



GUIDELINES FOR GOVERNORS

A MANUAL OF GOOD PRACTICE FOR GOVERNORS OF INDEPENDENT SCHOOLS

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CONTENTS

1	The Governing Body	
1.1 – 1.6	Its role	5
1.7 – 1.15	Its composition	6
1.16 – 1.20	Selection, induction and training	8
1.21 – 1.28	Its individual members	9
1.29 – 1.33	Its Chair	11
2	Meetings and Committees	
2.1 – 2.4	Meetings of the Governing Body	12
2.5 – 2.8	Governors' Committees	13
2.9 – 2.10	The role of the Clerk	14
3	Governors, the Head and the Teachers	
3.1 – 3.18	Appointing the Head	16
3.19 – 3.28	Governors and the Head	19
3.29 – 3.35	Troubled Relationships	22
3.36 – 3.38	Other Academic Appointments	23
3.39 – 3.42	Governors and Teachers	24
4	Other relationships	
4.1	Governors and Pupils	26
4.2 – 4.6	Governors and Parents	26
5	Governors, the Bursar and finance	
5.1 – 5.8	The Bursar	28
5.9	The Support Staff	29
5.10 – 5.15	Controlling the Finances	29
5.16 – 5.17	Financial Viability	31
5.18 – 5.19	Investments	31
6	Inspection and Review	
6.1 – 6.8	Inspection and Review	32
7	Governors' Duties and Liabilities	
7.1 – 7.2	Introduction	34
7.3	Roles	34
7.4 – 7.5	Governors' Duties	35
7.6 – 7.10	Objects and Powers	35
7.11 – 7.15	Personal Responsibility and Delegation	36
7.16 – 7.22	Personal Benefits	36
7.23	Potential Personal Liabilities	37
7.24	Third Party Liabilities – unincorporated schools	37
7.25	Third Party Liabilities – incorporated schools	38
7.26 – 7.29	Breaches of Trust	38
7.30 – 7.33	Managing the Risks of Personal Liability	38
7.34 – 7.42	Accountability to Regulators	39
	Appendix A	
	Induction of Governors – The Minimum	42
	Appendix B	
	Responsibilities of the Chair	44
	Appendix C	
	The Clerk to the Governors	45
	Appendix D	
	Useful contacts	47
	Appendix E	
	Statement of Professional Performance Review Principles and Guidelines	49

INTRODUCTION



Governors of independent schools have a rewarding but increasingly complex role. Most governors, as trustees, are guardians of the Charity's assets.

Governors are responsible for the strategic direction and maintenance of standards within the School and for legal and regulatory compliance including risk management. In much of what they do, relationships within the Governing Body and with staff, parents and others associated with the School are crucial to good governance.

The guidelines that follow are intended to provide governors of independent schools with a reference manual of good practice and an indication of the regulatory requirements, at the time of publication. A Governor's informed, sensitive understanding of his/her role in an independent school is a precious asset. The importance of every governor possessing this kind of understanding cannot be emphasised too strongly. Yet many governors and governing bodies still operate largely in relative isolation – for this reason it is essential that good practice be shared across the sector and that full advantage be taken of modern methods whereby governors can communicate easily both with each other and with the organisations whose purpose is to support them.

AGBIS intends that the latest edition of Guidelines for Governors should be distributed as widely as possible among governors of member schools. The principles of good governance set out here form the basis of the training provided during visits to schools, at the many seminars and events for governors held each year, within the e-Learning courses and in the reports following reviews of governance commissioned by individual schools. Equivalent support and advice is provided for school leaders by the Heads' Associations and by the Independent Schools' Bursars Association (ISBA). We hope that governing bodies and their clerks are aware that the AGBIS staff are always available for consultation and advice via telephone or e-mail. Early referral of problems can often prevent them from escalating or getting out of proportion.

Despite attempting to cover all normal eventualities, these guidelines cannot be comprehensive and will

need to be interpreted in the context of each individual school. Every school is different and independent. AGBIS member schools are diverse to a remarkable extent and aim to provide an excellent education for pupils of widely differing ages, interests, aptitudes and needs. But, despite the wide diversity of the schools, the responsibilities of their governors are broadly similar and regulatory requirements apply equally to all independent schools.

It hardly needs to be said that in order to contribute properly to formulation of the School's overall strategy and to exercise effective oversight, a governor will need to have a deep understanding of the nature of the School and the values at its heart. Some of this understanding will flow from the Head's regular reports, but those reports will need to be supplemented with information from other sources and, where possible, with experience gained on visits to see the School in action. But it is equally important that governors appreciate that their role is strategic and that they exercise oversight in a non-executive capacity. Responsibility for the management of the School lies with the Head, assisted by senior colleagues. They are the executive education specialists who will understand the complex nature of running a school. There will be, and clearly are, occasions when governors are tempted to cross the line into management and to become involved in detail or in specific decisions. The importance of resisting that temptation needs emphasis, for individual governors becoming involved in decision making conflicts with the collective nature of governors' responsibility; it will quickly lead to confusion as to who is responsible for what and discourage strong leadership. Governors' responsibilities have undoubtedly increased in recent years and this should strengthen the case for governors focusing on their central responsibilities: governance, strategy, oversight, support and challenge, while consciously recognising and avoiding unhelpful and probably uninformed divergence into management detail.

This edition of Guidelines for Governors has been considered by staff of the Independent Schools Council (ISC) and by the Scottish Council of Independent Schools (SCIS). Their suggestions were very helpful and are acknowledged with gratitude. AGBIS of course remains responsible for the content.

Mark Taylor
Chairman of AGBIS
March 2019

01 THE GOVERNING BODY

The Role of the Governing Body

1.1 The Governing Body is responsible for determining the aims and overall conduct of the school, sometimes referred to as setting the strategy, a process which should be undertaken with the Head and senior staff. In conjunction with the senior leadership, the Governing Body sets and reviews the policies, plans and procedures which are designed to ensure the best possible education for present and future pupils of the school. This includes best practice in appointing and managing staff as well as ensuring that safeguarding procedures are properly observed and child protection is a priority matter. The Governing Body is responsible for ensuring the proper control of the School's finances. It is also responsible for ensuring compliance with regulation, with the guidance of the Charity Commission (or for schools in Scotland the Office of the Scottish Charity Regulator (OSCR) and for schools in Northern Ireland the Charity Commission for Northern Ireland (CCNI)¹) in the case of schools which are charities and with the law, including the Companies Act 2006. The Governing Body will need to exercise judgement and sensitivity over both supporting the Head and senior staff

and evaluating outcomes, including educational attainment, thereby properly holding them to account for delivery of the strategic aims.

- 1.2 Every member school will have one or more Governing Instruments. These are usually the Articles of Association of the Company, but could be a Trust Deed, Articles of Government or occasionally a Royal Charter. The Governing Body must always work within the requirements and the authority of these documents, which should be easily accessible, regularly checked and updated as required. Governors must also be sufficiently apprised of relevant Acts of Parliament, statutory guidance and other regulations affecting independent schools in order to ensure compliance with these. Circumstances may arise when a Governing Body has no alternative to terminating the appointment of one of its members and the Governing Instrument should afford the Governing Body the authority to do so. The Governing Body should keep abreast of new legislation, on which advice will be issued by the Independent Schools Council (ISC), the Scottish Council of Independent Schools (SCIS), AGBIS and the Independent Schools' Bursars Association (ISBA), as well as guidance issued by the relevant inspection authority.
- 1.3 Most member schools are a charity, or part of a charity. Because they have – or share – control of the Charity's administration and management, the Governors are also Trustees. As such they have a duty to act collectively to deliver the Charity's objects, to provide public benefit consistently with the guidance of the Charity Commission and to report annually that they have paid due regard to that guidance, to protect the property, preserve any endowments and maintain the solvency and effectiveness of the Charity. The Charity Commission documents The Essential Trustee (CC3) and (CC3a) and Public Benefit Guidance (PB1, PB2 and PB3) set these obligations out more fully and should be made available to every

¹ Where reference is made to the Charity Commission or OSCR, schools in Northern Ireland should check the equivalent expectation/guidance set out by the CCNI.

governor. In Scotland a stricter charity test of public benefit is required by the Office of the Scottish Charity Regulator (OSCR). It publishes “Guidance and Good Practice for Charity Trustees” and “Meeting the Charity Test: Guidance”. The School is likely also to be a company limited by guarantee. If so it must also conform with relevant company legislation, in particular, the Companies Act 2006. In both cases there is a degree of personal liability involved in governorship, depending on the nature of the School’s constitution; Chapter 7 covers this in some detail.

- 1.4 In addition to what has been said above in relation to the Governing Instrument and governors’ responsibilities, the Governing Body is accountable for the service provided to its stakeholders (pupils, parents and staff). Parents are buying into a set of relationships which may last many years; they will look for a clear vision for the future education of their children and expect that this vision is persuasively articulated and faithfully delivered. All independent schools are subject to the disciplines of the market and schools’ annual reports and statutory accounts are open to public scrutiny, but beyond this it has not always been customary in the past for governing bodies of independent schools to conduct their affairs as openly as they could. However, lack of communication can build unhelpful barriers between governors and staff, or between governors and parents. Nowadays openness and transparency, including a willingness to give reasons for decisions and to restrict information only when there is a compelling case for doing so, are accepted principles of public life. Subject to what is said in paragraph 1.23 below, it is suggested that governors adopt a general principle of openness, while respecting the need for confidentiality on sensitive matters.
- 1.5 Whatever the expertise of individual governors, there will be occasions when it is important to seek outside professional advice and governors have a duty to do so; some examples are given later in this document.
- 1.6 The words ‘must’ and ‘should’ have already been used. Throughout the document each has a consistent use. ‘Must’ refers to a requirement, ‘should’ implies good practice. Where the word ‘may’ occurs, governors are free to use their discretion.

Composition of the Governing Body

- 1.7 The composition of a governing body needs careful thought and planning. Ideally the members should be from a diverse range of backgrounds and possess between them appropriate levels of the knowledge and experience of the whole range of matters which are likely to come before them for decision. Accordingly, when a vacancy is to be filled, the Governors should consider what field of expertise or element of diversity is not represented, or is under-represented, on the Board. Conducting a skills audit and regularly reviewing it are regarded as good practice. Before making an appointment the Chair, or Chair of the Nominations Committee, should check that the person proposed will be able to work successfully with the other governors and senior staff. The Governing Body will need an educationalist (ideally a Head or senior staff member from a non-competitor school), and one or more financial specialists or people with relevant commercial experience. Others who may have valuable experience to contribute include a medical professional, a property expert, a lawyer and people with experience of IT, HR and marketing. The presence on the Board of a current or recently retired head or bursar can be particularly useful.
- 1.8 Special expertise apart, governors should be capable men and women of sound judgement who are able to look at issues from many angles. They should also be people who understand the importance of working as an effective team. In all schools it is important that the Governing Body should be as diverse as possible in terms of gender, age, ethnicity and backgrounds. A list of governors, together with information about their background and connection with the School, should be on the website and made available to parents, together with contact details (which should normally be through the Clerk).
- 1.9 The size of a governing body is frequently determined by the Governing Instrument – with 12 to 18 members generally considered most appropriate. The size and complexity of the School will have a bearing on the number of governors, and are likely to influence the number and nature of committees, though final responsibility will

always rest with the Governing Body. Where a governing body has responsibility for more than one school it is important to ensure sufficient attention is paid to the interests of each of the constituent schools.

- 1.10 Continuity is important, and governors should normally be expected to serve for at least five years. The regular infusion of fresh blood is equally valuable. In accordance with the Charity Code of Governance or Scottish Governance Code, schools should restrict the length of governors' service. This is easily achieved by placing a limit on the number of consecutive terms which governors can serve, for example no more than two terms of five years. There are many instances of governors who still provide valuable service after 20 years or more but the prevalent view across corporate and charity governance is that board members should stand down after a reasonable period – the Charity Code of Governance for England and Wales recommends nine years. Occasionally it might be appropriate for a board member to return, having stood down for a period. The practice has to be that set out in the Governing Instrument; hence, if practice needs to change then the Instrument may need to be revised to allow it.
- 1.11 It is important that a good proportion of the Governors should live reasonably close to the School so that they can be known to the wider school community outside formal meetings of the Governing Body. This is especially so in the case of the Chair, Vice/Deputy Chair, and Chairs of Committees.
- 1.12 Certain categories of governor can bring to their work the benefits of a closer acquaintance with the School. Former pupils are to be found on most governing bodies and readily serve their old school with energy and devotion. At the same time two considerations should be borne in mind. First, it is important to select former pupils on their merits and for the skills they bring rather than because they hold office in a former pupils' association. Second, it is usually wise to ensure that governors who are former pupils do not form too large a proportion of the Board, since it is sometimes difficult for such governors to contemplate necessary changes as dispassionately as governors who have been educated elsewhere.
- 1.13 It can be beneficial to have parents on the Governing Body, but not too many and not simply because they are parents. A person who is in sympathy with the longer-term aims of the School, and who would be likely both to have the confidence of other parents and to be able to make a positive contribution to the deliberations of the Governing Body, is clearly the kind of parent to be considered. All governors, as charity trustees, must serve the interest of the Charity and be concerned only to deliver its charitable objects. For that reason a governor who is a parent or a representative of another group cannot be, and should not be considered to be, a delegate of that body and must avoid conflicts of interest over personal issues. To this end the term Parent Governors is discouraged as it may be taken to indicate a representative role. Governing instruments frequently provide the power to co-opt persons to serve on a governing body for a specific purpose, for instance to assist with a major project or to overcome a skills shortage. Persons co-opted in this manner may have limits placed on their voting rights as they are not full governors or trustees. This can be a good method of using the skills of parents and of those persons who do not have the time to play a full part in the life of the School.
- 1.14 Reference is made in Chapter 3 Paragraphs 3.39 – 3.42 to the relationship between teachers and the Governing Body. Teachers' status as employees of the Charity normally precludes them from governorship, reflecting a conflict of interest and responsibilities. If teachers are unable to serve as governors it would be wholly inappropriate for pupils to do so. Governors must all be adults of maturity and wide, varied experience. It is accepted that the Head and the Bursar / Finance Director / Business Manager should be present throughout governors' meetings, formally 'in attendance', since as employees they cannot be there as full Board members. The Clerk, who is often the Bursar, clearly needs to be present. It is not uncommon for a Deputy Head also to attend and for other Senior Leadership Team members to participate in specific agenda items. It is widely accepted as good practice for relevant members of the Senior Leadership Team to be present at part, or all, of Governors' committee meetings.

- 1.15 In some cases governors are appointed ex officio by outside bodies. Such appointments may create the potential for conflicts of interest or loyalty and should always be made with regard to the School's skills matrix. These, and any other conflicts, should be declared and recorded, usually at the start of every meeting, so that difficulties are reduced. A balance between ex officio and elected Board members should be struck such that there is a high level of continuity. If, for example, an ex officio governor is only appointed for a short term, his/her opportunity fully to understand the working of the School will be limited. Schools revising their constitutions should consider whether continuation of ex officio appointments is appropriate. If it is, then they should seek to ensure that they are consulted over nominations and that nominated governors constitute no more than one third of the Governing Body. It should be clearly understood that a nominated governor has exactly the same duty to serve the interest of the School as a co-opted governor and is not appointed to oversee the interests of the nominating body. Some charities which operate schools are responsible for more than one school. Others have a two-tier structure with a board which acts as charity trustees and a committee of governors which has delegated responsibility. In these more complex arrangements it is vital to ensure clarity as to which body is responsible for what and to avoid duplication, with the danger of unnecessary demand on the time of governors and senior staff. Wherever possible a structure where all governors are trustees and vice versa is recommended.

Selection, Induction and Training

- 1.16 The Charity Commission's leaflet CC30 and OSCR's Guidance give advice and the latest edition of the Statement of Recommended Practice (SORP) requires that trustees report on how new trustees are recruited and on the policy for their induction and training. That governors should be provided with training is now a widespread expectation and is regarded as good practice. All new governors should endeavour to attend one of the termly AGBIS Seminars for New Governors and AGBIS staff regularly visit schools to provide training and offer

training seminars on a wide range of topics during the year.

