

## MIDDLESBROUGH CHILDREN FAMILIES AND LEARNING

### Protocol for the Appointment, Re-Appointment of Local Authority Governors

#### 1. Background

- 1.1 The School Governance (Constitution) (England) Regulations 2012, which comes into force on the 1 September 2012 are much less prescriptive than the 2007 regulations, and for any schools maintained by the LA (community, voluntary controlled, voluntary aided and foundation) who wish to vary any aspect of their current instrument of government, whether it be the size or composition of the governing body, terms of office for governors, or even 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.
- 1.2 Corporate Affairs Committee have delegated responsibility from Middlesbrough Council to consider any representations for appointment, re-appointment or removal of Local Authority governors.
- 1.3 Governor Development Service on behalf of the Executive Director for Children Families and Learning consults with Corporate Affairs Committee on all matters relating to the appointment, re-appointment and removal of Local Authority governors.

#### 2. CRIMINAL RECORD BUREAU CHECK (CRB)

- 2.1 As part of Middlesbrough Councils CRB, ISA and Safeguarding Policy and Procedure all appointments are subject to an enhanced CRB check to identify whether:
  - They are barred from working with Children and Young People and therefore automatically disqualified from appointment as a governor;
  - There are any previous convictions which, whilst not barring them from working with children, might disqualify them from serving as a governor under the criteria outlined in Schedule 6 of the School Governance (Constitution) (England) Regulations 2007 and 2012.
- 2.2 Governors will be contacted by a member of the CRB Team to arrange a suitable appointment for completion of the documentation. Attendance at Governing Body meetings is dependant upon completion and return of the CRB Forms. Governors failing to complete the form will be removed from office.
- 2.3 In the event that there is a disclosure made on a CRB certificate, the Executive Director for Children Families and Learning will be notified and where relevant they will make the decision whether to pursue the appointment or not.

## Protocol 1 Appointing, Reappointing and Communicating with Local Authority governors.

### 3. Process of Appointment

3.1 Nominations for Local Authority governor appointments are received from:

- The school's governing body
- The Local Member(s) for the school
- Ward Councillors
- Referrals from Governor Development Services
- One Stop Governor Shop

Note: the Local Authority has due regard to the need to eliminate unlawful discrimination and promotes equal opportunity and good relations between persons of different racial and minority groups.

3.2 Middlesbrough Governor Development Service produces a regular (termly) schedule of nominations together with supporting references for each candidate.

3.3 A person is disqualified from appointment as a Local Authority governor if he/she is employed by either the governing body or LA under a contract of employment providing for them to work at the school.

3.4 The Governor Recruitment and Retention Officer will be in attendance at the Corporate Affairs meeting when members consider the appointments to answer any queries raised by members.

3.5 The Governor Assistant Team Manager will undertake face to face interviews with prospective governors to ensure they have a full understanding of the responsibilities they will be undertaking and to ascertain if they have any particular preference of schools.

- Where a single nomination is received for a vacancy at a particular school, nominations are approved or declined;
- Where there are multiple nominations for one vacancy at a particular school, the Corporate Affairs Committee will make *a nomination* and convey this to the Governor Development Service;
- Where the candidate has not specified a particular school, the Recruitment and retention Officer may suggest a particular school but members of the Corporate Affairs Committee will receive a list of all Authority vacancies which are current at the time in case they wish to make a different *nomination*.
- Nominations to be received in writing seven days before the meeting. Nominations without the required seven day notice will only be considered in extreme circumstances.

It remains the case that Local Authorities will continue to *nominate*, using existing arrangements, but it will be for the Governing Body to *appoint* the Authority Governor from those nominations.

#### 4. Action by the School Governing Body

School Governing Bodies will agree appropriate eligibility criteria to help fill any existing or anticipated skills shortages e.g HR or financial skills/experience. Those schools with an existing specialism may also take this opportunity to appoint a governor with relevant skills/experience in the specialism e.g. sport, maths, performing arts etc.

In any event, Governing Bodies cannot set discriminatory criteria that would prevent an individual or group from applying e.g. age restrictions. Such criterion needs also to be objective, fair and transparent and not compromise any of the eight protected characteristics covered by the Equality Duty 2011 e.g. Age, Disability, Sex, Gender Reassignment, Race, Pregnancy and Maternity, Religion or Belief and Sexual Orientation.

