

CABINET ITEM COVERING SHEET PROFORMA

AGENDA ITEM

REPORT TO CABINET

17 JULY 2014

**REPORT OF CORPORATE
MANAGEMENT TEAM**

CABINET DECISION

Children and Young People – Lead Cabinet Member – Councillor Mrs A McCoy

CONSTITUTION OF GOVERNING BODIES OF MAINTAINED SCHOOLS – CHANGES TO REGULATIONS

1. Summary

This report provides Members with information relating to the changes to the School Governance (Constitution) (England) Regulations 2012 (S.I. 2012 No. 1034) as amended by the School Governance (Constitution and Federation) (England) (Amendment) Regulations 2014 (S.I. 2014 No. 1257) together with the statutory guidance issued by the Department for Education in May 2014, as provided at **Appendix 1** to this report.

2. Recommendations

That Members note the content of the report.

3. Reasons for the Recommendations/Decision(s)

To inform Cabinet of the statutory changes and guidance relating to the governance of maintained school.

4. Members' Interests

Members (including co-opted Members) should consider whether they have a personal interest in any item, as defined in **paragraphs 9 and 11** of the Council's code of conduct and, if so, declare the existence and nature of that interest in accordance with and/or taking account of **paragraphs 12 - 17** of the code.

Where a Member regards him/herself as having a personal interest, as described in **paragraph 16** of the code, in any business of the Council he/she must then, **in accordance with paragraph 18** of the code, consider whether that interest is one which a member of the public, with knowledge of the relevant facts, would reasonably regard as so significant that it is likely to prejudice the Member's judgement of the public interest and the business:-

- affects the members financial position or the financial position of a person or body described in **paragraph 17** of the code, or
- relates to the determining of any approval, consent, licence, permission or registration in relation to the member or any person or body described in **paragraph 17** of the code.

A Member with a personal interest, as described in **paragraph 18** of the code, may attend the meeting but must not take part in the consideration and voting upon the relevant item of

business. However, a member with such an interest may make representations, answer questions or give evidence relating to that business before the business is considered or voted on, provided the public are also allowed to attend the meeting for the same purpose whether under a statutory right or otherwise (**paragraph 19** of the code)

Members may participate in any discussion and vote on a matter in which they have an interest, as described in **paragraph 18** of the code, where that interest relates to functions of the Council detailed in **paragraph 20** of the code.

Disclosable Pecuniary Interests

It is a criminal offence for a member to participate in any discussion or vote on a matter in which he/she has a disclosable pecuniary interest (and where an appropriate dispensation has not been granted) **paragraph 21** of the code.

Members are required to comply with any procedural rule adopted by the Council which requires a member to leave the meeting room whilst the meeting is discussing a matter in which that member has a disclosable pecuniary interest (**paragraph 22** of the code)

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SUMMARY

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RECOMMENDATIONS

That Members note the content of the report.

DETAIL

Background

1. Regulations relating to governance of maintained schools is incorporated in the Education Act 2011 by the School Governance (Constitution) (England) Regulations 2012.
2. In September 2012, statutory guidance that was issued enabled the governing bodies of maintained schools to reconstitute. (Report to Cabinet in June 2013)
3. In Stockton 4 schools have reconstituted in line with the above and 59 schools remain with their existing Instrument of Government in line with the 2007 Regulations. One school, Northfield School and Sports College, having reconstituted has requested the Local Authority (LA) for a nominee to fill the LA governor vacancy. This appointment is a governing body decision in line with the Cabinet report – LA Nominations.
4. The Department for Education (DfE) carried out consultation in early 2014 to review and rationalise the Regulations, in order to bring all maintained schools under one set of regulations.
5. The School Governance (Constitution and Federations) (England) (Amendment) Regulations 2014 (SI 2014 No 1257) was agreed by Parliament on 19 May 2014 and comes into force partly on 1 September 2014 and the remainder on 1 September 2015. New statutory guidance was issued in May 2014 (**Appendix 1**) to support these changes.