- 1.17 Responsibility for identifying new governors with the skills required and for recruiting them is sometimes vested in a Nominations committee. Nevertheless, ensuring that the Governing Body has a sufficient number of experienced people with an appropriate spread of skills is one of the collective responsibilities of the Board and therefore a matter to which all governors should give thought – it certainly should not be left to the Chair alone. In addition to the consideration of experience and skill, the Governing Body should, wherever possible, contain an appropriate spread of age, gender, ethnicity and background. The AGBIS office maintains a list of potential governors, mostly recently retired heads or bursars, which may be of help. In view of the many responsibilities assumed by governors, it is good practice to issue a new governor with a letter of appointment. Such a letter should also confirm the normal period of office and include a provision for the requirement for a governor to resign should it become necessary for the best interests of the Governing Body as a whole.
- 1.18 It will take time for a new governor to become familiar with the School, the way in which it operates, and the issues that face governors and executives. In order to ensure that governors are able to make an effective contribution as soon as possible, it is essential that comprehensive induction takes place. Delivery of a thorough induction process is primarily the responsibility of the Clerk, with the Chair and the Head also playing a substantial role. Induction of new governors will involve meeting with key governors and members of the senior management team and the provision of a comprehensive pack of relevant information. Many schools have now developed a Governance Manual and a template document is available through the AGBIS website. Whilst too much documentation may appear daunting, it will allow the new governor to find much of the information needed without constantly bothering others. New governors will appreciate help over recognition of names and faces. An aide-mémoire to the induction process is provided at Appendix A.

- 1.19 Governors should if possible periodically attend one of the regular AGBIS seminars or events, where they can take part in the discussions and exchange views with governors from other schools. It is important for governors to keep abreast of relevant developments and AGBIS sends schools, from time to time, newsletters, bulletins and details of training – all such correspondence from AGBIS should be forwarded by the Clerk to all governors. Governors of some schools have benefited from coming together for a day to review their responsibilities and objectives, and to examine their effectiveness: AGBIS can assist in the design and delivery of such a programme. AGBIS has a programme of electronic learning (e-Learning), available to all governors of member schools; Governors are able to access the e-Learning programme using a password which can be obtained by completing an online application form on the AGBIS website. From time to time, courses and conferences of relevance to governors are facilitated by SCIS and the other ISC Associations, commercial and professional organisations. Details of these courses are also published on the AGBIS and, where appropriate, SCIS websites.
- 1.20 Governing Bodies must periodically review their own performance; it is an expectation of the Charity Commission and OSCR that all charity trustee boards do so. The purpose is to ensure that: the Trustees are operating effectively; they have appropriate skills; they understand their responsibilities; meetings are efficient, properly informed by timely relevant information, clearly recorded and allow all members to have the chance to contribute; decisions are arrived at collectively after full discussion; and succession planning is undertaken in a timely and thorough manner. AGBIS provides a template self-review exercise, available to members from the website and which, for a small administrative fee, AGBIS can conduct. In addition to reviewing Board performance, it is good practice to extend this to individual governor appraisal, whereby each governor discusses with the Chair, usually towards the end of the term of office before seeking re-election, their contribution to the Board and areas for development.

The Individual Governor

- 1.21 The strength of the Governing Body lies in the talents of its members and in their ability to work together as a team. Governors' responsibilities are collective. No individual governor or group of governors has any authority, unless there has been specific delegation of such by the full Governing Body. Each governor has an equal right to participate and to make up their own mind about the issues presented. Once decisions are taken, individual governors should consider themselves bound by them and must support them loyally, unless they feel that the decision is in breach of regulations, in which case the individual governor has a clear duty to report to the appropriate regulator.
- 1.22 Because the status of most governors is that of charity trustees, a person may not serve as a governor if he or she has a pecuniary interest in the School. If by chance a governor should find that a matter being discussed could or does affect them personally, or an interested firm or close family member, this should immediately be declared. It is recommended practice for new governors to register their other interests on joining and for all governors' meetings to begin with the Chair requesting declaration of any conflicts of interest or loyalty. The constitutions of some schools provide for the payment of fees for a specific service where a trustee also acts for the School in a professional capacity. The Companies Act 2006 identifies the procedure which should be followed in this case, as does Charity Commission guidance. It is good practice in all schools to reimburse trustees' travelling and incidental expenses; this is not construed as a pecuniary interest. When it comes to the setting of School fees, a trustee who is also the parent or grandparent of a child in the School clearly has an interest and this should be managed appropriately; it is good practice for current parents, and grandparents, to recognise the appearance of conflict and not to vote.
- 1.23 Breaches of confidentiality, however inadvertent, can cause embarrassment or damage to the School. In general the business, discussions and minutes of Governors' meetings should be viewed as confidential, including what is discussed before a

decision is taken. But once taken the decision may be open, as may the agreed reasons for arriving at it. It is for the Governing Body to determine how best to meet the openness requirement referred to earlier and for individual governors to adhere to it. Most schools have developed processes to ensure that parents and staff are kept up to date with key Governing Body decisions in an appropriate fashion.

- 1.24 Many governors will bring to the School not only their professional or technical expertise but also experience of comparable roles, for instance as a non-executive director of a company or as trustee of another charity. Such experiences are relevant, but they are not an infallible guide in resolving all the issues that come before a governing body.
- 1.25 Every governor will want to contribute to the well-being of the School, and will appreciate that regular attendance at meetings is a core expectation. To contribute effectively to discussions and decision making it is necessary to acquire a good background knowledge of the School. Some of this understanding will flow from the Head's regular reports at Governors' meetings. Governors should endeavour to attend as many functions as they can, to get the "feel" of the School, to understand the values at its heart and to become better known to staff and pupils. There also needs to be recognition that many governors who have abundant skill and judgement to offer to their School are busy people whose time is precious. Regular attendance at school is to be welcomed but it does not alone determine the quality of governors' contribution.
- 1.26 Individual governors should at all times be careful not to compromise the position of either the Governing Body or the Head, nor to disrupt the proper channels of communication within the School by acting on their own. Governors should not meet with staff without the knowledge of the Head and should avoid conversations with parents which might undermine the collegiality of the Governors and Head. Governors need to appreciate that their responsibility is collective. It is important that all governors feel free to speak frankly at meetings and are able and willing to contribute to decisions. Governors' primary responsibility is to establish the School's broad strategy and to monitor its implementation. Individual governors

should scrupulously avoid involving themselves in management detail which is not their domain unless, in very exceptional circumstances, it is absolutely necessary; to act in such a way risks causing confusion over who is responsible for what. Many governors will bring professional or technical knowledge to a governing body and many will occupy, or have occupied, positions of significant executive influence. Governors must nevertheless always respect the boundary in schools which separates their advisory, supervisory and strategic remit from the executive and managerial role of the Head and Bursar. No individual governor should instruct the Head, Bursar or other member of staff to act in a particular way or to perform a specific duty. Visits to the School should not normally be made without notifying the Head as a matter of courtesy.

- 1.27 Occasionally problems arise with individual governors, for example through infrequent attendance at meetings, disruptive behaviour or not recognising the distinction between governance and management. It would usually fall to the Chair to discuss the issues privately with the governor concerned, but in some circumstances this may not bring about change. It is therefore good practice to have in the Governing Instrument provision for removal of a governor should the Board wish to take such a course. It is also good practice to include, in a governors' code of conduct, a clause that an individual governor should resign if requested to do so by a majority of the Board (and governors should agree to abide by the code by signing a copy on appointment).
- 1.28 In today's world, schools need to handle the media well. The responsibility should be centred in one person, usually the Head. If there is a crisis or a problem likely to give rise to adverse publicity it is essential to channel all communications with the media through that designated person; governors and staff should be advised accordingly and in a timely fashion to avoid the risk of any inconsistency in messages. The Independent Schools Council and Scottish Council for Independent Schools are available to assist the designated person in the preparation of statements for the media; schools may also have access to media advisors through their insurers or lawyers.

There may be occasions when the Chair should speak for the School, but otherwise governors should not normally become involved.

The Chair of Governors

- 1.29 The Chair holds a key position, so, except where s/he is appointed ex officio, it is a prime responsibility of the Governing Body to find the right person for the post. The Regulations require that the identity of a new Chair and the right to work in the United Kingdom be checked with the Department for Education or notified to Scottish regulators before, or as soon as practical after, appointment. This includes, in England, arranging for the Secretary of State to countersign the Chair's DBS clearance to allow him/her to become the 'proprietor' of the School. The Clerk should take responsibility for ensuring the established procedure is followed. In addition to seeing that the business of the Governing Body is conducted properly and the meetings are run efficiently, it is the Chair's task to encourage all governors to contribute and to work together as a team. S/he also has a vital role as critical friend in supporting, guiding and liaising with the Head and sometimes the Bursar. There may be the need to take important decisions between governors' meetings. A wise Chair will ensure that s/he has the prior authority to do so; otherwise s/he should contact as many of the Governing Body as possible in the circumstances and, subject to the agreement of a majority of those Governors who can be contacted, take the necessary action (provided that it is not contrary to the School's Constitution). The Chair should always remain aware that the role is essentially to enable the Board to function well, clearly acknowledging that authority lies with the Board collectively not with her/himself. S/he should have regular meetings with the Head and be easily available. An aide-mémoire on the responsibilities of the Chair is at Appendix B. With the ease of communication provided by email, a Chair can normally seek fellow governors' approval of a course of action without recourse to special Board meetings.
- 1.30 The office of Chair requires that time be given to its discharge and, if special difficulties arise, a great deal of time. The Chair will need to be fully informed about the affairs of the School and to have a clear grasp of its strategic aim and financial position. His/her information should, so far as is possible, be first-hand and would normally come mainly from discussion with the Head and Clerk. The Chair should maintain close links with the Vice/Deputy Chair, the Clerk and the Chairs of committees.
- 1.31 The Chair will need to maintain an overview of all the activities of the Governing Body. Thus it is strongly recommended that the Chair should not chair standing committees. The Chair has an overarching, strategic role and must at all times maintain a sense of proportion and objectivity which can be, or to fellow governors can appear to be, compromised by chairing committees. This is particularly so in the case of a finance committee, whose remit affects all areas of school life. It is important that governors are presented with the focused views and recommendations of a committee chair and then advised by the Chair of Governors where he or she sees them fitting into the overall strategy of the School.
- 1.32 When a Chair's term of office is due to end, it is important that there is sufficient opportunity for the governors to plan for the succession, with consideration given to the periods of office of other key people including the Deputy Chair, Chair of Finance and the Head and Bursar. Succession planning is an important aspect of the collective responsibilities of the whole Governing Body, sometimes one which is given insufficient consideration. A wise Chair will regularly encourage all Board members to think ahead and to look out for suitable new governors.
- 1.33 It is becoming increasingly common, and widely regarded as good practice, for Chairs to serve for a fixed term, even if there are no specific requirements set out in the Governing Instrument. If no current governor is able or willing to take on the role of Chair, it can take up to two years to find a successor externally and allow him/her sufficient time to understand the role before stepping up. When the Chair stands down s/he should cease to be a governor.

02 MEETINGS AND COMMITTEES

Meetings

2.1 A programme of meetings of the Governing Body and its Committees should be published well in advance – typically schools issue meeting dates at least one year in advance.

The Governing Body should meet at least once a term, with committees meeting in advance as required; for instance, a finance committee may wish to meet termly, an education committee also termly or at least twice a year and a nominations committee may only be needed annually. In constructing the programme, care should be taken not to overload governors or to require excessive amounts of management time to be devoted to preparing for, attending and recording meetings. Although meetings elsewhere are sometimes convenient, the ideal venue is the School as governors can see something of the School at work, have contact with staff and pupils and perhaps take part in related meetings and/or training. The timing of meetings should be as convenient as possible for those attending, primarily the governors and with consideration for those with full-time commitments. It is usual to expect all governors to be members of one committee so they have the opportunity to gain a deeper understanding of at least part of the School's operation.

- 2.2 The agenda for full Governing Body meetings will vary from school to school, and from meeting to meeting, but there will be common features. The Head's report should be a standard item with a prominent place on the agenda to which ample time should be devoted, as also should the financial report. If governors have delegated some of their work to committees the agenda will provide for reports from each committee chair. There could also be provision for the report of a working party or from an individual governor charged with taking forward some initiative. These reports may need to be handled carefully to avoid prolonging meetings and

alienating governors not involved. Governors should be regularly informed of changes in the law which have implications for the School. Compliance with the Independent Schools Standards Regulations has become a major issue. At each meeting of the Governing Body there should be time available to question the executive on the measures they have in place to ensure compliance. Governors need to be reminded that the regulations require that they themselves review the Child Protection / Safeguarding Policy and its implementation annually, as well as any closely related policies (e.g. the Staff Code of Conduct). There needs to be a clear record of that annual review and its consideration by the full Governing Body, which should also provide confirmation that the review has been undertaken and scrutinised with sufficient rigour. From time to time the Head or Bursar will bring forward policies and will need to convince the Governing Body (which is responsible) that they have all the stipulated policies in place, that they are correctly worded and that they are implemented effectively. The resulting agenda should achieve a balance between reporting, operational decision-making and strategic discussion. Conflicts of interest are likely to arise within governing bodies from time to time. It is essential that even the slightest appearance of a conflict is acknowledged and that the Governing Body, with a clear lead from the Chair, arranges proper management of the conflict. Governors with a conflict of interests should always be willing to leave the meeting if so requested. All governors should be expected to read board papers in advance to allow them to be taken as read wherever possible, as this will allow time for the discussion of strategic matters. Care should be taken to ensure that any committee recommendations that require full Governing Body approval are formally ratified and that this is recorded.

- 2.3 The Head's report should go out with the agenda and other papers and time should be allowed for an unhurried discussion of issues arising from it. The Head should ensure that the report includes the best indicators of the School's performance and that, over a period of

time, those reports enable governors to discern the School's strengths and weaknesses. The report should contain an account of progress in meeting the objectives of the Strategic Plan and any proposals for amendment. It should refer to academic or pastoral issues that require review or decision by the Governors. Mention of staffing problems (provided they are not so specific as to prejudice any subsequent formal appeal) and of serious breaches of discipline will help to establish in the minds of governors some of the Head's current concerns and to convince governors that the report is a comprehensive account of the important issues facing the School. The dialogue between Governors and Head should lead the Head to understand the obligation to provide Governors with all the information they need to meet their responsibilities. The Governors are ultimately responsible for the performance of the School. The Head's report should therefore be constructed in a way that recognises and addresses what governors really need to know, in order to meet that fundamental responsibility.

- 2.4 It is important and well-established practice that heads and bursars attend all governors' meetings, including all relevant committee meetings and are able to contribute agenda items. The Charity Commission and OSCR guidance is that employees cannot normally be charity trustees. In schools which are charities, therefore, heads and bursars should not be governors and are present at meetings 'in attendance' in a non-voting capacity. Governors may sometimes wish to confer in private: the annual review of senior staff salaries is usually such an occasion. This can be done by including an item of private business at the beginning or end of the agenda, when the Head, Bursar and any other employees are asked to leave. Such business conducted in their absence can cause anxiety. Governors need to be conscious of the importance of maintaining a high level of trust and understanding between themselves and the Head and senior leaders. It is recommended that Governing Bodies should, therefore, keep private business to a minimum and, as soon as possible afterwards, the Chair should explain to

those concerned, and especially the Head, the substance of the discussion and the need for it to have been in private. If the Bursar is also Clerk to the Governors it will be necessary for the Chair to record any decisions reached on such occasions.

