

	<p><b>Children, Education and Safeguarding Committee</b></p> <p><b>12 September 2018</b></p>
<p style="text-align: center;"><b>Title</b></p>	<p><b>Proposed change to the Local Authority School Governor Appointments Process</b></p>
<p style="text-align: center;"><b>Report of</b></p>	<p>Chairman of the Committee, Councillor David Longstaff</p>
<p style="text-align: center;"><b>Wards</b></p>	<p>All</p>
<p style="text-align: center;"><b>Status</b></p>	<p>Public</p>
<p style="text-align: center;"><b>Urgent</b></p>	<p>No</p>
<p style="text-align: center;"><b>Key</b></p>	<p>No</p>
<p style="text-align: center;"><b>Enclosures</b></p>	<p>None</p>
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## Summary

The former General Functions Committee was responsible for making nominations of local authority governors to school governing bodies. At Annual Council in May 2018, Members agreed several changes to committee responsibilities including removing this function from the terms of the new Constitution & General Purposes Committee (which has subsumed many of the functions of the former General Functions Committee). The Children, Education & Safeguarding Committee were given responsibility for 'Determining the arrangements for making nominations to the governing bodies of Local Authority administered schools.'

Pursuant to this requirement and to ensure that there is continuity in the Council's ability to make nominations, this report proposes a new process for nominating Local Authority (LA) Governors to schools which the Committee are requested to agree.

Since 1 September 2014, there has been a requirement for local authority governors to have the skills required to contribute to effective governance and the success of the school and

meet any additional eligibility criteria set by the Governing Body. Whilst local authorities can nominate candidates as Local Authority governors of maintained schools, it is for the Governing Body to determine whether the person should be appointed.

Academies and Free Schools are not required to have a Local Authority Governor unless their Articles of Association require this, but may decide to include one in the membership of their local Governing Body if they so wish. It is to be noted that, as stated in the Governance Handbook 2017<sup>1</sup>, no more than 19.9 per cent of the Body can be LA associated (i.e. people employed by an LA (including teachers and headteachers of LA maintained schools) or people who are or have been within the last four years a member of an LA, where that LA has a responsibility for education or is a district or parish council where there is a land or other commercial relationship with the trust). This is to avoid the academy trust becoming an influenced body resulting in the need to comply with specific local government requirements. The constitution of the Governing Body would be set out in the Academy or Free School's own Memorandum and Articles.

Whilst the Council has responded to these changes by nominating individuals to LA Governor vacancies in maintained schools rather than appointing to such vacancies, the present process of reporting vacancies and requesting a committee to consider candidates and make nomination has proved, in some cases, to be lengthy and, in some instances, has resulted in governing bodies having vacancies for a considerable period of time or the Council nominating candidates who do not meet the skills requirements of the governing which are in turn rejected by the governing body. It is therefore proposed that the Council adopts an amended system for LA Governor nominations for maintained schools as set out below.

It is proposed that the amended system is applied also to Academies and Free Schools that have chosen to include LA Governor representation.

## **Officers Recommendations**

- 1. That the Committee approves the proposal set out in paragraph 1.3 to change the Local Authority (LA) Governor appointment process.**
- 2. That the Committee agrees to delegate authority to nominate LA Governors to the Strategic Director for Children and Young People, following recommendation made by a panel.**

### **1. WHY THIS REPORT IS NEEDED**

- 1.1 The proposed change to the procedure of nominating Governors is intended to improve the selection and appointment process of appropriately skilled governors to enhance schools' governance, and contribute to good oversight and management of schools for the benefit of children and young people.
- 1.2 Statutory guidance has been published, The Constitution of Governing Bodies of Maintained Schools – August 2017. This states that all prospective

<sup>1</sup>

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/582868/Governance\\_Handbook\\_-\\_January\\_2017.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/582868/Governance_Handbook_-_January_2017.pdf)

Governors should be helped to understand the role of a Governor and the Governing Bodies' code of conduct, before being nominated. The guidance also confirms that local authorities should make every effort to understand the individual governing body's requirements, so as to identify and nominate suitable candidates, and take steps to ensure that its nominees for appointment to governing bodies have the skills that individual schools require.

1.3 It is therefore proposed that the Council adopts an amended system for LA Governor appointments as follows:

- A Panel with one minority and one majority party councillor will meet (termly) together with the Governor Services Manager to decide on nominations as appropriate. The panel will consider applications (via a completed application form), to be matched to details of the skills and additional eligibility criteria requested by the Governing Body. First preference will be given to Ward Members who have put themselves forward. The panel will consider whether the Ward Member has the requisite skills and, if required, request further information from the individual. If no Ward Members or other Councillors put themselves forward or the Ward Member/other Councillors do not have the requisite skills, other candidates, who have applied independently to Governor Services, will be assessed for suitability based on the application form and Curriculum Vitae, together with comments from the Chair of Governors regarding desirable skills and experience being sought. The panel will consider whether the other candidates have the requisite skills and will select the best candidate based on merit.
- The proposed nominee will be given, and asked to read, a written briefing on the role of school governors and the expected level of commitment required, and a copy of the Governing Body's code of conduct before the appointment / nomination is finalised. They will also be given the opportunity to discuss the role with Governor Services and to attend a governor training event on the role of governors.
- The proposed nominee may be invited to visit the school to confirm they understand the role and can make the commitment required, before the nomination is finalised.
- On the recommendation of the Panel, the candidate will then be nominated to a vacancy by the Council (under School Governance (Constitution)(England) Regulations 2012, which state that the decision to appoint lies with the Governing Body.
- In the case of an academy or Free School LA Governor vacancy, where the Articles require this, the candidate will be nominated to a vacancy by the Council on the recommendation of the Panel.
- Nominations made by the Panel will be reported via a Chief Officer Decision in the name of the Strategic Director for Children and Young

People and will be drafted by the Governor Services Manager in the Education and Skills service.

