



Department for Schools and Colleges

Go-Governance - a newsletter for Governors and Clerks

Issue 12 - May 2019

Introduction

Welcome to the 5th edition of Go-Governance this school year. I have received feedback from governors, that they would prefer it if the articles in Go-Governance were in a horizontal format, rather than in columns, and they would like to see a summary of the 'Action & Consideration Points' listed at the end. Thank-you for that feedback and as you will see, I've incorporated both changes into this edition. Please let me know of any other suggestions you feel may improve future editions.

CPD Booklet of Courses for 2019-20

As you may be aware, our new booklet <https://schools.cliftondiocese.com/wp-content/uploads/2019/05/Booklet-of-Courses-2019-20.pdf> detailing the various events, conferences, training, retreats etc. that are being held for pupils, staff & governors during the 2019-20 school year, is now available. Training is vital to help you in your roles, so please see pages 25 - 27 for the various training sessions for all Governors (not just Foundation). Page 28 covers the sessions for both new and experienced Clerks (particularly important for the many Clerks

who have joined us in the last 12 months).



Please just use the simple online booking form to reserve your place on the appropriate course(s) for you.

Consideration Point 1: Chairs & Clerks to consider the various events in the CPD booklet and book places as appropriate.

Common Primary Admissions Policy for 2021-22

As previously advised, the Clifton Catholic Diocesan Education Foundation (that includes Bishop Declan) has determined that there will be common admission arrangements, with standardised oversubscription criteria, introduced for **all** our primary schools for the 2021-22 school year - so all primary schools will have identical criteria. Each primary school will have to undertake a formal consultation on these arrangements (with parents, LAs, etc. etc.) - so Governors must therefore not propose to consult on different arrangements. Legislation requires that schools must undertake the consultation no earlier than October and by 19 December 2019 at the latest. The details of the common arrangements are being finalised but will be shared with schools in time for governor admissions meetings in the autumn term.

Action Point 2: Primary school Governors to prepare for undertaking a formal consultation on the common arrangements by 19 December 2019.

Considering In-Year applications for places

At a recent training session, I was asked to include in this edition, clarification about the legal reasons for refusing a child admission to a school for In-Year applications. I hope the following notes will assist governors.

Firstly, it's a legal requirement that all applications are not dealt with by just one person but are considered by a committee or the FGB (it must not be delegated to a LA or other third party).

If there are vacancies, a place must be offered.

If the year group is full, the application must be considered by governors. Being full in a year group is not a valid legal reason for refusing admission. Admission may only be refused if the child's admission would "**cause prejudice to the provision of efficient education or the efficient use of resources**". Governors must therefore consider the individual circumstances of each application before deciding if such 'prejudice' would exist, were the child to be admitted.



If the child's admission would not cause 'prejudice' then a place must be offered, even if the year group is full.

When deciding if 'prejudice' exists, the number of children already in the year group, is of course a factor that must be taken into account - but an application should never be automatically refused just because a year group is full - the application and reasons provided by the parent/carer must still be considered.

If governors feel that a child's admission would cause 'prejudice', but because of circumstances of the case, they would like to offer a place, then they may do so on the basis that the circumstances of the case were exceptional and that they outweighed the 'prejudice' that the admission would cause.

Governors should practise 'consistent decision making'. This means that if they have previously refused an application, when considering a later application which has identical or similar circumstances to the previous one - then it should also be refused. If, however, the circumstances of the latter case are very different to the previous application and governors felt that the circumstances were exceptional enough to warrant offering a place, then they may do so. The

justification for doing this, is again that whilst admitting the child would still cause 'prejudice', the circumstances of the case were exceptional and that they outweighed the 'prejudice' that the admission would cause.

Whilst places should not be automatically refused because a year group is full, operating with an admission level that is a realistic reflection of the school's capacity, should ensure that 'prejudice' would generally exist when the year group is full, so that admissions over number, are only agreed in exceptional circumstances. Admitting over your usual admission level for one child does not set a precedent for any future cases, because, as stated, each case must be considered on its individual circumstances. This should be pointed out to any appeal panel that questions why an admission level has been breached!

If governors just automatically refuse admission when a year group is full, they are not considering all of the information/reasons provided by the parent/carer and are 'fettering their discretion', which could lead to successful appeals or legal challenges.

It is important that when a decision to refuse is made, the minutes of the meeting state that admission was refused because it would cause 'prejudice' etc.

The letter of refusal should reflect the minutes of the meeting and so should also state that admission was refused because it would cause 'prejudice' etc. - otherwise appeals maybe upheld. If elaborating on how 'prejudice' etc. would be caused, then it would be appropriate to explain that the year group is full along with any other reasons that contribute to there being 'prejudice' - but 'being full' must not be the stated primary reason for refusal.

