

# Governance & Constitution Committee

## Agenda

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**Date:** Monday, 3rd November, 2008  
**Time:** 2.00 pm  
**Venue:** The Capesthorpe Room - Town Hall, Macclesfield SK10 1DX

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The agenda is divided into 2 parts. Part 1 is taken in the presence of the public and press. Part 2 items will be considered in the absence of the public and press for the reasons indicated on the agenda and at the foot of each report.

### **PART 1 – MATTERS TO BE CONSIDERED WITH THE PUBLIC AND PRESS PRESENT**

1. **Apologies for Absence**

2. **Minutes of Previous meeting** (Pages 1 - 6)

To approve the minutes of the meeting held on 6 October 2008.

3. **Declarations of Interest**

To provide an opportunity for Members and Officers to declare any personal and/or prejudicial interests in any item on the agenda

4. **Public Speaking Time/Open Session**

In accordance with Procedure Rules Nos.11 and 35 a total period of 10 minutes is allocated for members of the public to address the Committee on any matter relevant to the work of the Committee.

Individual members of the public may speak for up to 5 minutes but the Chairman will decide how the period of time allocated for public speaking will be apportioned where there are a number of speakers.

Note: In order for officers to undertake any background research it would be helpful if questions were submitted at least one working day before the meeting.

5. **Local Authority School Governor Appointment Process** (Pages 7 - 18)

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Please contact Julie North on 01270 529736  
E-Mail: [julie.north@cheshireeast.gov.uk](mailto:julie.north@cheshireeast.gov.uk) with any apologies or requests for further information or to give notice of a question to be asked by a member of the public

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To approve the process for appointing Local Authority (LA) Governors to school governing bodies.

This item was deferred at the last meeting.

6. **Delegation of Individual Member decisions** (Pages 19 - 22)

To consider a report providing further information on the powers contained in the Constitution, which allow urgent decisions to be made.

7. **Appointment of Statutory Co-opted Members to Scrutiny Committees - Elected Parent Governors and Nominated Church Representatives** (Pages 23 - 30)

To advise the Committee of the recommendations of the Scrutiny Committee in respect of statutory appointments to the Scrutiny Committee(s), which deal with education matters and to recommend to Council that the decisions of the Committee, as set out in the attached report, be incorporated in the Council's Constitution.

**CHESHIRE EAST COUNCIL**

Minutes of a meeting of the **Governance & Constitution Committee**  
held on Monday, 6th October, 2008 at Committee Suite 2&3, Westfields,  
Middlewich Road, Sandbach, Cheshire CW11 1HZ

**PRESENT**

Councillor A Ranfield (Chairman)  
Councillor D Topping (Vice-Chairman)

Councillors M Asquith, C Beard, Mrs S Bentley, D Cannon, R Cartlidge,  
Mrs S Jones, A Kolker, Mrs G Merry, R Parker, R Walker and P Whiteley

**Officers present**

Julie Openshaw – Interim Monitoring Officer  
Mike Flynn –Governance Lead Officer  
Brian Reed – LGR Governance Group  
Carol Jones – Democratic Services, Crewe and Nantwich Borough Council  
Carole Roberts – Democratic Services, Cheshire East

**Apologies**

Councillor A Moran

**29 DECLARATIONS OF INTEREST**

There were no declarations made.

**30 PUBLIC SPEAKING TIME/OPEN SESSION**

There were no questions from the public.

**31 MINUTES OF PREVIOUS MEETING**

The Minutes of the meeting held on 8 September 2008 were approved as a correct record.

**32 LOCAL AUTHORITY SCHOOL GOVERNOR APPOINTMENT PROCESS**

This item was deferred until the next meeting.

**33 APPOINTMENTS TO CHESHIRE POLICE AUTHORITY**

The Governance Lead Officer introduced a paper setting out arrangements required to enable the appointment of Members to the Cheshire Police Authority, initially with observer status.

An Order was to be laid before Parliament in October to make the transitional arrangements for membership of the Police Authority. Members were asked to identify and appoint the Council's representatives on the Police Authority Joint Appointments Committee in order for the Council's representation on the Cheshire Police Authority to be determined. If done in advance of the Order being made, this would enable the Council's representatives on the Police Authority to receive induction, development and familiarisation with the work of the Police Authority.

It was noted the Order would require Cheshire West and Chester, Cheshire East, Halton and Warrington Councils to form a Shadow Joint Committee to appoint the local authority Members to the Police Authority with effect from 1 April 2009. The members appointed to the Authority itself would be entitled to attend meetings of the Authority in an observer capacity prior to 1 April 2009 and the Authority would be required to seek their views on its budget/precept and policing plan for 2009/10. The Membership and political arrangements for the existing and proposed Shadow Joint Committee were noted.

The Joint Committee would subsequently meet to review and take into account the political proportionalities across the four Councils as set out in the report. The Appointments Joint Committee would also need to determine how all of the 9 places are allocated, and to make the necessary appointments.

**RESOLVED** - To appoint three Members to the Police Authority Shadow Joint Appointments Committee, on a 2 Conservative; 1 Liberal Democrat basis in order that the Council's representation on the Cheshire Police Authority can be determined; and that Group Leaders notify the Governance Lead Officer of their nominations as soon as possible.