## **2. REASONS FOR RECOMMENDATIONS**

- 2.1 The proposed change to the procedure of appointing local authority governors is intended
- to improve the selection of appropriately skilled governors to enhance schools' governance, by introducing more rigorous selection informed by local knowledge of school context and skills required
  - to contribute to good oversight and management of schools for the benefit of children and young people
  - to ensure that the process reflects the new legislative requirements
  - to reduce delay in appointment.

## **3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED**

- 3.1 The nominations process could be undertaken by a committee. Previous experience has found this practice to be lengthy and to result in delays in making nominations, and occasionally candidates have been rejected by a governing body. The revised arrangements proposed will streamline the process whilst retaining Member involvement and oversight.

## **4. POST DECISION IMPLEMENTATION**

- 4.1 The new nomination process will be established by Governor Services within the Education and Skills service. Decisions made by the Panel would be reported via a Chief Officer Decision in the name of the Strategic Director for Children & Young People for expediency.

## **5. IMPLICATIONS OF DECISION**

### **5.1 Corporate Priorities and Performance**

- 5.1.1 The quality of the education offer in Barnet is at the heart of Barnet's continuing success as a place where people want to live, work and study. It plays a crucial part in making Barnet a popular and desirable place with many families attracted to the area by the good reputation of Barnet's schools.
- 5.1.2 Excellent educational outcomes and ensuring children and young people are equipped to meet the needs of employers, are key to delivering the Council's strategic objectives set out in its Corporate Plan 2015-2020, based on the core principles of fairness, responsibility and opportunity to make sure Barnet is a place:
- of opportunity, where people can further their quality of life
  - where people are helped to help themselves, recognising that prevention

is better than cure

- where responsibility is shared, fairly
- where services are delivered efficiently to get value for money for the taxpayer.

5.1.3 The London Borough of Barnet's Education Strategy 2017-2020 sets out that good leadership and governance is a key driver to the achievement of the improvement of schools and educational outcomes.

## 5.2 **Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)**

5.2.1 None.

## 5.3 **Social Value**

5.3.1 The Public Services (Social Value) Act 2013 requires people who commission public services to think about how they can also secure wider social, economic and environmental benefits. Before commencing a procurement process, commissioners should think about whether the services they are going to buy, or the way they are going to buy them, could secure these benefits for their area or stakeholders.

## 5.4 **Legal and Constitutional References**

5.4.1 The School Governance (Constitution)(England) Regulations 2012<sup>2</sup> came into force on 1 September 2012, amendments came into force on 1 September 2014 and further amendments came into force on 1 September 2015. The Constitution of Governing Bodies of Maintained Schools 2017 contains statutory guidance for governing bodies of maintained schools and local authorities.

5.4.2 Under the Council's Constitution Article 7 (Committees, Forums and Partnerships) the terms of reference of the Children, Education and Safeguarding Committee includes responsibility for 'determining the arrangements for making nominations to the governing bodies of Local Authority administered schools.'

## 5.5 **Risk Management**

5.5.1 The risk of not complying with The School Governance (Constitution) (England) Regulations 2012 and its subsequent amendments is a risk to the Council's reputation, a risk to the Council's ability to comply with legislation, and a risk in not complying with the council's own corporate objectives in relation to achieving positive outcomes for young people.

5.5.2 There is also a risk of legal challenge if there is a failure to comply with the law.

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<sup>2</sup> <http://www.legislation.gov.uk/uksi/2012/1034/contents/made>

5.5.3 The risk of not responding to the increased focus being placed on Governing Bodies within the Ofsted Inspection Framework is a risk to the council's reputation in failing to maintain the quality of education in Barnet.

5.5.4 If a committee retains responsibility for the nominations process, there is a risk of governing bodies carrying vacancies for a significant period of time which could impact on the effectiveness of the governing bodies and their ability to discharge their duties.

## **5.6 Equalities and Diversity**

5.6.1 The competency framework for governors states that governors should be mindful of their responsibilities under equalities legislation, recognising and encouraging diversity and inclusion. By ensuring that governors have the requisite skills to undertake the role, this should ensure an improved form of school governance in terms of compliance with equalities legislation.

## **5.7 Corporate Parenting**

5.7.1 Governing bodies are responsible for holding the head teacher to account. This includes assurance that the designated teacher for looked after children is properly supported and challenged to undertake this role. By ensuring that governors have the requisite skills to undertake the role of governor, this should ensure an improved form of school governance in terms of schools' complying with duties towards looked after children.

## **5.8 Consultation and Engagement**

5.8.1 The Chairman of the Children, Education & Safeguarding Committee, the Opposition Spokesperson for the Children, Education & Safeguarding Committee, the Group Leader, Group Secretaries and the Strategic Director for Children & Young People have been consulted on the changes.

## **5.9 Insight**

5.9.1 N/A.

## **6. BACKGROUND PAPERS**

6.1 None.