of the minutes should be numbered in sequential order from page 1 onwards at the start of each Academic year. The Chair should date and sign both the public and confidential parts of the minutes.

Remember – meetings of the governing body are not open to the public, attendance is at the agreement of the governing body. However, bear in mind that copies of the public part of the agenda and minutes must always be available at the school for parents/the public to view. Once minutes are approved for accuracy by the Chair they can be requested under FOI, even if they still need to be approved by the full governing board.

After the meeting

- A copy of the signed minutes of the last meeting should be filed at the school and made available to the Local Authority and appropriate Diocese (if a Church School) as required or if requested to do so;
- Send the draft minutes to the Chair within the agreed timescale (it may be the protocol at your school for draft minutes to be sent to the headteacher as well);
- Send a copy of any papers tabled at the meeting to absent governors;
- Ensure that the following information is sent to the Governance Team -
 - *Changes to the names/email addresses/of governors;*
 - *Changes in the membership of the governing body – resignations, retirements, disqualifications, elections, new appointments and reappointments;*
 - *If a Local Authority governor resigns, a copy of their letter of resignation or notification of their resignation should be sent to the governor support team **immediately**;*
 - *Appointment details of Chair/Vice Chair/Link Governor each year, even if there is no change.*

2. ROLE OF THE CLERK AND RESPONSIBILITIES

The Clerk's role will differ from school to school, as explained previously, your precise duties will be set out in the job description and person specification which the school will have provided you with.

Meeting

- Convene meetings;
- Circulate agendas and minutes;
- Take the minutes;
- Record attendance;
- Check Quorum before allowing the meeting to proceed;
- Record apologies received and the governing body's decision regarding acceptance;
- Record declarations of interest;
- Report changes to governing body membership;
- Record actions agreed;
- Record instances of governing body challenge.

Governing Body Membership

- Maintain and monitor the governing body membership list including the names, contact details, category and terms of office of individual governors;
- Monitor absences to inform the governing body of possible automatic disqualifications;

- Monitor terms of office and take necessary action to ensure elections and appointments can be organised in a timely manner;
- Assist the Headteacher in the election of Parent and Staff governors if required;
- Ensure that new governors are provided with the appropriate document, Instrument of Government (appointment letter for LA, co-opted governors etc) welcome pack etc have access to documentation such as previous minutes, data protection information etc.;
- Ensure any changes to governing body membership are communicated to the Governor Support team and that any membership changes or resignations are also conveyed to the appropriate appointing bodies in a timely fashion in the case of Church schools.

Advice and Information

- Advise the governing body on procedural issues;
- Know where to obtain appropriate legal advice, support and guidance;
- Provide advice regarding which statutory policies are required;
- Maintain records of governing body correspondence;
- Ensure a register of pecuniary and business interests is signed annually by governors. You should have a copy of the up to date register at the meeting in case of challenge.

3. GOVERNING BODY MEETING GUIDANCE

- There must be at least three meetings of the full governing body in every school year;
- The governing body, the Chair or any three governors can call an extra meeting;
- The procedure for electing the Chair and Vice-Chair shall be determined by the governing body. The Chair can be elected for any period of one year or more. (The specific term of office and method of appointment should be referred to on the agenda of the meeting and recorded in the minutes);
- Governors, Associate Members, the Head Teacher and the Clerk have the right to attend GB meetings.

In addition, (*by prior agreement*) –

- The GB can allow any other person to attend its meetings;
- Unless it is to discuss possible disciplinary action **against them**, the head has the right to attend all meetings of the governing body and its committees, even where they have elected not to be a governor.

Model Standing Order for Governing Bodies

Governing Bodies may find the adoption of a set of Standing Orders helpful in deciding how they conduct their business. Please attend Clerks briefing, the NGA website or contact Governor Services directly.

Code of Conduct

The code sets out the expectations on and commitment required from governors in order for the governing body to properly carry out its work within the school and the community. A model code by the NGA can be found on GovernorHub or on the NGA site

<https://www.nga.org.uk/Guidance/Legislation,policies-and-procedures/Model-Policies/Code-of-Practice.aspx>.

It is advised that every effort be made to avoid potential difficulties later by informing prospective candidates or appointees of the nature of the role. It is advised that their agreement is secured to a clear set of expectations for behaviour and conduct.

Before the Meeting

Notice of a meeting **must** be sent to governors seven clear days in advance with the agenda and any associated papers.

