

4. COMMITTEES

DECISIONS' DELEGATION BY THE FULL GOVERNING BODY

Introduction



The School Government Regulations set out the 'terms of reference' for governing bodies of all maintained schools. These regulations invite Governing Bodies to consider the division of responsibilities between them and their Head teachers and to review procedures. The aim of the regulations is to help Governing Bodies and Head teachers work together as effectively as possible without duplication of effort. With one exception, the Regulations do not give Governing Bodies new duties. The one new element in the Regulations was the requirement on the Governing Body to establish a written performance management policy. The new Regulations clarify that the governors' role is mainly strategic, and that they act as a 'critical friend' to the head teacher.

The full text of the Regulations can be found on the DCSF governors' website www.governor.net.co.uk. Governors and heads may also refer to their copy of 'The Guide to the Law – for School Governors'.

A governing body can delegate any of its functions to a committee, a governor or to the head teacher, subject to prescribed restrictions. The governing body must review the delegation of functions annually. Each governing body will remain accountable for any decisions taken, including those relating to functions delegated to the committee or individual.



The quorum for any committee meeting and for any vote must be three governors who are members of the committee or more, as determined by the governing body. All meetings of the full Governing Body should be convened by the Clerk to Governors, have an agenda circulated at least seven days beforehand and be minuted. Special meetings of the Governing Body or one of its committees can be convened by the Clerk giving governors three day's notice, on the instructions of the Chair of the Governing Body or the appropriate committee.

The full text relating to governing body and committee quorums and calling of meetings can be found in 'The Guide to the Law – for School Governors'.

DELEGATION OF FUNCTIONS



A governing body can delegate any of its statutory functions to a committee, a governor or to the head teacher, subject to prescribed restrictions. The governing body must review the delegation of functions annually. Each governing body will remain accountable for any decisions taken including those relating to functions delegated to a committee or individual.

Functions that can be delegated to a committee but cannot be delegated to an individual include those that relate to:

- the alteration, discontinuance or change of category of maintained schools
- the approval of the first formal budget plan of the financial year
- school discipline policies
- the exclusion of pupils (except in an emergency when the chair has the power to exercise these functions)
- admissions.



The governing body cannot delegate any functions relating to:

- the constitution of the governing body (unless otherwise provided by the Constitution Regulations)
- the appointment or removal of the chair and vice-chair
- the appointment of the clerk
- the suspension of governors
- the delegation of functions
- the establishment of committees.

Any individual or committee to whom a decision has been delegated must report to the governing body in respect of any action taken or decision made. The governing body can still perform functions it has delegated: this enables the governing body to take decisions on matters that are discussed at meetings on functions that have been delegated. For instance, the governing body can decide to move (“vire”) money from one budget heading to another in light of changing circumstances, even if the function of approving and monitoring the budget has been delegated to a committee.

In addition to these statutory requirements, the LA recommends that the following decisions are also taken at **full governing body** level:

- setting the Individual School Range (ISR) – this relates to Head teacher’s and Deputy head’s salary
- the appointment of a governor to investigate complaints against the Head teacher and to investigate allegations of financial irregularities where the Head teacher is implicated
- defining the financial responsibilities of the Governing Body, its committees, the Head teacher and other staff
- establishing the financial limits of delegated authority to enter into commitments and authorise payments
- determining the level of detail, minimum frequency and general format of financial information to be provided to the Governing Body, especially in relation to budget monitoring reports
- approving an annual statement on what steps the school will be taking to ensure that the expenditure reflects the principles of Best Value.

Any committee or individual to whom a decision has been delegated must report to the Governing Body in respect of any action or decision taken. The governing body can still perform functions it has delegated: this enables the governing body to take decisions on matters that are discussed at meetings on functions that have been delegated, for instance, the Governing Body can decide to move money from one budget heading to another in the light of changing circumstances, even if the function of approving and monitoring the budget has been delegated to a committee.

Governors and Head teachers might like to refer to ‘ Roles of Governing Bodies and Head teachers’ Guidance – Governing Bodies’ Statutory Powers and Duties DfES reference 0168/2000. This document is also available on the DCSF governors’ website - www.governor.net.co.uk



Tips: Committees:

- *governing Bodies can decide the number and title of its committees*
- *all committees need to have a list of committee members, name of chair and a quorum of at least three governors*
- *procedures for appointing the chair and vice chair*
- *all committees need to review the above items annually, usually at the first committee meeting of the autumn term.*
- *governing bodies should encourage governors to join committees that enables them to use their skills and expertise*
- *governing bodies should make sure that committees identify training needs and have access to appropriate training*
- *committee reports should be distributed to all members of the governing body.*

Working Groups:

- *membership of working groups is not restricted to only governors, staff, parents who are not governors and pupils are eligible.*
- *the function of purpose of a working group should be clearly explained and a schedule of tasks to be undertaken with appropriate timelines should be provided by the governing body and given to the working group*
- *recommendation made by the working group should be recorded clearly in a method agreed by the governing body*
- *reports or written recommendations made by the working groups should be circulated to all members of the governing body and recorded as an agenda item for discussion*
- *should be given specific time frames in which to work and be disbanded on the completion of the agreed task, if the governing body consider this to be appropriate.*

COMMITTEES OF GOVERNING BODIES - INTRODUCTION

Establishment of committees

The governing body must determine the membership and proceedings of any committee. The governing body must also review the establishment, terms of reference, constitution and membership of any committee annually. The membership of any committee may include associate members, provided that a majority of members of the committee are governors. Each committee must have a chair, who is either appointed by the governing body or elected by the committee. The governing body may remove the chair of a committee from office at any time.

TERMS OF REFERENCE AND REMITS

The committee terms of reference found below are only examples and we appreciate that governing bodies will have different names for their committees. It is important however that you try and limit the amount of committees that you do have to ensure that governors don't become too bogged down with meetings - *'less is best!'*

Pupil Discipline Committee

- Consists of three or five governors, quorum three.
- Head Teacher and non-governors may not serve.
- Has power to uphold exclusion or direct head teacher to reinstate pupil.
- Reviews pupil exclusions of over 5 days in a term, all permanent exclusions and any that would prevent a pupil from sitting a public exam.
- *Note: if parents wish to appeal against the committee's decision, then the LA handles this.*

More details on this committee can be found later on in Chapter Four.

Personnel Procedures Committee

- Considers possible dismissal of staff.
- Consists of three or more governors. As a last resort, two governors will be enough.
- May include non-governors, but they cannot vote.
- Head teacher may not serve.

Personnel Appeals Committee

- Hears appeals by staff against dismissal.
- Must not have fewer governors than Personnel Procedures Committee.
- Must be different governors from Personnel Procedures Committee.
- Head teacher may not serve.

Details on these two committees can be found in the Schools Personnel Handbook or contact your Personnel Officer for more information.

Other Committees

Most governing bodies choose to appoint a number of additional committees, either with delegated power or to recommend action to the whole governing body.

Such committees are:

- Finance, Premises and Health and Safety
- Curriculum
- Personnel and Pupils
- Strategic Development - Planning
- Complaints.



Tip: You can find termly model agendas for these committees in Appendix B-8



DERBY CITY COUNCIL

Derby City School Governors' Terms of Reference and Remits for the GB and Committees

This document is available on the Derby City Council website:

<http://www.derby.gov.uk/EducationLearning/InformationForSchoolGovernors/Clerks to Governors.htm>

TERMS OF REFERENCE AND REMITS – WHAT'S THE DIFFERENCE?

These phrases have been in existence for a while and both have been used to describe the actions/tasks and jobs of a GB committee. However after some research and checking the dictionary definitions, it is clear that there is a very clear definition for each phrase.