**34 PROGRESS REPORT ON DEVELOPMENT OF A WORK PROGRAMME AND RECOMMENDATIONS TO DEAL WITH APPOINTMENTS TO OUTSIDE BODIES**

The Committee considered a report from the Task and Recommendation Group Outside Organisations setting out its progress to date and outlining its proposals for developing criteria and procedures to form the basis of an appointment process to be put into effect from 1 April 2009.

The report set out the Group's work plan, priorities and criteria for appointment. The working draft criteria were attached as an Appendix to the report. The Group had also identified the issues of potential devolution of representation to Town and Parish Councils, appointments during the Transitional year and training needs for all members of the Council prior to accepting appointments.

**RESOLVED** - That

1. the progress to date be noted;
2. responsibility for appointments during the transitional year be delegated under Urgency procedures to the Chairman of the Governance and Constitution Committee in consultation with Group Whips and the Interim Monitoring Officer; and
3. the Cabinet be consulted on the proposed criteria at the appropriate time, and the need for any appointments to be reserved to the Cabinet.

**35 WHISTLEBLOWING PROTOCOL**

The Interim Monitoring Officer presented a paper seeking the approval of the Committee in respect of the Council's Whistle-blowing Protocol to be contained in its Constitution.

The adoption of a Whistle-blowing Protocol was an important element of the emerging Unitary Council's approach to Corporate Governance. It would also enable compliance with indicators of local authority good governance and the Accounts and Audit Regulations 2003 that require an annual governance statement be produced by local authorities and that arrangements are in place for whistle-blowing to which staff and all those contracting with the authority have access".

In response to members' questions the Interim Monitoring Officer advised that the Public Interest Disclosure Act 1998 has been introduced to protect employees who expose serious wrongdoing in the workplace.

**RESOLVED** – to endorse the proposed Protocol and to note that, in view of its implications for staff, that there will be consultations with unions before the contents of the draft are finalised for recommendation to the Shadow Council.

**36 PETITION FOR BOROUGH STATUS**

The Governance Lead Officer introduced a paper updating the Committee on the proposed application for Borough status, as agreed in principle by Council on 30 July 2008.

The paper set out the circumstances in which the Shadow Authority may petition for Borough status, and through the Privy Council Office, seek the grant of a Charter conferring Borough status on the whole area. Such a grant would mean that the Council would elect a Mayor, rather than a Chairman of the Council. The Council would also be able to appoint Honorary Freeman and Honorary Aldermen. It was noted that Honorary Freeman could only be appointed if Borough status was achieved.

To seek the grant of the Charter, a Petition in the appropriate format would have to be presented to the Privy Council Office, together with the proposed wording of the Charter. Drafts of both documents were appended to the paper and considered prior to submission to the full Council.

It was noted that the Local Government Act 1972 provided that “a Petition for a Charter shall not be presented except on a resolution passed by not less than two-thirds of the Members voting thereon at a meeting of the Council specifically convened for the purpose with notice of the object”. Appropriate provision would be made to enable the Council on 20 October to consider the formal presentation of the Petition for Borough status.

The Committee noted the differing responses of Macclesfield Borough Council, Crewe and Nantwich Borough Council, and Cheshire County Council to Cheshire East’s Petition for Borough status, and proposals to seek Charter Trustees to provide for a Mayor for Macclesfield and Crewe Towns. It was noted Congleton Borough Council had not yet considered the issue of Borough status for Cheshire East.

**RESOLVED -**

1. To recommend a Special Meeting of the Council to approve:
  - a) the formal presentation of a Petition seeking the grant of a Charter for Borough status; and
  - b) the form of the Council’s Petition for Borough status and of the proposed Charter for submission to the Privy Council Office.
2. That Council be advised to support applications for Charter Trustees which may be made by any unparished area of Cheshire East.

**37 CHESHIRE EAST WORK PLAN**

The LGR Governance Group presented an updated Work Plan for consideration and was attached as an appendix to the report. The details contained in it represented the timescales within which reports were to be brought to the Committee.

Members then commented on various aspects of the Work Plan, and in particular Area working and political structures; review of the Members Allowances Scheme by a new Independent Remuneration Panel and the powers contained in the Shadow Council’s constitution to enable decisions to be made by officers in urgent circumstances.

**RESOLVED** - That the Committee:

1. note the current detail of the Work Plan; and
2. note that this will be developed and periodically brought back to the Committee for approval.

The meeting commenced at 2.00 pm and concluded at 3.30 pm

Councillor A Ranfield (Chairman)

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## CHESHIRE EAST

### GOVERNANCE AND CONSTITUTION COMMITTEE

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**Date of meeting:** 3 November 2008

**Report of:** People Block Lead Officer

**Title:** Local Authority School Governor Appointment Process

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#### **1.0 Purpose of Report**

- 1.1 To advise Cheshire East members of their statutory duties in relation to the appointment of Local Authority (LA) Governors to school governing bodies, and provide some background information in relation to the current position.
- 1.2 To seek agreement as to the principles and process the new Authority should adopt with regard to the appointment of new LA Governors<sup>1</sup> from 1 April 2009, with a view to introducing clarity, transparency and effectiveness to the process.
- 1.3 To confirm the particular arrangements for the appointment of additional governors in cases where the LA exercises its powers under Section 64 of the Education and Inspections Act 2006 and to agree that these arrangements can also apply where there are LA Governor vacancies in schools within the LA's Schools Causing Concern (SCC) programme (these are schools in the Ofsted categories of 'special measures' or 'notice to improve', and schools identified by the Authority as being 'at risk').