Committees

- 2.5 It is standard practice now for Governing Bodies to be served by a range of committees, the number and nature of which will reflect the size, style and ethos of the School. For many schools an education committee, a finance committee and a governance and nominations committee would be regarded as the essential minimum. Proliferation of committees should be avoided. It adds to the workload of the Head and Bursar and can distract them from their other important functions. Committees need clear written terms of reference agreed by the Governing Body to define their purpose, the extent of their authority, if any, and the means by which they report to the Board. Specimen terms of reference for governors' committees are available to member schools in the AGBIS template Governance Manual on the AGBIS website. It is common now to find governors with educational expertise meeting with the Head and senior staff on an Education Committee. Its brief should be to provide advice and support for the Head rather than to exercise authority, though the presence of governors will ensure that important curricular and staffing issues are given appropriate weight in governors' meetings. It is particularly important that an education committee understands the need to avoid over-involvement in detail and trespassing into what is the proper domain of management. Typically, the Finance Committee will recommend the annual budget, including any proposed fee increase, to the Governing Body and then monitor spending against it on at least a termly basis. Capital spending and its effect on cash flow, the extent of the School's reserves and the oversight of any long-term investments should all lie within its remit. When a prospective

development requires borrowing or fund-raising, the advice given (or obtained) by the Committee will inform the Governing Body's eventual decision. The Committee will scrutinise the statutory accounts, recommend their approval by the Governing Body and maintain a close association with the auditors. The Finance Committee should ensure that appropriate financial controls are in place, be in a position to identify any danger signals and recommend appropriate action if the School is heading for financial difficulty. Although the Governing Body carries the ultimate responsibility for reviewing the risks to which the School is exposed and the systems in place to mitigate them, the work involved may well be delegated to this Committee; it is a key responsibility of senior staff to keep risks under regular review and report major risks to governors.

- 2.6 Governing Bodies are likely to establish other committees. Care should be taken to ensure that their existence does not overload governors or consume undue amounts of senior staff time and that there is no unnecessary duplication of discussion at committee level. It is not uncommon for chairs and deputy chairs of governors to be ex officio members of all committees but to attend only when the business requires one or both to do so. Where a school has a junior department or an integrated preparatory school with a committee to provide oversight of its operation, care should be taken to ensure that its terms of reference make clear the reporting line and relationship with committees with functional oversight across the whole school, for instance a Finance and Estates Committee. It is important that the Governing Body recognises its responsibility for the whole School.
- 2.7 There may also be a committee dealing with the salaries of the Head and other senior staff. Oversight of the buildings and grounds is often the function of a separate committee. Ad hoc working groups may also be established to deal with specific issues, such as updating the School's strategy or overseeing a building project. Some schools see the need to form Bursary or Scholarship Committees to maintain

an overview of this important area. In normal circumstances a finance committee should be able to maintain the appropriate level of oversight; to go one step further and vest that committee with the authority to scrutinise applications and approve such awards is not good practice. Decisions as to which pupils are admitted to the School should lie solely with the Head. Circulation of parents' financial information, which is provided in strict confidence, should be kept to the absolute minimum.

- 2.8 Overuse of committees may risk isolating from discussion those governors who are not on a committee, leaving them with only the final decision. To mitigate this danger, committee minutes should be made available to the whole Governing Body as soon as possible after each committee meeting and, when making recommendations to the Governing Body, the Chair of a committee should summarise the information and arguments and seek endorsement, emphasising that the decisions belong to the full body. This is especially true when committees have a wide brief such as a finance and general purposes committee. Rotation of committee membership and adopting a policy of asking all governors to serve on a committee may also help to minimise this risk. A second risk is that governors can trespass on the role of the Head, Bursar and other senior staff through their involvement with committees. The critical division between governance and management, which has been mentioned previously, can more easily be crossed in committee work, with potential for damaging consequences.

The Clerk to the Governors

- 2.9 The role of the Clerk is described in some detail in the joint document at Appendix C. The Clerk is responsible for publishing a programme of meetings and organising the agenda for meetings of the Governing Body and its Committees at the wish of the relevant Chair and with input from the Head and Bursar (if the Bursar is not the Clerk). The Clerk is

also primarily responsible for implementing the decisions of the Governing Body. The Clerk is sometimes described as the guide and guardian of the Governing Body. This phrase illustrates the important responsibility of the Clerk to ensure that the Governing Body understands and meets its responsibilities, including observing Charity Commission guidance and complying with regulation, and that the Governing Body never acts beyond the power conferred by the Governing Instrument. The Clerk will therefore need to have a thorough understanding of that document and ensure that it is kept readily available and revised when necessary. Notes of meetings may be taken by the Clerk, or by an assistant, but it is the responsibility of the Clerk to present the minutes for the approval of the Chair, to distribute them to governors and to ensure that the authorised version is filed along with reports considered at the meeting. Minutes should provide both a clear record of decisions, thereby demonstrating accountability and who is responsible for their implementation, and also sufficient detail to record the general nature of the discussion prior to the decision. Since governors' responsibility is collective, recording names is generally unnecessary and should be regarded as exceptional. The Clerk should also ensure that terms of reference and other documentation relating to the work of the Governing Body are reviewed and updated regularly. In conjunction with ISBA, AGBIS holds training seminars for Clerks, attendance at which should be encouraged. The Clerk should also take responsibility for encouraging and recording governors' training and for recording governors' attendance at meetings.

- 2.10 The Bursar is often the Clerk to the Governing Body: his/her qualifications for being Clerk should have been considered on appointment and the additional duties reflected in the job specification and salary. Such an arrangement has the benefit of convenience, for the Bursar will always be required to attend to report on financial and other matters. There may, however, be some disadvantages. From time to time a governing body has soured relationships

with its Head through too much reliance on, or private contact with, the Bursar as their Clerk for information about the School. And if, unfortunately, governors and head are in dispute, the Bursar can face a conflict of loyalty. For these and other reasons a number of schools, though still a minority, employ a suitably qualified professional with the necessary skills to act as their Clerk. This enables the Bursar to concentrate on the many tasks associated with that role.

03 GOVERNORS, THE HEAD AND THE TEACHERS

Appointing the Head

3.1 The quality of leadership is the single most important factor in the effectiveness and success of a school. Though today's schools are led by teams, ultimate responsibility for leadership rests with the Head and his/her appointment remains a governing body's most important single task. It is vital that when it comes to an appointment the Governing Body is confident it has found the right person; if not, it is better to re-advertise the post.

3.2 Increasingly schools use professional recruitment consultants to help them find and appoint a new head. AGBIS can provide impartial advice to governing bodies on companies with experience in the field of education, offering a range of services from external advice to executing the whole process up to the final shortlist interviews. Fees depend upon the level of involvement and the consultant's research capability and could be in the region of a third of the Head's annual salary. Some schools choose to appoint an experienced educationalist as an assessor to help with the process or part of it. This would reduce both the level of external involvement and the cost. The search process can conflict with the traditional openness between a teacher (or head) and his/her employer over applications for other jobs. Governing Bodies should be aware of the potential for friction between schools.

3.3 In some cases the Governors decide to carry out the task themselves. The process takes time and requires detailed planning. If this is the method adopted, the Governing Body should consider what additional resources are likely to be necessary to administer the process. The time and resources required can easily be underestimated. If the current Head has indicated that s/he will retire at a certain date, governors will usually know in advance by when the post has to be filled. When the Head is moving to another post s/he will usually be required to give at least two or more terms' notice. When programming the selection process, governors should be mindful of the notice the successful candidate must give his/her present employer. This will be at least two terms for a current head in an independent school, probably two terms for a deputy head and at least a term for other senior teachers or for a head in the maintained sector.

3.4 A generous but not untypical time frame starts with the Head announcing in the spring or early summer his/her intention to retire at the end of the following academic year. Governors can then advertise in the summer term, or early in the autumn term, in order to make an appointment before autumn half-term, leaving the possibility of re-advertising if required and still completing the recruitment before Christmas. Whatever the notice given, governors should be prepared to allow a minimum of six to eight weeks for the process, from the date the advertisement appears to the final selection meeting. So important is the outcome that governing bodies are often best advised to accept a term's interregnum rather than foreshorten the process and risk an unsatisfactory appointment.

3.5 The Chair should consult the outgoing Head on the timing and occasion of the announcement of his/her resignation or retirement. Any discussion about the Head's leaving must be treated with the utmost confidentiality until the parents and staff have been informed. The Head should also be made aware of the recruitment procedures to be adopted and who will handle the administration: placing the advertisement, corresponding with applicants and taking

references are properly the responsibility of the Clerk to the Governors, though the Head's PA may be able to give practical help. Ensuring that the whole process is kept confidential is most important. It is expected that an outgoing head will assist in the process of providing information to applicants, and often meeting with them, but it is unwise and inappropriate to involve an outgoing head in the process of determining his or her successor or, indeed, to invite his or her view.

- 3.6 Governing Bodies have different views on the extent to which the selection process should be left to a committee. Some will delegate all but the final interview process, while others will feel the work is so important that they must all be involved in every step. Whatever method is chosen it is important that all governors have the opportunity to contribute to deciding what experience and qualities are likely to be needed in a new head. A meeting should be held early in the process to enable this vital issue to be addressed by all governors. There are, however, many steps and sometimes many applications to be considered. Involving all governors at every stage is likely to so complicate or protract the process that attention becomes too focused on procedural detail rather than on the important matter of selecting the right person. Interviewing is most effective when a candidate's strengths and weaknesses are probed in a coherent conversation with a small group of governors. A typical approach is for a committee to reduce the field to three or, better, four, from whom the Governing Body will make the final selection. The Chair will normally chair the selection committee, joined by those governors with experience of good selection practice and, if possible, of headship. Many governing bodies bring an independent assessor into the final part of the process: the Heads' Associations (See Appendix D) will be able to help.
- 3.7 Advertisements are normally placed in the Times Educational Supplement and are published on Fridays, with on-line editions appearing earlier. They may also be placed in one or more of the national newspapers if the considerable expense is not an issue. Increasingly, recruitment firms

will place their own advertisements in print and online. Little notice is required, but care should be taken over the format and, if possible, its placement on the page and any accompanying illustrations and logos. The content can normally be limited to: the name of the School; its location, size and type; the email address and telephone numbers for further particulars of the post; and the closing date for applications. It is normal for the outgoing Head to notify other schools of the forthcoming vacancy. This is frequently undertaken through the relevant Heads' Association.

- 3.8 Prospective candidates who reply to the advertisement should be sent particulars of the School, the personal and professional characteristics of the person sought, and details of the appointment process. The document should refer prominently to the Governors' strategy for the School which should be in writing, having been agreed with the Head and senior staff. The current Head will often be best placed to provide the relevant features of the School. Typically there will be: a brief School history; the age-range, overall number of pupils and number in the Sixth Form, if applicable; the teaching and non-teaching staff establishment and details of the senior management and administrative support; significant academic, cultural and sporting activities and achievements; recent improvements to buildings and facilities; aspects of the Strategic Plan; well-known former pupils; and any endowments the School may enjoy or any Foundation to which the School may belong. Since this is a two-way process, the Governors should take steps to ensure that the School is presented in its best light.
- 3.9 The Governing Body should have discussed the required qualifications, experience and other characteristics; these should be summarised in the document sent to interested parties. The particulars of the appointment process should include a carefully-constructed application form which complies with prevailing regulations concerning safer recruitment. Potential candidates should also be told the dates of interviews and what additional selection techniques will be used, if any, such

as psychometric testing, an in-tray exercise or a formal presentation. They should be advised that the appointment will be subject to a medical report or examination and to criminal record and other statutory checks. An outline of the intended terms and conditions of service should be included: a general indication of salary, confirmation of pension arrangements and whether accommodation is provided. Any additional benefits such as medical insurance and use of a car should also be mentioned.

- 3.10 The Governing Body may also have considered giving the new Head a fixed-term contract. As a Head will always be required, this is not a proper use of a fixed-term contract. Schools and heads may wish to consider a “duration” for a contract. A duration clause should align to the head’s own expectations and career trajectory, as well as that of the school and parents. Duration clauses are regularly included in heads’ contracts, so that expectations may be clearly understood. Regularly discussing the duration of the headship at appraisal is a good way of ensuring that the school’s and the Head’s expectations remain clear. The Head may be considering moving on to another school with new challenges and a replacement head would need to be recruited. A duration clause is not the same as a fixed-term contract. A tenure clause does not, of itself, provide a fair reason for a dismissal. A duration clause is intended to shape the tenure of the contract, rather than give grounds to terminate.
- 3.11 The Governing Body will have decided on the procedures that are to follow the closing date for applications and applicants should be advised of likely interview dates. Due care will need to be taken of the law and especially regulations which relate to child protection, proof of identity, disclosure, proof of qualifications and the right to work in the UK. At least one member of the interview panels must have completed the relevant safer recruitment training. It can be helpful if references are provided before first interviews take place. If the field is a large one, it will usually be possible as a first stage to reduce it simply by reference to the written applications and their supporting material. The Selection Committee may then interview twice, arranging

to see as many strong applicants as possible for preliminary interviews before reducing the field and interviewing in more depth; or it may interview just once on the strength of the applications and references, although this can be less satisfactory as performance and impressions can alter over time. If interviews by the full Governing Body are to follow that date should also be made known to applicants. The precise date for public announcement cannot be given in advance as it may depend on negotiations, the outcome of a medical examination and sensitivity to the interests of parents and staff of the two Schools. If other demands on the time of some applicants are to be made – such as attendance at an assessment centre prior to interviews – these should also be mentioned.

- 3.12 At every stage the Governors (and any advisers) who are to attend a meeting should have had plenty of time to consider the applications. Care must be taken to avoid unlawful or unfair discrimination. Whenever interviews are to be held, the Selection Committee or full Governing Body needs to have thought through its approach – the degree of formality to be maintained, the areas to be covered, how questioning is to be organised, the time to be given to each candidate and how the candidates’ performance is to be evaluated. All candidates must be treated equally at interview and throughout the recruitment process. Candidates may be asked to give a presentation or they may be interviewed by small panels of Governors each looking at a different area of headship; in every case careful preparation will be necessary. Detailed notes of all the interviews should be made and retained and careful thought given to responses to the likely requests from unsuccessful candidates for feedback.
- 3.13 As the Governing Body is looking for an exceptional head, so, too, the candidates are seeking a good job and, in many cases, a new home. Both will benefit from a full exchange of information – anything less than a full and fair account of the School’s situation is unfair to applicants and could be unlawful. The Chair should telephone the referees of short-listed candidates for clarification of written references

or for additional information, but care should be taken to ensure that candidates' approval to approach referees before being offered the position has been obtained. For their part, candidates will have much to learn from a visit to the School: this should certainly be arranged prior to the final interviews and consideration should be given to whether it is appropriate also to invite spouses/ partners to visit.

- 3.14 The visit will be arranged with the knowledge of the existing Head and should always include a tour of the School and sometimes a meeting with senior members of staff. When accommodation is being offered, candidates and spouses will wish to see it and to know the arrangements relating to its use; if there is no Head's house, information on housing in the area will be useful. It is customary and courteous to invite those senior staff who have spent time with candidates who visit the School, particularly at the short-listing stage, to express their view about the candidates, on the clear understanding that responsibility for the appointment rests with the Governors. Again, confidentiality must be preserved above all, as candidates will not wish their identity to be known beyond the School to which they are applying and staff must be made fully aware of this requirement.
- 3.15 Some Governing Bodies arrange a social function for candidates who reach the final stages, with spouses/ partners sometimes invited. Such events have become less common; some candidates prefer not to meet others during the process as far as that is possible. If the Governing Body is considering the spouse/partner for a job with remuneration, then both should be interviewed.
- 3.16 Preserving the confidentiality of a candidate's application at all stages is a priority. Throughout the selection process it is important to respect the sensitivities of both the candidate and his/ her current School. Thus some candidates may prefer to visit the School privately and not to meet any staff other than the Head. Similarly, candidates may not wish governors to visit their current School.
- 3.17 Governing Bodies will wish to show applicants every courtesy. Those who are not being called

for interview should be thanked for their interest; the outcomes of interview sessions should be communicated quickly and sensitively. Governors should adhere to an interview timetable which takes into account the distances individual candidates have to travel. They should ensure that the needs of candidates who are waiting for interview are addressed. Travelling expenses, and where necessary the cost of overnight accommodation, should be quickly reimbursed. The identity of all applicants should remain confidential.

- 3.18 Once the appointment has been made and terms have been established, there will need to be agreement between the two Schools on the manner and timing of the announcement. The agreement of the new Head's present School should be sought to allow him/her to be released for a number of separate days to talk with the current Head, the Chair, other members of the management team, the Bursar, the Head's PA and, if possible, to have an opportunity to meet with staff informally. The number of such occasions should be kept to the minimum necessary. Governors should accept that the departing Head remains responsible for the School until the day of departure and recognise that the incoming Head will have a demanding job to attend to until the change occurs. So, the guiding principle should be that the new Head should be kept informed of significant changes of staffing, policies and practices occurring after the appointment and offered an involvement in the more important ones, but never in such a way that the role and authority of the departing Head are undermined.

