

# 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:***

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## 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>
<b>Disqualification Criteria</b> <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:

# 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.