During the Meeting

A meeting may only take place if it is quorate. Where a meeting ceases to be quorate it should be suspended. All decisions taken up to this point will stand. The Clerk must ensure that the minutes of the previous meeting are approved by the governing body and signed by the Chair. When a vote is taken, if there is an equal division of votes the Chair of the meeting has a second or casting vote.

After the Meeting

The Clerk will prepare draft minutes within the timescale agreed by the governing body and in accordance with governing body procedure, the Clerk will make an inspection copy available to meet requests.

Note that - The procedures for committee meetings are as above except that where the chair of a committee is an Associate Member they will not have a casting vote.

4. FREQUENTLY ASKED QUESTIONS – MEETINGS

- **Can extra meetings be called?**

Yes. The Chair can call an extraordinary meeting to discuss an urgent matter. In addition, any 3 governors may request the Clerk to call a meeting. This request must be made in writing.

- **Can anyone attend a governing body meeting?**

Apart from those who have a right to attend, the governing body can, in addition (by prior agreement) allow any other person to attend its meetings. However, a representative of the Local Authority has the right to attend all meetings pertaining to headteacher selection and dismissal in community and voluntary controlled schools.

- **What is the quorum for governing body meetings?**

The current quorum for a full governing body meeting is 50% of the number of occupied seats, i.e. vacancies do not count.

The quorum for any committee meeting is **3 governor members of the committee**, unless a greater number is specified in that committee's terms of reference.

Associate Members do not count towards full governing body quorum or the quorum of any committee and at any committee meeting, Associate Members should not outnumber governors.

- **What is the procedure with regard to apologies?**

Apologies given for a full governing body meeting must be considered for acceptance and the decision must be recorded in the minutes. If any governor (*without consent*) misses full governing board meeting for a period of six months, beginning from the date of the first meeting missed, that governor is automatically disqualified. Please make sure that you keep in contact with absent governors and that they are aware that a further absence without agreement may lead to disqualification.

- **Can apologies be received retrospectively?**

Only apologies received on the day of the meeting may be retrospectively approved at the next meeting. Apologies received the day after or later cannot be considered for approval.

- **Declarations of interest**

At the start of every full governing body meeting and each committee meeting, those present must declare any interest they may have in any item to be discussed where that interest is greater than that of any other governor. Where no declarations are made, that fact should also be recorded.

- **Can the head or a staff member be Chair of the governing body?**

Neither the head nor another member of staff may be Chair of the full governing body. Any governor or Associate Member may be Chair of a committee.

- **Voting Procedure**

What is the procedure where a vote is deemed necessary to ascertain a decision of the governing body?

Either an open or a secret ballot may be taken as determined by the governing body. Where a vote is deemed necessary, the question will be determined by the majority of the governors **present** and voting. Proxy votes are **not** allowed. In the event of a tie the Chair will have a casting vote at full governing body and committee meetings, unless the Chair of a committee is an Associate Member.

Does a governor need to be present at a meeting in order to vote?

Yes, governors may be present either in person or by electronic means.

If present electronically, they must be able to take a full part in the meeting. They must be able to hear all discussion and be able to interact with all other governors present simultaneously. This will not include by text, email or similar format.

Where electronic means are used arrangements must be made prior to the meeting.

5. MINUTES

General Information

- It is not necessary to record in the minutes everything that is said, however key discussion points and decisions taken must be recorded. During the meeting the Clerk should seek clarification from the Chair if they are unclear what should be recorded;
- It is important to record key questions, evidence of challenge and instances of the governing body holding the school to account. Ofsted inspectors use the minutes to check that governors offer appropriate challenge to the head and senior leaders and are carrying out their monitoring role.

Information to be recorded

- Record attendance;
- Record apologies received and the governing body's decision regarding acceptance;
- Record any declarations of interest;
- Record approval of minutes of last meeting, Chair to sign and date;
- Record actions agreed;
- Record instances of governing body challenge and monitoring questions;
- Record outcome of any vote taken e.g. unanimous, majority decision etc. including number of any abstentions;
- There is no requirement to record actual number of votes cast for or against for any vote;
- When a vote is taken, if there is an equal division of votes the Chair of the meeting has a second or casting vote unless the Chair of a committee is an Associate Member;
- Record arrival and departure of governors during the meeting.

Confidentiality

Schools are public bodies, there should be very few issues discussed at a meeting of governors classified as 'confidential'. Once a decision is taken to record something confidentially, the minutes of that part of the meeting should be stored separately from other minutes (both electronically and in paper format). They should not be made available for general inspection. These are known as Part 2 or Part B Minutes.