#### **2.0 Decision Required**

- 2.1 To agree the process for appointing LA Governors. In order to ensure that the needs of schools are met, through appointments made on the basis of the skills and experience required, and the ability to make a time commitment to governor duties and training, members are asked to approve the documents attached:
  - Model role description (page 6);
  - Code of conduct for LA Governors (page 7);
  - Criteria for appointment (page 8);
  - Terms of reference of appointment panel and appointment procedure (page 9).

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<sup>1</sup> Local Authority Governors are still referred to as LEA Governors in statute

- 2.2 Members are asked to note the application form and the attached statutory criteria for disqualification as a school governor (pages 10 and 11).
- 2.3 To agree that, for schools in the SCC category, or for schools where the LA proposes to use its statutory powers for intervention, or where the appointment is deemed by the Chair of the appointment panel to be urgent, the nominations may be agreed by the Chair, or his/her nominee, and the Strategic Director People's nominee.
- 2.4 To agree that, before taking up appointment, all LA Governor appointees would be subject to Criminal Records Bureau (CRB) clearance, the cost to be met by the LA.

### **3.0 Financial Implications for Transition Costs**

- 3.1 Officer time would be involved in processing applications and attending meetings of the appointments panel. The appointment of LA Governors is a statutory function (Regulation 6 of the School Governance (Constitution) (England) Regulations 2007), which will have to form part of the core Governor Support service within the new Authority, however it is structured.
- 3.2 There would be a £3 administrative charge for each CRB check undertaken. If the current 87 LA Governor vacancies in the east were filled the total cost would be £261.

### **4.0 Financial Implications 2009/10 and beyond**

- 4.1 Additional costs may fall on the LA and/or schools as a consequence of the anticipated introduction of Independent Safeguarding Authority's (ISA) Vetting and Barring scheme. From October 2009, for new governors, and from 2010 for existing governors, it will be a statutory requirement for them to be registered with the scheme but it is not currently the case that it is a requirement for school governors to undertake a CRB check.

### **5.0 Legal Implications**

- 5.1 Appointing LA governors will be a statutory duty of the new Authority. It is necessary to have a robust and transparent process in place to avoid legal challenge.

### **6.0 Risk Assessment**

- 6.1 Vacancy rates in East Cheshire are very high (detailed in 7.3 below) and it is judged that there is significant risk that these vacancy levels will increase further by 1 April 2009. In the absence of an agreed system for appointments in advance of vesting day it will not be possible to fill current vacancies or any that may arise from 1 April 2009 onwards. This would be unhelpful in terms of LA / school relationships and would increase the period in which posts remain unfilled. This could be particularly damaging in schools where governance needs strengthening, especially in schools in the SCC category.

## **7.0 Background and Options**

- 7.1 The evidence indicates that strong governance arrangements in schools improve outcomes for children. Under the current stakeholder model LA Governors make up around one fifth of the total school governor positions in Cheshire.
- 7.2 Because of the statutory requirement, it is necessary for Cheshire East Council, in advance of vesting day, to agree the process to be followed in relation to these appointments so that, when the statutory responsibility passes to the new Authority for all current vacancies and new vacancies that arise, action can be taken to fill them at the earliest opportunity.
- 7.3 The appointments are currently made by the political Party Groups, with LA Governor posts being broadly allocated to a Party on a proportion based on the political make up of the County Council. The Group whips, who coordinate the process for their party, have, in principle, been prepared to adopt a more flexible approach where a vacancy remains for an extended, but currently unspecified, length of time. However, the evidence is that this process is not working as well as it should, as 24% of LA Governor posts in East Cheshire schools are currently vacant, some having never been filled. This is substantially higher than the vacancy rate for any other category of governor.
- 7.4 There is a lack of clarity around the current process; no written appointment process is available and there is no guidance around timescales within which vacancies will be filled or criteria upon which appointments are based.
- 7.5 National Benchmarking Data for 2007 placed Cheshire as the worst performing Authority in the Northwest and at position 60 of the 65 LAs which responded nationally, in terms of the proportion of LA Governor posts vacant. This situation has led to significant frustration around the current process being expressed by schools.
- 7.6 A ministerial working group is currently considering the future of school governance. It is anticipated that the findings of this group will be made public in October 2008, to be followed by a consultation period in late 2008. There is no reason, at this point, to suppose that the outcome of this review will impact significantly on the category of LA Governor.
- 7.9 There is strong support from the Cheshire Association of Governing Bodies for a transparent process, in line with that recommended in this report. The actual documentation detailing the process and role description has yet to be shared with governor representatives.
- 7.10 The political parties currently contribute highly skilled and effective governors, and it is anticipated that they will continue to be an important source of recruiting governors. To assist local members, immediately a LA Governor vacancy is notified to the School Governance Team, the details will be forwarded to them, together with any relevant information, with a copy of the LA Governor application

form, so that, if they wish to make a nomination in advance of the next panel meeting, they are able to do so.

