

## 14. Advice and Guidance

### 14.1 Compliance – advising on the regulatory position

One of the key competencies states that it is important that the governance professional can “explain clearly, when required, the legal and contractual duties and responsibilities of the board”. In general, these can be split into two distinct categories: governance compliance and operational compliance.

#### Governance compliance

These are matters that the board has direct responsibility for, and which the governance professional is expected to have comprehensive knowledge of.

#### Maintained schools

##### Constitution, staffing, admissions and exclusions

In maintained schools these matters will for the most part cover:

- constitution and procedures of the governing body
- staffing of the school
- admissions of pupils
- exclusions of pupils (all governing bodies have specific responsibilities in relation to pupil exclusions; see section 5.2.1.6 for the relevant regulations).

Foundation and voluntary aided schools have explicit and additional responsibilities in relation to admissions.

#### Complaints

In addition, [s.29 of the Education Act 2002](#) requires all governing bodies to establish procedures for dealing with any complaints about the school. The DfE has also created [Best Practice Advice](#) for school complaints procedures which provides advice in relation to creating and revising complaints procedures and how to deal with complaints. The advice was updated in January 2021 and includes mention of using independent governors as well as revised model policies.

#### The role of the governance professional in establishing panels

In all the above areas the governing body has a specific role, usually to set up a panel of governors to consider a complaint, grievance or appeal, and the governance professional is expected to support the governing body and those appointed to the panel to ensure that the matter is discharged effectively and in compliance with the policy and relevant regulation.

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## Ensuring suitable policies are in place

However it is not just a matter of ensuring that the governing body complies with the policy; the governance professional should also be proactive in making sure that there is a policy, and that the policy is itself compliant with current regulatory requirements.

To be able to provide this support effectively the governance professional needs to:

- be aware of which statutory policies the governing body needs to ensure are in place – the DfE provides advice and a list of policies within the [Maintained schools governance guide](#) and the [Academy trust governance guide](#) as appropriate.
- ensure that the governing body has an effective policy approval schedule, which plans for regular review and approval, and allows for ad hoc updating to ensure compliance with regulatory and best practice changes
- provide the school with copies of policies approved or confirmed by the governing body so that these can be published in a timely way to those who need to be aware of them

**TIP!** Add the statutory policies to the annual planner to be reviewed at board/committee level so there is a fair distribution and updates are made at the appropriate time in the year.

## Working with peers

Establishing quorate competent panels and appeal panels can be a challenge sometimes for smaller governing bodies, given governor conflicts of interest, availability, lack of experience and deadlines imposed by policies. Being able to turn to a fellow governance professional and ask to borrow the services of a governor from another governing body can be necessary and, if reciprocated, useful ongoing support. You can seek support with this from your LA or Diocese.

## Academies

### Constitution, staffing, admissions and exclusions

While the regulatory framework is different (see section 5.2.2), governance professionals will need to be able to advise the academy trust board on its responsibilities in relation to its constitution and procedures. Academies also have similar responsibilities in relation to admissions, exclusions and parental complaints.

### Staffing

Staffing is an area in which there is more divergence from maintained schools. With the exception of responsibilities for appointing and remunerating the CEO and other senior executives, and disclosure and barring service checks on staff, there are no explicit academy staffing regulations. Trusts must abide by general employment law, but otherwise are free to set their own procedures.

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This is another good example of how the establishment of a professional network can assist the governance professional by learning from the experiences of others in different trusts.

### Academy committees and the governance professional's role

Academy committees have no statutory compliance duties. Their functions are determined by the trust board through the SoD and the trust board remains the accountable body for any decisions taken.

However, the academy committee will have been delegated some compliance responsibilities through the SoD, and failure to abide by the internal rules of the trust could result in the removal of the academy committee.

The governance professional to the academy committee has a role in ensuring that it understands its roles and responsibilities in relation to the SoD, and so does need to understand the function and effect of the SoD.

### Operational compliance

These are things which the governing board is responsible for ensuring happen, but which they do not need to have a direct involvement in. In general, they relate to the day to day operations of the organisation which the senior executive leader and staff are expected to manage.

For example, the governing board is responsible for ensuring the money is well spent. This does not mean that the governing board is responsible for entering every single transaction in the accounts, or even checking every single transaction. However, it does mean that the governing board should ensure that the school has suitable policies and procedures in place to ensure effective financial management as required by regulation, and that this is monitored by the governing board.

### Why is compliance important?

Firstly, because the rules and regulations have been put in place for a reason, particularly to protect children's right to an education. Not following the correct rules could mean that the education provided suffers, and also that they are exposed to risks to their safety. An example is Ofsted's report on the Free School Route 39, which was placed in Special Measures because the pupils in Year 11 were not entered for GCSEs, although this is a requirement of an Academies Funding Agreement. The trustees disputed the Inspection Report, but ultimately the academy was required to move into an existing MAT.

Secondly, because non-compliance could mean that the decisions you take are invalid.