- Terms of reference – refer to the structure of a committee, for example membership, executive officers, quoracy
- Remits – refer to the tasks/jobs that the committee undertake on behalf of the GB – as a delegated responsibility, to make a decision , or to make a recommendation to the GB for the body to make a decision

School

GOVERNING BODY REMITS

Remits
1. Changes to the Instrument of Government, including terms of office
2. To appoint, suspend or remove governors (refer to the guide to the law for specific requirements)
3. To appoint associate members and determine voting rights on committees
4. To elect or remove the chair
5. To elect or remove the vice-chair
6. To appoint link or designated governors, for example performance management, child protection and complaints
7. To decide on additional attendance at full governors' meetings
8. To decide the arrangements for full governing body meetings (legal minimum 3 per year)
9. To regulate the procedures of meetings, for example code of conduct
10. Establishment and membership of committees and their remits, including selection panels for headteacher and deputy headteacher recruitment
11. To establish the governors' register of pecuniary and business interests and oversee its maintenance
12. To publish proposals for alteration, change of category or closure of the school
13. To ensure that the school meets for 380 sessions in a school year
14. To approve the Annual Budget Plan* and Best Value statement
15. To establish the financial limits of delegated authority to enter into commitments and to authorise payments
16. To approve a written description of financial systems and procedures in line with the LA's scheme for financing schools
17. To recruit a new headteacher
18. To recruit a new deputy headteacher
19. Ratification of the appointment of a headteacher and deputy headteacher
20. To determine the arrangements for the appointment of all other staff
21. To recruit staff on the leadership spine
22. To recruit all other staff
23. To appoint and dismiss the clerk to governors
24. To participate in the school self review process including the review of the governing body effectiveness
25. Setting the Individual School Range (ISR)
26. Decision to federate or form joint committees with other schools.
27. To consider whether or not to exercise delegation of functions to individuals or committees
28. To decide to offer additional activities under extended schools provision - or to cease provision
29. To ensure the school is working to the Financial Management Standards in Schools (FMSiS)
30. To appoint a clerk to the Discipline Committee (who is not a governor or the headteacher)
31. To monitor and review pupil attendance
32. To establish and monitor a governors expenses scheme
33. To publish proposals to alter, discontinue or change category of school

14 * Derby City Council provide information and guidance within the LA's scheme for financing schools. This function **can** be delegated to the Finance Committee.

Voluntary Aided and Foundation Schools Only

To decide whether the CEO/Diocesan Director should attend staff interviews, particularly headteacher appointments.	Governing Body
Proposals to alter or discontinue Voluntary Foundation or Foundation Special School	Governing Body

STRATEGIC DEVELOPMENT – PLANNING COMMITTEE

Derby City Council – Clerk to Governors' Handbook
September 2008

Remit (tasks)	Delegated to:
1. To agree priorities, approve and monitor the SDP/SIP	
2. To formulate the School Prospectus and School Profile	Head Teacher
3. To approve the School Prospectus and School Profile	
4. To formulate the School Improvement Plan	Head Teacher
5. To approve the School Improvement Plan	
6. To comply with the requirements of the Ofsted Inspection Framework	
7. To be involved in the formulation and review of the Ofsted self evaluation form (SEF)	
8. To consider in detail any inspection report made by Ofsted or the LA	
9. To ensure that recommendations following an Ofsted inspection are incorporated into the SDP/SIP	
10. To review annually the performance management policy	
11. To implement the performance management policy	
12. To decide school session times	
13. To adopt and review the Home School Agreement	
14. To be involved in the target setting dialogue with the LA	
15. To set and publish targets for pupil achievement	
16. To monitor pupil achievement against set targets	
17. To receive school improvement information from the school, LA and Ofsted	
18. To agree and organise an annual governing body self-evaluation process	
19. To consult annually with the LA on its admissions policy	
20. To implement the admissions policy	
21. To monitor school records	
22. To carry out an annual review of safeguarding children and child protection policy and procedures and report to the LA	
23. To ensure delivery of services provided (for Extended Schools)	
24. To ensure provision of free school meals to those pupils meeting the criteria	
25. To ensure that school lunch nutritional standards are met	
26. To approve/amend policies as appropriate to the committee	

Voluntary Aided and Foundation Schools only

To develop and implement a health and safety policy	
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Strategic Development – Planning Committee Terms of Reference:

The Committee will:

- at the first meeting each academic year:
 - make recommendation on the appointment of Committee Chair
 - review the terms of reference and remit for the committee
 - report on these matters to the next meeting of the GB
- ensure that there is a Clerk at each meeting and agenda/minutes are produced and distributed at the next full GB meeting
- hold at least one meeting each term
- operate with a quorum of at least three governors.

Members of Committee:	Chair of Committee:
Meeting Dates for Year:	Quorum:

FINANCE, PREMISES AND HEALTH AND SAFETY COMMITTEE

Remit (tasks)	Delegated to:
1. To formulate the budget plan and Best Value Statement	
2. To monitor expenditure (including standards fund and private school funds) against the budget plan and agree adjustments as necessary	
3. To enter into contracts (above set financial limit)	
4. To enter into contracts (below set financial limit)	Head Teacher
5. To operate the governing body's arrangements for obtaining quotations and inviting tenders (LA scheme for financing schools)	Head Teacher
6. To maintain inventories and security of assets (LA scheme for financing schools)	Head Teacher
7. To monitor income from the sale of assets (LA scheme for financing schools)	
8. To formulate a charging and lettings Policy	
9. To formulate a charging and remissions policy for activities (non national curriculum based)	
10. To determine payments regarding petty cash	Head Teacher
11. To determine arrangements for the accounts and the annual auditing of the school funds and to send audited accounts to education finance	
12. To consider the recommendations of the performance management governors in relation to the head teacher's pay	Finance/ Personnel Cmmttee/ GB
13. To monitor actions following an LA internal audit	
14. To determine insurance arrangements	
15. To approve the writing off of irrecoverable debts up to (£xxx?) and the disposal of surplus and damaged equipment	
16. To determine matters relating to health and safety and the security of the premises and its occupants	
17. To monitor the use and suitability of the premises in relation to the above	
18. To contribute as required to LA asset management planning arrangements	
19. Procuring and maintaining buildings including developing properly funded maintenance plans	
20. To approve/amend policies as appropriate to the committee	

Finance, Premises And Health and Safety Committee Terms of Reference:

The Committee will:

- at the first meeting each academic year:
 - make recommendation on the appointment of Committee Chair
 - review the terms of reference and remit for the committee
 - report on these matters to the next meeting of the GB
- ensure that there is a Clerk at each meeting and agenda/minutes are produced and distributed at the next full GB meeting
- hold at least one meeting each term
- operate with a quorum of at least three governors.

Members of Committee:	Chair of Committee:
Meeting Dates for Year:	Quorum:

PERSONNEL AND PUPILS COMMITTEE

Remit (tasks)	Delegated to:
1. To determine the staff complement	
2. To determine staffing structure	
3. To review annually the school's pay policy	
4. To implement the pay policy	Head Teacher
5. To manage the annual salary review, including post-threshold progression for teachers	Head Teacher
6. To conduct the annual appraisal of the head teacher (performance management) with the assistance of appointed school improvement partner	Performance Management Governors
7. To consider the recommendations of the performance management governors in relation to the head teacher's pay	Finance/ Personnel Cmmttee/ GB
8. To determine honorarium payments and temporary pay enhancements	
9. To suspend the head teacher	
10. To end the suspension of the head teacher	
11. To suspend other staff	
12. To end the suspension of other staff	
13. To develop and systematically review policies relating to staffing matters and to make recommendations for adoption/amendment of these to the full governing body eg disciplinary/capability procedures/absence management	
14. To hear appeals made by staff in relation to the above	
15. To determine dismissal payments/early retirement	
16. To dismiss other staff	
17. To agree and monitor a training strategy for teachers, support staff and governors	
18. To implement the behaviour policy	
19. To annually review the behaviour policy and the use of exclusion in comparison with local and national data	
20. To approve/amend policies as appropriate to the committee	

Voluntary Aided and Foundation Schools Only

To decide whether the CEO/Diocesan Director should attend staff interviews, particularly head teacher appointments	
To consult annually with the LA and other neighbouring authorities on the school's admissions policy and to establish a policy	
To consult with the LA on variations to the admissions number	
To attend admissions appeals as necessary	

Special Schools only

To establish an admissions policy (where pupils do not have a statement) acting with the LA	
To establish an admissions policy (where pupils have statements) – for LA after consultation with the governing body	

Personnel and Pupils Committee Terms of Reference:

The Committee will:

- at the first meeting each academic year:
 - make recommendation on the appointment of Committee Chair
 - review the terms of reference and remit for the committee
 - report on these matters to the next meeting of the GB
- ensure that there is a Clerk at each meeting and agenda/minutes are produced and distributed at the next full GB meeting
- hold at least one meeting each term
- operate with a quorum of at least three governors.

