

How to arrange meetings

Arranging members meetings – the role of the clerk

How to use this document

As part of your clerking role with an academy trust you may be expected to clerk for the members. This will not be the biggest part of your work with the trust, but you do need to have a have an understanding of who the members are, their role, how they make their decisions and how to arrange and manage their meetings.

Please be aware that whilst there are best practice similarities in the way meetings are arranged the holding of meetings and making decisions is different from trust board and academy committee meetings.

This document provides an outline summary of what you need to know and includes some key template documents that you should find useful if called upon to clerk for the members.

Why does an academy trust have members?

As all academy trusts are set up as charitable companies, they too, like all other companies, must have members as required by the Companies Act 2006. In effect, the members sign to say they wish to form a company.

The first members are the signatories to the memorandum of association drawn up when the trust formed.

These members will also have agreed the trust's first articles of association, which include the trust's charitable objects – i.e. the purpose of the organisation. The members are the final stage in the process of changing the articles. The articles describe how the trust will be governed, including how many members can be appointed and by whom, their voting rights and so on.

How many members should there be?

There must be a minimum of 3 members, initially these will be the people who were the signatories to the memorandum of association, which is one of the two legal documents which is needed to set up the trust. The other is the articles of association.

Other members should be appointed as there is no maximum number and the recommendation is that there are 5 as a member's resignation cannot be accepted if this would leave fewer than 3 members.

It also assists with the voting process for members as in order to pass a **special resolution** (page 2.2) 75% of the members have to vote in favour, with only 3 members this would always have to be unanimous.

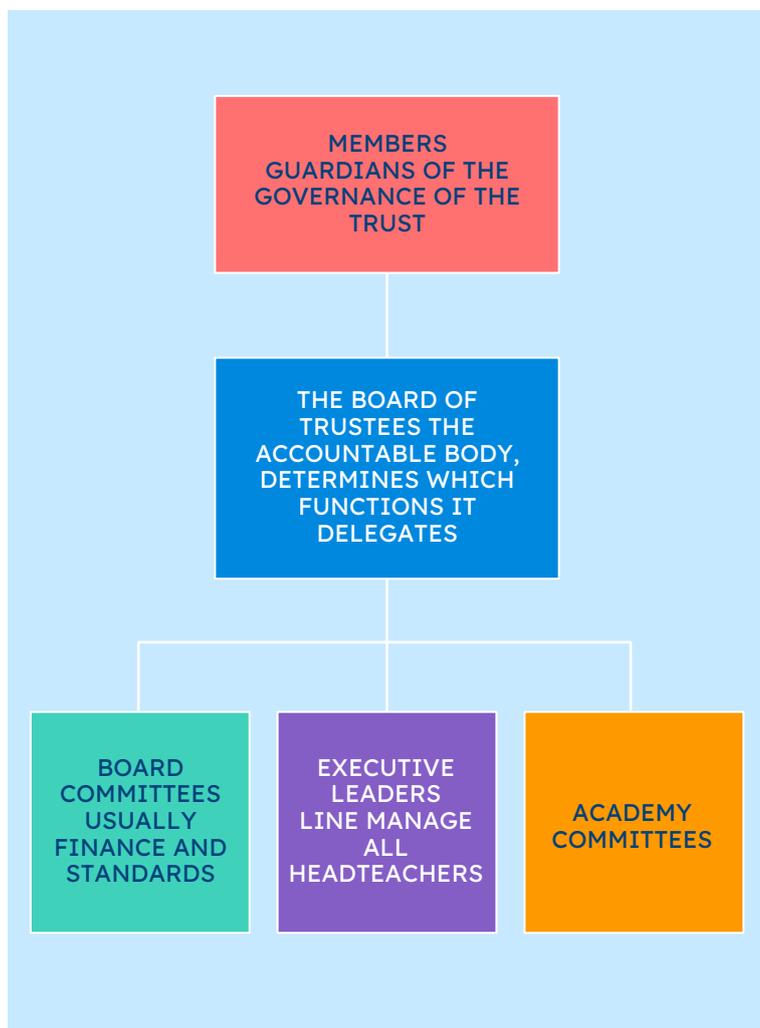
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Can members also be trustees?

It is no longer considered good practice that members are also trustees and in more recent **articles of association** (the document that states how the members and the trustees operate), it will state that the members must be different to the trustees and cannot be employed by the academy. It is suggested that if the articles of association do not state this then they are updated by the members to reflect this recommendation.

What members do



The members of an academy trust are the guardians of the governance of the trust. They have a limited and distinct role, but one which is often misunderstood. Many trusts have struggled to define the role and utilise it in an effective way for their own trust. If you want to find out more about members and their role then you should spend some time looking at NGA's guidance which addresses some these issues, providing practical insights on who members can be and how they should operate.