Thirdly, non-compliance could, in certain circumstances, lead to the governing board being removed or, in rare circumstances, being held personally liable; this latter is most likely in health and safety legislation.

In academies, failure to comply with company law could lead to fines and disqualification as a director.

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Fourthly, and no less important than the previous three reasons; by the Nolan principles of ethical leadership, if the governing board do not follow the rules and set an example, how can it expect the staff or pupils to do the same?

## Researching the position

### Governance compliance issues

The governance professional is expected to inform the chair of any governance compliance issues which need to be addressed. Examples of this include:

- completing the register of interests
- registering governors/trustees on Get Information About Schools and the school website
- elections for the chair of the board
- quorum for decision making
- appointment of governors and trustees
- suspension and removal of governors or trustees

### Ensuring sources of regulation and other legislation are up to date

All governance professionals should be aware that regulations and other legislation are often amended at a later date; for instance, the School Staffing (England) Regulations 2009 have been amended in 2012, 2013, 2014 and 2015. Governance professionals therefore need to ensure that they are aware of these potential changes and have a system for ensuring the up to date position.

### Maintained schools: checking you have the right constitutional documents

The position for maintained schools and federations should be easier than for academies, and it will be a case of ensuring that you are using the up to date versions of the following:

- the instrument of government
- the constitution summarising governance arrangements, sometimes called the standing orders
- scheme of delegation - usually the committee terms of reference

### Maintained schools: additional documentation for Foundation schools

If the school is a foundation school, then under the [DfE's statutory guidance](#) the instrument of government will have to refer to the facts and details of any trust deed relating to the school, and any requirements will have to be complied with.

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## Academies: checking the right constitutional documents

If you work for more than one academy trust you may find that the funding agreement and articles of association vary depending on when the trust was established.

In addition, SoDs are particular to the individual academy trust, and so each one will need to be consulted separately and the governance professional will need to have a good working knowledge of how delegation works and what powers have been delegated to the committee being clerked.

## Researching the correct legal position - what sources should I use?

In researching the position in relation to a matter or question which is outside the knowledge of the governance professional and the board, the governance professional has a range of options and sources.

### Primary sources

Current primary legislation and regulations (ie Acts of Parliament) can be found via [legislation.gov.uk](https://legislation.gov.uk), and if necessary you may need to check these.

Research can be facilitated through the use of commercial legal research providers but these are expensive.

The websites for the DfE, ESFA and Ofsted will provide information about primary legislation and statutory and non-statutory guidance.

### Secondary sources

NGA's guidance centre will be a good source of advice, and if your school is a [GOLD Member](#) you will also be able to ring the helpline. Depending on whether you buy-in to your local authority's governor services package, it may also provide advice and guidance.

### [Charity Commission and CGI: the Chartered Governance Institute](#)

These are also sources of good advice and guidance. While not all maintained schools are charities, the principles of good governance extend across many sectors, and it is still worth looking at their guidance documents.

### Wider research - using the internet

The internet is an almost inexhaustible source of advice and guidance, some of it reliable and some of it not. Some sources may have once been reliable but are now out of date. Others may never have been reliable. The trick is to develop an approach ensuring that anything you find is correct and credible. There are some ways of approaching this:

**What is the nature of the research I am undertaking?** Researching to find a possible provider of governance training is very different to researching whether a particular transaction needs to be reported to the ESFA. For the former, it's a question of finding the

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right organisation and the right price; there is no single right answer and, if the training provided turns out not to be very engaging, there is no direct legal risk to the governing board or the school. In the latter, one is trying to identify the correct legal position, and if the advice used is wrong it could expose the governing board and school to risk. Clearly, if the matter being researched relates to the correct legal position, more care must be taken to find reliable sources.

**Who produced it?** Does your research or advice come from a credible organisation? If it comes from an individual, what else have they produced, are there testimonials from others attached?

**When was it produced?** Even if the source is credible, is it up to date? For this reason, it is best practice for advice or guidance always to be dated so that the person can check the position.

Rather than trawling the internet looking for reliable sources every time a point needs research, it makes sense to identify a range of reliable sources and to look to these first. The examples provided above are all examples of sources that the governance professional can rely on, but you should aim to work collaboratively with other governance professionals to share your reliable sources and knowledge.

## Reporting the position

### Format

If you feel the board as a whole are unsure of the statutory requirements on a particular issue then you could prepare a paper to the board. A good idea is to set the paper out under particular headings:

1. At the top, state whether it is for decision, information, or advice.
2. Issue: state clearly what the issue is and who can make a particular decision (Board, chair, committee etc).
3. Recommendation/advice – set out what your advice is to the board on the issue.
4. Identify any further information you need to be able to provide advice.
5. Identify where the position is unclear, eg because the regulation is unclear.
6. Background: set out why there is an issue and the reasons that you have come to your recommendation. If it is an issue of compliance, set out the consequences of a failure to comply. If it is a good practice issue then make clear the benefits of following good practice.