Governors and the Head

- 3.19 The Governing Body is concerned with aims, policies and plans. It looks to the Head and the senior team to help to formulate and then implement those plans. Acting within that framework, the Head and the senior team manage and administer the School with the support of the Governors, while recognising their accountability to the Governors.

- 3.20 While this short statement of the respective roles of head and governors sounds straightforward, in practice the relationship between the two can be complex. The School's Governing Instrument may, and the Head's contract of employment should, give more substance to the division of responsibility. While the distinction between governance and management may not be capable of precise definition and may vary somewhat from one school to another and from time to time, it is a vital distinction which needs to be clearly understood and observed. Governors are responsible for overall strategy, which should be committed to a clear, succinct, written document, and for overseeing the effective delivery of that strategy. They should ensure that sufficient time is devoted to strategic planning and review at their meetings. Governors, individually and collectively, should not involve themselves in management detail. Clarity as to where responsibility lies is critically important. It is also important that the Head, effectively the Chief Executive in the School, should not feel under constant, critical scrutiny and should be seen to have wide discretion in leading the School and determining its character, consistent with delivering the agreed overall strategy. However, he or she must recognise the ultimate responsibility of the Governors for the School's prosperity, and help them to exercise it. Partnership is the key, and the four paragraphs which follow illustrate how that partnership should work in practice. They are not exhaustive.
- 3.21 It is a basic requirement that the School will need a comprehensive set of policies. The more important policies are those required by the Independent School Standards Regulations (ISSR) and their existence, wording and the effectiveness of their implementation are subject to inspection. Those policies are detailed in the Independent Schools Inspectorate (ISI) Handbook which is readily available to schools via the ISI website. In Scotland, in order to operate schools are required to be registered with the Registrar of Independent Schools. Other published policy statements, which can be varied with changing circumstances, are also essential for establishing the School's outlook and for ensuring consistency.

They reduce the risk of disagreement as they confirm individuals' roles and responsibilities. The pay and conditions of staff, bursaries and scholarships, health and safety, behavioural expectations, including alcohol and drugs, are examples of areas where a clear statement of the School's attitudes and procedures is needed, and there are many more. Governors may initiate policies, but usually the Head will be aware of the need, consult with staff and draw up a draft for the Governors to approve, where applicable. In the fields of curriculum and school routine the Governing Body must be kept informed and made aware of major changes. Partnership will be essential when the policy relates to sensitive issues of parent relationships, the suspension or exclusion of pupils, for example, or the persistent non-payment of fees. Governors should review the list of policies regularly to make sure both that there are no gaps that could leave open the possibility of litigation and that the policies fully comply with regulations (see the AGBIS Governors' Compliance Checklist). The child protection/safeguarding policy is particularly important. There is a statutory requirement that both that policy and its implementation are reviewed annually by the Governing Body, as proprietor of the School. Model versions of many of the required policies are available from the Independent Schools' Bursars Association (ISBA) for schools which are members.

- 3.22 Strategic planning is another area where Governing Body, Head and senior staff should work closely together. The strategic plan should have at its base the School's educational objectives, from which should flow the staffing and physical resources needed to meet those objectives and then the associated financial arrangements to deliver those resources. It should be a written document, preferably succinct and kept under regular review, at least every three years, and developed by governors in close consultation with the senior management. The strategic plan should include a statement of the School's aims and arrangements for monitoring targets. Having established an agreed framework, the Governors should be content for the Head and senior leaders to formulate more specific,

detailed proposals to flesh out the strategy – the most usual vehicle for this is a development plan that details specific targets that need to be achieved in order to meet the overarching strategic objectives, along with deadlines and details of who is responsible. It is normal for the Governing Body to review the development plan, at least annually, in order to ensure that progress is being made to achieve the strategic objectives. If governors and senior management work closely together over strategic planning this will encourage ambitious, creative thinking while minimising unrealistic expectations and the risk of disagreement over aims.

- 3.23 Within the framework established by the Governors it is the Head's responsibility, in consultation with senior colleagues, to appoint the teaching staff. The framework will be a budgetary one, which may relate to a pupil-teacher ratio. While heads rightly expect discretion over the choice of staff, they must accept that the determination of the number of staff is a matter for governors and a key aspect of financial planning. It is usual for governors to be involved in the appointment of the Deputy Head(s) and the Head of any Prep or Junior School. The Head may invite particular governors to assist in other senior appointments. Governors should expect to be kept informed of changes of personnel and, from time to time, to see a schedule of the teaching staff, their responsibilities and salaries. Establishment of salary arrangements is a governors' responsibility on which the Head should be encouraged to advise. Teachers' contracts include a probationary period and if the Head decides, in a particular case, not to renew the contract when the period has been served, having provided appropriate notice, the Governors should be informed. Governors should be made aware of circumstances that could lead to the School's being involved in any legal proceedings. However, care needs to be taken to ensure that a sufficient number of governors have no prior involvement in any issue relating to either staff or pupils which might lead to an appeal to the Governors, in order that the appeal is heard with the necessary independence.

- 3.24 A vital responsibility of the Head is promoting or marketing the School. Whether or not another person is employed to organise open days, conduct surveys, handle media relations, place advertisements, identify mailing targets and design publicity material, the leadership and reputation of the Head are major factors in determining the success of the School. Governors should be well informed of the recruitment techniques in use, and will need regular briefing on whether admissions targets are being met. The importance of this aspect of the operation of the School demands careful oversight on the part of governors but not their direct involvement in what is a management function, albeit one of considerable consequence.
- 3.25 To meet their responsibility to monitor the performance of the School the Governors will need, and are entitled to, regular information concerning important events. Providing a Head's report at least one week in advance of Governors' meetings is established practice. As governors' committee meetings have increased in number, so has the frequency with which such reports are expected. The time of heads and bursars is not unlimited, so while governors should expect regular, timely information, they should scrupulously avoid duplication of reporting. Governors need to have confidence that everything which bears significantly on the success of the School, good news or bad, will be reported to them promptly. They should not expect, and indeed should if necessary discourage, reporting of unimportant detail which can prolong meetings and lead to distraction from those matters to which governors need to give careful attention.
- 3.26 The Head can be a somewhat lonely figure within the School. Nowadays s/he is likely to work very closely with senior colleagues, but as the Chief Executive the Head bears the major burden of responsibility and cannot take for granted popularity with, or personal support from, colleagues or parents. Indeed a wise head will not become too closely involved with parents socially and will be conscious of the need to avoid even a perception of partiality among the staff. The Head therefore needs the confidence,

support and encouragement of the Governors who, from their different standpoints, are able to take an objective view of his or her concerns. This responsibility to support falls primarily on the Chair, who should be generally available for consultation and be able to provide a source of judicious support, guidance and encouragement. Governors should ensure that there is an effective process of induction and mentoring for a newly-appointed head, which may need to be additional to that available from the relevant Heads' Association. A current or recently retired head on the Governing Body can sometimes be well placed to provide this support.

- 3.27 How do governors evaluate the Head's performance? The relationship between a governing body and its head should be one of complete trust, with unfettered frankness of discussion and with a generous recognition by the Governing Body that the Head has full freedom of operation in the discharge of responsibility within an agreed strategy. That wide autonomy is balanced by an obligation on the Head's part, referred to above, to share with the Governors all they need to know about the situation of the School and to report to the Governors fully and faithfully. In addition, it is now deemed good practice to conduct a performance review of the Head when s/he has been in office for two or three years. This has within it many of the elements of appraisal, but the outcomes – or a summary of them – will normally be made available to the Governors and may lead to a discussion with the Head about areas which should be addressed.
- 3.28 The Head will belong to a professional Association, whose code of conduct should be observed. Governors should encourage the Head to make full use of the support (including mentoring for a new head mentioned above) offered by that Association and encourage the Head to attend relevant conferences, meetings and courses. Governors, especially the Chair, should take responsibility for the professional development of the Head and should arrange for the Head's professional performance review in accordance with the guidance at Appendix E. Appraisal is a development tool, providing an opportunity for a

frank discussion about the Head's perceptions of his or her work, the areas of relative strength and any which might be causing concern. It should identify how time might be used more effectively, what training or consultation might be helpful and what targets should be set for the period until the next appraisal.

Troubled Relationships

- 3.29 Criticism of the Head may come to the attention of the Governors. Any complaint beyond a mere grumble should be referred at once to the Chair. In some cases s/he will decide either to discount it or to discuss it with the Head and leave the Head to deal with it, keeping other governors apprised as appropriate. If a complaint amounts to a grievance, however, or if it has the necessary formality, then the School's procedures must be followed. Sometimes a governing body, or some of its members, become, to a greater or lesser degree, dissatisfied with the Head. However, heads should only ever be judged against criteria which have been endorsed by the full Governing Body and made clear to the Head. If there is fault, it may be on either side, with the Governors being misinformed, mistaken in judgement, or impatient, or through the Head's failing in one way or another to meet the clearly set out requirements of the post. In such cases it is advisable to avoid hasty discussion by the full Governing Body, lest this should compromise subsequent capability or disciplinary processes. Rather, the Chair, acting on behalf of and with explicit or prior approval of the Governing Body, should talk things through with the Head, identifying the causes of dissatisfaction and, if appropriate, setting targets and offering training and support. In any case, three Governors should be kept apart from the detail of the situation in order to act as an appeal panel should one be needed.
- 3.30 If the dissatisfaction with performance persists, or a complaint of misconduct is sufficiently serious, before taking any action the Chair should seek the view of the Governing Body, apart from those kept aside to deal with a possible appeal, and may need to invoke the capability and disciplinary procedures contained or referred to

in the Head's contract of employment. The Chair should allow the Governors to determine what strategy is to be adopted, but, as indicated above, should not enter into detail which could prejudice subsequent procedures.

- 3.31 The complaint or governors' dissatisfaction may be so serious that the Governing Body has to consider the possibility of termination of contract. Before embarking on such a course, it is usually wise to consider all other solutions. Precipitate action should be avoided in the interest of natural justice. It is particularly important to distinguish between lack of capability on the part of the Head and problems arising from external factors. Governors should not seek to make a scapegoat of the Head in difficult times. The Chair would be well advised to seek guidance from AGBIS.
- 3.32 At the end of the day, and subject to the Head's rights under the terms and conditions of employment and under statute, the Governing Body is entitled to request the resignation of, or to dismiss, the Head if in its judgement the interest of the School demands it. In exercising that right, the Governors must have regard to any clauses in the School's Governing Instrument and in the Head's contract which determine the procedure to be followed and they should always seek legal advice. The Head may be entitled to a fair hearing before an unbiased panel, accompanied by a friend, colleague or representative, and the Governors should satisfy themselves that the Head has access to professional and legal advice through the appropriate Heads' Association. Carefully following established procedures is likely to prevent either party from being surprised at any stage.
- 3.33 Other than in a case of serious misconduct and/or a Safeguarding matter (which would need to be reported to external authorities), it may be in the interests of both school and individual that the Governing Body and the Head reach an agreed settlement rather than resorting to the established procedures of investigation, hearing and appeal. In this way the Head's reputation and future career may be better secured and the potential for damage to the School reduced.

Lawyers will be needed to ensure that matters of confidentiality, official statements and media enquiries are dealt with correctly: it will, in any event, be necessary to employ lawyers at the School's expense to draft a settlement agreement as required by employment legislation to safeguard the interests of both sides.

- 3.34 The immediate departure of the Head may be called for by the nature of the problem. In other cases of termination the date of leaving should be settled by agreement. On the one hand, the Head may well have difficulty finding another post of similar salary and responsibility and may look for a long notice period; on the other, a delay may be embarrassing to both sides and might not be in the best interest of the School.
- 3.35 Independent Schools have long emphasised the merits of the freedoms enjoyed by their governing bodies and heads. Such twin freedoms require – and almost always receive – reinforcement from close and trustful co-operation between governors and head. When such co-operation breaks down, the School may suffer gravely. The faults are rarely wholly on one side.

Other Appointments

- 3.36 Every head should involve senior staff in the management of the School. It is important that there is wide delegation of responsibility within schools for many reasons, including ensuring that the Head is able to devote sufficient time to important strategic matters. One or two Deputy Heads, a Director of Studies and a Senior Housemaster and/or Housemistress may form, with the Bursar, the Senior Leadership Team for consultation and decision-making. Governors should be informed about the management structures and consider from time to time, with the Head, whether they are appropriate to the School's circumstances. They should also go out of their way to get to know the members of the Senior Leadership Team and understand the issues they face.
- 3.37 A particularly important appointment is that of Deputy Head(s). In many schools the job description may suggest a role quite different

from that of the Head, more to do with day-to-day routines and the organisation of staff with somewhat less emphasis on leadership. On occasion, a Deputy may have to deputise for the Head for an extended period and the person appointed must be able to meet that need. The Head will be stronger in some areas of his/her work than in others and Deputies with complementary skills will be especially valuable. For these reasons, the search for a deputy should be undertaken with great care. Some governors, perhaps those with recent senior education experience, should be involved with the Head in that appointment process. In some schools, one or more of the Deputy Heads will attend meetings of the Governing Body. It is increasingly common, and undoubtedly good practice, for members of the Senior Leadership Team to attend meetings of committees of the Governing Body. Among the benefits is the opportunity for senior staff to observe the working of governors and to contribute to discussion of strategy, thereby enhancing their own professional development.

- 3.38 Many schools now have Development Directors. Their function needs to be clearly defined in a detailed job description. It is common for the Development Director to be appointed by the Governors, with the Head and probably the Bursar prominently involved. Being formally appointed by the Governors does not mean the Development Director should report directly to the Governors. Indeed, such an arrangement is unwise, since it risks the possibility that the Development Director might have an interpretation of the post which is at odds with that of the Head. The Head is responsible for delivery of the strategy agreed by the Governors. No employee should operate outside the authority of the Head. However appointed, the Development Director should report directly to the Head.

meet as many of them as possible. Opportunities should be created to enable this. An informal gathering, before or after a governors' meeting, can be a useful means of contact. Such brief social occasions are necessarily limited but they help to establish the principle of good relationships. Some schools hold an annual meeting or dinner with staff. This provides a chance for the Chair to report on the Governors' vision for the School, the long-term plan and the School's financial situation. Typically, the Chair plus one or two other members of the Governing Body, for example the Chair of the Finance Committee, attend the meeting and report. Provided the meeting is well planned, there is much to be gained by this practice. Staff are naturally curious as to what is discussed and decided at meetings of the Governing Body. Good practice indicates that a short summary of the business discussed (less confidential items) and decisions taken, approved by the Chair and the Head and made available promptly, contributes to the spirit of openness and trust referred to earlier. Some schools encourage governors to visit classes, by prior arrangement with the Head and staff. Such visits are increasingly seen as a valuable means whereby governors can develop their understanding of the School and be seen to take interest in its day-to-day operation. Their purpose is not for governors to judge the work of particular teachers.

- 3.40 More sustained contact can be established in several ways. Presentations on their work, by heads of department or other teachers with special responsibilities, are regular features of some Governing Body and/or committee meetings. Those presentations should focus on the way in which the School's strategic aims are being delivered and avoid being generally discursive. Governing Bodies may have allocated individual governors to areas of the School, with a brief to familiarise themselves with its people and the work they do, but avoiding involvement in management detail. Sometimes Governors choose from among themselves a 'staff liaison' governor; older governing instruments sometimes allowed for the liaison governor to be proposed by the staff (though appointed by the Governing

Governors and Teachers

- 3.39 Most governors will find it impossible to know, or even identify, every member of staff. But teachers are at the heart of the School's educational mission and governors should try to

Body) although this is now less commonplace and may be inappropriate. Such a person will endeavour to be more closely in touch with staff opinion than other governors are able to be. This is an area in which misunderstanding can arise and which calls for wisdom and discretion of a high order in addition to precise, written terms of reference defining the role. A governor with that responsibility should never become involved with matters which should be addressed first to the Head. Important issues should be reported to the Head or the Chair and should not be raised by staff with a governor as an alternative to the established arrangements for consultation, disciplinary or grievance procedures. Governors must be careful never to invite comment on the Head, Bursar or teaching colleagues.