The members have a number of statutory duties including a right to remove a trustee, to receive the accounts, to appoint a proportion of the trustees and to amend the Articles of Association.

Members have several statutory duties and powers including the following. They:

- may amend the articles of association subject to any restrictions created by the funding agreement with the DfE or charity law
- may, by special resolution, appoint new members or remove existing members other than, where there is one, the foundation/sponsor body and any members it has appointed

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- have powers to appoint a proportion of the trustees as set out in the trust's articles of association and powers under the Companies Act 2006 to remove trustees
- may, by special resolution, issue direction to the trustees to take a specific action
- appoint the trust's external auditors and receive (but do not sign) the audited annual report and accounts (subject to the Companies Act)
- have power to change the company's name and, ultimately, wind it up.

It is advisable to contact the academy solicitors if amending the articles.

Maintaining the register of members

A **register of the members** must be kept at the school if a single academy trust or the registered office if a multi academy trust.

Companies House does not need to be informed of changes in members but the Department for Education needs to be informed within 14 days of the appointment via the national database for governors 'Get Information about Schools' (GIAS); <https://get-information-schools.service.gov.uk/>

Clerks should ensure the school office is kept updated with appointments and resignations of members, as it is likely they will be maintaining the register and updating GIAS.

Members decision making

Members decisions are made by ordinary or special resolution.

Ordinary – more than 50% of members votes are needed to pass an ordinary resolution.

Special – 75% or more of the members must vote in favour in order for the special resolution to be passed.

What will need a special resolution?

- Amending the articles of association
- May be required to remove/appoint a member (Article 15A)
- May be required to remove/appoint a trustee (Article 50)
- Changing the academy trust's corporate name

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Members' meetings (See Article 19 – 21 of the Articles of Association)

Members meetings are known as “general meetings”.

Every year there is an annual general meeting (AGM) if the articles of association stipulate that this meeting must be held which the members should attend.

If the members need to make decisions at other times they can also call further general meetings called “extraordinary” general meetings (EGM). These can be called by the trustees or the members.

Convening members' meetings

The clerk will need to send notice of a members' meeting and allow at least 14 clear days notice of the meeting. The 14 days does not include the day the notice was sent (2 days should be allowed for this regardless of how the notice is sent) nor the day of the meeting therefore it is best to allow three weeks. Shorter notice is allowed providing 90% of the members agree.

The notice should be sent to the members and the trustees. It should also be sent to the auditors purely for information.

The notice should state a brief agenda, the wording of any special resolutions (this must be precise as it cannot be changed at the meeting) and the right of the members to appoint a proxy.

The chair for this meeting can be elected on the day or it can be the chair of trustees.

Voting at members' meetings

- The quorum for voting is 2 members (or their proxy). (Article 40 and 41)
- Voting by show of hands unless a poll (ballot) is demanded
- Each member present (in person or by proxy) has one vote
- Check articles of association 40 and 41 for proxy appointments
- No casting vote for the chair

Using written resolutions

To avoid having to convene a meeting the model articles of association allow for written resolutions for members (article 35) and for trustees (article 123) which is useful. For example to appoint a member appointed trustee a meeting does not have to be held just to appoint that trustee.

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Providing all members/trustees are sent the same notice at the same time they can sign to say they agree to the written resolution. The notice can be hard copy, email or on a website. The written resolution will lapse if not responded to in 28 days. The same voting requirements stand: over 50% for an ordinary resolution and 75% for a special resolution.

An example of a written resolution can be found in **Appendix A**.

For further guidance go to: <https://www.gov.uk/government/publications/give-notice-of-a-special-written-or-ordinary-resolution>

Filing requirements

Following members meetings or the use of written resolutions there are various filing requirements which will need to be followed and the clerk will need to check to see if he or she is expected to do this or if the trust or its company secretary, if it has one, will do it.

So, for example all special resolutions will need to be filed at Companies House with specified time limits.

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Appendix A

Companies Act 2006

Written (Special/Ordinary) Resolution (Members Article 35, Trustees Article 123)

Company Name:

Company Number:

I,(name), **Member/Trustee** of (name of trust) resolve that **detail of what is to be agreed**

Signed

Date.....

Select a or b

- a) Please note in order for a Written Ordinary Resolution to be passed 50% of the **trustees/members** must agree.
- b) Please note in order for a Written Special Resolution to be passed 75% of the **trustees/members** must agree

To signify your agreement to the resolution please sign and date this document and return to the Academy Trust. If you do not agree to the resolution, you do not need to do anything. You cannot be deemed to agree with the resolution if you have not replied.

The Resolution will expire if not responded to within 28 days therefore your response is required by the Academy Trust by noon on **Date**.

Details of who/where to return.