#### 5. Re-Appointment of Local Authority Governors

- 4.1 A report of those Local Authority governors due to expire within the end of each school term will be notified to the meeting of the Corporate Affairs Committee together with any recommendations or comments from the officer responsible for Recruitment and Retention and/or the Chair of the Governing Body of the School/Head Teacher on which those governors currently serve.
- 4.2 Candidates can be re-nominated irrespective of any political affiliation or preference.
- 4.3 There is no automatic right to be re-nominated and this will be made transparent in all documentation to Local Authority governors at the time of appointment and/or re-appointment.
- 4.4 The Recruitment and Retention Officer will write to each Local Authority governor and invite them to indicate their willingness to stand for a further term of office.
- 4.5 Where governors are willing to stand for a further term of office, a further Criminal Records Bureau check will be undertaken and they will be reminded of the disqualification criteria that applies and of the relevant Code(s) of Conduct.
- 4.6 The Committee will consider the appropriateness of re-nominating the Local Authority governors and this will be conveyed to the Recruitment and Retention Officer in attendance at the meeting.
- 4.7 Upon satisfactory checks and acquiescence to the relevant Code(s) of Conduct Governor Development Service on behalf of the Executive Director will send an appointment/re-appointment confirmation letter to governors. The Chair of Governors and Head Teachers will also be informed of any new appointments made to the school governing body.

#### 5. Expectations of Local Authority governors

- 5.1 Local Authority governors are expected to commit to the principles set out in the Second Report of the Committee on Standards in Public Life (the Nolan committee 1996). These 'Seven Principles' are set out as part of the "Strategic Role of Governors" and included in the Welcome Pack for new governors.

- 5.2 Local Authority governors are expected to commit to the general “Code of Practice for Governors” and to the individual “Code of Conduct or Standing orders” which may have been adopted by the governing body to which they are appointed.
- 5.3 Local Authority governors will be expected to attend Induction Training and any other training and development opportunities as deemed appropriate by the committee or governing body.
6. Disqualification Criteria
- 6.1 The Disqualification Criteria listed in the Guide to the Law for School Governors will apply to those seeking appointment as an Authority governor as it does to all other categories of governors.
- 6.2 A person is disqualified from appointment as a Local Authority governor if they are a person employed by either the governing body or LA under a contract of employment providing for them to work at the school.
- 6.3 Local Authority governors can be disqualified by the governing body for non-attendance at meetings, as prescribed in the Guide to the Law for School Governors i.e. “fails to attend the governing body meetings – without the consent of the governing body – for a continuous period of six months beginning with the date of the first meeting missed.
- 6.4 Refusal to undergo appropriate checks will automatically disqualify the applicant, as will a lack of co-operation from the prospective governor in producing the relevant identification documentation.

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### Procedures for the Removal of Local Authority Governors

#### 1. Background

- 1.1 The School Governance (Constitution) (England) Regulations 2007 and 2012, states that the governing bodies of all categories of maintained schools have at least one governor appointed by the Local Authority (LA). In some categories of school the LA governors account for up to one-fifth of governing body membership.
- 1.2 In both the School Governance (Constitution) (England) Regulations 2007 and 2012 it is still the LA as nominating body, that is entitled to remove a LA governor, not the governing body.
- 1.3 Corporate Affairs Committee have delegated responsibility from Middlesbrough Council to consider any representations for appointment or re-appointment of governors.
- 1.4 Governor Development Service on behalf of the Executive Director for Children Families and Learning consults with Corporate Affairs Committee on all matters relating to the appointment and removal of LA governors.

#### 2. Process of Removal

- 2.1 It is anticipated that this procedure will be rarely used, however, it is important that there is a mechanism in place for the removal of LA governors in order to ensure that difficulties, if they arise, can be dealt with in a consistent way. It is expected that such procedures would be applied, **but not limited** to, any of the following:-
  - Conduct or bias which is clearly not seeking the good of the school,
  - Any conduct which would be a cause for dismissal, had the Authority governor been an employee of Middlesbrough Council,
  - An irretrievable breakdown in relations between Authority governor and the Governing Body,
  - Significant malpractice in matters connected with the role of the governor,
  - For a Chair, or Vice Chair of Governors, fulfilling their leadership role in such a way as to have a significant damaging effect on the proper functioning of the governor body or School,
  - Where there is clear evidence that the governor concerned has infringed either seriously, or persistently, the expectations set out in the Seven Principles of Public Life, or
  - the governor concerned has infringed either seriously, or persistently, the expectations set out in the school's Code of Conduct for governors, or
  - that the governor concerned is subsequently in violation of the disqualification criteria stipulated in the Guide to the Law for School Governors or

- the governor concerned has subsequently been the subject of a relevant criminal conviction, or
- the governor concerned has used his or her role as a governor for political gain, or
- the governor concerned has used political influence to promote his/her school as opposed to other schools in the borough for gain, or to the detriment of another school, or
- the governor concerned has used, without integrity, political influence to interfere in school/LA business.

2.3 Local Authorities have the right to remove governors they have appointed, under Regulation 23 of the School Governance (Constitution) (England) Regulations 2001, by giving notice in writing to the clerk to the governing body and also the governor to be removed. As with the appointments of Authority governors, the regulations give no prescriptive procedures for removal, this is a matter for local determination.