- 7.11 Potential governors could also be drawn from individuals known by, and nominated by, particular schools, LA officers, volunteers who approach the school governance team directly to express an interest in becoming a Governor and volunteers who approach the School Governors' One Stop Shop (a DCSF-supported organisation that places governors in schools).
- 7.12 If the current arrangements were to continue, with positions allocated by reference to political proportionality, this would present a significant challenge to the Conservative Party in terms of providing sufficient governors to fill the numbers of posts which would be apportioned to it.
- 7.13 The most recent government guidance on the way in which Local Authorities are advised to consider the appointment of school governors states:

*Authorities can also support schools by appointing as Local Education Authority Governors those who are best qualified to help schools improve. In making appointments to particular schools, Authorities should have regard to the skills and experience of which those schools have the greatest need, and to candidates' support for the schools' ethos and mission. It is good practice to advertise for candidates, highlighting the skills and experience required. Authorities should in any case publish the process and criteria by which they identify candidates for appointment. Once appointed, those Governors' priority is to contribute to raising standards at the school: they cannot be mandated by the Authority to take any particular line. Authorities may dismiss them for good reason. They should ensure appointments are promptly made, normally within 3 months.*

This is the current guidance, as advised by the DCSF Governance Unit, although it is the case that the document in which it appears (Code of Practice on LA – School Relations, 2001) has been superseded.

- 7.14 Many LAs have now moved away from appointing LA Governors according to party political affiliation, in line with this guidance. This enables LAs to draw on a wider pool of candidates with a wider range of skills and experience. The 2007 benchmarking data shows that the two top performing Authorities nationally were St Helens (3% of posts vacant) and Rochdale (3.1%). Both operate a system based on published criteria without reference to political affiliation.
- 7.15 The process should also give clarity around when LA Governors may be removed from their post. The process recommended incorporates arrangements for this to happen where a governor is deemed to have breached confidentiality or brought the school or the LA into disrepute.
- 7.16 Currently it is not Cheshire's policy for all school governors to have a Criminal Records Bureau (CRB) check. However, given that the LA has particular responsibilities for LA Governors it is suggested that it would be a sensible precaution for CRB checks to be carried out for all

individuals newly appointed to these positions. CRB checks for volunteers attract a £3 administration charge for each check.

## **8.0 Overview of Day One, Year One and Term One Issues**

- 8.1 The key day one issue is to ensure a process is in place so that early action can be taken to fill LA governor vacancies at the earliest opportunity.
  - 8.1.1 Transitional Regulations will enable all LA governors in post on 31 March 2009 to have their appointments continued, as if made by the new Authorities, up to the end of their current terms of office (a maximum of four years from the date of appointment). This will help to mitigate day one issues.
- 8.2 At the end of year one members will receive a report from officers for reviewing the process and assess its effectiveness in reducing vacancies.
- 8.3 By the end of term one it should be possible to clearly assess the effectiveness of this process in the context of national benchmarking data.

## **9.0 Reasons for Recommendation**

- 9.1 To ensure the criteria and process for making LA Governor appointments are transparent and effective in supporting a reduction in vacancy rates and providing schools with governors who have the time, commitment and ability to make a positive contribution to school governing bodies.

### ***For further information:***

*Officer: Andy Kent*

*Tel No:01244 972389*

*Email: [andrew.kent@cheshire.gov.uk](mailto:andrew.kent@cheshire.gov.uk)*

## Role Description

### Cheshire East Local Authority Governor

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#### ***Purpose of Post***

The role of a school governor is to contribute to the work of the Governing Body in raising standards and maximising outcomes for all pupils. This involves providing a strategic view for the school, acting as a critical friend and ensuring accountability.

The individual governor has a responsibility, working alongside other members of the Governing Body, to the staff and pupils of the school, the school's wider community and where they are representatives, to their particular constituency (parents; staff; teachers; church; etc). Local Authority Governors are appointed by the Local Authority (LA) and are expected to conduct themselves having regard to the LA's policies, however they do not have a mandate from the LA.

#### **Responsibilities include:**

- developing the strategic plan for the school;
- determining aims, policies and priorities of the school;
- setting statutory and non statutory targets;
- monitoring and evaluating the work of the school;
- appointment of staff and ensuring the implementation of a range of personnel procedures;
- management of the budget;
- securing high levels of attendance and good standards of pupil behaviour;
- ensuring that all children in the schools have access to a broad and balanced curriculum which is suitable to age, aptitude and ability, which prepares them for adult life;
- ensuring the health and safety of pupils and staff.

#### **Tasks include:**

- to get to know the school: its needs, strengths and areas for development;
- to attend meetings (full governing body, committees and working groups);
- to work as a member of a team;
- to speak, act and vote in the best interests of the school;
- to respect all Governing Body decisions and to support them in public;
- to act within the framework of the policies of the Governing Body and legal requirements;
- to commit to training and development opportunities;

## Code of Conduct

### Cheshire East Local Authority Governors

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**Local Authority governors should:**

- Act in the best interests of the pupils at the school having considered the views and advice of the Local Authority. You may need to balance long and short term issues, school and community issues;
- Work as a member of a team at all times and be loyal to collective decisions made by the governing body;
- Recognise that all governors have the same rights and responsibilities unless particular responsibilities are conferred on them by the full governing body;
- Understand that no governor can act alone except in exceptional circumstances prescribed in the regulations – the power of the governing body rests in it acting as a single body.

**All governors must:**

- Respect confidentiality;
- Listen to and respect the views of others;
- Express their own views clearly and succinctly;
- Take their fair share of work/positions of responsibility;
- Know, understand and work within the prescribed regulatory framework;
- Report any evidence of fraud, corruption or misconduct to an appropriate person or authority;
- Respect any code of conduct agreed by the governing body.