Members of Committee:	Chair of Committee:
Meeting Dates for Year:	Quorum:

CURRICULUM COMMITTEE

Remit (tasks)	Delegated to
1. To work with the head teacher to agree a curriculum statement for approval or amendment by the governing body	
2. To ensure that the national curriculum is in place and to consider any disapplication to pupils	
3. To establish a curriculum policy	Head teacher
4. To implement a curriculum policy	Head teacher
5. To monitor the curriculum policy	
6. To report standards of teaching and attainment to the governing body	Head teacher
7. To be responsible for individual child's education	Head teacher
8. To ensure that the delivery of sex education and RE are in line with the governors' policies and legal guidance	Head teacher
9. To prohibit political indoctrination of pupils and ensure a balanced treatment of political issues	Head teacher
10. To monitor the arrangements for collective worship and monitor provision	
11. To ensure the curriculum complies with the Race Equality Action Plan and the Disabled Access plan	
12. To monitor the curriculum in respect of Special Needs provision, including Gifted and Talented pupils	
13. To monitor the arrangements for school visits/residentials	Curriculum and Health and Safety
14. To decide which subject options should be taught having regard to resources and implement provision for flexibility in the curriculum (including activities outside school day)	Head teacher
15. To prepare and review a strategy for school improvement on the following Every Child Matters outcomes: <ul style="list-style-type: none"> o stay safe o be healthy o enjoy and achieve o achieve economic well-being o make a positive contribution 	Curriculum and Head teacher
16. To approve/amend policies as appropriate to the committee	
17. To discharge duties in respect of pupils with special needs by appointing a "responsible person"	

Voluntary Aided and Foundation Schools Only

To set the times of school sessions and the dates of school terms and holidays	Head teacher
To institute a health and safety policy	

Curriculum Committee Terms of Reference:

The Committee will:

- at the first meeting each academic year:
 - make recommendation on the appointment of Committee Chair
 - review the terms of reference and remit for the committee
 - report on these matters to the next meeting of the GB
- ensure that there is a Clerk at each meeting and agenda/minutes are produced and distributed at the next full GB meeting
- hold at least one meeting each term
- operate with a quorum of at least three governors.

Members of Committee:	Chair of Committee:
Meeting Dates for Year:	Quorum:

GOVERNORS AND FINANCE

The *Scheme for Funding Schools* sets out the legal framework within which schools must operate their finances. It includes the Council's Financial Procedure Rules for Schools; these identify the respective responsibilities of governors and the Council's Director of Finance. The Council has also produced a *Manual of Financial Guidance to Schools*. This sets out best practice for schools in areas such as financial management and administration, purchasing and cash management. Each school has a copy of both documents.

FINANCE COMMITTEE

The finance committee is non-statutory and therefore the governors are able to determine their individual requirements and to delegate the financial responsibilities of the governing body to one or more committees if desired.

In schools where a finance committee has been set up, the governing body will define terms of reference for the committee and the extent of its delegated authority. The finance committee minutes should be reported to the governing body.

Committees created by the governing body can include members who are not governors. This may enable some schools with limited financial expertise on the governing body to invite suitably qualified individuals to serve on committees.

The requirement for meetings may vary between schools and throughout the year due to financial matters requiring the committee's attention, such as capital projects or the setting of the annual budget. In any event the finance committee should meet at least termly.

SEGREGATION OF DUTIES

The finance function is only a small part of the school's overall activities. Nevertheless, many schools are funded at a level comparable with the income of a medium-sized business and, especially given their use of public money, must implement sound financial controls. Even where it is not possible to have full separation of all responsibilities, the governing body must satisfy itself that there are adequate checks and segregation to ensure that the risk of error or fraud is minimised. It is good practice for schools to draft their own *Financial Procedures Manual*. This should set out the specific arrangements for segregation of duties and should be approved by the governing body. In schools where there is an increased risk of error or fraud through lack of segregation of duties, the governing body needs to appoint a Responsible Officer to reduce this increased risk.

REPORTS TO GOVERNORS

Financial monitoring information should be presented to the finance committee as required, termly as a minimum, with explanations where expenditure varies significantly from budget. The committee will then be in a position to review the overall financial position of the school. All governors should receive financial reports at least termly. These reports need only include totals of income and expenditure on major headings, with information on the key issues such as the projected variations on main budget headings or position of capital projects. The finance committee should also prepare reports of relevant financial issues for the full governing body. The governing body must ensure through its monitoring and review arrangements that the school seeks economy, efficiency and effectiveness in using resources and achieves good value for money.

Finance is delegated to schools and the Council offers a Budget Management and Accountancy package as a sold service.

FINANCIAL DELEGATIONS FOR GOVERNING BODIES, FINANCE COMMITTEES AND HEAD TEACHERS

It is recommended that the Governing Body at the first meeting of the academic year:

- agrees the membership of the Finance Committee
- asks the Committee to complete the form below at their first meeting
- asks the Committee to bring these matters as a recommendation to the second meeting of the Governing Body.

FINANCE COMMITTEE RECOMMENDATIONS FORM

FROM: FINANCE COMMITTEE
TO: GOVERNING BODY

Requirements for obtaining Quotes and Tenders		
Level for 3+ quotes (where practical)	£1000 to £5000	Schools must comply with the Councils Contracts Procedures Rules, School Financial regulations and Scheme for funding Schools (2.17) for purchasing, tendering and contract matters.
Level for 3+ quotes (required)	£5000 to £20000	
Level for tenders At least 3 firms	£20,000 to £50,000	
Level for tenders At least 4 firms	£50,000+	

Item	Authorised Person	Authorised Limit	Additional Notes
Official Orders	School Bursar	£	
	Headteacher	£	
	Finance Committee	£	Minute ref to be recorded on order
	Full Governing Body	£	Minute ref to be recorded on order
	Other (please specify)	£	
Invoices	School Bursar	£	
	Headteacher	£	
	Finance Committee	£	Minute ref to be recorded on invoice
	Full Governing Body	£	Minute ref to be recorded on invoice
	Other (please specify)	£	

Item	Authorised Person	Authorised Limit	Additional Notes
Journals	Name and Post of Delegated Officer	£	
	Name and Post of Delegated Officer	£	
Budget Journals (Virements- adjustments to budget)			
Budget Journals (Virements- adjustments to budget)	School Bursar	£	
	Headteacher	£	
	Finance Committee	£	Minute ref to be recorded on virement form
	Full Governing Body	£	Minute ref to be recorded on virement form
	Other (please specify)	£	
Inventory Write Offs			
Inventory Write Offs	Headteacher	£	
	Finance Committee	£	Minute ref to be recorded on inventory
	Full Governing Body	£	Minute ref to be recorded on inventory
Inventory Sales			
Inventory Sales	Headteacher	£	
	Finance Committee	£	Receipt and minute ref to be recorded on inventory
	Full Governing Body	£	Receipt and minute ref to be recorded on inventory
Bad Debt Write Offs			
Bad Debt Write Offs	Headteacher Limit	£	
	Finance Sub Committee	£	Minute ref to be recorded on write off request
	Full Governing Body	£	Minute ref to be recorded on write off request
Imprest Bank Account Signatories			
Imprest Bank Account Signatories	Name and Post of Delegated Officer	£	
	Name and Post of Delegated Officer	£	
	Name and Post of	£	

	Delegated Officer		
Item	Authorised Person	Authorised Limit	Additional Notes
Private School Fund Bank Account Signatories	Name and Post of Delegated Officer	£	
	Name and Post of Delegated Officer	£	
	Name and Post of Delegated Officer	£	
General Fund Bank Account Signatories (Foundation Schools)	Name and Post of Delegated Officer	£	
	Name and Post of Delegated Officer	£	
	Name and Post of Delegated Officer	£	
Delegation of functions to Chair or Vice Chair in cases of urgency			
<p>The chair or vice-chair has the power to carry out functions of the governing body if a delay in exercising a function is likely to be seriously detrimental to the interests of the school, a pupil at the school or their parents, or a person who works at the school. This power excludes matters related to the alteration and closure of schools, change of school category, change of school name, approval of the budget, discipline policies and admissions.</p> <p><i>(‘A Guide to the law for School Governors’, Chapter 3)</i></p> <p>Any action taken under this power must be reported to the governing body.</p>			

THE FINANCIAL MANAGEMENT STANDARD IN SCHOOLS (FMSiS)

Each local authority has a Scheme for Financing Schools, which defines the financial relationship between the authority and the schools in its area. The Department for Children, Schools and Families (DCSF) defines what is to be included in Schemes and amendments to Schemes are approved by the Secretary of State. The FMSiS was added to the Scheme for Financing Schools in October 2006 and from January 2007 it became a legal requirement for all schools to meet the Standard.