What about when there are already 30 children in an infant class?

Once again, admission should not be automatically refused just because there are already 30 children in an infant class. Governors must first consider if the application meets the criteria for any of the legally allowed permitted exceptions to infant class size (ICS) limits, as detailed in paragraph 2.15 of the School Admissions Code. If so, governors may offer a place but it is not obligatory to do so for all of the categories of permitted exceptions.

If governors considered that such an application would still cause 'prejudice etc', then they may refuse admission on those grounds - but not because of ICS limits.

If governors feel that the application **cannot** be considered a permitted exception to ICS limits, then they must refuse the application - again not because the class is full - but because admission would **"cause prejudice to the provision of efficient education or the efficient use of resources by reasons of relevant measures i.e. measures that would have to be taken by the school, such as employing an additional teacher, to comply with the legal limit of one teacher per 30 children in a class where the majority of children are aged 5, 6 or 7."** The letter of refusal should include this or similar wording.

All letters of refusal must always inform the parent/carer of their right to appeal against the decision.

Can admission be refused if there are spaces in the year group?

For the normal intake year group for a school (Reception at Primary & Year 7 at Secondary) places must always be offered up to the Published Admission Number. For other year groups, a place could be refused, even if there were places within the year group, if governors felt the child's admission would cause 'prejudice' etc. but they may need to refer the case to the LA Fair Access Protocol (*please check what your own LA protocol says on this, as they may vary*). Such refusals, would only be in exceptional circumstances, for example, perhaps where the cohort has a high number of children with additional/challenging needs in a class with an NQT or something similar.

Similarly, if governors considered that the school could not meet a child's needs, they may be able refer it to the LA Fair Access Protocol for consideration.

Even where an LA Fair Access Protocol panel supported a school's decision to refuse admission, the parent/carer would still have a legal right of appeal against refusal, to an independent appeal panel.

Governors should meet to consider cases and not make decisions via email. When meeting to consider applications, governors are advised to always have a copy of

the school's admission arrangements for the year in question and the School Admissions Code, on the table for reference.

Children with, or going through the process of being issued with, an Education, Health & Care Plan go through a separate admissions process, so the above would not apply.

Action Point 3: *Governors to ensure that applications are fully considered, and that minutes and letters reflect the legal reason for refusing admission.*

GDPR and Email security

I am unfortunately still receiving emails containing unsecured personal data. Please may I just remind everyone that personal details e.g. postal addresses, phone numbers, email addresses etc. or any personal information should **not** be included within emails. They should be attached within a separate document that must be encrypted with a security measure such as a password. The password should be relayed by text or telephone but should not be sent via email (even if the email is separate from the one with the document attached).



Also, as previously advised, only school-based email accounts should be used for all governor matters, not personal or work accounts. Therefore, school-based accounts should not be set up to divert any emails received into personal or work accounts.

Action Point 4: *Governors & Clerks to ensure that all emails do not include personal data unless encrypted and emails are not diverted into personal or work accounts.*

Update on Disclosure Barring Service (DBS) Certificates for Governors

In Issue 11 it was explained that Clerks were asked to confirm that new Foundation Governors have had an enhanced DBS certificate issued within 4 weeks of their appointment and to confirm that renewing governors have had one issued within the last 3 years. Feedback from schools has indicated that more time is needed to confirm that a certificate has been issued and that it would be beneficial if the requirement to renew a DBS certificate corresponded with the length of a governor's term of office. Resulting from these suggestions, it has been agreed that Clerks should confirm that new Foundation Governors have had an enhanced DBS certificate issued within **6** weeks of their appointment rather than 4 weeks. It has also been agreed with the Diocesan Safeguarding Coordinator, that as an exception to the Diocesan policy, **all** governors will be required to have their DBS certificate renewed every **4** years rather than 3. Thank you for your feedback.

I've also been asked, if someone has a DBS certificate issued for another reason, e.g. in relation to the governor's employment or governorship at another school, do they need another DBS check and certificate?

DBS checks would appear to be a 'complicated business', with different levels of certificate required for different roles. Ultimately, each school has to satisfy themselves that a governor has an appropriate, up-to-date certificate and that they can demonstrate this, if challenged. Whilst it is up to each school to satisfy themselves about each governor appointment, our preference would be for schools to undertake their own checks.

