

The operation of the governing board from September

Can governing board meetings meet in person and will governor visits resume from September?

As a result of rising coronavirus cases, from Monday 14th September, the number of people allowed to meet socially is strictly limited to 6. The DfE position on governors/trustees visiting schools set out in the [July governance update](#) has not changed and does not prevent governors/trustees going into schools. However, the DfE have been clear that when considering how to organise visits from governors/trustees, schools will need to consider their own risk assessments and how they will protect the health and safety of any visitors alongside staff and pupils, in line with government guidance.

NGA's position is that **governing boards should continue to meet and govern remotely** in order to support the considerable efforts that schools are making to maintain effective control measures and remain open. Whilst acknowledging that our [eight elements of effective governance](#) do require some face-to-face interaction, we believe that safety considerations must take priority at this challenging time. We also recognise that governing boards and their clerks have, for the most part, transferred to virtual governance, speedily and effectively.

NGA's guidance on [COVID 19: continuity and recovery](#) provides advice on holding virtual meetings and monitoring activities when it is not possible/advisable to be in school.

Can governor and trustee elections that have been put on hold now take place following the full opening of schools in September?

Partial school closures in the summer term meant that many professional and organisational matters, including staff and parent governor/trustee elections, were put on hold. Schools are now open to all pupils (albeit with strict COVID-19 control measures in place) and whilst some governing boards will continue to take a pragmatic approach to the timing of governor elections and continue to function with vacancies where necessary, others will be looking to proceed without further delay.

Read our [information sheet](#) which outlines the requirements and approach for carrying out parent governor and trustee elections in the current climate.

What should academy committees (also referred to as local governing bodies) do when their decision-making powers have been temporarily removed?

Some MATs have made the decision to suspend their local governance arrangements during the pandemic in order to both relieve operational pressures and to provide a co-ordinated and decisive approach to decision making across the trust. NGA encourages these MATs to re-engage their local governance arrangements at the earliest available opportunity in the autumn term. The connection that those governing at academy level have with their schools and communities will be of vital importance over the coming months.

How should minutes be signed when meeting remotely?

There are no prescribed methods to satisfy the requirement for minutes of meetings to be 'signed'. Instead of signing the minutes in the usual (pen and paper) manner, the chair may use alternative methods to record that the minutes have been reviewed and are confirmed by the board to be an accurate record of the meeting and any decision making. This could be any method of electronic

signature or a confirmation email to the clerk (with the chair's name typed at the bottom of the email or added directly to the minutes document).

The full opening of schools in September

What is the governing board's role in carrying out the risk assessment and monitoring the full opening of school in September?

The operational plans for full school opening should already have been subject to a robust risk assessment carried out by school leaders, evaluated by the governing board and with due regard given to the published [DfE guidance](#). We recommend that risk assessments are published to help build confidence across the school community – the Health and Safety Executive expect all employers with over 50 staff to do so.

Implementing operational plans is the responsibility of school leaders. However, the governing board should have a level of oversight and confidence that plans have been implemented successfully. This is important given the board's general duty to promote the wellbeing of pupils, its responsibilities as the employers of staff and wider duties under health and safety legislation. Safeguarding must remain the highest priority and so the governing board should seek assurances that safeguarding arrangements and procedures have been updated to reflect the changes in day-to-day operations.

For further guidance, see our [information sheet on monitoring full school opening](#).

How can the governing board support positive engagement with parents/carers and staff over the full opening of school in September?

Schools will welcome back all pupils and staff from the beginning of the autumn term. Pupil attendance will be mandatory once again. However, there may still be understandable concerns over the perceived health and safety risks associated with the full opening of schools.

Senior executive leaders are ideally placed to gauge the level of concern and discuss this with individual parents/carers and staff. The governing board also has a role in supporting the school/trust communications intended to provide stakeholders with reassurance over the measures that have been put in place to reduce the risk in school.

Health and safety liability

What is the legal liability for governing boards in relation to health and safety?

We appreciate that governing boards may be concerned about personal liability in relation to their responsibilities towards staff, especially where the governing board is the legal employer of staff such as trustees in academy trusts and governing boards of voluntary aided schools.

However, the Governance Handbook is clear on the issue of personal liability:

The board is collectively legally responsible for the conduct of its school(s). However, individuals are generally protected from personal liability. Provided they act honestly, reasonably and in good faith, any liability will fall on the board even if it exceeds its powers, rather than on individuals.