**And Local Authority governors are expected to:**

- Prepare for meetings by reading papers beforehand;
- Take responsibility for their own learning and development as a governor including attending training;
- Attend meetings promptly, regularly, and for the full time;
- Read any briefings specifically for LA governors;
- Familiarise themselves with LA policy and guidance and, where necessary, be able to explain this to other governors on the governing body.

**Cheshire East Local Authority Governor Declaration**

I certify that I am not disqualified by any of the above regulations and therefore I am eligible to serve on school governing bodies within the Cheshire East Council. I have read the attached code of conduct and I am willing to abide by it.

I also give my permission for Cheshire East Council to make arrangements with me to make a criminal records bureau check, and to check my details against list 99.

Signed: \_\_\_\_\_

Print Name: \_\_\_\_\_

Date: \_\_\_\_\_

## Criteria for the Appointment of Local Authority Governors

### Cheshire East Council

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Local Authority (LA) governors will be appointed to Cheshire East schools by the LA Governor Appointments Panel, as evidenced in the school governor application form, in accordance with the following criteria:

Criteria	Essential / Desirable
<ul style="list-style-type: none"> <li>• Displaying support for the main strategic aims of the Education Service in East Cheshire with regard to achieving the best outcomes for children.</li> <li>• Displaying an interest and/or involvement in children's education.</li> <li>• Be willing to attend/undertake training and Governor briefing sessions.</li> <li>• A commitment to attending meetings and contributing to the work of the governing body, including membership of a committee.</li> <li>• Involvement in the school's community through local groups such as voluntary groups, churches or work in the community.</li> <li>• Connection with local business/Council partners.</li> <li>• Interest and/or links with the school such as ex-parent, voluntary helper, ex-employee at the school.</li> </ul>	<p>E</p> <p>E</p> <p>E</p> <p>E</p> <p>D</p> <p>D</p> <p>D</p>
<p><b>Disqualification Criteria</b></p> <ul style="list-style-type: none"> <li>• Any LA Governor who has been disqualified through non-attendance will not normally be re-appointed to the same Governing Body;</li> <li>• Anyone who is disqualified by virtue of Regulation 20 (Schedule 6) of the School Governance (Constitution) (England) Regulations 2003;</li> <li>• A person is disqualified from appointment as a LA Governor if s/he is eligible to be a Staff Governor of the school.</li> </ul>	



## Panel for the Appointment of Local Authority Governors

### Cheshire East Council

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**Membership:** Portfolio Holder for Children and Young People's Services (or nominee);  
Three other Elected Members;  
Officer from Governor Services (in an advisory capacity only).

**Meetings:** To be held at least termly.

**Terms of Reference:**

1. To consider and determine the selection of Local Authority (LA) governors to maintained schools in order that appointments can be made in accordance with the agreed criteria.
2. To monitor vacancy rates of LA Governors based on information provided by the Governor Services, with a view to ensuring that vacancies are filled within one school term.
3. To note the appointment of additional governors and any urgent appointment to Schools Causing Concern.
4. To consider terminating appointments of LA Governors where the governor has clearly breached confidentiality or brought the school or the LA into disrepute. This is in addition to situations where governors disqualify themselves under Schedule 6 of the School Governance (Constitution) (England) Regulations 2007.

**Procedure:**

1. The Governor Services Officer (GSO) will contact the clerk to governors to request any specific information that may assist the appointment process and any nomination the governing body wishes to make to the next meeting of the panel.
2. The GSO will inform the local members and supply any relevant information, with a copy of the LA Governor application form, enabling them to make a nomination to the next meeting of the panel.
3. LA Governors reaching the end of their terms of office will be approached as to whether they wish to be considered for reappointment.
4. The GSO will provide the panel with details of applications received for appointment as LA Governors and details of LA Governors nearing the end of their term of office who have indicated a wish to be re-appointed, together with recommendations for appointments to posts at specified schools. This information will be provided prior to the meeting. This will include any nominations received from local members.
5. Where there is more than one application for a vacancy, an officer recommendation will be made in line with the agreed criteria.
6. At the meeting the Panel will select individuals for appointment in line with the agreed criteria.
7. Where the termination of a governor's appointment is being considered a report will be made by the GSO. This report will be made available to the individual in advance of the meeting and the individual will have the opportunity to make a response in writing for the Panel to consider but the Panel's decision would be final.
8. Where a governor has disqualified themselves under the statutory criteria, members of the Panel will be informed.
9. The GSO will send appointment letters with copies to the Headteacher, Chair of the Governors and Clerk to the Governing Body.
10. The GSO will retain a record of the meeting.

# Application Form

## Cheshire East School Governors

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Title:	Surname:	Male/Female
First Names:		
DOB:	Occupation:	
Home Address:        Postcode:  Home Tel No:		Work address (where applicable) including company name and postcode:        Work Tel No: Can we call you at work?
E-mail:		Mobile No:

Have you been a school governor before or are you already a school governor?  
 If yes, please give details, including the name of the school, category of governor, length of appointment, any special responsibilities:

Please outline your reasons for showing an interest in becoming a school governor – including details of personal qualities, experience or skills you feel you could bring to a school governing body, in line with the criteria for appointment as a governor in Cheshire East Council.

Please continue on a separate sheet if necessary.