All members of the governing body have a right of access to confidential minutes, even if they are not members of the committee responsible for agreeing the confidentiality. Any governor who withdrew from the meeting or was not present still has the right to see the minutes of that part of the meeting.

Format of Minutes

The minutes of a full governing body meeting must record sufficient detail of all decisions taken and actions agreed, together with key discussion points.

For the benefit of those not present there should be sufficient detail to provide a clear and accurate account of the proceedings. It is helpful to highlight any action required as a result of any decisions taken and to indicate who is responsible for taking such action and the timescale. This avoids revisiting items at subsequent meetings and ensures ownership of tasks.

Confidential items should always be recorded separately in 'Part II' Minutes and should not be made available to the wider public. Any matter which affects the interests of a named individual connected with the school should be regarded as confidential. Minutes are public records and as such are kept in perpetuity and in extreme circumstances may be used as evidence in a court of law at any point in the future.

Approval of the Minutes

The minutes of governing body meetings remain draft minutes until the full governing body has formally approved them at its next meeting. At that meeting any further amendments to the draft minutes should be recorded **under matters arising** but the original minutes should not be amended.

Once approved by the full governing body they should be signed and then they become the formal record of the proceedings of that governing body meeting. They can then be made available (excluding any confidential minutes) to anyone wishing to see them, together with any supporting papers as appropriate.

If the minutes are kept in a loose-leaf folder they should be kept in sequential order, with pages numbered. The Clerk should arrange for the Minute File/Book to be kept securely **at the school**.

The School Governance (Roles, Procedures and Allowances) (England) Regulations 2013 require all governing bodies to make available for inspection by any interested person a copy of:

- The agenda for every meeting;
- The signed minutes of every such meeting; and
- Any report or other paper considered at any such meeting.

Under Freedom of Information Act 2000 (FOIA 2000) the governing body may exclude from any item required to be made available any material relating to:

- a named person who works, or who it is proposed should work, at the school; or
- a named pupil at, or a candidate for admission to, the school; or
- any other matter that, by reason of its nature, the governing body is satisfied should remain confidential.

The FOIA 2000 covers all information held and this includes all the papers mentioned above, even those that the governors have decided should remain confidential unless an exemption applies (see paragraph below).

The provisions of Section 36 of the FOIA 2000, authorise the Chair to certify that disclosure of a piece of information labelled 'confidential' by the governing body should be exempt from disclosure. If a request under FOIA 2000 is received, advice should be sought from the Manager of the Governor Support Team Jackie Saddington jackie.saddington@rbkc.gov.uk.

Who should receive confidential/Part II minutes?

Part II minutes should only be circulated to members of the governing body. All governors should receive copies of Part II minutes, **whether or not** they were present at or withdrew from the meeting.

Part II minutes **must not** be made available for later inspection by members of the general public (**unless** they are subject to the provisions of the Freedom of Information and Data Protection Acts).

Confidential/Part II minutes must be stored separately from other minutes of meetings.

If, during a particular discussion, a governor withdraws from the meeting, governing body or committee, can they receive the minutes of that discussion?

Yes. All governors (including Staff governors) must receive copies of **all** minutes including confidential/Part II minutes, despite having withdrawn from the meeting.

6. GOVERNING BODY STRUCTURE AND MEMBERSHIP

Constitution

The School Governance (Constitution) (England) Regulations 2012 set out arrangements for the constitution of governing bodies of maintained schools, including Nursery Schools in England. The **Instrument of Government** sets out the size and membership composition of each governing body. Governing Bodies who wish to review or vary their size and membership should consult the Regulations or contact a School Support Officer for advice.

Terms of Office

All governors, except ex-officio, are appointed for a period of between one and four years as determined by the governing body. Please note that the term of office for each category of governor is assumed to be 4 years unless the Instrument of Government says differently. **Elected governors** must be re-elected if they wish to continue for a further term of office. It is possible for there to be different terms of office for each category throughout the governing body (except Local Authority and Foundation governors whose term of office is always 4 years) e.g. Parents serve 4 years; Staff serve 2 years and Co-opted serve 2 years. If the governing body decide to have a term of office of less than four years for any category of governor, then **all** governors in that category must have the same term of office.

Changes to the Membership of the Governing Body

A governing bodies constitution is set out in its Instrument of Government. Governing bodies who wish to change their constitution should, in the first instance, consult the Governors Handbook. Governing Bodies wishing to reconstitute should follow The School Governance (Constitution) (England) Regulations 2012. When the governing body has decided on a new constitution a revised Instrument of Government should be drawn up and sent to the Governor Support team. Any proposed change to Instrument must in the first instance be noted in the minutes. Any change to membership must have the agreement of the LA, and in the case of Church schools must also have the approval of the appropriate Diocesan Board.