Action Point 5: *Chairs to ensure governors have DBS clearance every 4 years and Clerks to provide confirmation of it to the diocese when prompted.*

New DfE Guidance

The Department of Education (DfE) has recently issued guidance on Relationships education, relationships and sex education and health education: FAQs:

https://www.gov.uk/government/news/relationships-education-relationships-and-sex-education-rse-and-health-education-faqs?utm_source=2b45920e-

[083a-44ad-9c3f-16fed9168d3f&utm_medium=email&utm_campaign=govuk-notifications&utm_content=weekly](https://www.gov.uk/government/publications/regulating-independent-schools?utm_source=5200739a-5eb1-4d9d-8dab-0f75e132b9df&utm_medium=email&utm_campaign=govuk-notifications&utm_content=weekly)

Consideration Point 6: Governors to consider DfE guidance and update policies and procedures as appropriate.

The DfE has also issued "The Independent School Standards - Guidance for independent schools" and other documents relating to independent schools

https://www.gov.uk/government/publications/regulating-independent-schools?utm_source=5200739a-5eb1-4d9d-8dab-0f75e132b9df&utm_medium=email&utm_campaign=govuk-notifications&utm_content=weekly

Consideration Point 7: Governors of Independent schools to consider DfE guidance and update policies and procedures as appropriate.

Briefings sessions for Governors & Clerks - Summer 2019

The venues, dates and agenda for the summer Briefing sessions have been circulated, and the agenda is:

- i) Welcome and opening prayer
- ii) Updates from the Diocese
- iii) What does effective 'Due Diligence' look like for a Governing Body?

Many thanks to the Clerks who have already me informed of the numbers attending from their schools. If you've not already done so, please can Clerks inform me of the numbers (not names) attending from their school, no later than 14 days before the Briefing date for your particular Partnership.

Action Point 8: Clerks to inform me of the numbers attending via bill.mcentee@cliftondiocese.com no later than 14 days before the date of the Briefing for your Partnership.

ACADEMIES

Undertakings

As mentioned in Issue 11, please may I just highlight again that Article 45A of the Articles of Association for all of our academies, requires all governors (not just Foundation) to give a written undertaking to the Diocesan Education Trustees and the Diocesan Bishop to uphold the Object of the Academy Trust.

This is a legal requirement but many of our Academy governors have yet to provide a written undertaking. To make this easy, there is a simple undertaking statement on our website <https://schools.cliftondiocese.com/governance> - just click on the 'Recruitment' tab to see it. Any academy governor that has not already done so, should ensure they sign the undertaking, pass it to their Clerk who should then submit it to the Diocese, as soon as possible. **Please would Clerks collate the undertakings for all governors and then just scan & email them to me.**

Action Point 9: Undertaking forms to be signed as appropriate and submitted by Clerks to bill.mcentee@cliftondiocese.com by 30 June.

PSC return

You may recall from previous years that it is a legal requirement that all academies must maintain a 'Person of Significant Control (PSC) Register' (including Bishop Declan and your Chair of Governors) and are legally obliged to deliver the information annually to the central public register at Companies House when making a Confirmation statement.

The actual return date is different for each individual academy (although it appears to be 14 days after the anniversary date of your Incorporation), so each academy will need to check their page on the Companies House website under the heading of 'Confirmation statement' for the 'Next statement due date' to see when they must make their own submission. Chairs should liaise with their School Business Manager to ensure your return is made on-time.

Action Point 10: PSC return is made by the required 'next Statement Date'.

Summary of Action & Consideration Points



- 1)** *Chairs & Clerks to consider the various events in the CPD booklet and book places as appropriate.*
- 2)** *Primary school Governors to prepare for undertaking a formal consultation on the common arrangements by 19 December 2019.*
- 3)** *Governors to ensure that applications are fully considered, and that minutes and letters reflect the legal reason for refusing admission.*
- 4)** *Governors & Clerks to ensure that all emails do not include personal data unless encrypted and emails are not diverted into personal or work accounts.*
- 5)** *Chairs to ensure governors have DBS clearance every 4 years and Clerks to provide confirmation of it to the diocese when prompted.*
- 6)** *Governors to consider DfE guidance and update policies and procedures as appropriate.*
- 7)** *Governors of Independent schools to consider DfE guidance and update policies and procedures as appropriate.*
- 8)** *Clerks to inform me of the numbers attending via bill.mcentee@cliftondiocese.com no later than 14 days before the date of the Briefing for your Partnership.*
- 9)** *Academies only: Undertaking forms to be signed as appropriate and submitted by Clerks to bill.mcentee@cliftondiocese.com by 30 June.*
- 10)** *Academies only: PSC return is made by the required 'next Statement Date'.*

Next Issue

If you have any feedback or if there are any issues or indeed celebratory things you would like to see included in any future issue, please just let me know.

Thank you for your continued support and commitment, which is much appreciated.

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