In Derby the audit section has now completed the introductory visits and all schools have been issued with a guidance manual. Plus, with the exception of one or two, all should now be preparing their portfolios of evidence. All Schools, with the exception of one or two, have now been booked in for the external assessments for 2008/2009, 2009/2010.

The FMSiS is intended to help schools evaluate the quality of their financial management and enable staff to become better financial managers. It is intended to cover standards and processes that should already be in place in schools, rather than introduce a new, higher standard. The standard itself is a simple statement of what a school that is managed well financially would look like. It sets out the requirements under the following five sections:

- Leadership and Governance.
- People Management.
- Policy and Strategy.
- Partnerships and Resources.
- Processes.

Below is a summary of example evidence needed for your FMSiS portfolio:

Leadership and Governance

- Terms of Reference for GB and committees, job descriptions, staff structure
- Financial delegations
- Signed Minutes to Governing Body & Committee Meetings & Appending Papers
- Governors Induction Pack
- Budget setting and Budget Monitoring papers
- Statement of Internal Control
- Internal Audit Report / Ofsted Report
- Register of Business interests
- Whistle Blowing Policy

People Management

- R20 - Governors Self Evaluation – Governor Competency Matrix
- R11 – Staff with Financial Responsibilities Competency Matrix
- Action Plans to address any areas where competencies are limited.

Policy and Strategy

- School Improvement / Development Plan
- Benchmarking – prints, findings, action plans

*Derby City Council – Clerk to Governors' Handbook
September 2008*

Partnerships & Resources

- Schools Financial Regulations / LA Scheme for Funding
- Best Value Statement - Price comparisons to demonstrate Best Value principles are applied

Processes

- Budget Monitoring Records and Reports
- Earmarked Funding
- Financial Procedures Manual

The following extracts from the *Manual of Financial Guidance* outline the key areas in which governors need to be involved. It is important that governors discuss and make decisions on strategic financial planning issues while leaving the day-to-day administration to the head and clerk/bursar. More information is available at: <http://www.derby.gov.uk/EducationLearning/Finance/FMSiS.htm> we have also produced a document called FMSiS Checklist and Workplan for Governors which is available online at:

http://www.derby.gov.uk/EducationLearning/InformationForSchoolGovernors/Clerks_to_Governors.htm

RESPONSIBILITIES

The responsibilities of the governing body and school staff should be clearly defined and allocated.

The *Scheme for Funding Schools* between the Council and the school makes clear the governing body's responsibility for:

- planning and conducting its affairs to remain solvent
- establishing proper financial management arrangements, accounting procedures and maintaining a sound system of internal controls
- ensuring that funding from the Council and any other sources is used only in accordance with the conditions attached
- providing such information as the Council may reasonably require to satisfy the Council that the financial management and organisation of the governing body are such as to enable it to fulfil the obligations specified for it
- following the Council's rules for letting contracts.

The DCSF has updated its *Guide to the Law for School Governors* to reflect the New Framework for Schools. Separate versions for each category of school have been published.

THE ROLE OF THE CLERK TO GOVERNORS IN MEETING THE STANDARD

The Clerk to Governors plays an important role in ensuring that the 'hard evidence' that would be expected to support compliance with the Standard is available. A significant proportion of this evidence is contained within the minutes of the Governing Body and Committee meetings. It is therefore essential that a minute and correspondence file is maintained and that the minutes of the meetings accurately and fully reflect the discussions held, decisions taken and actions and timescales agreed.

The minutes should provide evidence of the approval and periodical review of:

Derby City Council – Clerk to Governors' Handbook
September 2008

- Terms of Reference for the Governing Body and its Committees
- Scheme of Financial Delegations
- School Improvement Plan
- Budget Plan
- Controls Assurance Statement
- Controls Self-Assessment
- Best Value Statement
- Register of Business Interests
- Self-Evaluation of Governing Body and staff financial management competencies
- Financial Regulations and Procedures
- Plans and Policies as specified in the Guide to the Law for School Governors
- Audited Private School Fund Accounts.

In accordance with the school's financial delegations the minutes should reflect:

- Approval of purchases and contracts above the Headteacher's spending limit
- Waiving of the need to obtain quotes or invite tenders and the reasons for doing so (where applicable)
- Reasons for not accepting the lowest quote or tender (where applicable)
- Approval of budget virements, inventory write-offs and disposals and bad debt write-offs.

It is essential that meetings of the Governing Body and its Committees are scheduled to coincide with key aspects of financial management, such as the approval of the budget plan, and that Governors are given the opportunity to declare any business interests at the beginning of each meeting. Minutes of the Governing Body and its Committee meetings and any appending papers should be signed and dated by the respective Chair. A list of annual GB agenda items for FMSiS is available in Appendix B-10.

DEALING WITH COMPLAINTS

As part of their responsibility for the conduct of the school, governing bodies have to ensure that complaints are dealt with properly.

All schools should have a Complaints Policy, agreed by the Governing Body.

Complaints about schools fall into two broad groups:

- Curriculum
- General.

For which there are different legal requirements and different roles for the Local Authority. However, for Governing Bodies the necessary procedures are the same for both types of complaints.

Anyone can complain to the Secretary of State if he or she believes that a governing body is acting 'unreasonably' or is failing to carry out its statutory duties properly. If the Secretary of State agrees that the complaint is justified, the Governing Body can be directed to act appropriately, if you do not keep to a direction by the Secretary of State, it may be legally enforced.

This is a worst case scenario as hopefully Governing Bodies will always work towards its agreed complaints policy and procedures.

The new Ofsted – the Office of Standards in Education, Children's Services and Skills came into being on 1 April 2007, it will inspect and regulate care for children and young people, and inspect education and training for learners of all ages.

Ofsted has new powers in relation to complaints. Ofsted is not responsible for individual complaints about the day-to-day running of a school. However, Ofsted can investigate complaints about the work of the school as a whole, but are not in a position to investigate any matter that relates to an individual child.

Clerks to Governing bodies should encourage governors to:

- have a complaints policy and procedure in place and review the documents every two years
- send a copy of the revised complaints policy to the Local Authority Complaints Officer
- to attend complaints training offered by the Local Authority.

Useful Contacts /Links

- Derby City Governors' Handbook
- DCSF website – www.dcsf.gov.uk
- Local Authority Complaints Officer – Christine Gibbs 01332 711223

The following pages highlight the procedure for complaints, but please note that we would recommend that governors attend the complaints training to gain a better understanding of what happens.

GOVERNORS' ROLES WHEN DEALING WITH COMPLAINTS

The ideal situation with any complaint is that the Head teacher resolves it first, then there will be no need for governors to get involved!

The Role of the Chair of the Governing Body

The Chair must acknowledge receipt of the complaint within three to five working days.

If the Chair can resolve the complaint there is no need to hold a Complaints Committee meeting. However if the Chair is not able to resolve the complaint, then a complaints committee meeting must be set up, within 15 school days.

The Chair may also appoint a governor to be an Investigating Officer to undertake a detailed investigation of the complaint.

If the complaint requires the appointment of an Investigating Officer, the timescale can be extended, and the complainant needs to be informed of this.

The Investigating Officer is not able to be a member of the complaints committee. The Chair of Governors is not able to take on role of Investigating Officer.

It is the role of the Chair of the governing body to:

- check the correct procedure, as set out in the School's Complaints Policy, has been followed
- check that a Complaints Committee meeting is appropriate
- notify the Clerk to the governing body to arrange the Complaints Committee meeting.