Categories of Governor

Local Authority	Nominated by the LA under a scheme agreed by the Local Authority. Any appointment must be made at a meeting of the full governing body. Notification of appointment/reappointment forms and information can be found on GovernorHub or contact Governor Services directly.
Parent	Elected by parents of registered pupils of the school (see information on GovernorHub or contact Governor Services directly.) If no one is elected an appointment may be made (please refer to the regulations)
Headteacher (Staff)	Automatically a governor unless they inform the governing body on appointment, or at any time thereafter, that they do not wish to serve as a governor* They still have the right of attendance at all meetings if they have opted out.
Staff	One Staff governor position reserved for the headteacher whether or not they choose to be a governor (see above). Plus one other Staff governor elected by all school staff (this person could be a member of the teaching or support staff). Other staff members can be appointed as Co-opted governors providing that the total number of staff on the governing body (including the head and the elected Staff governor) does not exceed one third of the total number of governors. (see the election procedures document on GovernorHub or contact Governor Services directly.)
Foundation	In Aided and Controlled faith schools Foundation governors are appointed by the relevant church authorities as detailed in the Instrument of Government. Some Foundation Schools also have Foundation governors appointed by the relevant foundation.
Foundation (Ex-officio) Although ex-officio is used in some quarters to imply the person is “in addition to”, here it means “by virtue of the office”.	Ex-officio Foundation governors are included in the Instrument of Government of Church of England Aided and Controlled Schools. Details of the office which gives rise to the holder becoming a governor are contained in the Instrument of Government. e.g. vicar of the parish.

Co-opted	Appointed as a governor by the governing body and has, in the opinion of the governing body, the skills required to contribute to the effective governance and success of the school. <i>All appointments to be made and recorded in the full governing body minutes.</i>
Partnership	Appointed by the governing body (Foundation schools without a foundation only) on the nomination of parents of pupils at the school and other communities served by the school as considered appropriate.

*the Headteacher **must** put their request not to serve as a governor in writing to the clerk. They can opt back in, but again, they must put their request in writing to the clerk.

DBS Checks

Governors in maintained schools are required to hold an enhanced DBS certificate. Governors who are appointed/elected after 1st April 2016 **must** apply for an Enhanced DBS check within 21 days of their election or appointment.

LOCAL AUTHORITY GOVERNORS (LA)

Appointment Process and notification

The recruitment process for Local Authority governors is overseen by the Governor Support team. Please note that once a Local Authority governor has given their resignation, the LA **must** be notified in writing. A person is ineligible to be a Local Authority governor if they are eligible to be a Staff governor at the school. If there are any queries about the process, please contact the Governor Support team well in advance of any possible re-appointment. All applicants (including reappointments) **must** complete an application form. All LA appointments must be made at a full meeting of the governing body. You will need to inform the Governance team of the appointment date and the term of office of LA Governors. You will need to complete and return the [notification form](#) (copies of which can be found on GovernorHub or contact the Governor Support team).

PARENT GOVERNORS & STAFF GOVERNORS

For information and guidance on definitions, candidate eligibility and the election process please see the [election guidance note and flowchart](#) which is on GovernorHub or contact Governor Services directly.

N.B. A person is **not** disqualified from continuing to hold office as a Parent governor when s/he ceases to be a parent of a registered pupil at the school or takes up employment at the school. However, the term of office of a Staff governor will end either at the normal termination date or upon ceasing to work at the school.

FOUNDATION GOVERNORS

Appointment

The Instrument of Government will detail who is responsible for appointing Foundation governors at Voluntary Aided, Controlled and Foundation Schools. When a notice of resignation is received the Clerk will need to contact the relevant appointing body.

CO-OPTED GOVERNORS

Definition

Co-opted governor is defined by paragraph 11 of The School Governance (Constitution) (England) Regulations 2012 as a person who is appointed as a governor by the governing body and who, in the opinion of the governing body, has the skills required to contribute to the effective governance and success of the school.

Candidate Eligibility

Governors may nominate any eligible candidate. Where there are more candidates than vacancies a vote will take place.

Candidate Ineligibility

A person **may not** be considered for appointment if they are:

- a registered pupil at the school;
- an elected member of the Local Authority;
- Disqualified as a governor of the school

ASSOCIATE MEMBERS

Definition and candidate eligibility - The School Governance (Constitution) (England) Regulations 2012 defines "Associate Member" as a person who is appointed by the governing body as a member of any committee established by them but who is not a governor.