### If you don't know the answer then don't say that you do

Sometimes it will not be possible to provide a clear, unqualified answer, and there are lots of reasons for this: the regulation you are using is unclear; the wording of source

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documentation is unclear; you don't have the necessary factual information. It may also be that the question or issue is simply beyond your expertise, or the circumstances are such that specialist professional advice needs to be sought. So for example the board may have to seek the advice of a solicitor.

In all of these situations you must avoid the temptation to overcommit. Instead advise as far as you are able and consult where necessary.

### When should external professional advice be sought?

There are a range of situations where legal or other professional advice should be sought. Typical situations would include:

- Where the value/size of risk justifies it: even if you and/or your governing board may think you know the answer, it may be sensible to seek legal advice.
- Where neither you nor your governing board know the answer.
- Where another party may insist on the seeking of legal advice eg a local authority may sometimes insist that certain communications are either written or checked by a professional lawyer.

### What happens if someone challenges my advice? Remaining professional and being assertive

Occasionally, a governor or trustee will have a different view of the position; this is sometimes a result of poor practice, i.e. "we've always done it this way", or it may be that the person "simply knows better".

In truth, this is more likely to happen in relation to 'good practice' advice rather than in relation to regulatory advice, although you may from time-to-time have a governor or trustee whose professional experience may give them a better understanding (or they think it does!) of the rules and regulations than most governors and trustees. Although in these sorts of "good practice" cases you will not have the back-up of regulation, if you have done your research thoroughly then you will be able to cite the authority for your position. It is in these situations, often when trying to change governance practice for the better, where governance professionals should prepare their ground carefully to achieve the influence that is needed, and some suggested strategies and tactics are included in chapter 12.

Producing a written proposal can be helpful because it sets out the position for the whole board, and the governance professional can establish clearly and persuasively the regulatory or good practice authority for the recommendation. To ignore sound written advice, particularly if given further force by the governance professional in the meeting, is harder than it would be if the advice is only presented orally.

In the meeting the governance professional needs to maintain a professional demeanour at all times and reiterate the statutory background to the advice: again reiterating the consequences of not following it. Sometimes this can be difficult, but is more likely to

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produce the desired outcome, and without the interpersonal fallout that can result from cross words.

## How do I keep up to date with changes in the law and practice?

### DfE regular email service

In the first instance it is important to subscribe to the DfE's regular email update services. These will inform you when something new is published on [www.gov.uk](http://www.gov.uk). You can tailor your alerts to the information you are interested in.

### Local authority

If your school subscribes to a local authority package then it is usually worth attending the briefing meetings for governance professionals.

### National Governance Association

NGA is the national membership organisation for governance professionals, governors and trustees, and will keep you informed, both of changes which have happened and of changes being consulted on, as well as good practice guidance. There are other organisations which provide advice and guidance too.

### Academies: Companies House and the Charity Commission

If you are a governance professional in an academy it is also a good idea to sign up for alerts from the [Charity Commission](#) and [Companies House](#).

### CGI

[CGI: the Chartered Governance Institute](#) also has a wealth of information for governance professionals.

## How do I keep the board up to date?

### Expectations of those governing to keep their knowledge up to date

Governing board members are expected to keep themselves up to date with all aspects of general governance. Those with more specific roles like safeguarding link governors, finance committee chairs, etc. should also take steps to keep updated as to changes in regulation, statutory, and non-statutory guidance, and the chair in particular is expected to maintain an up to date knowledge of general governance as well. If any of this is not happening then it should be highlighted when the board is evaluated, although do bear in mind that governors and trustees are volunteers and governance covers a very broad range of areas, so it can be difficult for even the most diligent to keep up to date.

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## Supporting the development of a professional development culture

There are various ways in which a governing board can help maintain its development which are focused on making it easier for governors to keep abreast of changes and developments.

Professional development and updating should be part of normal governance business. Here are some suggestions the governance professional could make to the chair:

- Make updates from the governance professional a regular item on the board agenda.
- When there is something of significance to report, the governance professional could produce a paper for a board meeting.
- Between meetings updates could be done via email, or by uploading a paper onto your governor/trustee intranet.
- Make governor professional development a regular agenda item, with circulation of future events and opportunities. Encourage participation at the NGA's regional and national events.
- Purchase and promote to the governing board a governance e-learning package, like [NGA's Learning Link](#), which enables governors and trustees to update and refresh their knowledge on demand.
- Maintain a record of training (which includes face-to-face training as well as e-learning) and publish this to the governing board for review alongside an annual skills and knowledge audit.
- If a governance updating and information service like NGA's weekly Newsletter and Governing Matters magazine has been purchased, then make sure that this is made available and used.

## Project management

### Tools

Governance professionals are expected to demonstrate project management skills, and to use and promote the effective use of project management tools. The level and type of electronic project management system will depend on the size and complexity of the project. Planning the governance meeting schedule for a large MAT with a mixture of school phases and nationwide settings would benefit from the use of a suitable system and would justify the expense of system purchase and training. Setting the schedule for a small primary school is an entirely different prospect and using a spreadsheet will often suffice.

If you need to use project management software, then first check with your school organisation to see what it is using. It may be that it is already using a system, or that it already has access to project management software which you can access for no extra cost, other than some initial training.

