

2017 Governors Handbook Structure

<https://www.gov.uk/government/publications/governance-handbook>

The handbook is now structured around the DfE's newly identified "six features of Effective Governance" developed alongside the new **competency framework**, also released this week. Governing boards will be advised by the DfE to identify the skills they need having regard to the Competency framework for governance.

The purpose of this non statutory guidance is to set out the skills, behaviours and knowledge needed for effective governance. The Governance handbook therefore now begins with an introductory chapter on effective governance before being split into 6 clear sections:

- **Strategic Leadership** that sets and champions vision, ethos and strategy.
- **Accountability** that drives up educational standards and financial performance.
- **People** with the right skills, experience, qualities and capacity.
- **Structures** that reinforce clearly defined roles and responsibilities.
- **Compliance** with statutory and contractual requirements.
- **Evaluation** to monitor and improve the quality and impact of governance.

The DfE have used this new publication of the handbook to direct those governing to the new competency framework, providing guidance on how this should be used, especially in terms of the skills, behaviours and knowledge that governing boards are now expected to possess.

The Governance Handbook has been reorganised into a systematic structure that makes it easier for governors and trustees to follow and understand, and one which seeks to compliment the development of the Competency framework. However, it is important that governing boards remember that the Competency framework has been written to cover all possible bases in school governance, from boards governing small standalone primary schools to the trust boards of large MATs overseeing the performance of multiple schools.

The framework has been designed with the aim of being helpful to governing boards of all types of schools and should be used to provide clarification of government expectations, rather than as a set prescribed checklist. Boards are best placed themselves to individually assess which areas outlined in the framework are most important for them.

Terminology and language

Terminology and language has been updated throughout the handbook, with the reference to board taken to mean the accountable body for the school or group of schools - terminology used by the NGA.

- **Organisation** is used to describe the school or group of schools.
- **Executive leaders** - see section 1 updates below.

Local governing body (LGB) - the DfE continue to use this terminology to describe the local/regional committees of a multi academy trust. While many trusts continue to use this term as well as it is used in their articles of association, NGA prefer to use academy committee, making it clear that these are committees appointed by a MAT trust board with some governance functions, if described

in the scheme of delegation, and making it clear these are different to governing bodies in a maintained school.

On page 48 the handbook states that LGBs with no delegated governance functions are wholly advisory. NGA use the term **academy councils** for these to make it clear that no governance functions have been delegated.

Section 1 - Effective governance

Core functions

The second core function of the governing board has now changed to "holding **executive leaders** to account for the educational performance of the **organisation** and its pupils, and the performance management of staff". This change reflects the wider emphasis on all those held to account by the board, and accommodates roles in groups of schools, such as CEO's of MATs and executive heads as well as referring to head teachers.

Section 2 - Strategic Leadership

2.3 Decision making

Accountability - this new section specifically clarifies that while operational matters can (and should) be delegated to executive leaders, and governance functions can be delegated to committees or individuals, the governing board (the trust board in a MAT) CANNOT delegate accountability.

Parents governing - this section also picks up on the importance of having a diverse range of viewpoints on the board. You may remember it wasn't that long ago that NGA were fighting against DfE plans to remove the requirement for reserving elected positions on the board for parents.

The new handbook includes the following statement - "The board as a whole should take steps to understand what parents think, while acknowledging that anyone on the board who is a parent themselves has valuable knowledge and perspectives about the school(s) to bring to bear in discussions and decisions and helps to guarantee that there is always a link between governance and the parent community".

Section 3 - Accountability

Financial management - In section 3.4 on page 26 there is an increased focus on financial propriety in academy trusts, which is not altogether surprising considering the media focus on the subject and increase in the number of Financial Notices to Improve (FNTI's) issued in 2016. In fact, the focus on financial management starts from the very first paragraph of the foreword, with Parliamentary Under Secretary of State for Schools, clarifying that the role of the governing boards in creating robust accountability for executive leaders includes "ensuring resources are allocated to strategic priorities and safeguarding the highest standards of financial propriety - for example on executive pay and expenses and on related party transactions".

The guidance specifically references the autonomy level academy trusts have (helpfully referring to trusts rather than individual academies - and the need for establishing and monitoring trust policies on related party transactions, executive pay and expenses. The guidance makes it clear that trusts should be prepared to expose such policies in public.

Specific questions for governing boards to ask on the topic have also been added on complying with procurement rules and collaboration with other schools to generate efficiencies.

Section 4 - People

DBS - Updated text at **4.1.2** to reflect the new requirement that all those involved in governance in maintained schools, as well as in academy trusts, must have a Disclosure and Barring Service (DBS) check.

Since the introduction of the requirement for maintained school governors to hold an enhanced Disclosure and Barring Service (DBS) check on 1 April 2016 and updates to the statutory guidance Keeping Children Safe in Education, NGA has received numerous queries about the changes.

Governors in maintained schools are required under Regulation 16A of the School Governance (Constitution) Regulations 2012 (as amended) to hold an enhanced DBS certificate upon appointment/election; if they do not the governing body must make an application for such a certificate.

Academy trustees, on the other hand, are required on appointment to obtain an enhanced DBS certificate (Schedule 1 Part 4 of the Education (Independent School Standards Regulations 2014) and provide the enhanced certificate to the chair (articles of association).