There is no restriction on the number of Associate Members that can be appointed except that the number of Associate Members on a committee must be less than the number of governors. Candidates may be under 18 years of age (but cannot be given voting rights).

Candidate Ineligibility

Any person disqualified from holding office as a governor is likewise disqualified from being an Associate Member (an exception would be the appointment of pupils under 18).

Appointment process

Governors may nominate any eligible candidate for appointment to a committee. Appointments will be a decision of the full governing body together. Associate Members may be given voting rights on some or all matters of the committee they have been

appointed to, as agreed by the full governing body at the time they are appointed or at any time during their term.

Associate Members **may not** be given voting rights for full governing body meetings but do have the right to attend full governing body meetings, subject to restrictions below.

Term of Office

Associate Members can hold office for a period of between one and four years as determined by the governing body at the date of appointment. They can be reappointed at the expiration of their term of office and can be removed from office at any time.

Restrictions on activities

- Associate Members may be excluded from any part of a meeting when the item of business concerns an individual pupil or member of staff;
- Associate Members may not outnumber full governors on any committee;
- Associate Members cannot be counted in a quorum for any meeting;
- Associate Members can attend full governing body meetings but cannot be granted the right to vote;
- Although an Associate Member may chair a committee they may not use a casting vote in the event that votes are tied.

What if the school has a shared or co-headship, does each Headteacher become a member of the governing body?

No. There is just one Staff governor place held for the headteacher. In a shared or co-headship the post holders must decide between them who will be the governor with voting rights and whether or not they will both attend the meetings. If the person with voting rights is absent from a meeting, the other **does not** take over the voting rights.

Federation membership

In a federated governing body who takes the Headteacher's position?

In a federated governing body, the number of Headteacher positions will be that previously agreed and shown on the Instrument of Government. If they choose to opt out the place remains vacant. The Headteacher should put their request in writing to the Clerk. They can resume their position by again putting their request in writing to the Clerk.

7. DISQUALIFICATION, SUSPENSION AND REMOVAL OF A GOVERNOR

DISQUALIFICATION OF A GOVERNOR

Disqualification of a governor regulations

Schedule 4 of the School Governance (Constitution) (England) Regulations 2012 sets out the criteria for disqualification from membership of the governing body.

N.B. A governor must be aged 18 or over at the time of appointment and cannot be a registered pupil at the school. All grounds for disqualification apply to Associate Members (except that a registered pupil under 18 may be an Associate Member).

Criteria for disqualification

Non-attendance at full governing body meetings

All apologies for absence **must** be recorded in the minutes. The minutes **must** also state whether the governing body consented to his or her absence.

This paragraph applies to any governor who is not a governor by virtue of their office (i.e. ex-officio governors).

A governor, who, without the consent of the governing body, fails to attend full governing body meetings for a continuous period of six months (beginning with the date of the first meeting missed) will be automatically disqualified from continuing to hold office as a governor of that school for a period of one year.

Notification of disqualification

The governing body is required to give written notice of any disqualification from the governing body.

SUSPENSION OF A GOVERNOR

In all cases where a governing body is considering suspending a governor, contact should be made in the first instance with the Manager of the Governor Support team.

THE REGULATIONS

The School Governance (Roles, Procedures and Allowances) (England) Regulations 2013 allow for a governor to be suspended for all or any meetings of the full governing body or of a committee, for a fixed period of up to six months.

Grounds for suspension

Regulation 17(1) (a-d) of the above legislation gives the following grounds for suspension to be considered:

- 17.(1) Subject to paragraphs (2) to (4), the governing body may by resolution suspend a governor for all or any meetings of the school, or of a committee, for a fixed period of up to 6 months on one or more of the following grounds -
- (a) that the governor, being a person paid to work at the school, is the subject of disciplinary proceedings in relation to his or her employment;
 - (b) that the governor is the subject of proceedings in any court or tribunal, the outcome of which may be that the governor is disqualified from continuing to hold office as governor under Schedule 6 to the Constitution Regulations 2007 or Schedule 4 to the Constitution Regulations 2012;
 - (c) that the governor has acted in a way that is inconsistent with the ethos or with the religious character of the school and has brought or is likely to bring the school or the governing body or the office of governor into disrepute; or
 - (d) that the governor is in breach of the duty of confidentiality to the school or to any member of staff or pupil at the school.
- (2) A resolution to suspend a governor from office does not have effect unless the matter is specified as an item of business on the agenda for the meeting.
- (3) Before a vote is taken on a resolution to suspend a governor, the governor proposing the resolution must at the meeting state the reasons for doing so, and the governor who is the subject of the resolution must be given the opportunity to make a statement in response before withdrawing from the meeting in accordance with regulation 16(b).
- (4) Nothing in this regulation may be read as affecting the right of a governor who has been suspended to receive notices of, and agendas and reports or other papers, for meetings of the governing body during the period of their suspension.
- (5) A governor may not be disqualified from continuing to hold office under paragraph 5 of Schedule 6 to the Constitution Regulations 2007 or paragraph 9 of Schedule 4 to the Constitution Regulations 2012 for failure to attend any meeting of the governing body while suspended under this regulation.