If you do not have access to something which will work, then ask around to see what others are using before you research further; this can save a lot of time. If you do research using the internet then you will find a whole range of choices.

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## Skills needed

Regardless of the size and complexity of the project the core skills will be the same. There is no single defined set of project management skills, but those below would be recognised.



## Using IT

The governance professional should be able to use the internet to research and keep up to date in relation to statutory guidance and good practice.

## Policies

### What policies are needed?

There are a number of policies which governing boards are required to have in place by law, and then a range of others which are considered good practice.

The governance guides for maintained schools and academies contain information on the statutory policies required by each type of setting.

**Governance professionals should be aware that this document has not always been updated on time.**

### What are policies and why are they relevant for governance?

Policies state the school's position on various topics and set out standard practice for a wide range of circumstances; some of the documents commonly referred to as policies are often a mixture of policy and procedures. This ensures that at an operational level all stakeholders are aware of the standard processes to be followed, and that all parties responsible at each step are aware of their role.

As an example of the standard structure of these policies, a Complaints Policy will usually start with a short section at the beginning setting out the position: what the governing board consider to be a complaint, and the way in which these will be dealt with. The remainder of the document will then be devoted to the step-by-step process: complaints to be received in writing, who will then deal with it, and what happens if the complainant isn't

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happy with the reply. These policies will often have timeframes for each step, some of which can be quite tight.

It is part of the governing board's function to ensure that the school has suitable policies in place where these are required by law. Where the school or trust has adopted additional policies to help meet agreed strategic objectives or deal with specific issues the governing board may want to monitor their adoption and effect but there is no need for the board to be involved in formal approval. In many cases schools will have a discretion as to what the policy actually says and the governing board will want to see that policies are drafted in a way which reflects the vision, values, ethos and circumstances of the school. It will then want to see that the policies are understood by those who need to observe them and that they are being followed consistently. This can be done through the usual monitoring processes at meetings and through visits to school.

Where suitable policies are in place and are followed then, at an operational level, the governing board can be confident that the school is doing what it should. Having said this, it is necessary for the governing board to regularly evaluate the effectiveness of a policy; a policy may be being followed but is it having the desired effect? For example there may be a behaviour policy in place, approved by the governing board and followed faithfully by all staff but if the number of pupil exclusions is dramatically increasing then this throws doubt on whether the policy is actually working.

### The governance professional's role in relation to policies

The governance professional's key role is to ensure that the governing board review and update policies so that the school is compliant and policies are effective. To help achieve this, the governance professional should maintain a schedule for regularly reviewing and updating policies. This should include all statutory policies and, depending on the approach of the board, any other policies that the board has decided to monitor and review.

In the case of policies which are specific to governance, the governance professional may also take the lead role in suggesting amendments (eg the procedure for electing the chair). Whilst there may be local authority model policies in maintained schools, and articles of association determining the position for academies, it is always helpful to be able to contact a peer in another school or MAT to see how they handle this.

The governance professional also has a role in advising the board about who should be updating policies. It is tempting for some boards to think that because they are responsible for ensuring the policies exist, they should update drafts, but this is an operational task. Relevant members of staff should be asked to update them by the senior executive leader.

Finally, the governance professional has a key role in advising who policy sign-off can be delegated to and again the DfE's list indicates how sign off can be delegated.

### Maintained schools - policy sign-off

It is a fact that practically every policy will say that the governing body is responsible for its approval, but this does not mean that the governing body is necessarily required to carry out the task – or in the case of policies, actually approve them all.

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The governance professional needs to view policies through the lens of the [Roles and Procedures Regulations](#) and the [School Staffing \(England\) Regulations 2009](#) (as amended), as these set out the rules in relation to the governing body's power to delegate its functions. In reality, there are limited policies which the full governing body has to approve, and the governance professional should advise accordingly.

The NGA's delegation planner is also a helpful prompt in this respect, as it sets out what tasks can be delegated at what level. A copy of the delegation planner can be found in the **Appendix 7** to this resource.

## Academies - policy sign-off

Academies have considerable freedom about what they delegate and to whom, and this includes responsibilities for policy sign-off.

In working out what can be delegated, the key document is the articles of association for that particular academy trust. In effect, the main decision is what the trustees want to delegate, rather than what they can and can't delegate. What is delegated should be recorded in the trust's SoD, and this should therefore show who has responsibility for policy approval.

In SATs this is fairly straightforward but should be included in the decision planner.

In MATs the SoD will need to set out at which level in the organisation relevant policies will be determined. The trustee board will need to determine whether main committees or the academy committees have any policy sign-off powers and should refer to the DfE list of statutory policies as necessary. It may be that there are some policies (eg those staffing-related), in which the trust wants consistency across the entire organisation and, therefore, reserves approval of those for the trustees. There may be others (eg uniform policy), which it allows the academy committee to determine.