The Role of the Investigating Officer

- to establish **what** has happened, so far, and **who** has been involved
- clarify the **nature** of the complaint and what remains **unresolved**
- **meet** the complainant or contact them to discuss the complaint
- **interview** those involved in the matter and/or those complained of, allowing them to be accompanied if they wish
- conduct the interview with an **open** mind and be prepared to persist in the questioning
- keep a detailed **record** of the interviews, including additional evidence gathered as part of the investigation process
- clarify what the complainant feels would put things **right**.

It can be useful to ask the complainant what actions they feel may help to resolve the issue.

It may also be useful to draw up a statement of complaint with the complainant to ensure clarity.

All information collected by the Investigating Officer is to be forwarded to the Chair of Governors, who will ensure that the Clerk to the Complaints Committee receives the information five days before the date of the Complaints Committee meeting.

Who is eligible to be the Investigating Officer? (if required)

- a governor not previously involved with the complaint

- a governor with the necessary skills to undertake this difficult role.

Individual complaints must not be heard by the whole governing body at any stage

A Complaints Committee Meeting

The meeting can take place at school or off site, depending on the circumstances of the complaint.

Who is eligible to attend a meeting of the Complaints Committee?

- complainant
- Head teacher
- teacher/member of staff concerned
- representatives/supporters of any of the above.

Any complainant has the right to be accompanied or represented by:

- a chosen individual
- another parent
- a friend
- a member of a support agency.

A union representative may represent a teacher or member of the school staff.

A governor is considered to be 'tainted' and is not able to be involved in the complaints procedure if s/he has witnessed or overheard anything to do with the incident that the complaint is about. If a governor knows any information, has witnessed an incident, or has any personal relationship with either party, it is their duty to declare this information and they are not able to be part of a Complaints Committee. If this is not done it may lead to governors being accused of unfairness, should the complainant get to know of this information after the complaint has been heard, especially if they are dissatisfied with the outcome of the complaint.

If all the governors in a school are considered to be 'tainted', the Chair of Governors needs to contact the Local Authority's Governor Support team to arrange for three governors from other schools – not connected in any way with the school or the complaint, and away from the school's catchment area, to form a Complaints Committee, to hear the complaint. The complainant needs to be notified of the names of the governors and the schools they represent. If this is the case, the complainant needs to agree to the members of the Complaints Committee hearing their complaint.

How many Governors are needed at a Complaints Committee Meeting?

- three or five governors, the smaller number is recommended
- consider the gender mix and ethnicity of the governors when forming the committee to hear the complaint
- the make-up of the committee needs to be changeable to accommodate this and ideally governors need to have undergone training in dealing with complaints.

The Role of the Chair of the Complaints Committee Meeting

The Complaints Committee must elect its own Chair from its membership – no one previously involved in the complaint is eligible to be a member of the complaints committee.

The Chair of the Complaints Committee has a key role to ensure that:

- the purpose of the Complaints Committee meeting is explained to all parties
- each party has the opportunity of putting their case without undue interruption
- the issues are identified
- key findings of fact are made
- parents and others who may not be used to speaking at such a meeting are put at ease
- the meeting is conducted in an informal manner
- each party treats the other with respect and courtesy
- the committee is open minded and acts independently
- no member of the committee has a vested interest in the outcome of the proceedings
- no member of the committee has had any involvement in an earlier stage of the procedure
- each side is given the opportunity to state their case and ask questions
- written material is seen by all parties.

The role of all members of the Complaints Committee, is to ensure:

- everyone present is treated with respect and courtesy
- confidentiality is maintained at all times
- that the meeting is conducted in an informal manner so that parents and others are put at ease.

Who is eligible to be the Clerk of the Complaints Committee

This can be the Clerk to the governing body if s/he has no previous knowledge of the complaint.

If the Clerk considers that their presence at a complaints committee meeting could cause a conflict of interest to their role or personal life, they may wish to withdraw from the role. If this is the case, an alternative clerk needs to be appointed, either from the Admin Team within school, from another school, or from the Local Authority's Governor Support Team.

The Clerk is the point of contact for the complainant.

It is the responsibility of the Clerk to:

- set the date, time and venue of the meeting,
- ensure that the date is convenient to all parties and that the venue and proceedings are accessible to all
- collate any written material and send it to all parties, at least three days before the date of the meeting

The Role of the Clerk to the Complaints Committee

Before the Meeting

The Clerk should formally write to the complainant, members of the Complaints committee, the Head teacher and any other relevant staff and inform them of:

- the purpose of the meeting and how it will be conducted
- that any documentation they wish the committee to consider must be returned to the clerk no later than five school days before the date of the meeting
- of the rights of equal access, accompaniment and representation
- how and when the committee will reach their decision.

During and after the Meeting

The Clerk should:

- meet and welcome the parties as they arrive at the meeting
- record the proceedings
- notify all parties of the decision of the meeting, in writing, within five school days
- the letter to the complainant needs to explain any further rights of appeal and include contact details
- a copy of the minutes of the meeting should be given to the complainant.

The Running Order of the Meeting

- introductions – the Chair will introduce all parties and explain the principles, objectives and format of the meeting
- the complainant is given the opportunity to explain their complaint, followed by supporters/representatives
- the Head teacher and committee may question the complainant and their supporters/representatives
- the Head teacher has the opportunity to explain the school's action, response, interpretation or view and be followed by any other members of staff, if appropriate
- the complainant and committee have the opportunity to question the Head teacher and any other members of staff
- the Chair will ask the complainant and the Head teacher if they have any further comments they wish to add
- the meeting will be concluded by the Chair, who should explain that the committee will consider its decision and write to both parties within five school days informing them of the outcome
- both parties leave together while the committee makes its decision.

It may be necessary to not have some individuals in the meeting at the same time. If this is the case then appropriate arrangements need to be made for waiting areas/refreshments.

The Complaints Committee meeting must be recorded

Decision Making

The committee will consider the complaint and all the evidence presented and:

- reach a unanimous, or at least a majority decision, on the complaint
- decide on any appropriate action, if any, to be taken
- where appropriate, suggest changes to, or request a review of, the school's systems or procedures to ensure that problems of a similar nature do not happen again.

It may be appropriate to offer one or more of the following:

- an apology
- an explanation
- an admission that the situation could have been handled differently or better
- an assurance that the event complained of will not recur
- an explanation of the steps that have been taken to ensure that it will not happen again
- an undertaking to review school policies in the light of the complaint.

The Complaints Committee can:

- dismiss the complaint in whole or in part
- uphold the complaint in whole or in part
- decide on the appropriate action to be taken to resolve the complaint
- recommend changes to the school's systems or procedures.

Realistically, it may only be possible to establish the facts and make recommendations, which satisfy the complainant that the complaint has been taken seriously.

At each stage of the complaints procedure the conclusion will either be:

- that the complaint is upheld (in part or in full) and, where appropriate, some form of action is taken
- or
- that the complaint is not upheld and the reasons for this are clearly given.

The complainant may either choose to take no further action or to take their complaint to the next relevant stage.

Timescales

- complaints need to be considered and resolved as quickly and efficiently as possible
- an effective complaints procedure will have realistic time limits for each action within each stage
- where further investigations are necessary, new time limits can be set and the complainant sent details of the new deadline and an explanation for the delay.

The following are suggested timescales:

- acknowledge the receipt of a complaint within three to five school days
- the Head teacher has ten school days to resolve a complaint or pass to the Chair of Governors to deal with

- Chair of governors has fifteen school days to resolve the complaint or arrange a meeting of the complaints committee
- all parties are notified of the Complaints Committee meeting at least five school days before the meeting
- Investigating Officer forwards details of their investigation to the Chair to forward to the Clerk to the Complaints Committee five school days before the Complaints Committee meeting
- all parties are notified of the Complaints Committee meeting decision within five school days.

Recording Complaints

- schools need to record the progress of a complaint and the final outcome
- a complaint can be made in person, by telephone or in writing
- at the end of the meeting or telephone call, it would be helpful if the member of staff ensure that the complainant and the school have the same understanding of what was discussed and agreed
- a record of meetings and telephone calls should be kept and a copy of any written response added to the record
- these records need to be held centrally by the school, this could be the role of a Complaints Co-ordinator.

Confidentiality

Complaints information shared with the whole governing body must not name individuals

When discussing the number or nature of complaints in governors' meetings, with a view to school improvement, it is important to remember not to use individual names. The Governing Body needs to receive information regarding complaints as hard, statistical data.