DURING THE SUSPENSION PERIOD

- The governor will continue to receive notices of, and agendas and reports or other papers for, the meetings of the governing body during the period of his suspension;
- The governor will not be eligible for automatic disqualification for nonattendance while suspended under this regulation.

REMOVAL OF A GOVERNOR

Governing bodies are expected only to exercise the power to remove an elected governor in exceptional circumstances. In all cases where the governing body are seeking to remove a serving governor, they should contact the Manager of the Governor Support team for further advice before proceeding.

THE REGULATIONS

The School Governance (Constitution) (England) Regulations 2012 states that it is possible to remove certain categories of governor from office during their normal term. Further guidance can be found in the statutory guidance for maintained schools and local authorities in the DfE document 'The Constitution of Governing Bodies of Maintained Schools'.

THE PROCESSES

Local Authority governor

- Any Local Authority governor may be removed from office by the Local Authority that nominated them.
- The local authority must give written notice to the Clerk and to the person being removed of the reasons for that removal.

Foundation governor

- Any Foundation Governor may be removed from office by the body which made the appointment i.e. appropriate diocese.
- The appointing body must give written notice to the Clerk and to the person being removed of the reasons for their removal from office.
- Governing Bodies may suspend but not remove a Foundation Governor

Ex-Officio Foundation governor

- The governing body may remove an Ex-Officio Foundation governor if requested by the person named in the Instrument of Government as being the person entitled to make such a request. That person must give the Clerk and the governor who is the subject of the proposed removal written reasons for the request.

Co-opted and Appointed Parent and Staff governors

The governing body may propose the removal of governors from either of the above categories.

Partnership Governors

The governing body may propose the removal of Partnership governors, as can the nominating body.

Elected Staff or Parent governors

As of **1 September 2017**, elected Staff or Parent governors can be removed from office. The procedure for removal is the same as that for appointed and co-opted parent governors

MISCELLANEOUS TASKS FOR CLERKS

Attendance at clerk Briefing Meetings

The Governance Team provide termly briefings for Clerks. Details can be found on the GovernorHub and in the [2019/20 training booklet](#). Where possible Clerks should attend the briefings each term. The briefings also provide an opportunity for any questions to be answered and for clerks to network.

Business and Pecuniary Interest Register

Governing bodies and school staff, including the Clerk, have a responsibility to avoid any conflict between their business and personal interests and the affairs and interests of the school. Staff and governors **must** complete and sign a register of business and pecuniary interests annually, including any nil returns. The register must be published on the school's website and made freely available for inspection by governors, staff, parents, Local Authority and Ofsted representatives.

A recommended format for the [declaration form](#) can be on GovernorHub or contact Governor Services directly.

Clerks should check with the school business manager/bursar whether or not it is the responsibility of the Clerk to maintain the business and pecuniary interest register for governors or whether the governing body are included on a whole school register.

Remember: clerks should have details of declarations of Interest at the meeting. If a governor fails to declare an interest the clerk **must** inform the governing body.

Publication of Governing Body details and the Register of Interests

The School **must** publish on the school's website up to date details of its governance arrangements in a readily accessible form. 'Readily accessible' means that the information should be on a webpage without the need to download or open a separate document. The information should include:

- The structure and remit of the governing body and any committees and the full names of the Chair of each;
- For each governor who has served at any point over the past 12 months:
 - Their full names, date of appointment, term of office, date they stepped down (where applicable), who appointed them (in accordance with the governing bodies instrument of government);
 - Relevant business and pecuniary interests (as recorded in the register of interests) including:
 - Governance roles in other educational institutions;
 - Any material interests arising from relationships between governors or relationships between governors and school staff (including spouses, partners and close relatives); and
 - Their attendance record at governing body and committee meetings over the last academic year.

Governing bodies should also publish this information for Associate Members making it clear whether they have voting rights on any of the committees to which they have been appointed.