- 3.41 Although the appointment of teaching staff is a matter for the Head, the contract of employment is made with the Governors, who are the employer. Governors are responsible for ensuring that the School complies with all regulations that apply to the appointment of staff. Generally referred to as safer recruitment, the specific regulations that apply will depend on the location of the School, but governors should satisfy themselves that the procedure for appointing both teachers and support staff is entirely compliant with the relevant regulations and that it is as thorough as possible to ensure the safety of pupils. In larger schools this important function is increasingly undertaken by staff of a Human Resources Department who may report through the Bursar to the Governing Body while operating in close consultation with the Head. Governors should seek assurance about the safety and attractiveness of the staff's working environment, their opportunities for professional development and, when extra demands are made of them, the state of their morale. When a dispute or difference with the Head arises which is not resolved by direct contact, members of the teaching staff should follow the School's grievance procedure. The School's governing documents and/or the contracts of employment will provide for an appeal against the termination of a teacher's employment and, from time to time, governors may find themselves hearing

such an appeal. It is therefore important that, if there is a possibility of termination through redundancy or some other cause, no discussion in meetings of the Governing Body or its committees should prejudice governors by providing only one side of the case.

- 3.42 Schools in England must take part in the Government-approved induction scheme for newly qualified teachers (NQTs). Governors will need to be assured that the NQTs on the staff are registered for the scheme and that the requirements for monitoring, support and assessment are met. Only teachers who meet the induction standards will be able to teach in the maintained sector. The Appropriate Body which oversees teacher induction for schools in membership of an ISC Association is the Independent Schools Teacher Induction Panel (ISTip). The Director's contact details are in Appendix D. In Scotland, the Teacher Induction Scheme (TIS) provides a guaranteed one-year training post as a probationary teacher in a local authority school to every eligible student graduating with a teaching qualification from one of Scotland's universities, leading to full registration with the General Teaching Council for Scotland (GTCS). Probationary service can also be completed within a Scottish independent school. For most probationary teachers, SCIS coupled with independent schools provide experiences and support similar to the local authority context and probationers are eligible for SCIS-TIS and have a route to achieve full registration in one academic session. Teachers also have the option to follow the flexible route to registration over a longer period. As of 2017, all independent school teachers are legally required to register with the General Teaching Council for Scotland (GTCS).

04 OTHER RELATIONSHIPS

Governors and Pupils

4.1 Governors will not have time to meet many pupils, yet it is desirable that the pupils should know something about the Governing Body and not regard it as wholly remote. To this end the Head should be encouraged to give governors the opportunity to meet groups of pupils informally from time to time and to hear their views at first hand. On such occasions governors should be aware of the need for discretion and observation of safeguarding protocols.

Governors and Parents

4.2 This is an area in which independent schools differ fundamentally from maintained schools. In both sectors the School is accountable to parents for the care and education of their children, though in different ways. Between independent schools and their parents there is a contract to deliver a quality and variety of educational and pastoral services for which fees are paid. Frequent contact and full reporting are necessary parts of this arrangement, but the main point of contact between the School and its parents is with the Head and senior colleagues since most parents' concerns will be over matters of management rather than governance. From time to time schools will face major change or choose to modify their strategy significantly. Developments of that nature should be communicated to parents and other stakeholders by the Chair. Major occasions during the school year, for instance Speech Day, provide important opportunities for governors, through the Chair, to communicate their strategic vision to the

school community. Those opportunities should be seized, but care should be taken to ensure that new strategies and potential projects are viable and formally approved by the full governing body before they are announced to stakeholders.

4.3 All schools will need to have a parents' contract. These documents have become increasingly detailed in recent years and should be obtained from one of the legal firms which specialise in education or from ISBA or SCIS. Contracts should clearly define the parents' obligations with regard to payment of fees, observance by pupils of school rules and the steps which the School may need to take in the event of a serious breach of discipline.

4.4 The parent contract will almost certainly entitle parents to a hearing before the Head makes a firm decision permanently to exclude their child and to an appeal hearing by a governors' panel following such a decision, or in the event of an unresolved serious complaint. The panel should be made up of governors who have no prior knowledge of the matter and the Education Act 2002 (Independent Schools) in England requires the inclusion of an independent person for all complaints which come from parents. The Department for Education has published guidance as to the category of person deemed sufficiently independent. It may be helpful to have available a list of potential independent panel members who have agreed to serve if necessary. Time is invariably an important factor in servicing an appeal. At the time of the exclusion the parents should be informed about the appeal procedure and the possible outcomes, which should include confirmation of the decision, referral to the Head, or reinstatement. Notice of intention to appeal, together with the reasons, should be addressed to the Clerk, who takes responsibility for all aspects of the administration of appeals to governors.

4.5 All independent schools are required to have a complaints procedure and to record matters dealt with formally under the procedure. The ISBA has available for member schools

a model complaints procedure. In addition, advice on good practice in dealing with all types of complaints by parents is contained in “Guidelines for handling complaints and concerns” published by the Scottish Council of Independent Schools (SCIS). Complaints are best dealt with if they are handled skilfully and sympathetically from their earliest stages, in accordance with the School’s published complaints procedure.

- 4.6 Parents may raise a concern with a governor independently of the complaints procedure. While the governor would naturally wish to respond courteously to such an approach, it is important that courtesy should not develop into taking the side of the complainant. It is likely that only one side of the situation will be put and it could be that the matter has not been discussed fully with the Head. Equally importantly, no governor has authority to speak on behalf of the whole Board in such circumstances and doing so might prejudice an appeal to governors subsequently brought under the formal procedure. Governors should be alert to this danger and adhere to the letter of the complaints procedure.

05 GOVERNORS, THE BURSAR AND FINANCE

The Bursar

5.1 Some schools no longer use the title 'Bursar' for their senior non-academic member of staff, preferring a title which better reflects one or more aspects of that traditional broad responsibility, for example 'Director of Finance' or 'Business Manager'. For simplicity, and to avoid repetition, the title 'Bursar' is used here. From the Governing Body's point of view, the Bursar is usually second in importance to the Head.

Great care should be taken over the appointment and much that has been said in Chapter 3 is relevant. Guidance may be obtained from the Chief Executive of the ISBA (see Appendix D). The ISBA is often able to assist a school which is temporarily without a bursar. As the duties and responsibilities of bursars vary considerably from school to school it is not sensible to set out detailed guidance. Broadly, however, the Bursar looks after the financial and property management of the School and is responsible for the efficient operation of all support services including IT, cleaning and catering. In some Schools the Bursar is responsible directly to the Governing Body, especially for financial controls. In others, the Bursar is responsible to the Governors through the Head. Irrespective of the management structure the Governors must ensure that they receive adequate financial reports; that is, information which is sufficiently detailed and timely to enable the Governors to fulfil their responsibility to safeguard the School's assets. Whatever the practice, it is vital that there is clear demarcation of responsibility, trust and understanding between Head and Bursar and a clear recognition of their inter-dependence, to ensure the smooth running of the School.

5.2 The primary responsibility for the overall welfare of the School rests with the Head and it is important

for that to be seen clearly to be the case. No school can afford ambiguity over who is ultimately responsible for its management. The Head needs to be informed of all important matters and to be able to exercise real influence over major decisions, though an efficient and effective head will delegate widely and with confidence. Governors therefore should respect the Bursar's primary accountability to the Head and avoid confusing it. There may, however, be areas in which the responsibilities of the Head and Bursar overlap and there will be instances where the decisions one makes impinge on the other. When a new appointment of a head or bursar is made, the Governing Body should take care to define as clearly as possible their respective spheres of responsibility and the working relationship between them which the Governing Body expects. This is perhaps especially important when a new head is appointed to a school with an established bursar. The job descriptions need to be absolutely clear. When a new bursar is being appointed the Head should, as a minimum, have a voice, and be a member of the appointing panel, so that the danger of appointing someone with whom s/he might not be able to work is reduced. When a new Head is appointed, the Bursar should have a chance to meet candidates and provide feedback to the selection panel. When appointing a new bursar, the Governors may find the guidance of an external assessor helpful (as in appointing the Head).

5.3 In some schools the Bursar's role extends into including the HR function in relation to the teaching staff and a stronger responsibility for marketing and promoting the School, enabling the Head to focus more on the needs of pupils. Governing Bodies need to ensure clarity of role and reporting responsibilities in whatever senior management model they adopt.

5.4 It is vital for the Head and Bursar to establish a good working relationship both with each other and with the Chair of Governors. The most common model of a successful Head/Bursar relationship is that of a partnership with the primacy of the Head explicitly recognised. Many bursars are on second careers and may bring wide experience and a different perspective to management decisions. Heads should be encouraged to take full advantage of the support and advice that the bursar can provide, ensuring that s/he is fully involved in

determining plans and policies. Genuine differences of view on matters of policy or expenditure may arise from time to time, but these should not impair their relationship provided the Head and Bursar are able to discuss such matters frankly. In such circumstances it may be helpful for the Head and the Bursar to discuss their differences jointly with the Chair to see if the issues can be resolved. Should the difference be a matter for decision of the full Governing Body, each must be prepared to accept that decision without resentment.

- 5.5 As with the Head, many of the pressures on the Bursar are imposed by legislation. The law relating to such matters as employment, pensions, health and safety, equality, data protection and discrimination changes frequently. Governors should be aware of the Bursar's need for regular training and professional support. They should encourage the Bursar to take full advantage of the services of the ISBA and other training agencies; ideally Bursars should attend the ISBA Annual Conference to ensure that they keep abreast of regulatory and other changes.
- 5.6 Inadequate or conflicting contracts can be a source of dispute between governors, heads and bursars. Governors are strongly recommended to use the model contracts for heads, bursars and teachers which are provided by AGBIS. Those contracts are available on the members' section of the AGBIS website. The AGBIS specimen contracts are reviewed each year. In adapting contracts to the School's use it may be advisable for the Governing Body to take legal advice to ensure consistency with the School's Governing Instrument.
- 5.7 A new bursar may need support while acquiring the specialist knowledge of the role and the School. ISBA can provide advice from a mentor. It may also be wise to arrange for an appraisal, possibly by another bursar or ex-bursar, in consultation with the Chair, Committee Chairs, the Head and other senior staff, which should take place after the Bursar has been in post for a year or two.
- 5.8 In many schools the Bursar also has the responsibility of Clerk to the Governors. In addition to organising meetings of Governors and Governors' Committees, including the timely dispatch of papers, the Clerk has a vital role in ensuring that the Governing Body is aware of

all its responsibilities and fulfils them. These responsibilities include those which derive from the Charities Acts (on which the Charity Commission and OSCR provide guidance and upon which charity codes of Governance are based), the Company Acts, the Independent Schools Standards Regulations and equivalent legislation in Scotland. The Clerk needs to be familiar with these requirements and, his or her situation as an employee notwithstanding, be willing to speak up clearly in the interest of the School should there be any possibility of non-compliance with these obligations.

Support Staff

- 5.9 As well as teachers, schools employ, and depend upon, a large number of support staff. These will include personal assistants, bursarial staff, ground staff, maintenance staff, caterers and cleaners. It is important that the Governing Body values these members of the School community and is concerned with their welfare, pay and pension arrangements. To this end it may be useful for the Bursar to report annually to the Governing Body on the work that they do and governors should be encouraged to meet support staff whenever possible. Equally, the Governors, who are usually the Trustees of the Charity and therefore have responsibility for its assets, must oversee those areas of the School's activities that are contracted out, the terms of the contracts, and the Bursar's evaluation of their effectiveness.

The Control of Finance

- 5.10 One of the prime duties of the Governing Body is stewardship of the School's assets. These will normally include land, buildings, equipment, investments and cash. Governors must be prepared to take expert advice on financial matters and especially so where the purchase or sale of land and buildings or the investment of money is concerned. The complexities of such transactions are so great, and the implications so wide, that few governing bodies will have within them an adequate source of expertise. Governors may be judged negligent if they fail to seek appropriate advice. One source of such advice may be the Charity Commission if the powers given to the Governing Body by the School's

Governing Instrument are an issue. Governors are responsible for ensuring that appropriate financial controls are in place and for overseeing their effectiveness. In practice this oversight is usually provided by the Finance Committee, though responsibility lies with the whole Governing Body. Governors should ensure that the Bursar has arranged and maintained proper insurance cover, including governors' liability insurance – more detail of that will be found in Chapter 7.

- 5.11 The importance of the Finance Committee will be evident from Chapter 2 Paragraphs 2.5 and 2.7. That Committee, as with all Governors' committees, needs to have clearly established terms of reference which should be kept under review. The processes of the Committee must include delegation of the day-to-day management of the finances to the Bursar who should keep the Head closely informed of important financial matters, on the understanding that the Head and Bursar report important matters to the Committee and operate entirely within the parameters which the Committee lays down. Procedures reflecting good practice include: regular meetings between the Chair of the Finance Committee and the Bursar; written delegated financial powers to the Bursar; and clear internal financial processes and procedures, for example the budget-setting process, the authorisation of payment of invoices and expenses and the handling and security of cash. In preparing a draft budget for the Finance Committee the Head and Bursar will have identified budget holders among the staff who are held accountable for their area of expenditure. Those members of staff will need ready access to the relevant financial information and may well need training in financial management, including record-keeping. The Finance Committee will need a clear policy for reporting and managing debtors and must oversee its implementation. Model financial controls are listed in the ISBA Bursar's Guide, Chapter D, Financial Management in Schools.
- 5.12 There are always expenditure items which call for detailed scrutiny. All the main areas of spending must, over a period, be examined with or without expert advice. Several firms of accountants with school clients now produce surveys of expenditure which enable the Bursar and Finance Committee

to use benchmarking as an aid to good financial management. In all schools, and especially in day schools, salaries and wages dominate expenditure. There should therefore be strict control of the number of teachers and the different categories of support staff and of their scales of remuneration, with a prior case made to the Finance Committee for any significant increase in establishment costs. Catering is an area with the potential for developing large deficits, where detailed budgeting and strict financial accountability are necessary. Many schools which contract out their catering have benefited from the advice of a catering consultant before agreeing the terms and duration of the contract.

- 5.13 Good revenue management makes a significant difference to the School's financial viability and the Governors should empower the Bursar to ensure that a firm grip is kept on credit control. This can be achieved if clear procedures are in place for chasing late payers at an early stage. Debts should not be allowed to grow from term to term. Governors, Head and Bursar should agree a firm policy on the exclusion of pupils at the end of a term, or half-term, for whom fees have not been paid, including the handling of such cases when the pupil is approaching a public examination. This step will never be lightly undertaken, but it is sometimes unavoidable, and then should be undertaken without hesitation in order to protect the assets and the reputation of the School.
- 5.14 Heads and Bursars invariably have a wish list. It may include a major refurbishment, upgrading the facilities for IT, or building a sports hall or an arts centre. Such items may be financed out of annual surpluses, from appeals or from restricted or designated funds, but the Governing Body should beware of responding to today's needs without reference to those of tomorrow. Often the School's bank will provide a loan to finance a project, and a financial plan (funds flow) covering a number of years will be required to support the School's request. The construction and maintenance of such a forecast as part of the Strategic Plan is a valuable and often necessary exercise, which concentrates minds on the relationship between surpluses achieved and the realisation of projects. Assumptions have to be made about fees, salary and cost increases, and about pupil numbers; the

latter particularly will need to be realistic. There will inevitably be uncertainties in estimating income, expenditure and cash flows even one year ahead. Adjustments can be made when the plan is regularly reviewed, to ensure that the financial targets upon which major developments depend are achievable. A taut financial plan is invariably an excellent means of achieving or exceeding financial targets from which the School will benefit.

- 5.15 Good practice in financial management has been covered above. Accounts (together with the Trustees' Reports) must be prepared in accordance with the current Statement of Recommended Practice. Auditors should advise on other accounting standards with which schools have to comply. It is also generally sensible to share information on good practice, but not information of a sensitive nature in contravention of competition law. The well-established sector-specific financial benchmarking exercises are of considerable help in this area.