It will be useful for governors to consider the way complaints are recorded:

- the type of complaint
- the process used in dealing with the complaint
- the outcome

as a way of identifying the need for improvement and reviewing practice in school.

Difficult Complaints

There are occasions when, despite all the stages of the procedure being followed, the complainant will remain dissatisfied.

If the complainant attempts to reopen the same issue, the Chair of Governors is able to inform them, in writing, that the procedure has been exhausted and that the matter is now closed.

Key Points for members of the Complaints Committee to remember:

- it is important that the Complaints Committee meeting is independent and impartial and **is seen to be so**
- no governor can be a member of the Complaints Committee if they have had prior involvement in the complaint or in the circumstances surrounding it

- in deciding the make-up of the Complaints Committee, governors need to try and ensure that it is a cross-section of the categories of governor and that it is sensitive to issues of race, gender and religion
- the aim of the Complaints Committee meeting, which needs to be held in private, will always be to resolve the complaint and achieve reconciliation between school and the complainant
- it has to be recognised that the complainant may not be satisfied with the outcome, if the Complaints Committee meeting does not find in their favour
- it may only be possible to establish the facts and make recommendations that will satisfy the complainant that their complaint has been taken seriously
- an effective Complaints Committee member will acknowledge that many complainants feel nervous and inhibited in a formal setting
- parents often feel emotional when discussing an issue that affects their child
- the Complaints Committee, in particular, the Chair, need to ensure that the proceedings are as welcoming as possible
- the lay-out of the room will set the tone and care is needed to ensure the setting is informal and not adversarial
- the governors sitting on the Complaints Committee all need to be aware of the school's complaints procedure.

Useful Contacts:

Complaints Officer: Children and Young People's Services

The role of the Complaints Officer is to offer advice, guidance and support to parents, members of the public, schools and governors about concerns and complaints, either relating to schools or Children and Young People's Services. The Complaints Officer can liaise between schools and parents, can refer parents to other services, for example, Education Welfare Service, Admissions Team, Special Educational Needs team and can supply parents with a copy of the school's complaints procedure, if required.

Complaints Officer: contact: 01332 711223

Complaints Officer: Corporate Complaints

Any complaint about a member of staff in Children and Young People's Services, for example:

- Inclusion and Assessment Officer
- Educational Psychologist
- Education Welfare Officer
- someone who parents come into contact with in school, who is not an employee of the school

will come under the Corporate Complaints Policy and Procedure.

Complaints can be received by the Corporate Complaints Officer, who is based at the Council House, Derby, who will contact the Children and Young People's (CYPD) Complaints Officer, who will contact school/parent as appropriate.

The CYPD Complaints Officer will be involved in the appointment of an Investigating Officer and will oversee the complaint, making sure that the response to the complainant is within the Corporate Complaints timescale, ten working days.

Secretary of State for Children, Schools and Families

For complaints other than curriculum complaints, appeals can be made to the Secretary of State, or potentially through the courts.

The Local Authority's role is limited to offering advice and support both to the complainant and the governing body.

Secretary of State for Children, Schools and Families

DCSF

6c Sanctuary Buildings

Great Smith Street

London

SW1P 3BT

Email: info@dfes.gsi.gov.uk

Local Government Ombudsman

If a complainant feels that there has been maladministration in the manner in which a complaint has been dealt with, they can take this to the Local Government

Ombudsman. The Ombudsman can investigate complaints about how something has been done, but cannot question what has been done simply because someone does not agree with it. The Ombudsman cannot investigate the internal management of schools.

The Local Government Ombudsman for Derbyshire is based at:

Beverley House

17 Shipton Road

York

YO30 5FZ

Phone: 01904 380200

Fax: 01904 380269

Email: enquiries.york@lgo.org.uk



PARENTS

- need to feel listened to
- need to feel that their complaint is important
- need to feel that their complaint has been heard.

IMPROVING BEHAVIOUR AND ATTENDANCE: GUIDANCE ON EXCLUSION FROM SCHOOLS AND PUPIL REFERRAL UNITS

The following extracts are taken from '*improving behaviour and attendance: guidance on exclusion from schools and pupil referral units*' - this document is available in full at:

<http://www.teachernet.gov.uk/wholeschool/behaviour/exclusion/guidance2007/>

Introduction

Head teachers, teachers in charge of a Pupil Referral Unit (PRU), governing bodies, local authorities (LAs) and Independent Appeal Panels (IAPs) must by law have regard to this guidance when making decisions on exclusions and administering the exclusion procedure. This means that, whilst the guidance does not have the force of statute, there is an expectation that it will be followed unless there is good reason to depart from it. The guidance is not exhaustive and judgments will need to take account of the circumstances of individual cases.

These procedures apply to all maintained schools and Pupil Referral Units and all pupils in them, including pupils who may be below or above compulsory school age. They also apply to maintained nursery schools.

Where the parents of an excluded pupil do not speak, or have a good understanding of, English, correspondence and documentation relating to the exclusion should be translated into their mother tongue. In such cases the school and/or LA should arrange for an interpreter to be present at any meetings with the parent about the exclusion. Arrangements for disabled parents should also be made.

The main changes made in this version of the guidance

This guidance has been revised to reflect the implementation of the exclusions-related provisions of the Education and Inspections Act 2006. These take forward the recommendations of 'Learning Behaviour', the report of the Practitioners' Group on School Behaviour and Discipline, chaired by Sir Alan Steer, and the actions set out in the Government's White Paper, 'Higher Standards, Better Schools For All' (Cm 6677, October 2005), which are designed to improve the effectiveness of the arrangements for excluded pupils. Other revisions have been made in response to points raised by recent court judgments and by interested parties. The main changes are:

- When deciding to exclude a pupil the head teacher should ensure a record is kept of his actions and those of other staff
- Further guidance on breach of school rules on appearance
- Revised guidance on what actions a school should take following a fixed period exclusion
- New material on reintegration interviews
- Changes to the guidance on what actions should be taken following a permanent exclusion
- Revised guidance on Parenting Orders and Contracts for behaviour
- Revised guidance on looked after children
- Revised model letters
- New guidance for exclusions panels on combined hearings and factors to consider when deciding whether or not to uphold an exclusion
- Guidance on the LA responsibility to provide full time education and reintegrate permanently excluded pupils is now available separately

Responsibilities of the governing body

The governing body must review certain exclusions and must consider any representations about an exclusion made by the parents of the excluded pupil. The governing body can delegate some or all of its functions in respect of exclusions to a committee consisting of at least three governors and such a committee may be called the Discipline Committee. References throughout this guidance to the governing body should be taken to include a reference to the Discipline Committee where one has been established. It is very important that governors who are called upon to review exclusions receive training to equip them to discharge their duties properly. We expect the LA to organise training sessions for governors on exclusion issues, which governors should make every effort to attend. The Department has published training materials for clerks and chairs. The Council on Tribunals has emphasised the importance of training for all those involved in the exclusion process. Where the governing body establishes a Discipline Committee it should appoint a clerk to the Committee. The quorum for a Discipline Committee meeting is three members. If any governor has a connection with the pupil, or knowledge of the incident that led to the exclusion, which could affect his or her ability to act impartially, he or she should step down. The Chair has the casting vote in all cases where an even number of governors are considering the case.

At one meeting the governing body may consider more than one exclusion so long as it complies with the statutory time limits relating to each one.

If any exclusion would result in the pupil missing a public examination, the governing body should try to meet before the date of the examination. If, exceptionally, it is not practical for the governing body to meet before the time when the pupil is due to take the public examination, the Chair of Governors — using his or her powers to act in an emergency — may consider the exclusion and decide whether or not to reinstate the pupil (these are the only circumstances in which the Chair of Governors can alone review an exclusion). In such cases the parent has the right to make oral representations to the governing body or, as the case may be, the Chair. If possible, the Chair should have the advice of the Clerk and an LA Officer. In some cases, depending on the nature and seriousness of the exclusion, the governing body may exercise its discretion to allow an excluded pupil on the premises for the sole purpose of taking a public examination. There is no automatic right for any excluded pupil to take a public examination on the excluding school's premises — this is entirely at the governors' discretion. Nor do excluded pupils have an automatic right to enter the school premises to take National Curriculum Tests — this is also at the governors' discretion.