The governance handbook draws attention to the fact that this applies also to Academy committee members (or LGB's as the DfE calls them) and non-trustees who are appointed to committees of the trust board must also provide enhanced certificates upon appointment/election.

It is also important to remember that in both maintained schools and academies an individual will be disqualified from becoming, or continuing to serve as, a governor/trustee where they do not provide an enhanced DBS certificate upon appointment/election – this includes associate members and non-trustees.

Elections - New advice on conducting informed elections at **4.1.4**. This detailed section again includes a change of direction from the DfE, and one that NGA stridently fought for, as it cites that elected parents can help ensure that boards "stay accessible and connected to the community they serve and there is always a diverse range of perspectives around the table".

This section also places emphasis on making it clear to potential new governors the induction and other training on offer, and references the DfE competency framework as a tool to be used to inform potential candidates of any specific skills or experience that would be desirable.

The Chair and clerk - New sections bringing together material on the important role of the chair at **4.3** and of the clerk at **4.4**.

There are now specific, albeit short, sections dedicated to both the Chair and the clerk. Section 4.4 seeks to highlight the professional nature of the role of clerks, with the handbook being more explicit than before on clerks being crucial to effective governance.

The guidance makes it clear that clerks are not just important in terms of organisation and administration, but are a vital source of advice and support in helping the governing board understand its role and responsibilities.

The handbook draws attention to clerks pay, stating that governing boards should "pay an appropriate amount commensurate to the professional service they expect their professional clerk to deliver".

Conflicts - A new explanation at **4.8** of the risks associated with close family relationships between those involved in governance or between them and senior employees.

This section outlines the risks and what the requirements are, drawing attention to the DfE's database of governors (including trustees and academy committee members) via Edubase.

The guidance puts a clear expectation on boards to have a code of conduct in place that lays down the expectation that governance information will be published on the school/trust website.

Edubase - Details of the duty on boards to provide information about individuals involved in governance via Edubase at **4.8**.

Section 5 - Structures

Members - Section 5.2.1 on page 45 increases the level of information on the role of Members in academy trusts. The guidance now seeks to explain the role of the Members including what they do and how they are appointed.

Specifically, the guidance seeks to clarify that Members must not overstep the mark in terms of responsibilities for the governance of the trust, and should "avoid over stepping their powers or undermining the boards" and be "eyes on and hands off".

The guidance clarifies that Members are not expected to "attend board meetings, sit on executive leaders' performance review panels, or contribute to specific decisions in relation to the trusts' business".

There has also been a shift in language with the DfE now saying there should be a "significant degree of distinction" between the Members and trustees, compared to "at least some" referenced in the previous handbook.

Trustees - The guidance now includes the DfE's strong preference for "no other employee" other than the senior executive leader to sit on the trust board.

One organisation - no lead school - Under section 5.2.2, the governance handbook now makes it explicitly clear that a MAT is a single legal entity, that there is "no lead school", and once formed the MAT becomes "one organisation and the board must not favour or show allegiance preferentially to one school". NGA has been promoting this language for some time and is pleased to now see this incorporated into the DfE's guidance.

Scheme of delegation - On page 55 the DfE now include not just the requirement for a scheme of delegation to be published, but the features of an effective scheme of delegation which include:

- details of all committees, regardless of whether or not they have delegated functions
- full clarity on governance functions retained by the trust board and which are delegated
- the relationship between governance layers and executive
- avoid duplication

- parental engagement arrangements

Section 6 Compliance

The handbook now features one single section on compliance with the law, pulling together and summarising the content on the legal duties and responsibilities on boards. This extensive chapter includes guidance on charity and company law, equality, staffing, funding admissions and SEND to name just a few

Safeguarding - Confirmation at **6.7** that an individual on the board should take leadership responsibility for the organisation's safeguarding arrangements.

Governing boards must promote the welfare of children and are accountable for ensuring that their school has effective child protection policies in place that meet local and national guidance. As part of that obligation governors/trustees must consider any safeguarding guidance.

The Keeping Children Safe in Education statutory guidance places an expectation on governing boards to allocate a board member with leadership responsibility for the school's safeguarding arrangements – the governance handbook makes it clear that this includes Prevent.

This governor/trustee will champion child protection issues, liaise with the designated safeguarding lead in the school (which may be the head teacher), and provide information and reports to the governing board.

However, it is important to remember that the board as whole remains accountable and the guidance states it is helpful for everyone on the board to undertake training in order for the board to perform its functions.

The child protection governor should not take the lead in dealing with any allegations of abuse – indeed no individual board member, or the governing board, has an automatic role in dealing with individual cases of abuse or a right to know details of such cases (except when exercising their disciplinary functions in respect of allegations against a member of staff). Where an allegation is made about the head teacher, the chair should take the lead.

Allegations of abuse - New advice at **6.7.1** on handling allegations of abuse made against other children. This includes specific reference to the need for boards ensuring that sexting and the organisation's approach to it is reflected in the child protection policy.

Section 7 - Evaluation

Schools causing concern - Updated content on schools causing concern and on coasting schools at section **7.4**.