Document Retention

The signed minutes of each meeting, together with the paperwork pertaining to that meeting, must be retained. The Clerk must ensure that these minutes are kept **at the school** and are available for inspection.

Other paperwork should also be kept. The Records Management Society has produced a retention toolkit. It sets out recommended retention periods for other governing body documents and governing bodies may wish to adopt this system.

Recording Delegated Tasks

All tasks delegated by the governing body must be recorded in the minutes.

It may be useful for governing bodies to maintain a central record of who decisions may be made by, as some can be delegated to committees and some to individual governors. Where this record is kept it is likely to be a task for the Clerk.

Policy Management

It **may** be part of the Clerk's role to maintain a policy file with a review schedule.

Governing bodies are required to have in place and maintain certain statutory policies as well as other school plans, policies and procedures approved by the governing body. A list of Statutory policies, can be found on GovernorHub or via the attached link

<https://www.gov.uk/government/publications/statutory-policies-for-schools-and-academy-trusts> - Updated 1 November 2019.

Regard to the Freedom of Information Act

The governing body will publish a list of documents which are readily available to comply with requests under the terms of the FOIA, 2000. Such requests for access to these documents will be made through the school.

This list of documents is required to be updated from time to time.

New members of the governing body must be made aware of the terms of this Act. It may be the task of the Clerk to ensure that this happens.

Instrument of Government (IoG)

All maintained schools to have an instrument of government which determines the constitution of the governing body and other matters relating to the school

All instruments of government must include:

- the name and category of school
- the name of the governing body
- the categories of governor
- the number of governors in each category
- the total number of governors
- the term of office of any category of governor, if less than four years
- the date the instrument of government takes effect.

Where a school has a foundation, the instrument of government must comply with the foundation's governing documents.

Reviewing and varying the instrument of government

The governing body or local authority can review and vary the instrument of government at any time after it is made.

- in the case of a school with foundation governors, the governing body **must not** submit a revised draft unless it has been approved by the foundation governors; the trustees of any foundation relating to the school; the appropriate diocesan authority; and in the case of any other school designated as having a religious character, the appropriate religious body
- each party should let the other know what item in the instrument of government they wish to vary and give reasons
- the governing body should respond as to whether it is content and if not provide reasons for objections
- if there is disagreement, some other variation can be proposed by either party
- if the local authority, of a school that does not have foundation governors, is not content with the governing body's proposal, it should inform the governing body giving reasons, or propose their own variation giving reasons, and in each case give the governing body reasonable opportunity to reach an agreed revised draft between them
- once an agreement has been reached, the local authority must vary the instrument of government
- in the absence of an agreement, for schools without foundation governors, the local authority will vary the instrument of government as it thinks fit, having regard to the particular category of school.
- the varied instrument of government should record the date the variation takes effect.

Instrument of government

The local authority must supply, free of charge, a copy of the instrument of government, or a consolidated version where there has been a variation, to each member and associate member of the governing body (and the headteacher if they are not a governor) as well as, where relevant, the trustees of any foundation, the appropriate diocesan authority and appropriate religious body

Following appointment of new governors, the new governor must be supplied with a copy of the current Instrument of Government (IOG) by the Clerk.

In Summary

The IoG is a legal document that records the constitution of the governing body and the term of office for each category of governor as well as the name of the school. The document does not have to be reviewed annually, agreed or signed by the Chair.

If a governing body wishes to change its name – or amend the number of governors in a certain category etc. – then a decision to do must be clearly recorded in the minutes (the possible composition of the GB is laid down in regulations - so you would need to be changing composition based on prescribed requirements). The LA has to agree to and authorise any changes before the the IOG can come in to effect. Please note that the IoG is 'made' by the LA rather than the governing body. All instruments are dated – it will state the day it was made and the day on which it is to come into effect. The Clerk **must** ensure that all governors have a copy of the IoG.

9. FREQUENTLY ASKED QUESTIONS – MISCELLANEOUS TASKS

What constitutes a business interest?

There is no clear definition of what constitutes a business interest. However, the Register must include all business interests such as directorships, share holdings and other appointments of influence within business or other organisations which may have dealings with the school. The disclosures should also include business interests of immediate family and other relatives and individuals who may exert influence.

When making a decision on what should be disclosed, the individual should bear in mind the basis on which a third party might challenge their decision to disclose or not disclose information.

What is a pecuniary interest?