Governing body's role in reviewing exclusions

There is no legal requirement for the head teacher to inform the governing body of short fixed period exclusions (i.e. those of up to and including 5 school days in total in any one term) as they occur, with the exception of such an exclusion which would result in the pupil missing a public examination. The law requires the head teacher to report short fixed period exclusions once a term to the governing body and LA (but please see paragraph 82 regarding schools with more than three terms).

But the governing body must, in the case of a fixed period exclusion of 5 school days or fewer in one term (and which does not bring the pupil's total number of days of exclusion to more than 5 in one term), consider any representations made by the parent. If representations from the parent are received the governing body must

consider them, but they cannot direct reinstatement (model letter 1), although they can place a copy of their findings on the pupil's school record. In such cases the governing body has discretion to agree to a meeting if the parent requests a meeting to discuss the exclusion. No statutory time-limits apply to the consideration of such exclusions, but the governing body should consider responding promptly to any request from the parent.

An excluded pupil under the age of 18 should be allowed and encouraged to attend the hearing and to speak on his or her own behalf, if he or she wishes to do so and the parent agrees.

On receiving notice of an exclusion from the head teacher, the governing body:

- a. must, in the case of a fixed period exclusion of more than 5, but not more than 15 school days in one term (which does not bring the pupil's total number of days of exclusion to more than 15 in one term), convene a meeting between the 6th and the 50th school day after receiving notice of the exclusion, to consider the exclusion, but only if the parent requests such a meeting (model letter 2)
- b. must, in the case of a permanent exclusion, or a fixed period exclusion of more than 15 school days in one term (or which brings the pupil's total number of days of exclusion to more than 15 in one term) convene a meeting between the 6th and the 15th school day after the date of receipt of notice to consider the exclusion (model letters 3 and 4). If a pupil's total number of days of fixed period exclusion exceeds 15 school days in one term, any subsequent fixed period exclusion(s) of the pupil in the same term would again trigger the governing body's duty to consider the circumstances of the exclusion
- c. must invite the parent (or the pupil if aged 18 or over), head teacher and an LA officer to the meeting at a time and place convenient to all parties (but in compliance with the relevant statutory time limits)
- d. should ask for any written statements (including witness statements) in advance of the meeting
- e. should circulate, at least five days in advance of the governing body meeting, any written statements (including witness statements) and a list of those who will be present at the meeting to all parties, including the pupil if it is known that they are to attend the meeting.

Note: the legislation deems a lunchtime exclusion to be a fixed period exclusion equivalent to half a school day. This should be taken into account for the purposes of a) and b) above. For example, if a pupil were to be excluded at lunchtime for 15 school days in the same term this would be the equivalent of seven and a half full days and a) above would apply.

The governing body must comply with the statutory time limits but are not relieved of their obligation to carry out the relevant duty if they fail to comply. Accordingly their decision will not be invalid simply on the grounds that it was made out of time.

It should be noted that the governing body's role is to review exclusions imposed by the head teacher, who alone has the power to exclude. It follows that the governing body cannot increase the severity of an exclusion, for example by extending the period of a fixed period exclusion or by imposing a permanent exclusion in substitution for a fixed period exclusion. The governing body can uphold an exclusion; or direct the pupil's reinstatement, either immediately or by a particular date. If the governing body cannot direct reinstatement because the period of exclusion has expired and the pupil has returned to school, they can place a copy of

their findings on his or her school record. Governors should bear in mind that, in the case of a permanent exclusion, if an appeal is lodged the independent appeal panel will not just review the governors' decision, it will rehear all the facts of the case including any fresh evidence.

Procedure at the governing body meeting

The governing body should conduct the meeting along the lines of the principles laid out in paragraphs 135 and 136 and, as appropriate, in paragraphs 138-143 in Part 5. Where an allegation of misconduct against the pupil is in dispute the governing body should apply the balance of probabilities standard of proof, i.e. whether it is more probable than not that the pupil did what he is accused of. However, the more serious the allegation and thus the possible sanction, the more convincing the evidence substantiating the allegation needs to be. This is not the same as requiring the criminal standard of beyond reasonable doubt to be applied, but it does mean that when investigating more serious allegations head teachers will need to gather and take account of a wider range of evidence (extending in some instances to evidence of the pupil's past behaviour, if relevant to the allegation) in determining whether it is distinctly more probable than not that the pupil has committed the offence. The governing body should allow and encourage the excluded pupil to attend the meeting and speak, if the parent agrees. They should allow the parent to be accompanied by a friend or legal representative at their request. A pupil aged 18 or over has the right to attend and to make representations in their own right.

The LA is not required (and it may not be practical) to send a representative to all governing body exclusion meetings in its area. The LA should send a representative to all permanent exclusion meetings and to longer fixed period exclusion meetings if possible. The LA's role at the governing body meeting is not to give its view on the merits of the particular exclusion. But it can make a statement to the governing body in general terms, for example about how other schools in the area (and the LA itself, if applicable) have dealt with similar incidents, and it can advise on alternative arrangements for the pupil to continue his or her education if the exclusion is upheld. The LA representative should also draw the attention of governors to issues where there is a lack of clarity or where more information may be needed or where guidance appears to have been ignored. The head teacher should attend the meeting to clarify points and answer any questions relating to the incident or events leading to the exclusion. No party to the review should be alone with the governors at any point before, during or after the meeting.

The governing body may ask the LA officer for advice. However, it should make its decision alone, asking the other parties, including the LA officer, to withdraw. The clerk may stay with the governing body to help it by reference to the notes and with the wording of the decision letter.

Where the exclusion is for more than 5 school days in total in one term and where reinstatement is practical, the governing body should decide whether to direct reinstatement. In reaching its decision the governing body should consider:

- a. any representations made by the parent, the pupil and the LA
- b. whether on a balance of probabilities the pupil did what he or she is alleged to have done
- c. whether the head teacher has complied with the law on exclusion and has had regard to this guidance on exclusion.

In considering whether to direct reinstatement, the governing body should seek the LA's views as to what support could be made available to assist with reintegrating the pupil.

Parents' right to make representations to the governing body is not affected in any way by the new requirement for suitable full-time education to be provided from the sixth day of exclusion.

Governing body's decision

Where reinstatement is not practical, because, for example, the pupil has returned to school following the expiry of a fixed period exclusion, or because the parent makes clear he or she does not want their child reinstated, the governing body must consider whether the head teacher's decision to exclude the child was justified, based on the evidence. The outcome of its review should be added to the pupil's school record for future reference. There are only two decisions open to the governing body — to uphold the exclusion or to direct the pupil's reinstatement, either immediately or by a particular date. It may not decide that because of exceptional circumstances or for other reasons it is not practical to give a direction for reinstatement, but that it would otherwise have been appropriate to give such a direction. Such a decision is reserved for the Independent Appeal Panel. If the governing body cannot direct reinstatement because the period of exclusion has expired and the pupil has returned to school, they should annotate his or her school record with their findings.

The governing body must inform the parent (or the pupil if aged 18 or over), the head teacher and the LA of its decision in writing within one school day of the hearing, stating the reasons. Where the pupil resides in a different LA from the one that maintains the school, the governing body must also inform that LA — the pupil's 'home' LA. The governing body may not attach conditions to any direction it may give to the head teacher to reinstate the pupil. This does not prevent a school from following good practice in reintegrating the pupil.

Where the governing body decides to uphold a permanent exclusion, its letter to the parent (or pupil if aged 18 or over) should also include the following information:

- a. the reason for the decision
- b. their right to appeal to an Independent Appeal Panel, together with the name and address of the person to whom any notice of appeal should be sent (normally the clerk to the appeal panel)
- c. the date by which any notice of appeal should be lodged (15 school days after the day on which notice in writing was given of the governing body's decision. Where the notice is sent by first class post it is treated as having been given on the second working day after it was posted)
- d. that any notice of appeal must set out the grounds on which the appeal is made
- e. that any claim on grounds of disability discrimination should also be set out in the notice of appeal.

A model letter (model letter 5) for notifying parents of a decision to uphold a permanent exclusion is provided at the end of this guidance.