The recovery phase from September

Should the school prioritise the core subjects to make up for the content missed during lockdown?

It is important that pupils are taught a broad and balanced curriculum and a wide range of subjects should be taught - this is reiterated in the DfE guidance. However, we appreciate that given the length of time some children have not been in school, it will be necessary to include some flexibility within this.

Government guidance encourages schools to consider how all subjects can contribute to the “filling of gaps in core knowledge, for example through an emphasis on reading”. It is expected that significant changes to the curriculum may be required at the beginning of the autumn term, with a return to normal no later than summer term 2021.

Discussions between the governing board and the executive leaders should focus on how the curriculum is responding to the needs of pupils based on the gradual assessment of what they have learnt during lockdown and their readiness to learn. Governing boards should continue to seek assurances that all pupils are being provided with a rich and engaging learning experience.

What can governing boards do to support the mental health and wellbeing of staff and children following the full opening of schools in September?

The impact of COVID-19 will continue to be felt for some time. As such, governing boards will need to focus on the duty of care they have to school/trust leaders and their staff. The logistical, safety and safeguarding issues attached to the re-opening of schools may increase levels of pressure and anxiety. It is likely that your headteacher/CEO will report on these issues from their operational perspective, but they may be less forthcoming about any personal issues and their own wellbeing. Now is the time for governing boards to reflect on how the culture of their school or trust promotes the wellbeing of everyone involved. We encourage governing boards to consider their wellbeing strategy in the light of current circumstances and how it:

- encourages senior leaders to prioritise their own wellbeing and look after themselves
- highlights and responds to specific pressure points and risks that need addressing
- communicates (and demonstrates) the commitment (e.g. to reducing working hours)
- allocates resource to providing confidential external support for those who need it

- is monitored, discussed and informed by feedback

Further guidance on monitoring staff wellbeing can be found on [NGA's Knowledge Centre](#).

Carrying out statutory functions from September

How should the governing board approach the headteacher performance management/appraisal process from September?

The DfE is clear that performance management requirements remain in force. However, it states that it expects schools 'to use their discretion and take pragmatic steps, to adapt performance management and appraisal arrangements to take account of the current circumstances'.

Schools, governing boards and trusts are therefore encouraged to respond flexibly and pragmatically, given that the performance management objectives of teachers and leaders are likely to have been impacted by the government's COVID-19 emergency measures, including school closures. Indeed, it is likely to be the case that the vast majority of objectives set for teachers and leaders will be adversely affected by the inability of teachers and leaders to work towards their objectives during a substantial part of the performance management cycle.

How should school complaints be handled from September?

Whilst schools were partially closed, DfE and ESFA were clear that schools were not expected to handle new or existing complaints. However, with schools re-opening fully in the autumn term, boards should now be prepared to deal with new and existing or suspended complaints. This may be face to face, if this is possible whilst adhering to social distancing guidance and the school's control measures, or using video conferencing.

However, DfE do not expect schools to respond if a tier 4 local restriction is in place or school access is restricted due to localised cases of COVID-19. Schools should still, however, engage with parents and pupils where possible.

Read the [DfE guidance: handling complaints during the COVID-19 outbreak](#) for more information

How should the review of exclusions be handled following the full opening of schools in September?

Governing boards and arranging authorities should take all reasonable steps to meet the normal deadlines for exclusions occurring after 24th September.

The latest DfE [temporary guidance](#) details the approach to be taken for exclusions occurring between 25th September 2020 and 24th March 2021. In these cases, meetings of governing boards or independent review panels **should be held via remote access if it is not reasonably practical to meet due to COVID-19** (providing certain conditions are met). Those applying for an independent review (i.e. parents, or the pupil if they are aged 18 or over) will still be permitted 25 days, rather than the normal 15 days, in which to submit their application. Otherwise, the normal arrangements and procedures outlined in the [statutory guidance on school exclusion](#) remain unchanged (except as noted in the temporary guidance).

Previous temporary changes apply to exclusions occurring between 1st June 2020 and 24th September 2020. In these cases, the DfE has advised governing boards to delay exclusion reviews if necessary or to proceed remotely.

We are an academy trust, whose AGM is due to take place while social distancing rules are still in force, what should we do?

We understand that holding an AGM in the current circumstances may be challenging and some trusts will be considering delay or alternative arrangements.

NGA's legal partner, Browne Jacobson have produced a [legal update](#) on this matter which outlines the options available to trusts in full.