Signature:	Date:
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## **Grounds for Disqualification from Membership of a Governing Body**

**(Schedule 6 of the School Governance (Constitution) (England) Regulations 2007)**

**You may not serve as a School Governor if you:**

- Are aged under 18 years at the time of application or appointment;
- Already hold a governor position at the same school;
- Are detained under the Mental Health Act 1983;
- Fail to attend the governing body meetings for six months continuously, beginning with the date of the first meeting you fail to attend, without the consent of the governing body. This provision does not apply to the ex-officio governors;
- Have been disqualified as a governor in any school during the previous twelve months;
- Are bankrupt, i.e. your estate has been sequestrated and the sequestration has not been discharged, annulled or reduced or you are the subject of a bankruptcy restrictions order or interim order;
- Are subject to a disqualification order under the Company Directors Disqualification Act 1986 or to an order made under section 429 (2) of the Insolvency Act 1986 (failure to pay under county court administration);
- Have been removed from the office of charity trustee or trustee for a charity by the Charity Commissioners or High Court on grounds of any misconduct or mismanagement, or under section 7 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 from being concerned in the management or control of any body;
- Are included in the list of teachers or workers prohibited from working with children or young people (currently called List 99);
- Are disqualified from working with children;
- Are disqualified from being an independent school proprietor, teacher or employee by the Secretary of State;
- Have been sentenced to 3 months or more in prison (without the option of a fine) in the 5 years before applying to become governor;
- Have at any time received a prison sentence of 5 years or more;
- Have been fined for causing a nuisance or disturbance on school premises during the 5 years prior or since applying to become a governor or being appointed as a governor;
- Have refused to an application being made to the Criminal Records Bureau for a criminal record certificate, or refuse such a request at any point.

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CHESHIRE EAST COUNCIL

## GOVERNANCE AND CONSTITUTION COMMITTEE

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**Date of meeting:** 3 November 2008  
**Report of:** Interim Monitoring Officer  
**Title:** Delegation of decisions to individual Members

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### **1.0 Purpose of Report**

- 1.1 To provide further information to the Committee upon the powers contained in the Constitution, which allow urgent decisions to be made.

### **2.0 Decision Required**

- 2.1 That the contents of the report be noted.

### **3.0 Legal Implications**

- 3.1 The legal implications are contained in the body of this report.

### **4.0 Risk Assessment**

- 4.1 No risks appear to arise as a consequence of the contents of this report.

### **5.0 Background**

- 5.1 At the meeting of the Committee on 6<sup>th</sup> October, discussion took place upon powers contained in the Shadow Council's constitution, which enable decisions to be made by officers in urgent circumstances.
- 5.2 These powers appear at pages 84, 89 and Appendix 4 (pg 111) of the Constitution.
- 5.3 In summary, where a matter is urgent and cannot await the next meeting of the appropriate decision-making body, the Shadow Council's Chief Executive may take the necessary action provided that Members have been consulted. Furthermore, copies of the consultation document must be sent to the appropriate Cabinet Member, the Chairman and Spokespersons of the scrutiny committee, the party group leaders and the local member.
- 5.4 The Chief Executive has sole discretion to decide the matter in question, having taken into account the views of Members consulted.

- 5.5 Whilst individual Member decision-making powers may be delegated to Cabinet Members under a local authority's executive arrangements in respect of executive functions, similar arrangements cannot be made in respect of non-executive functions.

The following explains the legal position.

Powers to delegate functions of full Council are derived from Section 101 of the Local Government Act 1972. This section enables delegation to a committee or sub-committee of the Council, officers of the Council, or to another local authority. There are restrictions on certain types of delegations which are outside the scope of this report. Section 101 does not permit delegation to individual elected members of the Council. This restriction also extends to purported delegations to a committee consisting of one elected member. The leading cases on this point are *R v Secretary of State for Education and Science, Ex p. Birmingham DC* (1984) 83 L.G.R. 79 and *R v Secretary of State for the Environment, Ex p. Hillingdon LBC* [1986] 1 W.L.R. 192.

For many years, local authorities have authorised officers, pursuant to S101, to take decisions in consultation with an elected Member (ordinarily the Council or committee chairman). The determining factor, should any question of lawfulness arise, is whether the ultimate decision was that of the officer. There would be a risk of challenge if the elected member takes a dominant role in the process.

The situation is not to be confused with the position in respect of the discharge of executive functions where legislation permits functions to be discharged by individual executive members.

## **6.0 Reasons for Recommendation**

- 6.1 This report explains the legal position in respect of delegation of decision-making powers to individual Members of the Council.
- 6.2 Whilst a decision may be taken which would provide for decisions to be made by individual Cabinet Members of the new unitary authority, further discussion would need to take place on such arrangements.

### ***For further information:***

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### ***Background Documents:***

- ***Cheshire East Council Constitution***
- ***Local Government Act 1972***

*Documents are available for inspection at:*

*Cheshire East Shadow Council Support Office  
Congleton Borough Council  
Westfields  
Middlewich Road  
Sandbach*

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**Governance and Constitution Committee**

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**Date:** 3rd November 2008  
**Report of:** Governance Lead Officer  
**Title** Appointment of Statutory Co-opted Members to Scrutiny Committees – Elected Parent Governors and Nominated Church Representatives

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**1.0 Purpose of Report**

1.1 To advise the Committee of the recommendations of the Scrutiny Committee in respect of statutory appointments to the Scrutiny Committee(s) which deal with education matters. These appointments will have voting rights on educational matters.