Financial Viability

- 5.16 Occasionally a school is forced to close for financial reasons. The cause is nearly always a fall in the number of pupils. Smaller schools are particularly vulnerable, as the fall of only a few pupils can have a serious effect on the financial position. Governors need to be alert to the danger of falling numbers and to consider as early as possible what remedial action can be taken. Signs that a school may be in trouble could be two or more years of annual deficit and the absence of working capital. If the Governors decide that closure is inevitable, they have duties to the parents, pupils (especially those on public examination courses) and staff. These groups must be given as much notice as possible, consistent with the maintenance of morale and the need to avoid worsening the School's financial circumstances. Governors should be aware that continuing to trade once the business is technically insolvent is unlawful and could lead to personal liability.
- 5.17 An alternative to closure could be a merger with another local school. In recent years this more positive option has been pursued successfully by a number of governing bodies. The ISC Associations'

online booklet 'School Transactions: Mergers, Acquisitions and Disposals, 2018', produced in conjunction with Veale Wasbrough Vizards (VWV), is one very helpful source of information for schools facing such a situation.

Investments

- 5.18 As mentioned above, as charity trustees, Governors have to comply with certain legal requirements and duties when investing their school's assets for a financial return. In general terms, charities can invest in a wide range of assets, and there should be no tax to pay on any income or capital gains that might arise. Eligible investments include cash deposits and shares as well as bonds issued by both governments and companies. Collective investment schemes (pooled funds), commodities, derivatives and buildings or land are also approved charitable investments. Specifically, trustees must know and act within their own charity's powers to invest. The School's governing instrument may restrict the types of investment it can make, although this is fairly unusual.
- 5.19 Governors must exercise care and skill when making decisions about investments, and take advice from someone experienced in investment matters unless they have good reason for not doing so. Although they do not need investment knowledge themselves, some charities find it helpful to have a trustee on the Board who has investment experience. However, Governors who offer themselves up as experts are responsible for the quality of advice they provide and may be liable to the charity if it loses money due to poor or negligent investment advice. Hence, most schools will delegate their needs to a professional investment manager. Trustees should record in writing any key decisions relating to their investment approach. This would include agreeing their investment policy and any decision to delegate day-to-day investment management to a professional fund manager. Further information can be found in Rathbones' publication 'A practical guide to CC14 (the Charity Commission's guidance on investment matters for trustees)' and OSCR's 2018 'Charity investments: Guidance and good practice'.

06 INSPECTION AND REVIEW

6.1 Schools in England which are full members of an ISC Heads' Association are subject to inspection by the Independent Schools Inspectorate (ISI), authorised by the Department for Education (DfE), the quality of whose inspections is reported on annually by The Office for Standards in Education (Ofsted). Independent Schools in Scotland are inspected by Education Scotland; those in Northern Ireland are inspected by the Education and Training Inspectorate and those in Wales by ESTYN.

6.2 In England ISI Regulatory Compliance Inspections (RCI) usually occur at intervals of up to six years, with a combined Educational Quality Inspection (EQI) and Focussed Compliance Inspection (FCI) at the intervening three-year point. The inspections determine whether the School complies with the Independent School Standards Regulations (ISSR), the National Minimum Standards for Boarding (where applicable) and the regulations governing the EYFS (where applicable). Assessments are simply a determination of whether the School is compliant or non-compliant in each of the core elements of the ISSRs; in addition, in EQIs two grades are awarded, one for 'the achievements of pupils' and the other for 'the personal development of pupils'. Governors are responsible for ensuring regulatory compliance and, hence, there needs to be a sufficient understanding of the Regulations within the Governing Body in order to exercise effective oversight and to hold the School to account. The regulatory requirements laid on independent schools have increased substantially in recent years, largely driven by concerns over child protection / safeguarding. Failure to meet the required standard is a serious matter. Inspection reports are in the public domain; non-compliance will therefore inevitably entail adverse publicity and can result in a formal Notice to Improve from the DfE. For schools that are charities, it may well also constitute a Serious Incident, reportable to the

Charity Commission. Any regulatory failing will inevitably have an impact on the assessment of the quality of leadership including governance and a regulatory failure will usually lead to a failure of 'governance'. This is an area where governors and senior staff should seek training, from AGBIS or from one of several other providers. On the final afternoon of the inspection the Governors will be offered the opportunity, along with the Head and senior staff, to hear a detailed oral report on the Inspection. They will be able to ask for clarifications and correct factual misunderstandings but they should not expect to influence judgements contained in the report. Nothing of significance should appear in the subsequent written report which was not fed back during this final meeting.

6.3 During inspections the standards and learning of pupils will be evaluated through examination of pupils' work, observation of lessons and discussion with pupils and their teachers. Policy documents and the Strategic Plan will be scrutinised, communication systems and management and pastoral structures examined. The inspectors are usually serving or retired Heads or senior teachers, or Bursars, who have received specialist training. They will evaluate a range of factors such as: the behaviour of pupils, the quality of their relationships with teachers, the quality of pastoral care, the range of extra-curricular activities, communication with parents, links between the School and the local community and other aspects of the School's ethos.

6.4 Enough has been said for governors to appreciate the stresses and strains that will be felt by the Head and staff during the period of the inspection. While making sure that there is proper preparation for inspection, the Governing Body should not worsen the situation by exaggerating its importance or indicating unrealistic expectations of its outcomes. Governors should continuously look at their processes and procedures and consider how they will appear during the inspection. Governors should be aware that ISI documentation sets out how the regulations that apply to independent Schools will be assessed, together with guidance notes for inspectors. Schools have access to the relevant ISI documentation through an online portal. Governors will also acquire a better understanding of the inspection process through having access (which the Clerk should provide) to

the ISI Updates which are provided for schools at approximately three- monthly intervals. Governors should seek evidence of compliance from senior staff – the AGBIS Governors' Compliance Checklist, which is available on the AGBIS website, may be helpful in this respect.

- 6.5 ISI will send copies of the inspection report to the Head, to the relevant Heads' Association, to AGBIS, to Ofsted and to the Department for Education (DfE). There are then two weeks before the report must be made available to parents and other interested parties. This is to allow the Head and the Governors time to consider how best to prepare for publication of the report. Inspection reports are public documents, accessible from the ISI website, and must be made available on the School's website.
- 6.6 The Head will be asked by his/her professional Association to respond in writing to the report and to indicate what action will be taken on the recommendations. This response is also sent to the DfE. In cases where there is serious non-compliance with regulation or substantial criticism of governance, AGBIS will communicate with the Chair following publication of the Inspection Report. The purpose is to offer advice and support as the School responds to the critical comments. In most cases that concludes the inspection process. Where the DfE is not satisfied that the School has taken appropriate or sufficient action, it may request that ISI carry out a follow-up visit by a reporting inspector accompanied by another inspector, which usually takes place at no notice. Once the Association and DfE are satisfied, a notice to this effect can be posted on the website with the report. In the months following the inspection, governors will wish to assure themselves that lessons have been learned and action taken. They should see that the Head has an action plan incorporating the improvements to be made to the School's management, the person(s) responsible for them, the time frames and the criteria that will indicate successful implementation. Parents should be kept informed of the steps being taken and progress made.
- 6.7 The ISI aims to offer an authoritative, Government-approved, inspection system tailored to the needs of independent schools and conducted by people who understand those schools. For the system to work effectively governors must be willing to encourage and support their heads and senior staff in training for, and taking part in, the inspection of

other schools. Governors should be assured that the value to their own school outweighs the temporary loss of key people, for it is generally agreed by participants that the experience of inspecting is an excellent form of in-service training.

- 6.8 Schools in Scotland are inspected by Education Scotland in the same way as those maintained by education authorities. Education Scotland is mindful of the variety of independent schools, the legislative framework that underpins the independent sector in Scotland and the widely differing nature of provision that can be found. The inspection framework is applied in independent schools in parallel with maintained schools. Education Scotland applies the inspection framework in a way that is responsive to the size, nature and particular aims and values of the independent school concerned and ensures that the inspection team includes the necessary experience and skills to respond to the particular educational philosophy of the school. In those cases where there is a residential component within the school, Education Scotland may inspect the care and welfare of boarders in conjunction with officers from the Care Inspectorate, according to the arrangements agreed with SCIS.

In Scotland, quality improvement and professional engagement visits have been developed with the independent school sector to: extend the nature of engagement and frequency of contact between HM Inspectors and independent schools; contribute to school improvement and capacity building in the independent sector; further the overall aim of a more proportionate, intelligence-led engagement model, based on self-evaluation for improvement. Professional engagement visits are distinct from inspections and do not involve evaluating outcomes in relation to quality indicators. The focus is on the school's capacity to improve itself, and to provide approaches to quality improvement which are rigorous, comprehensive and effective. The visits start with the school's own priorities for development and improvement. Inspectors will have discussions with staff and young people, and will cover other activities such as short visits to classrooms. The visits also provide the opportunity to share good practice, and offer support and advice, as appropriate. After the visit, a letter of confidence will be written for parents/carers and published online on the Education Scotland website.

07 GOVERNORS' DUTIES AND LIABILITIES

Introduction

7.1 Independent schools must be licensed to operate by the DfE in England, by the Registrar of Independent Schools in Scotland, by the Welsh Government, or by the Department of Education in Northern Ireland. They are regulated according to their governing instrument, the policies of their Governors, their procedures and practices, their contracts with parents and a number of legal regimes which apply because of the way in which the school operates. But whatever the nature and extent of the governance requirements, it is Governors who are ultimately responsible for directing the affairs of the school and ensuring that it complies with all its legal obligations, including the law of charities, companies, employment, pensions, child protection, education, health and safety, data protection, discrimination, competition, consumer credit, intellectual property, bribery, construction, planning and transport.

7.2 Governors should understand what they are responsible for and the legal and regulatory framework within which they must operate. If they

fail in their legal duties and responsibilities, they should expect to be held to account and may be criticised by external regulators, not to mention parents and the press at times of change or crisis. In the worst case scenario, if they get things wrong, they can be faced with personal liability either to third parties or to their school.

Roles

- 7.3 The Governors of an independent school, regardless of how it is constituted, will have several distinct but overlapping roles. The main roles of a governor are:
- a) as a school Governor and member of the proprietor body (within the particular meaning of education law and regulation), with general responsibilities relating to knowing, understanding and upholding the ethos and culture of the school, managing the Head and other members of the Senior Management Team and ensuring the school is operated in line with good practice and has appropriate policies and procedures which comply with applicable regulatory requirements including safeguarding;
 - b) where the school is a charity, as a charity trustee, with responsibility to take all decisions in the charity's best interest to protect the assets of the charity and see that it operates for the public benefit;
 - c) where the school is operated by a company, as a director for the purposes of company law, with specific legal duties;
 - d) where the school is operated by a company, often as a member of the Company, with power to remove directors and (subject to any necessary consent) amend the constitution.

Most schools which are members of AGBIS are charities or operated by charities and this chapter is written on that basis. For non-charitable schools the duties of Governors will be less extensive.

Governors' duties

- 7.4 The people who are responsible for controlling the management and administration of any charity are charity trustees within the meaning of the Charities Acts of 2011 (England and Wales, 2005 (Scotland) and 2008 (Northern Ireland), regardless of what they are called. In most cases there will be a single governing body who are both the Governors and Charity Trustees and this chapter is written on that basis. However, some charities that operate schools have a two-tier structure with a board of trustees who act as charity trustees and a committee of Governors who have delegated authority in respect of the school. In those cases it is important that there is a clear understanding as to who is responsible for what (see 7.11 to 7.15 below).
- 7.5 As charity trustees the Governors have a legal duty to act in the best interests of their charity for the public benefit. The most significant aspects of this are the duties to act in accordance with the objects and powers of the Charity, to avoid conflicts of interest, and to act without personal benefit. Charity Codes of Governance provide helpful further details on handling conflicts of interest.
- a) registered companies with either a memorandum and articles of association, or, if updated since the Companies Act 2006, just articles;
- b) some are Royal Charter corporations in which case the governing instrument will be statutes and byelaws made under them;
- c) a few are corporations constituted by a special Act of Parliament, which may also have statutes and regulations made under the Act;
- d) a very few schools have elected to become charitable incorporated organisations ("CIOs"); a CIO is a form of incorporated charity that has been available to new charities since December 2012 under the Charities Act 2011 and which provides a corporate structure that avoids regulation under the Companies Acts; subject to anything in its constitution, a CIO has power to do anything which is calculated to further its purposes or is conducive or incidental to doing so. In 2011, Scottish Ministers introduced the Scottish Charitable Incorporated Organisation (SCIO) as an optional new legal form for registered Scottish charities, administered and regulated by a single body.
- 7.9 The governing instrument of an unincorporated school will be a trust deed or a charity regulator scheme and the Governors will also be able to rely on powers conferred by trust and charity law.

Objects and powers

- 7.6 Governors have a duty to act within the objects and powers of the Charity. The objects of any charity that operates a school are the purposes for which it exists. The objects will be set out in the Charity's governing instrument. All Governors should ensure that they are aware of and understand their school's objects.
- 7.7 The powers define the means by which the Charity can pursue the objects. The express powers will be set out in the Charity's governing instrument, and there may be other statutory and common law powers under charity law available to the Governors.
- 7.8 Most charitable independent schools are incorporated. They may be constituted as:
- 7.10 In addition to its general assets a charity school will often hold assets on particular trusts or for particular purposes. Governors of such schools will need to take particular care that in dealing with those assets (and especially when selling or charging property) they have regard to the terms applicable to those particular assets, which may be a separate trust or charity regulator Scheme. In those cases there may be different objects and powers than are available for dealing with the general assets of the school and an increased risk of accidentally acting outside the applicable powers. In most cases, acting outside their powers (in legal terms, acting "ultra vires") will be a breach of trust by the Governors which can be very serious and lead to personal liabilities for Governors (see 7.26 to 7.29 below).

Personal responsibility and delegation

- 7.11 Governors are normally permitted to delegate their powers to others under the terms of the governing instrument. Different schools manage delegation in different ways and earlier chapters explain the usual delegations that would be expected from Governors to committees, the Head, the Bursar and others in the Senior Management Team.

The important point for Governors is that while they can delegate powers they cannot delegate the legal responsibility for how those powers are exercised. Governors therefore remain responsible for the acts and decisions of their delegates. In practice, an acceptable balance must be struck by having clear lines of reporting and supervision.

- 7.12 It is also important that the scope and extent of what is delegated to whom is clearly considered and articulated. Conversely, there should be a clear understanding as to which decisions should be reserved to the Governors. One effective way of doing this is to have a written scheme of delegation which is consistent with the school's governing instrument and which prescribes the scope and extent of the delegations to the Head and the Senior Management Team. In any event, it is generally considered to be poor practice for Governors to encroach on the duties of executives save in exceptional circumstances.
- 7.13 Generally, and always where the school is a Companies Act company, decisions must be taken as a board. Questions are decided by simple majority voting (unless the governing instrument provides for something else). Governors must then support the majority decision. If they cannot they must consider their position.
- 7.14 No company director has any authority apart from what the board has authorised. Therefore, in the absence of any such authorisation Governors have no right to get involved directly with the running of the school. Encouraging or allowing Governors to become involved in the running of the school is an aspect of delegation which should be carefully considered and recorded with

due respect for the roles and functions of the paid staff.

- 7.15 The affairs of the governing board are confidential and, therefore, unless authorised by the board no Governor is free to discuss board business outside the boardroom. Again in the absence of contrary provision or the request of the board, no-one else, not even the Head, is entitled to attend board meetings.

Personal benefits

- 7.16 Charity law prohibits Governors from benefiting from a charitable school without express authority to do so. As charity trustees, Governors are expected to act voluntarily and without payment. They are entitled to the reimbursement of properly incurred expenses, but expenses do not include compensation for loss of earnings. It is increasingly common to see the benefit of having a child educated at the school treated as a benefit in order to be absolutely clear about the proprieties, and there should be express authorisation for any discount that a Governor parent may benefit from if his or her child is awarded a scholarship or bursary.
- 7.17 Benefits authorised by the constitution vary from charity to charity, but typically include reasonable interest on money loaned to the charity, reasonable rent on property leased to the charity and payments to companies in which a Governor owns an insignificant percentage of the share capital.
- 7.18 There are important statutory powers that are available under UK charities legislation, provided there is nothing in the constitution that specifically forbids them applying:
- a) to pay premiums for trustee indemnity insurance; and
 - b) to make a reasonable payment to a Governor for the supply of any services over and above usual trustee duties provided that conflicts are managed appropriately, the Governors who take the decision agree that the service is required by the school, it is in the school's best interest to enter into the arrangement, the

agreement is in writing and only a minority of Governors benefit in this way.