The important point is that it is clear who has the power to do what. If it is not clear, then it is entirely possible that two separate and potentially conflicting policies could be developed. If the scheme of delegation seems to be unclear and there is a risk of confusion and overlap then the governance professional should raise this with the chair of the board or committee in question.

## Scheduling and review dates

Good practice is that each policy should contain at the top of the front page the date on which the policy was ratified, who by, and when it is scheduled for its next review.

Some policies are required to be reviewed annually (eg the pay policy in maintained schools), whereas others need not be so frequent. Again, the DfE list indicates how frequently statutory policies need to be reviewed.

The governance professional should establish a table listing all the policies and their scheduled review dates; you can then inform the chair of the board or relevant committee at which meeting the policies need to be considered. This will also enable the governance

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professional to discuss with the senior executive leader which member of staff will be responsible for updating the policy. It is sensible for the governance professional to take some time to allow the load to be spread across the governance year(s) to help balance out governance workload. This will make sure that policies are reviewed and updated on time to ensure compliance and help effectiveness. If a policy needs to be changed earlier than originally scheduled because of a change in legislation, for instance, or because it simply is not working as intended, then the governance professional should reschedule; the review of a policy should not be delayed just to keep to the original schedule.

### Publication of policies

As soon as the policy has been signed-off, the governance professional should ensure that the signed definitive copy is kept with the governance records. It is then the school's responsibility to ensure that it is published to school staff and others who need to have access to it, as well as that any previous versions of the policy are removed. It is not the direct responsibility of the governance professional or the governing board to make this happen, this is an operational matter, but the governing board will want to be assured by the school that this has happened. It is no good having a complaints policy or admissions policy that is either out of date or inaccessible to those who need to use them.

There are some policies that schools are required to publish on their websites eg behaviour, complaints procedure, charging and remissions policy and even though it will be the school's responsibility to publish, the governance professional will need to be aware of these.

## School and academy trust websites

### Legal requirements

There are legal requirements about what needs to be published on school or trust websites, and the governance professional has an important role to play in advising the board as to what should be published online.

When preparing for an inspection visit, the first place Ofsted will check is a school website, and if any statutory documents are missing it may raise questions.

In the subsections below are links to DfE lists of documents and information that schools need to publish. You will see that there is a subtle difference between these two lists: the maintained schools list says 'must', and the academies document says 'should'. This does not mean that all the documents are optional for academies, it is simply that, as with a number of other issues, articles of association and funding agreements have changed over time, and earlier versions of the funding agreement did not include some requirements that later documents do.

One of the most notable examples of this is information relating to pupil premium expenditure. Academies set up before the DfE decided to require schools to publish details of their expenditure are not 'legally' required to publish the information. Academies can still

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choose to publish the information, and in line with the Nolan principles it is difficult to see why they wouldn't.

## Maintained schools

The DfE publishes a [list](#) of the documents and information that must be published on the school website.

The list also includes what information must be published in relation to governance which can be found [here](#).

## Academies

The DfE also publishes a [list](#) for academies.

## The governance professional's role

### All schools

While the governance professional may not be responsible for the actual uploading of documents and information onto the website, they can play a role in checking the website and informing the governing board of any missing statutory documents or other information. This may include documents or information directly relating to governance (eg governor or trustee attendance at meetings, or in academy trusts the scheme of delegation) but also other documents.

### MATs

If you are the governance professional for the trust board then you should be able to advise as to which documents need to be on both the trust website and that of the individual academies, e.g. the SoD. Unfortunately, it is still the case that although it is a requirement to publish this document, there are a number of trusts where this still does not happen, or where it is buried in an obscure part of the website.

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## 5. Governance legislation and guidance

### Accountability of the governing board

Each governing board has to work within the legal and regulatory framework for its own setting.

The governing board is responsible for ensuring the effective management of the school organisation it governs and for planning its future development. It has ultimate responsibility for all the affairs of the organisation. It follows that the governing board is responsible for ensuring that systems are in place for meeting all of the organisation's legal obligations.

It can be expected that, as a minimum, the governance professional should advise on:

- the constitution and legal status of the institution and its constituent parts, particularly to verify the legal capacity to undertake proposed actions
- the broad legal, regulatory and statutory framework within which the institution operates including, where necessary, European and international obligations
- securing specific legal advice (or identifying who secures such advice) to address issues, risks and challenges.

### Legal framework and obligations and statutory guidance

The governance professional has a key role in ensuring that the governing board understands and complies with its legal obligations. The activities of governing boards are subject not only to laws concerning their own powers and conduct, but also to other applicable legislation and regulation, such as charity, health and safety, and equality and diversity laws. As such, the governance professional must have a good understanding of the key pieces of legislation/regulations and guidance which apply to their setting.

Statutory guidance sets out what schools and local authorities must do to comply with the law. Where guidance must be followed without exception the guidance document itself will make this clear. In other cases, schools and their governing boards should follow the guidance unless they have a very good reason not to.