**2.0 Decision Required**

2.1 To recommend to Council that the following decisions of the Committee be incorporated in the Council's Constitution:

2.1.1 That two parent governor representatives should be appointed to the Scrutiny Committee for the purposes of dealing with education matters; one being drawn from the primary education sector, and the other being drawn from the secondary education sector.

2.1.2 That the period of office of the parent governor representatives should be 2 years with effect from 1<sup>st</sup> April 2009.

2.1.3 That one nominated representative of the Church of England Diocese and one nominated representative of the Roman Catholic Diocese should be co-opted to the Scrutiny Committee for the purposes of dealing with education matters.

2.2 That Council be recommended to authorise the Interim Monitoring Officer to make such consequential additions and changes to the Constitution as she considers necessary to give effect to the decision of Council.

**3.0 Implications for Transitional Costs**

3.1 None

**4.0 Background and Information**

4.1 Under the provisions of the Local Government Act 2000 and the Parent Governor Representatives (England) Regulations 2001, local authorities must appoint representatives of parent governors at maintained schools to Scrutiny Committees which deal with Education matters. This is to enable parents to have a direct input to policies on education provision for pupils of school age.

- 4.2 Under the provisions of section 499 Education Act 1996 pursuant to which the Secretary of State issued a Direction (with guidance) - DfEE Circular 19/99, local authorities must appoint diocesan representatives to Scrutiny Committees which deal with Education matters. The Church representatives will have voting rights in relation to any decision relating to: - schools maintained by the LA, pupils who attend schools maintained by the LA or are educated by the LA in some way but not the other business of the Committee. This is to enable denominations to have a direct input to policies on education provision for pupils of school age.
- 4.3 Current procedures for parent governor representatives, eligibility and guidance on voting rights etc. are attached at Appendix 1. Appendix 2 outlines a typical timetable for an election of parent governors' representatives to take place.
- 4.4 Appendix 3 outlines the requirements of local authorities in England to provide Church representatives with voting rights on Scrutiny Committees dealing with education and the scope of direction. These duties will fall upon Cheshire East Council.
- 4.5 On 10<sup>th</sup> October 2008, the Council's Scrutiny Committee considered a report on this matter and made the following decisions:
  - 4.5.1 That two parent governor representatives should be appointed to the Scrutiny Committee for the purposes of dealing with education matters; one being drawn from the primary education sector, and the other being drawn from the secondary education sector.
  - 4.5.2 That officers be authorised to make arrangements for the appointment of the parent governor representatives by election (if contested) by way of secret ballot.
  - 4.5.3 That the period of office of the parent governor representatives should be 2 years with effect from 1<sup>st</sup> April 2009.
  - 4.5.4 That one nominated representative of the Church of England Diocese and one nominated representative of the Roman Catholic Diocese should be co-opted to the Scrutiny Committee for the purposes of dealing with education matters.
- 4.6 The decisions set out at paragraphs 4.5.1, 4.5.3 and 4.5.4 will need to be reflected in the Council's Constitution and the Governance and Constitution Committee therefore need to make appropriate recommendations to Council in order for this to be agreed. These are contained at paragraph 2.

***For further information: -***

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***Background Documents: -***

- ***Local Government Act 2000***
- ***Parent Governor Representatives (England) Regulations 2001***
- ***Education Act 1996***
- ***DfEE Circular 19/99***

*Documents are available for inspection at:*

*Shadow Council Support Office*

*Room 51*

*County Hall*

*Chester*

*CH1 1SF*

**CURRENT PROCEDURES**

**APPOINTMENT OF PARENT GOVERNOR REPRESENTATIVES  
TO SCRUTINY COMMITTEES**

**1. INTRODUCTION**

Under the provisions of the Local Government Act 2000 and the Parent Governor Representatives (England) Regulations 2001, local authorities must appoint representatives of parent governors at maintained schools to Scrutiny Committees which deal with Education matters. This is to enable parents to have a direct input to policies on education provision for pupils of school age.

**2. REPRESENTATION**

Cheshire County Council currently has two appointed parent governor representatives on the Children's Services Scrutiny Select Committee but they may also sit on any other Scrutiny Committee that deals with Education matters from time to time. The current term of office is for two calendar years.

**3. ELECTION OF REPRESENTATIVES**

The places for the parent governor representatives are filled by election on a countywide basis. A typical timetable for the election process is attached at Appendix 2. All parent governors at schools maintained by the Authority are eligible to vote in the election and ballot papers along with instructions on voting are issued. Governors from any other category are not eligible to vote, even if they are parents of children attending a Cheshire school

**4. WHO CAN STAND?**

To be eligible to stand, subject to 5 below, a parent governor must be:

- a parent governor at a school maintained by Cheshire Education Authority; and
- a parent of a child at one of Cheshire's schools; or
- a parent of a child who is educated by Cheshire in some other way.

A parent includes carers and other persons with parental responsibility.

The key point is that a nominee for election should be both a parent governor and a parent, as defined above, at the date of the election.

**5. WHO CANNOT STAND?**

The following parents are not eligible to stand as parent governor representatives:

- employees of Cheshire County Council;

- employees of schools maintained by Cheshire County Council;
- Members of local authorities;
- parent governor representatives at another authority; and
- governors from another category who happen to be the parent of a child at one of Cheshire's schools or educated by Cheshire in some other way

## **6. NOMINATIONS FOR A REPRESENTATIVE**

Those wishing to stand may nominate themselves or may be nominated by other parent governors.