- 7.19 The restrictions on receiving benefits apply in the same way to anyone who is connected to a Governor, which typically includes:
- a) his or her children, parents, grandchildren, grandparents, sibling, spouse or civil partner;
 - b) his or her professional partner (or a professional partner of a connected relation);
 - c) an institution controlled by any of the above; and
 - d) a body corporate in which a Governor or any other connected party alone or together has more than 20 per cent of the voting rights.
- 7.20 If a benefit is received by a Governor without authority, it is a breach of trust and the Governor concerned will be liable to repay the charity in full with an obligation on the other Governors to consider enforcing that liability.
- 7.21 Benefits not authorised by the constitution or by statute may be authorised in advance by the Charity Commission, but the Commission does not have power to authorise payments retrospectively or where the governing instrument prohibits the benefit.
- 7.22 In the case of any proposal for a Governor (or anyone connected to a Governor) to benefit from an authorised arrangement with the school it is essential that conflicts are managed appropriately. It is good practice to have a conflicts policy, which should be to ensure that:
- a) conflicts and potential conflicts of interest are properly identified and disclosed; and
 - b) conflicted Governors do not participate in any decision by the governing body that relates to a matter on which they are conflicted.

Potential personal liabilities

- 7.23 Governors may incur personal liability for their acts and omissions in several different ways:
- a) a Governor may be personally liable for the liabilities owed by the school to third parties

where she or he has acted without authority or if the school is not incorporated;

- b) a Governor who causes loss as a result of failure to comply with the duties he or she owes to the Charity will normally be personally liable to compensate the Charity for the losses arising as a result of the breach of duty; and
- c) a Governor may be liable to pay fines personally or face other criminal sanctions personally from regulators in certain cases of non-compliance.

Third party liabilities – unincorporated schools

- 7.24 Governors of unincorporated schools are personally liable for all liabilities to third parties. This is because an unincorporated charity does not have its own legal personality and can only interact with third parties via its Governors. Consequently the Governors themselves contract in their own names on behalf of the school and personally take on liabilities to third parties such as the bank, landlords, parents, suppliers and employees.

Where liabilities have been properly incurred Governors will not normally have to meet the liabilities out of their own assets because they are authorised to indemnify themselves out of the school's assets.

However, Governors of an unincorporated charity are exposed to risks that:

- a) the Charity's assets are not sufficient to meet the liabilities due to a third party (in which case they will be personally liable to make up the difference); or
- b) the liability has not been properly incurred such that the Governors cannot rely on the indemnity (for example borrowing where there is no power to do so).

See 7.32 as to some of the steps that can be taken to mitigate these risks.

Third party liabilities – incorporated schools

- 7.25 Incorporated schools confer limited liability status on their members, who are usually the same people as the Governors. The liabilities incurred by the school are its own: any claim is limited to the assets of the Company itself and, in most circumstances, cannot be enforced against the members or the directors personally. The liability of the members of a company limited by guarantee is limited to the amount of their guarantee, which is normally only a nominal sum.

There are some circumstances in which Governors who are directors of an incorporated school may be personally liable. Of these the most significant is the liability for wrongful trading. This may arise where an incorporated school goes into insolvent liquidation and, before the start of the insolvency process, the Governors knew or ought to have known that there was no reasonable prospect that the school would avoid insolvent liquidation.

If the school's liquidator can show that this is the case and that the Governors did not subsequently take every step to minimise the potential loss to the school's creditors, she or he can apply to the Court for an order for the Governors to contribute to the school's assets to make up any shortfall that has resulted.

In cases of financial difficulty the risk of liability arising from wrongful trading can be minimised by following the steps at 7.32 below.

Liabilities to the school charity arising from breaches of trust

- 7.26 A liability arising from a breach of trust is a liability to the school itself rather than to third parties. So whilst incorporation of the school whether as a charitable company, as a Royal Charter body, under a special Act of Parliament or as a Charitable Incorporated Organisation will generally protect its Governors from personal liability to third parties, it does not protect them from breaches of trust.

- 7.27 If the Governors fail in their duties and their action or failure to act causes loss to the school (or any of its endowment or restricted trusts), the Governors will be potentially personally liable to put the school back into the position it would have been in had the breach of trust not occurred.
- 7.28 Governors' must exercise such care and skill as is reasonable in the circumstances. The level of care and skill expected of a Governor is assessed by reference to what should reasonably be expected of any Governor and, in addition, the individual Governor's knowledge and skill. So, for example, there is a higher duty in relation to legal matters if the Governor is a solicitor or barrister, or in relation to financial matters if the Governor is an accountant or finance professional.
- 7.29 Where the Governors of a school act in breach of trust, personal liability is joint and several among the Governors. This means that if a Governor did not act in breach of trust that Governor may still be personally liable for the breach whether or not he or she was involved in the commission of the breach. In principle all Governors are each liable for the full amount of any such loss and must deal with the allocation of the liability among themselves. However, a Governor can be excused from personal liability by the Court or the appropriate charity regulator if they conclude that the Governor acted honestly and reasonably and ought fairly to be excused.

For guidance on how to reduce the risk of an accidental breach of trust see 7.33 below

Managing the risks of personal liabilities

- 7.30 In practice, instances of personal liability are very rare, particularly because most Governors are aware of the risks and put strong controls in place to prevent such scenarios ever happening.
- 7.31 In accordance with their duty to safeguard the assets of their charity, Governors of all schools should also ensure that there is appropriate insurance in place in respect of the assets and activities of the school as well as in respect of

specific liabilities owed by the school to third parties, for example public liability insurance, professional indemnity insurance or insurance against business interruption.

7.32 Governors of an unincorporated school may seek to limit or mitigate their potential liability to third parties in several ways:

- a) by incorporating the school, usually within a charitable company;
- b) by the appropriate charity regulator appointing a company (or other body corporate, ideally with limited liability) as trustee, in place of the Governors personally; this would usually involve the Governors becoming directors of that company or other body corporate which is the new trustee;
- c) by agreeing with counterparties that their recourse for breach of contract is limited to the school's assets from time to time; or
- d) by insurance, depending on the scope and extent of available cover.

The Governors of an unincorporated school in financial difficulty should take legal and financial advice at an early stage. Governors have a duty to act prudently and take decisions calculated to increase the likelihood that sufficient property will remain in the charity to cover its debts and liabilities. Prudent strategies are likely to include exploring whether it is possible to merge with another charitable school, sell the school to a commercial operator or close all or part of the school.

For the Governors of an incorporated school in financial difficulty the main danger will be liability for wrongful trading. If they draw or should draw the conclusion that insolvent liquidation is unavoidable they must take every step to minimise the potential loss to creditors. The key steps in managing this risk are:

- a) taking legal and financial advice at an early stage;
- b) ensuring that the financial information needed to make judgements about the school's finances are up-to-date and accurate; and

- c) assessing the situation regularly and ensuring that all discussions and decisions are properly recorded.

7.33 Governors of all charitable schools, regardless of how they are constituted, can reduce the risks of breaches of trust that may give rise to personal liabilities by:

- a) ensuring they understand the duties that they owe;
- b) keeping the school's governing instrument up to date, regularly reviewing governance and ensuring they have appropriate policies and procedures in place;
- c) being aware of what assets are held on special trusts and being familiar with the relevant governing instruments;
- d) ensuring that they take professional advice or seek advice from the appropriate charity regulator on any area which they are in doubt about; Governors who act on the advice of the regulator or a professional adviser will generally be protected from personal liability; and
- e) putting in place insurance to indemnify the Governors against personal liability; there is a statutory power to take out insurance, but the permitted extent of the insurance cover is limited to accidental breaches of trust and breaches of the duty of care; Governors cannot be covered by insurance against the consequences of acting dishonestly or recklessly.

Accountability to regulators

7.34 Governors are accountable to a number of different regulators and have a number of reporting and accounting obligations. Whilst the Bursar will generally undertake the work involved in preparing the school's report and financial statements, final responsibility for ensuring they are compiled, approved, audited and filed lies with the Governors, and regulators normally have power to issue fines or impose criminal sanctions on Governors personally.

- 7.35 Charitable schools are subject to charity law and, in particular, the Charities Acts of 2011 (England and Wales, 2005 (Scotland) and 2008 (Northern Ireland)). As charities, they are regulated by the Charity Commissions or OSCR. In addition to the obligations to file an annual return, an annual report and financial statements with the Commission (which must include a statement in relation to the public benefit provided by the school), certain actions the school may wish to take may require the Commission or OSCR's consent e.g. to change a school's objects, to confer a benefit on a Governor where there is no express or statutory power to do so, or to dispose of or charge land in certain circumstances. Charity trustees must have regard to guidance issued by the regulator on any subject. They also have a duty to report to the appropriate charity regulator any serious incidents that arise in the school. These include fraud, theft or the significant loss of funds; the actual, alleged or suspected abuse or mistreatment of a pupil, staff member, volunteer or anyone else; a Governor or senior manager acting whilst disqualified from being a charity trustee or senior manager; a criminal investigation into the school; a significant investigation or the imposition of sanctions by another regulator; or any other incident actual or alleged, which results in or risks significant harm to pupils, staff, volunteers or others, significant loss or damage or significant harm to the school's work or reputation.
- 7.36 Schools constituted as companies are subject to company law and, in particular, the Companies Act 2006. As such, they are subject to regulation by the Registrar of Companies ("Companies House"). This is mostly a "light touch" regulatory regime, with the main requirement being to file an annual return, an annual report and financial statements. The 2006 Act also requires all companies to publish through Companies House changes in their constitution, directors' details, the creation of any mortgages and various other matters. A failure to inform Companies House within the prescribed periods of time is a criminal offence. Automatic financial penalties are also imposed for a failure to meet the deadlines.
- 7.37 A report is required to the Disclosure and Barring Services (DBS) or Disclosure Scotland where a member of staff, volunteer, Governor or contractor is considered unsuitable to work with children or vulnerable adults or resigns before such a finding could be made. It is a criminal offence to fail to make such a report. It may be required also to report teachers to the Teaching Regulation Agency (TRA), General Teaching Councils for Scotland and Northern Ireland, or the Education Workforce Council in Wales.
- 7.38 In England, independent schools are, for the most part, less affected by the Education Acts and less directly regulated by the Department for Education than maintained schools (although they are inspected by the Independent Schools Inspectorate under powers delegated by the Secretary of State for Education – see chapter 6). However, the Governors are responsible for ensuring that the school holds a valid registration on the Register of Independent Schools maintained by the Department for Education and must ensure that all reasonable endeavours are used to comply with the regulatory requirements necessary to keep the registration in place. The Education Act 2002 and the Education (Independent School Standards) (England) Regulations 2014 also require an independent school to publish certain information, policies and documents. The equivalent legislation for Scotland is the Education (Scotland) Act of 1980, The School Education (Ministerial Powers and Independent Schools) (Scotland) Act 2004, and the Registration of Independent Schools (Prescribed Person) (Scotland) Regulations 2017; in Wales, the Children Act of 1989, the Education Act 2002, and the Independent Schools (Wales) Regulations 2003; in Northern Ireland, the Education (NI) Order 1997 and other regulations.
- 7.39 Schools hold significant amounts of personal information about staff, parents and pupils, much of it "sensitive" under data protection legislation. A school is required by the Information Commissioner to register as "data controller" to enable it to process lawfully personal information for the purposes for which it is held. The Governors are responsible for ensuring

that the registration is correct and that there are proper and robust policies in place for the processing, retention and destruction of personal information. The Information Commissioner has extensive powers of investigation and prosecution and can fine schools (or Governors in the case of unincorporated schools) up to €20 million, or 4% annual global turnover for breaches of the General Data Protection Regulations (GDPR).

- 7.40 The majority of independent schools require fees to be paid by parents in advance of each term. A deferment of the obligation to pay usually amounts to the school providing consumer credit to the parents. Under the Consumer Credit Act 1974, the Financial Conduct Authority regulates those who provide consumer credit. Unless the agreement made with parents falls within an available exemption under the 1974 Act, the school will require a consumer credit licence or risk a fine and possible imprisonment for members of staff. If a consumer credit agreement is regulated by the 1974 Act, the school must also comply fully with regulations governing pre- and post-contract matters and ensure that the agreement is in a format prescribed by the regulations. There are a limited number of external credit providers to whom the school may refer parents. When making such a referral, the school must consider whether this amounts to activity which would require a “credit brokerage” consumer credit licence.
- 7.41 The Health and Safety Executive is the regulator for work-related health and safety. There is an offence of corporate manslaughter under the Corporate Manslaughter and Corporate Homicide Act 2007 which arises where the way in which an organisation’s senior managers manage or organise its activities causes a person’s death. However, the offence relates to the culpability of an organisation as a whole and Governors cannot be held individually liable. A Governor can, however, face individual liability for manslaughter if a jury finds that he or she has committed the common law offence of manslaughter. Prosecutions of directors or Governors for common law manslaughter are extremely rare, and only arise if a jury finds that a person has

caused death through gross negligence and has had such disregard for the life of the deceased that the Governor’s conduct should be seen as criminal and deserving of punishment.

- 7.42 At the time of writing, charitable schools are still able to take advantage of a wide range of reliefs and exemptions from tax (and VAT, although the net effect of exemption from VAT is not always beneficial to the school). The Scottish Government intends to remove non-domestic business rates relief from Scottish independent schools in 2020, and the Welsh Government is considering a similar move. Schools are obliged to “self-assess” their liability (if any) to tax and can in certain circumstances be obliged to submit a tax return to HM Revenue & Customs. While a school’s tax affairs will typically be dealt with by the Bursar and staff, the Governors should ensure that they understand the school’s obligations, particularly in relation to areas such as PAYE, salary sacrifice and trading activities which are not incidental to the provision of education. Charitable schools may also take advantage of tax relief on Gift Aided donations.

A APPENDIX A

Induction of Governors – The Minimum

A.1 Schools should have a clear policy for the recruitment and induction of new governors (see the AGBIS template Governance Manual for an example). Whatever process the School uses to identify and recruit new governors, it is important to ensure that the person is aware of the level of commitment and the responsibilities which go with the appointment. The Charity Commissions and OSCR produce a short leaflet to help with the responsibilities: CC3(a) – The Essential Trustee: An Introduction, and OSCR Guidance and good practice for Charity Trustees.

A.2 Once the appointment has been made, a full induction process should be conducted to ensure that the new Governor is fully briefed on the School and on his/her duties. The Governor should be encouraged to attend one of the termly AGBIS Seminars for New Governors and, immediately on appointment, complete the e-Learning Course for New Governors, available via the members' section of the AGBIS website.

A.3 The School should provide comprehensive information, which includes the following:

- AGBIS's publication 'Guidelines for Governors';
- A list of current Governors and of the School's staff;
- An up-to-date copy of the School's Constitution;

- A copy of the Charity Commission publication CC3 'The Essential Trustee' (or in Scotland, the Guidance and good practice for Charity Trustees.);
- A copy of the most recent accounts of the School;
- The most recent inspection report;
- The School's Strategic Plan and supporting development / business plan;
- The School's budget for the relevant financial period;
- A copy of the School's Governance Manual, if any (see the AGBIS template Governance Manual), any additional key relevant policies and a full list of all the School's policies;
- Copies of all appropriate governance policies and committee terms of reference;
- A copy of the School's key risk assessment documentation;
- Copies of the minutes of the last three meetings of the Governors and related papers;
- Copies of the latest School magazine and prospectus;
- Dates of forthcoming meetings of the Governing Body and its committees; and
- Any additional information/documents that will help the new governor to understand how the school operates.

A.4 The induction should then involve meetings and visits to familiarise the Governor with the School and the key individuals: the Chair, the Head and the Bursar (and Clerk).

A.5 The Chair should discuss 'boundaries', especially the distinction between strategy and execution. S/he should provide a briefing on the main current issues, pass on any 'history' to avoid conflict, confirm why the Governor has been elected and what is expected of them. Presenting unexpected items of business at meetings should be discouraged and this is an opportunity to emphasise the pressures on the Head and Bursar. The new Governor should be encouraged to

undertake AGBIS training and to get to know the School and the process of governance as quickly as possible, in order to be able to play a full part in meetings.