The DfE webpage has useful links to statutory guidance

<https://www.gov.uk/government/collections/statutory-guidance-schools>

[School governance update - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/collections/statutory-guidance-schools)

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## Maintained schools

There are numerous acts of parliament, which relate to education, and over the years, there has been a move to have a single clause in an act, which then leads to further regulations. As mentioned in 5.2 above the DfE publishes advice and guidance in relation to the regulations.

The key regulations and advice that governance professionals should be aware of are as follows:

### Governance – regulations

[The School Governance \(Roles, Procedures and Allowances\) \(England\) Regulations 2013 \(“the Regulations”\)](#)

Please note that these regulations are amended by the [School Governance \(Roles, Procedures and Allowances\) \(England\) \(Amendment\) Regulations 2013](#) so you may need to cross-reference.

### Governance – statutory guidance

Statutory guidance setting out the arrangements for the constitution of governing bodies of all local-authority-maintained schools and be found in [Constitution of governing bodies of maintained schools](#)

[Statutory Guidance on the School Governance \(Roles, Procedures and Allowances\) \(England\) Regulations](#) was published after the amended regulations and provide useful departmental guidance for governing bodies.

### Governance – non-statutory guidance

[The School Governance \(Roles, Procedures and Allowances\)\(England\) Regulations 2013 Departmental advice](#)

### Staffing and pay

[School Teachers’ Pay and Conditions Document \(STPCD\)](#)

[The School Staffing \(England\) Regulations 2009](#)

[The Education \(School Teachers’ Appraisal\) \(England\) Regulations 2012](#)

### Admissions

[The School Admissions \(Admission Arrangements and Co-ordination of Admission Arrangements\) \(England\) Regulations 2012](#)

[The School Admissions \(Appeals Arrangements\) \(England\) Regulations 2012](#)

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## Exclusions

[The School Discipline \(Pupil Exclusions and Reviews\) \(England\) Regulations 2012](#)

[Exclusion from maintained schools, academies and pupil referral units in England Statutory guidance for those with legal responsibilities in relation to exclusion](#)

## Academies

### Governance legislation

[Academies Act 2010](#)

[Companies Act 2006](#)

[Charities Act 2011](#)

[The Education \(Independent School Standards\) Regulations 2014](#)

### Constitutional documents

Academies are independent state-funded schools and their governance arrangements are set out in:

- their trust articles of association
- their funding agreement
- the [Academy Trust handbook](#)

### Charity Commission Guidance

Academy trusts will also have charitable status and so need to ensure compliance with charity law and best practice which can be found in various publications including:

[The Essential Trustee](#)

[Conflicts of interest](#)

[It's your decision](#)

### Admissions

[Admissions Code](#)

### Exclusions

[The School Discipline \(Pupil Exclusions and Reviews\) Regulations 2012](#)

## Non statutory guidance for both maintained and academies

As well as the specific regulations and guidance for maintained schools and academies, the government provides non-statutory guidance on governance in both maintained schools and academies through the separate Governance guides for each setting:

[DfE Academy trust governance guide](#)

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[DfE maintained school governance guide](#)

The government also provides guidance for trusts as to the types of quality factors trusts and their boards should consider. The quality descriptions should be read alongside the separate evidence annex which sets out the sources used to assess quality.

[Annex A Trust quality descriptions](#)

[Annex B Trust quality evidence](#)

## Model virtual meeting protocol (April 2021)

### How to use this model document

Governing boards should have approved their arrangements for participating and voting in virtual meetings using the provision within maintained school governance [procedures regulations](#), academy articles of association and academy committee terms of reference.

A simple protocol or set of ground rules (agreed by the board and documented by the clerk/governance professional) should be in place to cover virtual meeting practices. This protocol could acknowledge existing policies relating to data protection, appropriate use of ICT and maintaining confidentiality etc. You can adapt the following model protocol to suit your own context and circumstances.

We recommend that governing boards read our [guide to virtual governance](#) which accompanies this protocol.

The expectations for virtual meetings should be understood by all to ensure meetings are productive. You may wish to make clear the importance of:

- joining on time
- obtaining consent for the meeting to be recorded where necessary
- keeping to the agenda
- using your mute button to minimise background noise
- allowing additional time for participants to refer to documents
- everyone using their webcams if possible – this helps keep everyone engaged
- using chat functions as agreed

**Thank you for using this document. If you have any feedback you'd like to share, please email [kcfeedback@nga.org.uk](mailto:kcfeedback@nga.org.uk).**

# Advice and guidance

## Virtual meeting protocol

Where the governing board decides that a meeting should take place using alternative arrangements (e.g., by telephone or video conference) that have been previously agreed then the following will apply:

- the usual (statutory) notice and arrangements for issuing papers except where the chair has exercised their right to waive the usual notice;
- all participants to receive clear instructions regarding how to access the meeting including where they can access support if they experience difficulty;
- all participants will note and follow any instructions given on how to manage their participation at the meeting. For example, confirming attendance, speaking through the chair of the meeting, voting on matters etc;
- the governing board will abide by their normal rules, procedures and code of conduct adopted by the governing board and give regard to the duty to maintain confidentiality;
- governors/trustees will contribute towards a safe and secure environment for the meeting by giving due regard to the school's policies relating to data protection and the appropriate use of ICT, and
- the minutes of the meeting will be taken by the clerk to the governing board.
- the meeting should not be recorded without the approval of the governing board and the consent of those participating.
- the use and deletion of an approved recording should be in accordance with data protection and records retention policies of the school/trust.