## **7. ROLE OF PARENT GOVERNOR REPRESENTATIVES**

The role of a parent governor representative is to:

- act as an apolitical voice for parents in the Cheshire area;
- liaise with the other parent governor representative;
- attend and contribute to meetings dealing with Education matters;
- establish good relations with other Members and LEA Officers; and
- provide feedback to parents on Cheshire's discussions of decisions on education.

## **8. VOTING RIGHTS**

Parent governor representatives **will** have the right to vote in any decision taken by Scrutiny Committee(s) to which they are appointed (voting rights limited to Education matters only) which relate to:

- schools maintained by Cheshire County Council;
- pupils who attend schools maintained by Cheshire County Council or who are educated by the Authority in some other way; and
- how funds which have already been earmarked for education are to be spent.

Parent governor representatives will **not** have the right to vote on;

- any decisions which determine Cheshire Education Authority's total education revenue or capital budget;
- any matters which would require the Council to raise the level of Council Tax; and
- any matters in which the representative has a pecuniary interest or some other direct interest.

A parent governor representative may participate in any discussions that take place in the Committee whether or not they have voting rights on the topic under discussion.

## **9. ALLOWANCES**

Parent governor representatives will be entitled to claim travelling and subsistence expenses and reasonable travel expenses for attendance at the Cheshire Association of Governing Body meetings.

**A TYPICAL TIMETABLE FOR ELECTION  
OF  
PARENT GOVERNOR REPRESENTATIVES**

5 Jan	Issue background documents and nominations forms
28 Jan	Last date for nominations
11 Feb	Issue Ballot Papers and instructions on voting
10 March (noon)	Last date for return of completed ballot papers
10 March (pm)	Count
10 March	Declaration of Result
11 March	Result of Election Circulated
13 March	Formal notification of appointment
16 March	Induction period begins
31 March	Induction completed
1 April	Formally take up office

## **CHURCH REPRESENTATIVES ON LOCAL AUTHORITY COMMITTEES DEALING WITH EDUCATION**

### **INTRODUCTION**

1. Circular 19/99: contained a direction of the Secretary of State for Education and Employment under section 499 of the Education Act 1996 requiring local authorities in England to appoint representatives of the Church of England and the Roman Catholic Church to their committees dealing with education. These representatives will represent those who appoint foundation governors for voluntary schools in their area. Representatives of other Christian denominations and other faiths who also appoint foundation governors for a voluntary school or schools may request the Secretary of State to make a specific direction.
2. The direction ensures that the contribution made by voluntary schools to the maintained education system is recognised and appropriately reflected in the composition of committees set up by local authorities to carry out their education functions. Non-elected voting members can only be included in committees dealing with education matters if their inclusion is required by the Secretary of State.
3. Where Executive arrangements are adopted, this will apply to any overview and scrutiny committee or sub-committee which deals with education issues.

### **COMPLIANCE WITH THE DIRECTION**

4. The Circular sought to secure Church of England and Roman Catholic Church representation on local authority committees dealing with education in a way which gives them an effective voice in education decisions without restricting how local authorities structure their decision-taking process.
5. Local authorities must provide diocesan representatives with places with voting rights on **any** committee which deals with education matters, whatever structure is used. Education matters are defined as any matter relating to the discharge of a local authority's education functions. This includes any matter relating to maintained schools or to pupils educated at those schools or otherwise.

### **DECISION MAKING STRUCTURES**

6. Where a single body or executive exists (in the form of a mayor or cabinet), and where it takes all the main decisions relating to education, then the authority could have a number of 'overview and scrutiny' committees whose role will be to scrutinise and put proposals to the executive. It is on these committees dealing with education that it would be expected that the diocesan representatives would sit. If more than one committee exists to oversee and scrutinise the executive's education decisions then diocesan representatives can be expected to be offered a place on each one.
7. Where education forms only one part of a committee's remit, diocesan

representatives must still be members of this committee and should vote on education matters. The representatives would be able to speak on all topics covered by the committee. Representatives would, however, be advised to speak only on education topics and topics which have a clear link to education.

## VOTING RIGHTS

8. The diocesan representatives have the right to vote on any decisions taken by the committee to which they are appointed by the local authority which relate to:
  - schools maintained by the local authority; and
  - pupils who attend schools maintained by the local authority, or who are educated by the local authority in some other way.
9. Diocesan representatives are allowed to vote on matters—dealt with by the committee(s) to which they are appointed—which affect how funds, already earmarked for education, are spent, such as motions on:
  - how much of the education budget is devoted to schools (compared to other forms of education provision such as adult education or the youth service);
  - what proportion of the schools budget is retained centrally by the local authority to provide services for schools and pupils, and what proportion is delegated to individual school budgets;
  - what proportion of the schools budget retained centrally is devoted to each of the four main funding areas (school improvement, pupil access, special educational provision and strategic management) and how much is contributed to Government grants for other specific activities;
  - the formula by which individual school budgets are calculated; and
  - any other more specific financial matter.
10. Diocesan representatives should **not** vote on:
  - any decision which determines the local authority's total education revenue or capital budget;
  - any matter which would require the council to raise council tax;
  - any matter in which the representative had a pecuniary interest or any matter in which the representative had some other personal interest rather than interest related to their role as diocesan representative, including a direct impact on the school at which the representative is or was a governor or where the representative's children are taught (for example, whether that school or another school should be given priority for the replacement of temporary classrooms).