

CONSTITUTION COMMITTEE:

19 MARCH 2015

REPORT OF THE COUNTY CLERK & MONITORING OFFICER

LOCAL AUTHORITY GOVERNOR APPOINTMENTS

Reason for the Report

1. To update the Committee on the proposal to improve the arrangements for the appointment of Local Authority (LA) Governors to Cardiff Schools by establishing a Local Authority Governors Panel.

Background

2. The current arrangement for the appointment of LA Governors to Cardiff schools involves potential candidates being nominated by the political groups represented on the council with individual nominations being formally approved at full Council meetings. The current process provides limited scope to widen the pool of potential candidates and no formal process to approve the suitability of candidates. There continues to be a high level of LA Governors vacancies across all schools. The Council also needs to publish the process and criteria for identifying candidates for appointment as LA governors
3. In September 2014, political group whips agreed with the proposal to widen the pool of candidates to business leaders, staff and interested citizens and to formalise a process to check suitability of potential candidates. Events to encourage applications from interested council staff and business partners have also been arranged.
4. In November 2014, the Children & Young People Scrutiny Committee resolved to carry out a Task and Finish Inquiry into improving the effectiveness of Cardiff schools' Governing Bodies with an early review of the appointment process for governors. The first report from the Inquiry setting out the key findings and recommendations in relation to LA Governor Appointments is contained in the letter dated 1 December 2014 set out at Appendix A to this report. The Cabinet Member (Education) Cllr Julia Magill has confirmed her support for these proposals. Full Council has responsibility for responding to these recommendations.

5. The Committee agreed in principle to the setting up of a Local Authority Governors Panel at its meeting on 15th January 2015, and requested more advice on the process for removing School Governors, and the eligibility of elected Councillors to serve as Governors.
6. This Report is only concerned with the appointment of Local Authority School governors. Different arrangements apply to the appointment of parent governors; teacher governors; staff governors and community and foundation governors.

Removal of Governors

7. Under paragraph 27 (1) of the Government of Maintained Schools (Wales) Regulations 2005 “ Any LA governor, foundation governor, or representative governor may be removed from office by the person who appointed him or her, who must give written notice thereof to the clerk to the governing body and to the governor so removed.”
8. If the Governor Panel is established it will have legal power on the advice of the Director of Education to remove any LA Governor under this power. The Director also has delegated powers to do this in an urgent case.
9. These 2005 Regulations also set out the procedure that the Governing Body should follow when removing a community governor. They do not include any details of the procedure external bodies should follow in removing governors. Elected parent governors, teachers and staff governors cannot be removed.
10. There are also procedures to follow in these regulations for disqualification and suspension of governors in certain prescribed circumstances by the Governing Body itself :

Disqualification (by law)

- mental disorder
- failure to attend meetings
- bankruptcy
- disqualification of company directors
- disqualification of charity trustees
- persons whose employment is prohibited or restricted
- criminal convictions
- governor of more than two schools
- refusal to make an application for a criminal records certificate (where governing body has taken decision that all members will be checked)

Suspension (for a period of up to 6 months)

- that the governor, being a person paid to work at the school, is the subject of disciplinary proceedings in relation to his or her employment
- that the governor is the subject of proceedings in any court or tribunal
- that the governor has acted in a way that is inconsistent with the ethos or with the religious character of the school and has brought or is likely to bring the school or the governing body or his or her office into disrepute
- that the governor is in breach of his or her duty of confidentiality to the school or to any member of staff or to any pupil at the school

Ward Members

11. Ward Members are eligible by law to serve on up to 2 schools across the city. Most Cardiff Councillors undertake this additional responsibility, although there is no requirement to do so. It can provide a useful connection between the school and the Council, and in the absence of any other recruitment activity has been the main source of Local Authority Governors to date. The Children and Young Persons Scrutiny Committee Task Group have recommended that the appointment of Ward Councillors should follow the same appointment process as other Local Authority School Governors.

A Local Authority Governors Panel

12. The Scrutiny Committee Task and Finish Group are recommending that the Council delegate its powers of LA Governor Appointment to a cross party Member Panel. The Director of Education (or his nominee) , Monitoring Officer and a representative from the Cardiff Governors Association would act as advisors to the Panel. Governor Service's staff would clerk the Panel and facilitate the recruitment of suitable candidates to form a pool of potential appointments. This would enable appointments to be focused on the needs and challenges of the individual school and ensure that Governing Bodies are well supported with specific expertise and experience.

13. The Panel could also maintain an overview relating to the recruitment of governors; criteria for appointment and conduct of LA governors, the training of governors; and any other matters that may be referred to the Panel by the Cabinet or the Constitution Committee.

14. It is proposed that the Panel would comprise up to seven Cardiff councillors including the [Cabinet member responsible for the Education Portfolio] and meet termly or more frequently as required to consider all LA governor applications or renewals. The Panel would also consider any objections to appointments and any applications to remove an LA governor.

15. An implementation plan to support the new Panel is set out at Appendix B.

Disclosure and Barring Service Checks (DBS)

16. The Task and Finish Inquiry also recommended that all new LA governors should have the basis DBS check undertaken prior to their appointment paid for by the council. The position relating to governors has changed under the **Protection of Freedoms Act 2012**. As school governors are no longer undertaking regulated activity, there is no requirement for them to be subject to vetting and barring checks. However, where governors are undertaking some form of regular contact (as defined by the Act; 'regular' means carried out by the same person frequently (once a week or more often), or on 3 or more days in a 30-day period (or in some cases, overnight)) with pupils, they are subject to risk assessment and possible vetting and barring unless adequately supervised. These checks where they are required are dealt with by the Education and Lifelong Learning Service.

Legal Implications

17. LA governors are appointed by the Council. They are subject to the statutory rules regarding qualification and disqualification affecting all governors set out in the relevant regulations: The Government of Maintained Schools (Wales) Regulations 2005. Candidates must be aged 18 or over at the time of their appointment. No person may at any time hold office as governor in more than two schools

Financial Implications

18. None identified

RECOMMENDATIONS

1. The Committee is recommended to recommend to Council that a Governors Panel be established as part of the Constitution with the following Terms of Reference:

Governors Panel

Terms of reference

- (i) For School Governing Bodies constituted under The Government of Maintained Schools (Wales) Regulations 2005 to appoint and remove governors to those places allocated to the Local Authority;
- (ii) To consider and make decisions relating to the recruitment of governors; the training of governors; and any other matters that may be referred to the Panel by the Cabinet or the Constitution Committee.

Membership

Seven members to include the Cabinet member responsible for the Education portfolio

2. Amend the Scheme of Delegation in Part 3 of the Constitution to amend Section 3, Local Choice Functions:

‘The appointment of any individual:

(a) To any office other than an office in which he / she is employed by the authority;

(b) To any body other than:

(i) The authority;

(ii) A joint committee of two or more authorities; or

(c) To any committee or sub-committee of such a body,

And the revocation of any such appointment’

Decision Making Body – Council

Delegation –/ Governors Panel /Director of Education for appointment of Local Authority School Governors pursuant to section 19 of the Education Act 2002 and the Government of Maintained Schools (Wales) Regulations 2005 .

3. Any consequential amendments to other Constitution provisions.

MARIE ROSENTHAL
County Clerk and Monitoring Officer
11 March 2015

Appendix A – Cabinet Member Letter

Appendix B – Implementation Plan