After the meeting

A copy of the governing body's decision letter should normally be placed on the pupil's school record with copies of relevant papers. Exclusions can only be expunged from the pupil's school record through direction from the courts or

rectification of personal data. In deciding how long to retain school records schools must comply with Freedom of Information and data protection legislation. Guidance on this is available at <http://www.teachernet.gov.uk/management/atoz/f/freedomofinformationforschools/>

THE ROLE OF THE CLERK

The clerk is more than just a minute-taker, although full and accurate minutes of an appeal hearing are important. The notes of the clerk to the governors' discipline committee may be used as evidence in an independent appeal. Clerks of Independent Appeal Panels must set up the panel in accordance with the law. It is also the job of clerks to discipline committees and IAPs to make sure that the panel or discipline committee keeps within the law and make sure that the correct procedure is followed. They should be clear about the decisions that are taken and the reasons for them.

Selecting a clerk to a Governors' Discipline Committee.

If a governing body delegates its functions for exclusions to a discipline committee, they should appoint a clerk to the committee. The clerk may be the clerk to the governing body. The clerk cannot be a governor, a member of the committee or the head teacher. It is good practice for the clerk to have received training.

Selecting a clerk to an IAP

The LA arranges independent exclusion appeals for all maintained schools, and provides the clerk.

Clerks to appeals panels should not deal with admissions or exclusions as part of their normal employment. Clerks should receive training and will need to keep up to date with developments in case law and changes in legislation and guidance.ⁱ

Before the hearing of the Governors' Discipline Committee.

The clerk has to:

1. Convene the Governors' Discipline Committee within 6 and 15 school days
2. Invite the parent(s), head and LA officer to the meeting consulting about a time and place convenient to all parties
3. Ask for any written statements (including witness statements) from all parties involved in advance of the meeting
4. Circulate in advance any written statements and a list of those attending to all parties.ⁱⁱ

Before the hearing of the IAP

The clerk has to:

1. Assemble the panel, consulting the appellant and others entitled to attend the hearing about a convenient date, time and suitable place. This should not be at the excluding schoolⁱⁱⁱ. The panel must meet within 15 school days of the date the parent lodges an appeal.
2. Check that the panel members have no connection with the appellant or school.
3. Arrange for an interpreter or access for disabled people if this is needed.
4. Ensure that all the paperwork is ready for distribution beforehand, including:
 - information about the procedure
 - the school's rules and behaviour policy
 - details of the case, with documentation of circumstances that led to the exclusion previous behaviour and work record
 - previous exclusions

- other disciplinary measures.
5. If possible check the papers (consulting the chair) for areas needing clarification or endorsement.
 6. Written evidence must be sent out to all parties in advance. This should be done at least five working days before the hearing.^{iv}
 7. Check with the parents whether they wish the pupil to attend.
 8. If the parent wishes to bring more than one friend or adviser, check with the panel to see if this is acceptable^v.
 9. Check if the alleged victim wishes to give evidence^{vi}.
 10. Before the hearing the clerk must give all parties details of those attending and their role^{vii}.

At the hearing of the Discipline Committee

The clerk should make sure that the Discipline Committee follows the correct procedure.

The clerk may stay with the committee to help them when they make their decision by referring to the notes and with the wording of the decision.^{viii} When the committee takes the decision the clerk must be clear about their reasons.

At the hearing of the IAP

Before bringing the appellant and presenting officer into the room the clerk can: -

1. Explain how the appeal is to be conducted.
2. Check that the papers have been received.
3. Ask how the appellant wishes to be addressed. (Some chairs prefer to do this themselves.)
4. After the chair has opened the hearing, the clerk should explain the order of the hearing.^{ix}

Clerks should be familiar with the law and DCSF guidance. They can then advise the panel on points of law and good practice.

They may have to intervene (tactfully) to warn the chair if there is the possibility of a breach in the law that might invalidate the hearing.

Clerks should take sufficient notes to be able to remind the panel of all the evidence that has been presented.^x

When the panel takes the decision, the clerk must be clear about its reasons.

After the hearing of the Governors' Discipline Committee

The clerk should write to all parties concerned with the result of the decision, including the reasons, within one school day.^{xi}

After the hearing of the IAP

The clerk should write to all concerned about the decision by the end of the second working day after the hearing. If the appeal is allowed, the Clerk should immediately inform the Head about the date of reinstatement. Full reasons for the decision should be given.

If the exclusion is confirmed, the Clerk should inform the LA immediately^{xii} and advise parents whom to contact at the LA about their child's education.^{xiii} It is good

practice to prepare notes of the hearing for the chair to sign, in case of any future investigation.

ⁱ Improving behaviour and attendance: guidance on exclusion from schools and pupil referral units. DfES March 2004 (Guidance)

para100

ⁱⁱ Guidance para 77

ⁱⁱⁱ Guidance para 102

^{iv} Guidance para 107

^v Guidance para 104

^{vi} Guidance para105

^{vii} Guidance para 106

^{viii} Guidance para 82

^{ix} Guidance para110

^x Guidance para131

^{xi} Guidance para 86

^{xii} Guidance para 134

^{xiii} Guidance para 135

THE ROLE OF THE CHAIR

The chair's role is very important. It sets the tone, which should be informal but clearly structured. The chair is responsible for ensuring that the hearing conforms with the law and good practice.

Ten tip for chairs

1. Know your stuff - read the case beforehand and summarise facts, for example names and note any points of interest. Be aware of any possible conflicts of interest.
2. Know your colleagues and your clerk - spend a few minutes before you start the hearing sussing out the people you are working with.
3. Try always to be in control and to avoid confrontation; remain calm under provocation, but make it clear that rudeness and aggressive talk are unacceptable. Don't hesitate to intervene if things are getting heated, adjourn for a few minutes if necessary.
4. Keep an eye on the time - have a view about how long each section should take, but give people time when you can see that they have some other important things to say.
5. Find a technique for curbing the loquacious, for example Yes I think we understand that, do you have any fresh points to make?
6. Focus on getting the evidence; have some questions to fall back on if things get sticky.
7. Call for help from clerk or legal section of LA if you need expert advice.
8. Recap and summarise regularly. Before the summing up stage, review what you learnt and see if there are any gaps.
9. When taking the decision, make sure that it is based on the evidence, not on intuition or prejudice.
10. If an appellant or presenter does not attend, follow the standard procedure as closely as possible so as to make sure that their case is given proper consideration.

Selection of the chair of governors' discipline committee

The panel may choose their chair.

Selection of the chair of an Independent Appeal Panel

*Derby City Council – Clerk to Governors' Handbook
September 2008*

The chair is appointed to the panel by the LA and selected by the clerk organising the panel. The chair must be a lay member of the panel.^{xiii} The DCSF recommends that chairs should have had previous experience and training in the role.

Before the hearing

The chair should be well-informed about the details of the case and the procedures to be followed, make sure that all the facts needed are available and that other members of the panel are well-briefed.

Conduct of the hearing^{xiii}

The chair should ensure there is time for everyone involved to have the opportunity to put their case, and ask and answer questions. The order set out in *Checklist 2* is usually followed for both hearings. This helps to ensure consistency and fairness. If changes are to be made to the order, all parties must be asked for their agreement.

1. After welcoming and introducing everyone the chair should explain how and why the panel is independent and that the clerk is there as note taker and adviser, but will not be involved in taking the decision.
2. The chair should explain the procedure, including the way in which decisions will be taken and that the decision is binding on the parties.
3. All those taking part should be encouraged to speak freely and ask questions but the chair should ensure they keep to the point.
4. An even-handed approach to all parties is essential. Parents in particular must be given the opportunity to question evidence from the school or LA.
5. The chair should sum up regularly through the hearing so that everyone understands what is being said.
6. Before concluding the hearing the chair should ask the appellants if they have had a chance to say all they wanted to say.
7. If appellants appear to think they have not had a fair hearing, it is important to establish their reasons and to give them an opportunity to make further points.
8. The Chair should explain how and when the parties will be notified of the decision.

Taking the decision

After the parents and the school and LA representatives have left, the chair should sum up the case. It is preferable if the other panel members are asked for their opinion before the chair's is made known. The chair should make sure that the reasons for the decision taken by the panel are clear and conform to the law and good practice.