Where the governing board has approved and has in place alternative arrangements for governors/trustees to participate and vote in meetings (e.g., by telephone or video conference) and a governor/trustee wishes to use these alternative arrangements they should:

- restrict themselves to using the arrangements agreed by the governing board;
- inform the clerk to the governing board that this is their intention as soon as possible but no later than 72 hours before the meeting is due to take place (subject to the meeting being convened giving the normal notice period);
- communicate and co-operate with the clerk to the governing board, school or trust as necessary to ensure that the alternative arrangements can be put in place and work well for all concerned, and
- abide by the normal rules, procedures and code of conduct adopted by the governing board and give regard to the duty to maintain confidentiality.

# Advice and guidance

## Appendix 7 Maintained Governing Body Delegation Planner September 2022

### Governing body delegation planner for local authority-maintained schools

This delegation planner details the legal responsibilities that governing bodies have as well as wider responsibilities that are fundamental to effective governance. It is intended to support conversations between governors, headteachers and governance professionals about how tasks are delegated to ensure the governing body fulfils its duties.

While some functions may be delegated to committees or individuals, **the governing body retains collective responsibility** and should receive regular reports in order to stay informed.

This planner is not exhaustive; you may need to extend it to cover additional tasks that are relevant to your context. Policy approval is not detailed in this planner – refer to our [policy review schedule](#) for support in this area.

#### Key

✓	Delegation recommended
■	Delegation not recommended
×	Cannot delegate to this level

# Advice and guidance

## Legal and compliance responsibilities

Area of responsibility	Task	Full board	Committee	Individual	HT/SEL	Notes and resources
Admissions	1. <b>Foundation and voluntary aided schools:</b> comply with the <a href="#">School Admissions Code</a> in setting out admissions arrangements, making decisions and managing appeals	█	✓	█	x	
	2. Make sure the school's admissions arrangements comply with the <a href="#">School Admissions Code</a> and are fair, clear and objective	█	✓	█	█	
Attendance	3. Regularly review pupil attendance data and patterns	█	✓	█	█	See NGA <a href="#">attendance information</a>
Behaviour	4. Make/review a written statement of behaviour principles (upon which the behaviour policy is based)	✓	█	x	x	See NGA <a href="#">guide to effective behaviour management</a>
Budget and finance	5. Scrutinise the draft budget	█	✓	█	█	
	6. <a href="#">Approve the budget</a>	✓	x	x	x	

## Advice and guidance

Area of responsibility	Task	Full board	Committee	Individual	HT/SEL	Notes and resources
	7. <a href="#">Monitor expenditure</a> against the budget		✓			
	8. Approve the <a href="#">schools financial value standard (SFVS)</a>	✓	x	x	x	We recommend that scrutiny of the SFVS takes place at committee level
	9. Monitor and oversee the impact of <a href="#">pupil premium</a> and other targeted funding streams In primary schools, this includes <a href="#">PE and sport premium</a>		✓			Monitoring is likely to take place across finance/resources and curriculum/standards committees
<b>Careers</b>	10. <b>Secondary schools:</b> review and monitor the plan for delivering statutory <a href="#">careers education and guidance</a> (pupils in year 7 to 13)		✓		x	
	11. Take a strategic interest in careers education and guidance			✓	x	<a href="#">Statutory guidance</a> states that boards should appoint an individual governor for this purpose
<b>Complaints</b>	12. Approve a <a href="#">procedure for dealing with complaints</a>		✓			
	13. Make clear to parents where the complaints procedure can be found (usually published on school website)				✓	

## Advice and guidance

Area of responsibility	Task	Full board	Committee	Individual	HT/SEL	Notes and resources
<b>Curriculum</b>	14. Ensure that the school has a broad and balanced curriculum that covers the national curriculum and (where applicable) delivers the EYFS statutory framework		✓			See NGA <a href="#">curriculum guidance</a> - page 10 covers areas of focus for governing bodies
	15. Monitor and evaluate pupil progress and attainment and make appropriate recommendations to the finance/resource committee		✓			You may wish to refer to our <a href="#">committee model terms of reference</a>
<b>Data protection</b>	16. Ensure that the school complies with the <a href="#">General Data Protection Regulation (GDPR)</a> when handling information belonging to pupils, staff, parents and governors	✓				
<b>Equalities</b>	17. Ensure that the school and governing body complies with <a href="#">The Equality Act 2010</a> , which includes a distinct public sector equality duty	✓				
<b>Exclusions</b>	18. <a href="#">Review the headteacher's decision to exclude</a> pupils in certain cases		✓	x	x	The governing body usually appoints a panel of governors to carry out this function
	19. Monitor data on pupil suspension and exclusion		✓			See part seven of <a href="#">statutory guidance on suspension and exclusion</a> for details
<b>Health and safety</b>	20. Monitor the effectiveness of the school's health and safety policy and procedures		✓			Refer to NGA guidance on <a href="#">governing board oversight of health and safety</a>

