

COMMITTEE REPORT

CORPORATE AFFAIRS COMMITTEE

19 July 2012

**New Arrangements for the Constitution of Governing Bodies
from September 2012**

J White – Governor Development Service Manager

PURPOSE OF REPORT

1. To consider the implications of the School Governance (Constitution) (England) Regulations 2007 and 2012 and appointment of Local Authority Associated Person (LAAP) to an Academy governing body.

**BACKGROUND/SCHOOL GOVERNANCE (CONSTITUTION) (ENGLAND)
REGULATIONS 2007**

2. The constitution of governing bodies of schools maintained by the LA (community, voluntary controlled, voluntary aided and foundation) are currently determined by the School Governance (Constitution) (England) Regulations 2007. The size of governing body, number of governors in each category and terms of office for governors are included in a legal document, the instrument of government, along with other details. The governing body decides the content of the instrument of government, which is then made by order of the LA, following approval by the relevant trustees, foundation governors and Dioceses religious body in voluntary aided schools and foundation schools that have a foundation or trust.
3. The 2007 regulations are very prescriptive about the size and make-up of governing bodies. They specify that the size of the governing body may be between 9 and 20, with provision for additional sponsor and foundation governors. For example, in a community school the governing body must comprise:
 - One third or more parents;
 - At least two but no more than one third staff governors;
 - One fifth local authority governors;
 - One fifth or more community governors.

SCHOOL GOVERNANCE (CONSTITUTION) (ENGLAND) REGULATIONS 2012

4. The draft School Governance (Constitution) (England) Regulations 2012 were subject to a targeted consultation with members of the DfE's Advisory Group on

Governance from 14 February 2012 to 12 March 2012 the regulations were laid before Parliament on 19 April 2012 and come into force on 1 September 2012.

5. The new regulations are much less prescriptive than the 2007 regulations, allowing governing bodies' greater flexibility to alter their size and composition if they wish. However if a governing body wishes to alter any aspect of their current instrument of government, whether it is the size, composition, terms of office for governors or even change the name of the school, they must reconstitute under the 2012 regulations. Governing bodies of new schools setting up on or after 1 September 2012 would automatically be constituted in accordance with the 2012 regulations. The School Governance (Constitution) (England) Regulations 2007 and 2012 do not apply to academies (see paragraph 5 below).
6. A brief summary of the main new provisions of the 2012 Regulations, compared with the 2007 Regulations, is provided as Appendix 1.

SCHOOL GOVERNANCE (AMENDMENT) (ENGLAND) REGULATIONS 2012

7. Whilst most of the main provisions of the 2007 Constitution Regulations will still apply to governing bodies that do not choose to reconstitute under the 2012 Regulations, the government has made some amendments to the 2007 Regulations to match changes introduced in the 2012 Regulations. The changes relate mainly to the definition of certain governor categories and amendments to criteria that would disqualify people from appointment as governors. (Appendix 1).

LOCAL AUTHORITY (LA) GOVERNORS

8. Under the 2012 School Governance (Constitution) (England) Regulations governing bodies now only have to have a minimum of one LA governor and it is for Governing Bodies to set **any eligibility criteria** they see fit when appointing an LA Governor.
9. Therefore in the future by continuing to use the existing arrangements Corporate Affairs will **nominate**, governors, but it will be for the Governing Body to **appoint** the LA Governor from those nominated. To date, the DFE have not published any guidance on appropriate eligibility criteria leaving such decisions for each Governing Body. Local Authorities will therefore need two systems to run in parallel when dealing with the appointment of LA Governors.

CONSTITUTION OF ACADEMY GOVERNING BODIES

10. Both the 2007 and 2012 School Governance (Constitution) (England) regulations do not apply to academies. The academy governance model is set out in the individual Academies Articles of Association, which are approved by the Secretary of State. Whilst there is no maximum number of governors on an Academy there must be a minimum of three governors, two parent governors and the Principal.
11. Under the Academies Articles of Association it is for the Academy Trust Members to appoint the Governing Body and decide whether to include a LA Governor as

part of their membership. If it is agreed that there will be a LA Governor it will be the Local Authority that appoint the LA Governor.

RESTRICTIONS ON WHO CAN BE A GOVERNOR ON AN ACADEMY – LOCAL AUTHORITY ASSOCIATED PERSON (LAAP)

12. Restrictions for local authority associated persons are outlined in Appendix 2 Procedures for the Approval for a LAAP to be appointed to the governing body of an academy.

RECOMMENDATIONS

13. Members note the new arrangements within the School Governance (Amendment) (England) Regulations 2012 for the constitution of Governing Bodies.
14. Approve and adopt the amendments to the Protocol for the Appointment, Re-Appointment of LA Governors and the Procedures for the Removal of LA Governors, attached at Appendix 2 to this report.
15. Approve and adopt the Procedures for the Approval of a LLAP to an Academy, attached at Appendix 3.

BACKGROUND PAPERS

The following background papers were used in the preparation of this report:

- School Governance (Constitution) (England) Regulations 2003, 2007 and 2012
- Single Academy, Model Articles of Association 2010
- Local Government and Housing Act 1989

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