A common misconception is that business interests and pecuniary interests are synonymous; this is not so. Pecuniary interest is a wider term which would capture personal financial interests as well as potential interests such as a possible promotion for a Staff governor or partner of a governor. Further clarification as to what may or may not be a pecuniary interest can be found in Schedule 1 of The School Governance (Roles, Procedures and Allowances) (England) Regulations 2013.

Can access to confidential documents be requested under the Data Protection Act 2018 (DPA 2018)?

Yes. If the document refers to the person requesting the information or their children that person may request access. However, reference to any other person must be removed prior to access being granted. (Always remember to check the current GDPR requirements).

Where can I find Articles of Association and what are they?

An Academy does not have an instrument of government instead it has articles of association. Articles of association are required for a company formed in the UK under the Companies Act 2006 and previous Companies Acts. The articles of association set out how the company is run, governed and owned.

All Academies articles of association can be downloaded at Companies House using the following link: <https://www.gov.uk/get-information-about-a-company>

How long do governing body signed minutes need to be kept for and where should they be stored?

Governing body minutes should be kept for as long as the governing body is in existence in a minutes file in date order. Preferably the minutes should be stored in a fire-resistant cabinet, but certainly in a secure location in the school and be made available for the public to view if they wish to do so.

Confidential minutes should be placed into a sealed envelope and kept in a school safe or in a secure location that is lockable and fireproof. Confidential minutes are not a public document and are only accessible for those that were privy to the meeting. Ofsted can also request to see confidential minutes.

Once full governing body minutes have been approved by the governing body the minutes must be sent electronically to julie.farmer@rbkc.gov.uk these minutes will then be filed electronically.

I have been asked to clerk an Exclusion Hearing but I haven't attended any training, am I still able to clerk this?

Although training is not statutory it is strongly recommended. If a clerk has not had training, then their advice can be challenged more easily.

I have been asked to carry out a Skills Audit

Information and a useful toolkit for carrying out a skills audit can be found on the NGA website <https://www.nga.org.uk/Guidance/Workings-Of-The-Governing-Body/Governance-Tools/Skills-Audit.aspx>

School Complaints Procedure

In accordance with Section 29(1) of the Education Act 2002, all maintained schools and maintained nursery schools must have and publish procedures to deal with all complaints relating to their school and to any community facilities or services that the school provides, for which there are no separate (statutory) procedures. Links to the School Complaints toolkit and best practice guidance are given below –

https://dera.ioe.ac.uk/20660/2/School_Complaints_Toolkit_2014.pdf

<https://www.gov.uk/government/publications/school-complaints-procedures/best-practice-advice-for-school-complaints-procedures-2019>

Do you have any queries - that you would like raised under this section?

Send your questions to Julie Farmer @ julie.farmer@rbkc.gov.uk

Mark the subject line of your email 'FAQs – Governors Handbook'

10. CONTACT DETAILS FOR GOVERNOR SUPPORT SERVICES

Postal address -

Governor Support Team – 2nd floor Green zone
Royal Borough of Kensington & Chelsea
Town Hall
Hornton Street
London
W8 7NX

Head of Governor Services

Jackie Saddington
07739 315427
Jackie.saddington@rbkc.gov.uk

Governor Support Officer

Julie Farmer
07739 315429
Julie.farmer@rbkc.gov.uk

Further Information on guidance, legislation, regulations and training information can be found on GovernorHub

<https://app.governorhub.com>

Information on GovernorHub includes-

- Business Interest form
- Bulletins & Newsletters (also circulated by email)
- Chairs Forum
- Election Guidance (Parent and Staff Governor Elections)
- Eligibility leaflet
- Exclusion regulations
- Model Code of Conduct - NGA
- Model Letter of Appointment
- Model terms of Reference
- NGA skills audit
- New Governor Information leaflet
- Notification of LA appointed Governor form
- Links to other useful sites

Governor application forms and current Instruments of Government can be found on the Governors area of the appropriate Borough's website.

Training can be booked directly on GovernorHub.

Other useful websites include-

GovernorHub - <https://app.governorhub.com>

Traded Services and NQT information - <http://Services2Schools.org.uk>

DfE <https://www.gov.uk/education/school-governance>

Diocese of Westminster <http://rcdow.org.uk/>

London Diocesan Board for Schools <https://www.lpbs.co.uk/>

National Governance Association <http://www.nga.org.uk/Home.aspx>

Ofsted <https://www.gov.uk/government/organisations/ofsted>

Information and Record Management Society <https://irms.org.uk/>

Link to their school's toolkit is - <https://irms.org.uk/page/SchoolsToolkit>

Acknowledgement

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