## Advice and guidance

Area of responsibility	Task	Full board	Committee	Individual	HT/SEL	Notes and resources
	21. Undertake health and safety inspections				✓	
<b>Parents</b>	22. Have regard to the <a href="#">views of parents</a> (consult and listen to the parent body)		✓			
<b>Pupils with SEND</b>	23. Ensure that provision for pupils with <a href="#">special educational needs and disability</a> (SEND) is in place and monitor effectiveness		✓			
	24. Have specific oversight of the school's arrangements for SEND		✓	✓		An individual governor (or a sub-committee) must be appointed to support monitoring of this area
<b>Safeguarding and child protection</b>	25. Promote the welfare of children and comply with the DfE's statutory guidance on <a href="#">Keeping Children Safe in Education</a> and the <a href="#">Prevent duty</a>	✓				Read NGA <a href="#">safeguarding guidance for governing boards</a>
	26. Comply with the requirement for the governing body to complete safeguarding training	✓				
	27. Take leadership responsibility for safeguarding arrangements			✓		An individual governor must be appointed – see <a href="#">safeguarding link governor role description</a>
<b>Staffing</b>	28. Oversee staff pay, progression and CPD		✓			

## Advice and guidance

Area of responsibility	Task	Full board	Committee	Individual	HT/SEL	Notes and resources
	29. Headteacher recruitment and appointment		✓	x	x	Most of this process is managed by a board-appointed panel, with the board ratifying their decisions
	30. Headteacher suspension		✓		x	If necessary, the decision to suspend may be taken as a chair's action
	31. Headteacher reinstatement and dismissal		✓		x	
	32. Conduct <a href="#">headteacher performance management</a> (appraisal) and review their pay		✓		x	The panel conducting the appraisal should provide a written recommendation to the pay committee (separate panels/committees are advisable)
	33. Operational employment decisions including recruiting and managing staff below senior leadership level				✓	

# Advice and guidance

## Wider responsibilities

Area of responsibility	Task	Full board	Committee	Individual	HT/SEL	Notes and resources
Policies	34. Ensure that the <a href="#">policies required by law</a> are in place, have been formally approved (by the governing body/committee) and are readily accessible	✓				
	35. Draft school policies				✓	
Risk management	36. <a href="#">Understand the main areas of risk</a> associated with the board's strategic priorities and the school's improvement plans, ensuring these are captured within a risk register	✓				
	37. Maintain a risk register to document risks and control measures				✓	
School self-evaluation	38. Use evidence gathered from data and surveys to inform a process of self-evaluation that identifies what the school does well, and what areas require improvement				✓	Governors and trustees need to be assured that the self-evaluation process is accurate and helps them to make the right decisions

## Advice and guidance

<b>School website</b>	39. Ensure that <a href="#">required information</a> is published on the school website and that school leaders have effective systems and routines in place to remain compliant	✓				Governing bodies should not need to carry out routine audits of the school website
<b>Strategic direction</b>	40. <a href="#">Set the strategy</a> for the school (based on a clear vision for the future, with defined strategic priorities and a plan to monitor progress)	✓				The strategy document must be approved by the full governing body. Agreeing the strategy should be the result of collaboration between the governing body and senior leaders in the school.

# Advice and guidance

## Governing body business

The governance professional plays an important role in supporting and advising on matters of governing body business.

Function	Task	Full board	Committee	Individual	HT/SEL	Notes
<b>Organisation and constitution</b>	41. Appoint governance professional (clerk to the board)	✓				
	42. Review/establish committees and panels and maintain <a href="#">terms of reference</a> .	✓	x	x	x	
	43. <a href="#">Elect a governing body chair and vice chair</a>	✓	x	x	x	You may wish to consider <a href="#">co-chairing</a>
	44. Maintain and publish a <a href="#">register of pecuniary and business interests</a>	✓				
	45. Approve a governors' <a href="#">expenses policy</a>		✓			
	46. Determine governing body constitution and terms of office	✓	x	x	x	
	47. Draft schedule of <a href="#">governor monitoring visits</a> to school	✓				Agreed between the governing body, school leaders and relevant staff
	48. Ensure that the school and governance information is correct on <a href="#">Get Information about Schools</a>	✓				The governance professional should ensure that this information is kept up to date
<b>Development</b>	49. Adopt/review a <a href="#">code of conduct</a>	✓				

# Advice and guidance

## Governing body business

The governance professional plays an important role in supporting and advising on matters of governing body business.

Function	Task	Full board	Committee	Individual	HT/SEL	Notes
	50. Complete <a href="#">skills</a> and <a href="#">diversity</a> audits (and create action plans)	✓				Some boards choose to <a href="#">appoint a link governor</a> to help coordinate board development
	51. Conduct <a href="#">governing body self-evaluation</a>	✓				