2.4 While LA have the right to remove governors they have appointed/**nominated**, this does not give LA an unregulated right to remove their appointees. Local Authority governors can only be removed for good reason, for example breaches of the code(s) of conduct.

2.5 Before the LA begins a formal process to remove a governor, LA Officers will seek to offer conciliation, if appropriate, to seek to resolve the situation. Where this is not an effective remedy, then a Local Authority governor may be considered for removal from office. Removal of a Local Authority governor from office will only be used as a last resort after seeking to resolve any difficulties or disputes in a more constructive manner.

2.6 The Corporate Affairs Committee will determine matters of removal. It is anticipated that requests for removal might come from the following sources:

### 3. Directly from the School

The governing body of a school has no powers to remove a Local Authority governor, but they may make a request for the LA to do so. In these circumstances the LA will expect governors to have acted in accordance with Regulation 15 of the School Governance (Procedures) Regulations 2003, which would apply in relation to the suspension of a governor, i.e.

- a) the proposal to recommend to the LA the removal of a governor will be a specified item of business notified in advance of the meeting;
- b) a member of the governing body will propose recommending the removal of the governor giving reasons for the proposal;
- c) the governor will have an opportunity in the meeting to respond to the proposal;
- d) the governor will withdraw whilst a vote is taken on the proposal.

If the proposal is supported, the Clerk to the Governing Body will notify the Executive Director of Children Families and Learning of the proposal setting out the governing body's reasons for recommending removal.

On receipt of the proposal, it will be submitted to a meeting of the Corporate Affairs Committee.

#### 4. Report to Corporate Affairs

The Governor Development Service making no recommendation to the Committee on the outcome should submit a report to the Corporate Affairs Committee raising the concerns.

#### 5. Procedures for dealing with requests for removal by the Corporate Affairs Committee

- 5.1 The Committee will consider the grounds for removal set out by The Governor Development Service;
- 5.2 The Clerk to the Committee should convene a meeting of the Committee at a date and time convenient to all parties.
- 5.3 The report and all documentation appended to the report should be copied to the Governor in question in sufficient time for him/her to compile any further representation she/he may wish to make and submit them to the clerk to the Committee for inclusion and consideration by the Committee. It is recommended that the criteria for the selection and appointment of Authority governors be appended to the Governor Support Services report together with a copy of the relevant code(s) of Practice.
- 5.4 No material should be available to the committee, which has not been made available to the Governor in question.
- 5.5 Where the report contains evidence in the form of written statements or notes all such statements or notes should be attributed and signed.
- 5.6 The Governor should be informed of the date and time of the meeting and the procedure to be followed at the meeting. He/she should also be notified that he/she has the right to be accompanied by a friend or legal representative if they so wish.
- 5.7 Subject to the agreement of the Committee, either party may call witnesses. No witness can be compelled to attend.

#### 6. Order of Proceedings

- 6.1 All persons who are making representation to the Committee should enter and leave the room at the same time.
- 6.2 At the meeting the Clerk or the Chair for this meeting should open the meeting by introducing the persons present and once more explain the procedures that will be followed. Each party should be allowed sufficient time to put their case.
- 6.3 An officer from the Governor Development Service Team will then be invited to speak to his/her report.
- 6.4 The committee and the governor or his/her representatives may then ask questions of the officer.
- 6.5 The governor or his/her representative may then make their representations to the Committee, and be duly questioned by the officer from the Governor Development Service. Each party will then be permitted to summarise it's case.

- 6.6 At the close of the hearing both parties should leave the room together. When the Committee considers its decision, the Clerk and, if applicable, the Committee's legal advisor, will remain to advise on any procedural points.
- 6.7 When considering whether to revoke the appointment or not, the Committee will have to decide whether the matters complained of are, on the balance of probability, made out. If the committee finds that the complaint(s) are made out it should then consider whether revocation of the appointment is in the broader interests of the school and the governing body.
- 6.8 The clerk will write to both parties within five working days of the decision being made informing them of the decision reached and the reasons for it.
- 6.9. Where the proposal to remove is agreed, the governor will be removed with immediate effect from the governing body and the governing body notified.
  - i) Where the proposal to remove is declined, the Committee will, where appropriate, write to the proposer and the governor concerned, suggesting or advising on a way forward to resolve any remaining difficulties.
  - ii) Members of the Committee are reminded of the need to be aware at all times of any conflict of interest which could give rise to actual bias or the appearance of bias and to notify the clerk accordingly.

## 7. Suspension of Authority Governors

A provision exists for the suspension of governors (including Authority Governors) for a fixed period of up to 6 months. This is a matter for the Governing Body to determine rather than the LA. The provisions for this sanction are set out in Regulation 15 of the School governance (Procedures) Regulations 2003. Governors may wish to consider this provision prior to consideration for removal. A governor who has been suspended must be given notice of any meetings and must be sent agendas, reports and papers for any meetings during the suspension.