- A.6 The Head should offer access to the School and to whatever information the Governor needs and should encourage visits to observe teaching, pastoral work, activities and performances. There should be a tour of the School and the Head should encourage exchange of ideas.
- A.7 The Head and/or Bursar/Clerk should offer a tour, or an additional visit tuned to the Governor's specific area of expertise. Details of other members of the Governing Body and the meeting routine should be covered and the accounts and budget processes explained. Relevant details will be taken for Companies House, charity regulator returns and a Disclosure and Barring Service check, identity check and right to work in UK check (Protecting Vulnerable Groups (PVG) Scheme in Scotland). A short CV should be agreed which should be added to the information on the website. The Bursar should explain the issues due to be raised at the next meeting.
- A.8 As a final part of the process, the Chair should have another discussion with the new Governor after, perhaps, a year or so, to identify how the Governor has settled in and to assess whether the induction process was effective. This is also an opportunity for both the Chair and the Governor to share any concerns.

B APPENDIX B

Responsibilities of the Chair

The AGBIS template Governance Manual describes in some detail the Roles and Responsibilities of the Chair of Governors. The Chair's role is to provide leadership to the Governing Body and the School to ensure that the Governors fulfil their duties and responsibilities for the proper governance of the School. The list below is intended as an aide-memoire:

- Overall responsibility for guiding the governance of the School;
- Ensuring that the Governing Body, together with the Head, have agreed a clear vision, a strategic plan and supporting aims and objectives, both short and long term;
- Ensuring the highest possible standards of governance (Governance Responsibilities);
- Ensuring the proper and efficient conduct of Governor meetings (Governing Body Conduct Responsibilities);
- Providing support for the Head, meeting regularly and listening as a 'critical friend' and, when appropriate, challenging the Head on behalf of and as agreed by the full Governing Body;
- Overseeing the appointment of a new Head and Bursar;
- Being available to chair Governing Body meetings, attending some school events;
- Overseeing the processes for dealing with grievances, disciplinary proceedings and complaints, with particular sensitivity to safeguarding issues;
- Ensuring that appropriate rules are drawn up for the operation and work of the Governing Body and for delegation to committees;
- Supporting the work of the Nominations Committee, or similar group, in recommending chairs and members of committees;
- Maintaining close links with chairs of committees and with the Vice/Deputy Chair (who should be seen as the Chair's critical friend);
- Attending committees as appropriate;
- Supporting the work of the Nominations Committee, or similar group, to recruit new governors. Exercising a key role in the induction of new governors and providing guidance as necessary;
- Being willing to speak on Speech Day;
- Leading the Head's and, if appropriate, Bursar's performance appraisal / professional development process to include appropriate internal and external appraisals;
- Ensuring that the Head and other key personnel are properly remunerated;
- Ensuring that key relationships work (e.g. Chair/Head; Chair/Bursar; Head/Bursar) with clear communication, divisions and lines of responsibility.

The Chair must always act within any guidelines set down by the full Governing Body and work constructively with the Head, but avoid becoming involved in day-to-day management unless specifically directed by the Governing Body, and should not prevent any proposal by a Governor, Committee or the Head being considered by the Governing Body or direct the decision-making process towards any one pre-determined outcome.

C APPENDIX C

The Clerk to the Governors

This document has been agreed by all of the ISC associations (with the exception of ISA) and now represents our common and agreed policy on these matters. Barnaby Lenon, chairman of ISC, says “These policy documents, covering the Relationship between Head, Bursar and Governors and the Role of the Clerk of the Governors are simple, straightforward and clear, and mark a helpful step in our common and cooperative approach to independent education. I am sure that they will be useful”.

The role of Clerk to Governors is extremely important. Performed with thoroughness and professionalism, it will significantly improve the quality and the efficiency of governance.

It is frequently combined with the job of Bursar. Bursars who are also Clerks should try hard to keep the two roles separate. The Clerk is directly responsible to the Chair of Governors, and the two will communicate regularly regarding the operation of the governing body. If the Bursar is also Clerk, he/she should be sensitive to the Head's position, and try to ensure that such communication with the Chair is restricted to matters of governance and does not stray into areas of school management, planning or finance, without the Head's knowledge.

The Chair of Governors should recognise a responsibility for periodic appraisal of the Clerk, conducted alongside a more thorough review of governance and/or as an element of the Bursar's appraisal.

Each school's Governing Instrument is unique. Nonetheless, the most common responsibilities of the Clerk are:

1. Ensuring that governance is carried out in accordance with the Governing Instrument for the school with particular reference to:
 - Size and membership of the governing body
 - Retirement of existing governors and appointment of new governors
 - Regularity of meetings
 - Maintaining a record of attendance at meetings
2. Preparing, reviewing and updating additional governance protocols:
 - Maintaining relations with nominating bodies
 - Ensuring the appointment of office-holders
 - Ensuring that decisions are made, and recorded, in accordance with governing protocols
 - Ensuring that the Governing Instrument still meets the needs of the school and advising the Governing Body of appropriate or necessary amendments
 - Identification of Committees and Working Groups
 - Ensuring that appropriate Terms of Reference exist for Committees and Working Groups (normally prepared by their Chairs and ratified by the full Governing Body)
 - Recording membership and Chairmanship of Committees & Working Groups
 - Ensuring appropriate reporting structures from such Committees to the full Governing Body
 - Ensuring that clear rules exist to determine the decision-making authority for Committees etc.
3. Conducting for all new governors, on behalf of the Chairman of Governors:
 - Formal identity checks
 - Right to work in UK checks
 - DBS disclosure check or equivalent
 - Registration with Companies House as a director (for incorporated schools)
 - Completion of deed of covenant, declaration of responsibilities, or similar document
4. Induction and training of new governors.
5. Organising agreed and appropriate training for all governors, as agreed by the full Governing Body, and recording such training.
6. Ensuring that all governors are aware of their statutory responsibilities, especially their

responsibility for the safeguarding of all pupils at the school:

- Arranging regular training and updating for governors in these areas
 - Ensuring that the systems through which school managers report to governors are fully robust and effective in helping governors to fulfil their statutory responsibilities
7. In addition to matters of statutory compliance, ensuring compliance with instructions of the Charity regulator and Companies House.
 8. Ensuring the efficient functioning of governance:
 - Communication with governors between meetings
 - Maintaining and updating the governors' area of the school web-site (establishing it if it does not already exist)
 - Preparing and circulating timetables of meetings of the full Governing Body and its Committees
 - Preparing and circulating agendas for meetings of the full Governing Body and its Committees
 - Ensuring satisfactory circulation of pre-meeting papers
 - Ensuring appropriate minuting of these meetings and the prompt circulation of these minutes
 - Overseeing occasional audits of governance (either internal or external), as instructed by the Chair.
 9. Working with the Chair and with any Committee that might have been established for this purpose, ensuring that an appropriate process exists for succession-planning for the Governing Body, maintaining a skills matrix (if appropriate) and advising the Chair accordingly.
 10. Following instructions from the Governing Body regarding routine appraisal of the Head and the Bursar.
 11. Following instructions from the Governing Body regarding processes for the appointment of the Head or Bursar when the need arises.
 12. Organising and making appropriate arrangements for the establishment of any panels of the Governing Body that may from time to time be required to hear appeals or to deal with complaints or grievances (including the identification of independent members to join these panels where appropriate).
 13. Maintaining full and appropriate records of all governance activity.

D APPENDIX D

Useful Contact Details

D.1 The Association of Governing Bodies of Independent Schools (AGBIS):

3 Codicote Road, Welwyn, Herts
AL6 9LY

Telephone: 01438 840730

Email: ceo@agbis.org.uk

Chief Executive: Richard Harman

Website: www.agbis.org.uk

D.2 The Independent Schools Council (ISC):

1st Floor, 27 Queen Anne's Gate
London SW11 9BU

Telephone: 020 7766 7070

email: office@isc.co.uk

website: www.isc.co.uk

D.3 The Girls' Schools Association (GSA):

Suite 105-108 New Walk,
Leicester LE1 7EA

Telephone: 01162 541619

Email: office@gsa.uk.com

Website: www.gsa.uk.com

D.4 The Headmasters' & Headmistresses' Conference (HMC):

12, The Point, Rockingham Road, Market
Harborough, Leicestershire LE16 7QU

Telephone: 01858 465260

Email: info@hmc.org.uk

Website: www.hmc.org.uk

D.5 The Independent Association of Preparatory Schools (IAPS):

11 Waterloo Place, Leamington Spa CV32 5LA

Telephone: 01926 887833

Email: iaps@iaps.org.uk

Website: www.iaps.org.uk

D.6 The Independent Schools Association (ISA):

ISA House, 5-7 Great Chesterford Court,
Great Chesterford, Essex CB10 1PF

Telephone: 01799 523 619

Email: isa@isaschools.org.uk

Website: www.isaschools.org.uk

D.7 The Independent Schools' Bursars Association (ISBA):

Bluett House, Unit 11-12, Manor Farm,
Cliddesden, Basingstoke, Hants RG25 2JB

Telephone: 01256 330369

Email: office@theisba.org.uk

Website: www.theisba.org.uk

D.8 The Society of Heads:

12 The Point, Rockingham Road,
Market Harborough, Leicestershire LE16 7QU

Telephone: 01858 433760

Email: gensec@thesocietyofheads.org.uk

Website: www.thesocietyofheads.org.uk

D.9 The Boarding Schools' Association (BSA):

60 St Martin's Lane, London WC2N 4JS

Telephone: 020 7798 1580

Email: bsa@Boarding.org.uk

Website: www.boarding.org.uk

D.10 The Council of British International Schools (COBIS):

55-56 Russell Square, Bloomsbury,
London WC1B 4HP

Telephone: 020 3826 7190

email: executivedirector@cobis.org.uk

Website: www.cobis.org.uk

D.11 The Scottish Council of Independent Schools (SCIS):

61 Dublin Street, Edinburgh EH3 6NL

Telephone: 01315 562316

Email: info@scis.org.uk

Website: www.scis.org.uk

D.12 The Welsh Independent Schools Council (WISC)

General Secretary: Emma Verrier

Tel: 07791 891593

Email: emma.verrier@welshisc.co.uk

D.13 The Independent Schools Inspectorate (ISI):

CAP House, 9-12 Long Lane, London EC1A 9HA

Telephone: 020 7600 0100

Email: info@isi.net

Website: www.isi.net

D.14 The Charity Commission:

102 Petty France, London SW1H 9AJ

Telephone: 0300 066 9197

Website: www.charitycommission.gov.uk

- D.15 **The Independent Schools Teacher Induction Panel (ISTip):**
Chester House, Fulham Green, 81–83 Fulham High Street, London SW6 3JA
Tel: 020 3586 3136
Email: Judith.fenn@istip.co.uk
Website: www.istip.co.uk
- D.16 **The Office of the Scottish Charity Regulator (OSCR):**
2nd Floor, Quadrant House, 9 Riverside Drive, Dundee, DD1 4NY.
Tel: 01382 220446
Email: info@oscr.org.uk
Website: www.oscr.org.uk.
- D.17 **Charity Commission for Northern Ireland:**
257 Lough Road, Lurgan, Craigavon BT66 6NQ
Tel: 02838 320220
Website: www.charitycommissionni.org.uk.
- D.18 **haysmacintyre:**
10 Queen Street Place, London EC4R 1AG
Tel: 020 7969 5500
Email: marketing@haysmacintyre.com
Website: www.haysmacintyre.com
- D.19 **Rathbone Investment Management**
8 Finsbury Circus, London EC2M 7AZ
Tel: 020 7399 0000
Email: james.brennan@rathbones.com
Website: www.rathbones.com
- D.20 **Saxton Bampfylde**
9 Savoy Street, London WC2E 7EG
Tel: 020 7227 0800
Email: schools@saxbam.com
Website: www.saxbam.com
- D.21 **Veale Wasbrough Vizards:**
Narrow Quay House, Narrow Quay, Bristol, BS1 4QA
Tel: 01179 252020
Email: ajames@vww.co.uk
Website: www.vww.co.uk

E APPENDIX E

Statement of Professional Performance Review Principles and Guidelines

Definition

Professional performance review, often referred to as appraisal, should be a collaborative process through which a governing body reviews the performance of the Head, agrees the Head's professional development needs and sets and monitors achievement of objectives.

Introduction

AGBIS and HMC, GSA, IAPS and SoH and SCIS agree the Head's performance should be appropriately reviewed on a regular basis; indeed, this is often required to be an entitlement of their specific heads' association membership requirements. For their part, governors as charity trustees are aware of their obligations to provide professional support and accountability for their senior executives in order to achieve the best possible outcomes for the pupils in their schools. Conducted well, performance reviews will benefit all parties and support both the success and ongoing strategic development of the school.

To be effective, the framework of performance reviews should be clear from the date of appointment of a new Head and this should form part of the process of induction and professional development. For governors, it will provide an objective overview of a Head's overall performance, which it should be noted may be distinctively different from any impression that might emerge from a school inspection. A formalised process that includes regular reviews will help to establish deeper understanding, trust and confidence between governing bodies and their Heads, in particular with regard to current strengths, weaknesses and areas for future improvement and development.

Principles

1. A system of regular, routine reviews is beneficial to both governing bodies and Heads and, therefore, should be undertaken in a positive spirit.
2. The performance review process should be unbiased, open and honest.
3. A broad range of evidence, from different perspectives, if appropriate, should be gathered and considered.
4. Feedback should be evidence based and constructive in nature; evidence should not be 'saved up' for the review debrief, but should be routinely shared at periodic meetings to facilitate continual improvement.
5. The process should result in the subject being clear about their current/recent performance as well as identifying future areas of professional development and performance related targets, with clear, agreed and prioritised next steps and objectives usually linked to the school's Strategic / Development Plan(s).

Guidelines

1. A comprehensive full performance review should take place around once every three years, possibly earlier for a newly appointed Head; these might be commissioned from a professional independent consultant or coordinated by the Governing Body internally.
2. An internal interim review or progress check is recommended for any years in which a full professional performance review does not take place; these will usually be co-ordinated internally rather than commissioned.
3. The nature of both full and interim reviews should be discussed and agreed between the Governing Body and the Head. External reviews are likely to be 360-degree in nature, whereas internal reviews will usually be lighter touch, and vary in approach

according to the timing and the context: e.g., elements of top-down, bottom-up, or 360-degree could all form part of these reviews. The subject's assessment of their own performance will often form a key part of any review.

4. Heads and governing bodies should both be fully involved in the planning of any professional performance review; all parties should agree in advance:
 - a. any focus areas;
 - b. the scope;
 - c. the type of review;
 - d. how the review is to be arranged and conducted;
 - e. the nature of the evidence and how it is to be assembled;
 - f. how the report is to be structured, and who will receive copies and/or an executive summary;
 - g. how the final version of the report is signed off. A representative of the Governing Body, usually the Chair, should discuss the draft report with the Head before the final version is produced. This provides the Head with the opportunity to comment on the draft report (and any executive summary) and propose any corrections to factual errors before it is finalised and shared with the agreed recipients.
5. Evidence considered in a review should relate to sector standard competencies and previously agreed targets in the context of the school's Strategic Objectives / Development Plan. Depending upon the context, the type of review, and the timing, sources of evidence for a full performance review might include:
 - a. self-evaluation exercise;
 - b. the views of a range of stakeholders which might include: governors; school staff; volunteers; pupils (current and former); parents; and Heads of feeder/destination schools. Governing bodies and Heads should also have the opportunity to identify other sources of evidence that might be appropriate in specific circumstances;
 - c. school performance data (academic, financial and other relevant areas);
 - d. meetings / interviews with the Head, Chair of Governors, other governors and key colleagues;
 - e. progress against previously agreed objectives and development needs.

NOTES

This image shows a blank sheet of white paper with horizontal blue ruling lines. The lines are evenly spaced and extend across the width of the page. At the bottom of the page, there is a decorative border consisting of overlapping light gray hexagonal shapes. The overall appearance is that of a clean, unused piece of stationery or a template for writing.

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