Summary of Statutory Guidance 2014

6. The statutory guidance explains the arrangements for the constitution of governing bodies of maintained schools constituted under the School Governance (Constitution) (England) Regulations 2012. It also gives guidance relating to their size, membership and skills. All governing bodies of maintained schools are required to be constituted under these Regulations by 1 September 2015 and can commence this process from 1 September 2014.
7. The main points of the Regulations outlined and supported in the guidance provided are:-
 - 7.1 Governing bodies should be no bigger than necessary to secure the range of skills they need. Smaller governing bodies are likely to be more cohesive and dynamic.
 - 7.2 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.
 - 7.3 Governing bodies should use a skills audit to identify any specific gaps that need to be filled in the skills, knowledge and experience of existing governors.
 - 7.4 Before being nominated for election or appointment, all prospective governors should be helped to understand the role of a governor and the governing bodies' code of conduct.
 - 7.5 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.
 - 7.6 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 skills the governing body ideally requires.
 - 7.7 Foundation governors have a particular purpose to safeguard the character of the school and ensure it is conducted in accordance with any founding documents, but otherwise every governor's role is to govern the school in the best interest of pupils, not to represent the interests of the constituency from which they were elected or appointed.
 - 7.8 Meaningful and effective engagement with parents, staff and the wider community is vital. It is not the role of governing bodies to provide this through their membership. They need to assure themselves that specific arrangements are in place for this purpose.
 - 7.9 Governing bodies should review their effectiveness regularly, including the extent to which their size and structure is fit for purpose and their members have the necessary skills.
 - 7.10 Governing more than one school can generate a more strategic perspective and more robust accountability through the ability to compare and contrast across schools.
8. Within the attached guidance (**Appendix 1**) there are three appendices that cover the following:-
 - 8.1 Annex A explains the four aspects of the arrangements for the constitution of governing bodies as set out in the 2012 Regulations:
 - the description of the different categories of governors,
 - how governing bodies are to be constituted,
 - terms of office, removal and disqualification of governors,
 - how instruments of government are made and amended.
 - 8.2 Annex B summarises the requirements in respect of membership of the 2012 Regulations in different types of schools.
 - 8.3 Annex C provides a model instrument of government for governing bodies that constitute under the 2012 Regulations.

Local Authority representation on governing bodies

9. The implication in relation to Local Authority representatives, is that there should be one Local Authority position on each reconstituted governing body of maintained schools (**Annex B of the guidance**).
10. In cases where currently a governing body has more than one Local Authority representative and they reconstitute they will be required to put in place a fair and transparent process to reduce to one LA representative. Should the governing body be reconstituted with smaller numbers then other categories will have the same process applied.
11. In line with the report to Cabinet on 13 June 2013, Local Authority Representatives for reconstituted governing bodies will be nominated by Cabinet as detailed in the Appendix attached to the aforementioned report which is attached to this report (**Appendix 2**). Members should note that this nomination will be to the governing body for a decision.

Further Action

12. As an update to the outline report provided to governing bodies in the Summer Term 2014 a further report with the guidance will be provided in the Autumn Term 2014 and guidance and support in relation to skills audits will be provided.

FINANCIAL IMPLICATIONS

None

LEGAL IMPLICATIONS

The Regulations and statutory guidance fall under the School Governance (Constitution) (England) Regulations 2012 as amended by the School Governance (Constitution and Federation) (England) (Amendment) Regulations 2014.

RISK ASSESSMENT

The Constitution of Governing Bodies of Maintained Schools is categorised as low to medium risk. Existing management systems and daily routine activities are sufficient to control and reduce risk.

COUNCIL PLAN THEMES

This report supports the following themes:-
Children and Young People
Organisational Effectiveness

EQUALITIES IMPACT ASSESSMENT

This report is not subject to an Equality Impact Assessment because this is in relation to changes to legislation.

CONSULTATION INCLUDING WARD/COUNCILLORS

Report to all governing bodies in Summer Term 2014.

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Education related? Yes

Background Papers The School Governance (Constitution) (England) Regulations 2012 SI 1034
The School Governance (Constitution and Federation) (England)
(Amendment) Regulations 2014 SI 1257
DFE – The constitution of governing bodies of maintained schools – statutory
guidance – May 2014

Ward(s) and Ward Councillors: Not Ward specific

Property None