



**PROCEDURES FOR
THE APPROVAL FOR
A LOCAL AUTHORITY ASSOCIATED PERSON
TO BE APPOINTED TO THE GOVERNING BODY
OF AN ACADEMY**

DRAFT

Appointing a Local Authority Associated Person (LLAP) to a Governing Body of an Academy

The Article of Association forms the legal basis for the constitution of the governing body of an academy. They also set out the procedure relating to the appointment of governors. These Articles are specifically drawn up and agreed for each academy, based on model Article provided by the Department for Education.

The Section entitled "Avoiding Influenced Company Status" paragraphs 136 – 141, deals with appointed governors who have an association with the Local Authority (LLAP). As this applies solely to appointed governors, approval is not required for elected governors to an academy.

The following outlines the procedures that have been agreed by Middlesbrough Council to ensure both Middlesbrough Council and academies comply with the requirements stated in the Articles.

Article No. 138 'No person who is a LLAP is eligible to be appointed to the office of Governor unless the appointment to such office is authorised by the Local Authority to which they are associated.'

At the beginning of the Articles, in the section entitled "Interpretation", paragraph 1n states that the definition of a LAAP can be found in Section 69 Local Government and Housing Act 1989. The definition is set out in full in Appendix 1.

The governing body must ascertain which governors meet this definition and is responsible for seeking approval from the Local Authority for their appointment. It is recommended that the governing body request the clerk to governors/company secretary to ask all appointed governors to complete a Local Authority Associated form (LAA1) and send forms for those governors who meet the definition outlined under Articles of Association No. 138 and 139 to Middlesbrough Governor Development Service.

Middlesbrough Council has a well established procedure for the appointment of Local Authority Governors and it has been agreed that the approval of governors associated with the Local Authority will be built into that process. The Corporate Affairs committee has been identified as the body that will be responsible for giving the Local Authority's approval.

Middlesbrough Governor Services will produce a **monthly/termly** schedule of names of governors, from the LAA1, which met the definition for consideration and authorisation from the Corporate Affairs Committee. The basis for making the decision would be to judge if the appointment would result in a conflict of interest between the Local Authority and the academy. If a possible conflict of interest is identified the Governor and Chair of the Academy would be contacted to enable them to make a written representation which would be taken into consideration by the Corporate Affairs Committee before a decision is taken. This decision is final and Middlesbrough Governor Development Service will inform the Clerk and Governor of the decision. Middlesbrough Governor Development Service will retain all associated papers and documentation in a secure and confidential file.

Governing bodies also need to be aware of the limitations on the number of LAAP's appointed as governors. (See Appendix 1)

Article No 136 'Notwithstanding the number of Members from time to time, the maximum aggregate number of votes exercisable by LAAP's shall never exceed 19.9% of the total number of votes exercisable by members in general meetings and the votes of the other Members having a right to vote at the meeting will be increased on a pro-rata basis.'

Article No 137 'No person who is a LAAP may be appointed as a governor if, once the appointment had taken effect, the number of Governors who are LAAP's would represent 20% or more of the total number of governors.'

Form LAA1

Approval for a Local Authority Associated Person (LAAP) Appointed to a Governing Body of an Academy.

Approval of a LAAP only applies to appointed governors and not elected governors. If you are an appointed governor, please complete the details below by signing and dating the declaration to confirm you have read the definition of Local Authority Associated Persons. This can be found in section 69 of the Local Government and Housing Act 1989 and is printed on the reverse of this document.

Name of Academy

Name of Governor

Address

Daytime telephone contact

Email

<p>Do you or your spouse/partner have an association with Middlesbrough Council? (please note nil returns are required)</p> <p>YES/NO</p> <p>Please provide details below of your association with Middlesbrough Council.</p>	
Governor	Spouse/Partner's Name
Post/Job/Department/Councillor	Post/Job/Department/Councillor
Association current please delete YES/NO	Association current please delete YES/NO
If NO date when association ended	If NO date when association ended

Signature Date

Please return the completed form you your Clerk of the Governing Body.

Appendix 1

Local government and housing Act 1989

Section 69 – Definition of any person associated with a local authority.

- (5) For the purposes of this section, a person is at any time associated with a local authority if:
- a) He/she at the time is a member of the authority;
 - b) He/she is at the time an officer of the authority;
 - c) He/she is at that time both an employee and either a director, manager, secretary or other similar officer of a company which is under the control of the authority; or
 - d) At any time within the preceding four years he/she has been associated with the authority by virtue of A above.
- (6) If and to the extent that the Secretary of State by order so provides, a person is at any time associated with a local authority if:
- (a) at that time he/she is, or is employed by or by a subsidiary of, a person who for the time being has a contractual relationship with the authority to provide –
 - i) advice with regard to the authority's interest in any company (whether existing or proposed to be formed), or
 - ii) advice with regard to the management of an undertaking or the development of land by a company (whether existing or proposed to be formed) with which it is proposed that the authority should enter into any lease, licence or other contract or to which it is proposed that the authority should make any grant or loan, or
 - iii) services which facilitate the exercise of the authority's rights in any company (whether by acting as the authority's representative at a meeting of the company or as a director appointed by the authority or otherwise);
 - (b) at any time within the preceding four years, he/she has been associated with the authority by virtue of paragraph (b) or paragraph (c) of subsection (5)(a) or above;
 - (c) he/she is the spouse or partner of, or carries on business in partnership with, a person who is associated with the authority by virtue of subsection (5)(a) above;
 - (d) he/she holds a relevant office in a political association or other body which, in the nomination paper of a person who is an elected member of the authority, formed part of that person's description.
- (7) For the purposes of subsection (6)(d) above, any office in a political association or body is relevant to a local authority in the following circumstances –
- (a) if the association or body is active only in the area of the local authority, and office in it is relevant;
 - (b) in any other case, an office is relevant only if it is in a branch or other part of the association or body which is active in the area of the local authority.
- (8) In relation to a company, which is an industrial and provident society, any reference in this section to the directors of the company is a reference to the members of the committee or management.