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by email

Dear Sir/Madam,

Grant Maintained Schools Constitution Consultation

On behalf of the Institute of Chartered Secretaries and Administrators (ICSA), I am pleased to respond to your consultation document regarding constitutional changes relating to the appointment and desired skills of governors of grant maintained schools.

ICSA is the professional body qualifying and supporting corporate governance, risk and compliance professionals in all sectors of the UK economy. Members are educated in a range of topics including finance, HR, company law, administration and governance, which enables them to add value to any organisation.

ICSA has an extensive pedigree in the governance arena, acting as adviser to government and regulators on company law and corporate governance; able to access a variety of applied experience in order to provide pragmatic insights into effective practices across a range of organisations. A number of our members are involved in the education sector, and all will be familiar with the importance of recruiting and developing strong boards for all types of organisations. This wealth of expertise and experience has informed our response to this consultation.

ICSA appreciates the opportunity to comment on the Department of Education's thinking in developing these changes to the constitutions of grant maintained schools. Having read, and reflected on, the consultation document, ICSA would like to register the following comments for further consideration.

General comments

Developing effective and successful governing bodies requires considerable hard work to create the appropriate structures, behaviours and environment. Ensuring recruitment and appointment procedures are adequate is just as important as establishing clear criteria for the skills, knowledge and experience of future governors. ICSA has identified that several factors are integral to the success of any decision-making body, and these are detailed below.

Hallmarks of an effective governing body

The governing body's role is to provide leadership of the school within a framework of prudent, effective and proportionate controls which enable risk to be evaluated and managed.

A successful governing body will develop and promote a collective vision for the school's purpose that aligns with legally established standards and mirrors the long-term objectives of the school. Supporting that vision will be the school's internal operating climate, culture, behaviours and values: these will be established by the governing body, articulated and embodied in the actions of all governors. The governing body will provide good governance and leadership by:

- understanding their role
- ensuring delivery of organisational purpose
- working effectively both as individuals and as a team
- exercising effective control
- behaving with integrity
- being open and accountable.

A successful governing body is not necessarily a comfortable place. Challenge as well as teamwork is essential. Diversity in the boardroom is an important factor of the governors' effectiveness, creating a breadth of perspective among governors and the senior management team and breaking down any inclination towards 'group think'.

Role of chairman

The role of the chairman in creating good boards cannot be overestimated. The chairman creates the conditions for the overall board and individual effectiveness of governors and the headmaster.

The chairman should demonstrate the highest standards of integrity and probity, and set clear expectations concerning the school's culture, values and behaviours.

The chairman's vision for achieving the optimal governing body composition will help the nominations process for reviewing the skills, experiences and knowledge required, identifying gaps and developing transparent appointment criteria to inform succession planning.

The role of governors

On appointment a governor should dedicate time to participate in a formal, comprehensive and tailored induction programme. It may be appropriate for a new governor to partner with a more experienced governor to speed up the acquisition of knowledge about the school in order to contribute more quickly to governing body meetings and decision-making. Governors are expected to visit and talk to the senior management team, teachers, pupils and parents to gain a rounded understanding of the school, its teaching methods, extra-curricular activities, the teaching environment and the risks it faces.

Experienced governors should devote time to developing and refreshing their knowledge and skills, including those of communication, to ensure that they continue to make a positive contribution to the governing body. Being well-informed about the school, and having a strong command of the issues relevant to it, will generate the respect of other governors, the headmaster, senior managers and teachers.

Governors need to make sufficient time available to discharge their responsibilities effectively. Recruitment material for school governors should state the minimum time that the governor will be expected to spend on the school's business, and seek the individual's confirmation that s/he can devote that amount of time to the role. Prospective governors should be advised that in times of change or challenge this commitment is likely to increase.

Governors have a responsibility to uphold high standards of integrity and probity. They should support the chairman and headmaster in instilling the appropriate culture, values and behaviours in governing body meetings and beyond to the entire school.

All governors should insist on receiving high-quality, accurate and timely information sufficiently in advance so that there can be a thorough discussion of the issues under consideration.

Governors should seek, be aware of and take into account the views of all the school's stakeholders, because these views may provide different perspectives on the school, its pupils and performance.

Governing body composition and succession planning

Appointing governors who are able to make a positive contribution to the school is one of the key elements of board effectiveness. Governors will be more likely to make good decisions and maximise the opportunities for the school and pupils' success in the longer term if the right skill sets are present on the governing body. This includes the appropriate range and balance of skills, experience, knowledge and independence. Governors should possess critical skills of value to the governing body and relevant to the challenges the school faces.

Whether or not the school has a nominations committee for governors, the chairman should be responsible for leading governor recruitment. The process should be continuous and proactive, and should take into account the school's agreed strategic goals. The aim should be to secure a governing body which achieves the right balance between challenge and teamwork, and fresh input and thinking, while maintaining a cohesive governing body.

It is important to consider a diversity of personal attributes among governing body candidates, including:

- critical assessment
- sound judgment
- courage
- independence of thought
- openness
- honesty
- tact
- humility
- flexibility in thinking
- ability to listen
- to forge and build productive relationships
- the ability to develop and inspire trust.

Diversity of psychological type, background and gender is important to ensure that a governing body is not composed solely of like-minded individuals. A governing body requires individuals who have the capability to suggest change to a proposed strategy and to promulgate alternatives.

Given the importance of committees in a school's decision-making structures, it will be important to recruit governors with the necessary technical skills and knowledge (or a willingness to acquire them) relating to the committee's subject matter, as well as the potential to assume the role of committee chairman.

A review of the effectiveness of the recruitment process should be undertaken to assess whether the desired outcome was achieved, and to suggest changes to future processes.

Good governing body appointments also require a prospective governor to carry out their own due diligence to understand the school, appreciate the time commitment required and assess the likelihood that they will be able to make a positive impact on the school and its pupils.

Governor support and the role of the clerk

The clerk has a key role to play in facilitating the effective functioning of the governing body through the timely presentation of information which, by being accurate, clear and comprehensive, assists high-quality decision-making. The governing body can also add value by delivering, or procuring the delivery of, the matters required by regulations and Ofsted guidance and in particular induction and development in a way which suits the needs of the school.

The clerk should be independent and impartial in their capacity as an adviser to the governing body and other committees on issues of process and governance standards expected as part of legislation or regulations relating to schools.

The responsibilities of the clerk should necessitate them playing a leading role in the good governance of a school by supporting the chairman and helping the governing body and its committees to function effectively.

The clerk should report to the chairman on all governing body matters. The clerk can also add value by assisting the chairman with governor induction and ongoing training and development opportunities. This should be in a manner that is appropriate to the particular governor, and which has the objective of enhancing that governor's effectiveness on the governing body or in committees, consistent with the results of any evaluation process. The chairman and the clerk should periodically review whether the governing body and the clerk's other governance processes are fit for purpose and consider any improvements or initiatives that could strengthen the governance of the school.

The clerk's effectiveness can be enhanced by their ability to build relationships of mutual trust with the chairman and governors while maintaining the confidence of the headmaster and the senior management team.

Specific comments relating to the consultation

2.1 New skills-based eligibility criteria for appointed governors

In general, we agree with the proposal to introduce clear criteria for appointing those governors with the necessary skills, knowledge and experiences the school requires in order to fulfil its legal duties and achieve its strategic aims. Diversity in the boardroom is an important aspect of effective governance, and we would urge the amendments to list not just skills, but experience, knowledge and independence as part of the selection criteria. Where a candidate does not meet all of the criteria, a commitment to acquire those skills and technical knowledge should be viewed favourably.

While it is appreciated that parent governors are an integral aspect of participation and representation of interested stakeholders, we would urge you to reconsider not introducing appropriate skills-related eligibility criteria for their appointment. A governing body is only as strong as its weakest link, and all governors – regardless of their constituency – should be prepared to undertake the necessary training and development activity in order to be effective for the entire school. Minimum skill-sets could be detailed in any nomination and election material for parent governors, though this will not necessarily guarantee an election will deliver those skills, with a clear requirement that newly elected governors will be expected to undertake all necessary training to acquire those skills.

Procedures for removing ‘surplus governors’ should be clear, transparent and fair. The selection criteria for each type of governor should be aligned to the strategic, and any other, plan for the school. The results of the most recent governing body evaluation should also be considered to assist with the selection process. Length of service may be seen as both a positive and negative aspect of a governor’s candidature, but more important is the governors established ability to constructively challenge the headmaster and senior managers, provide insightful questioning and demonstrate independence of thought when discussing proposals and performance. In recruitment and appointment exercises there is an ongoing need to balance the desire for ‘fresh thinking’ with that of maintaining corporate memory.

The use of a nomination committee for all governor appointments may be worth considering to ensure that clear criteria are agreed and suitable candidates are sought.

3.1 Size and membership, skills, elections

It is generally accepted that the optimum size for decision-making bodies is between 8 and 15. Large boards can prevent effective decision-making by being too unwieldy, while small boards can lack the full range of skills, experience and knowledge to be able to make well-informed and robustly challenged decisions. We therefore support the proposal that governing bodies should be free to decide their own size, so long as it contains the appropriate skills and attributes required. The regulations should, however, establish a minimum number of governors to ensure that effective decision-making can take place.

Skills audits and their associated registers are an established aspect of good governance in other sectors of the UK economy and are used to assist the recruitment process for board positions. We therefore welcome their use in the recruitment, selection and appointment of school governors. Any criteria for governors should be clearly aligned to the school’s strategic plan and other ambitions.

Where governors are elected by a specific constituency, due consideration should be given to ensuring that any information pertaining to the skills, experience and knowledge sought by the governing body do not negatively influence the electorate. The appointment of governors by democratic vote does not ensure that the candidates with the desired skills-set are elected. As such, the governing body should ask all candidates to commit to undertake a thorough induction and further training to support them in performing their legal duties effectively. The clerk should maintain records of all training offered, undertaken and declined by each governor. This can be used to inform any evaluation exercise undertaken by the governing body at a later date.

We hope that the above comments are useful to the Department in developing thinking on governing bodies of grant maintained schools. Should further information or clarification be required, please do not hesitate to contact me.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'L Thomson', written in a cursive style.

Louise Thomson
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ICSA

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