

2. Governing bodies: their powers, duties and relationships

This chapter provides an introduction to the basic powers and duties of a governing body and guidance on how it is required to undertake them, as follows:

- corporate status and individual liability of governors
- the conduct and duties of governors
- relationships with stakeholders.

Responsibilities required under legislation are dealt with in greater detail in later chapters; references are provided where applicable.

Corporate status and individual liability of governors

1. The governing bodies of all maintained schools are corporate bodies. A corporate body has a legal identity separate from that of its members.
2. The governing body of a foundation, foundation special, voluntary controlled and voluntary aided school is a corporate body with exempt charitable status. These governing bodies may wish to contact the Charity Commission to ensure they meet their legal obligations and to find out how charitable status can help them make the most effective use of gifts and other support from the business community, parents and others. Information on how to contact the Charity Commission can be found on its website:
www.gov.uk/government/organisations/charity-commission.
3. As governing bodies are corporate bodies, individual governors are generally protected from personal liability as a result of the governing body's decisions and actions. Provided governors act honestly, reasonably and in good faith, any liability will fall on the governing body even if it has exceeded its powers, rather than on individual members. However, individual governors may find themselves personally liable if they are found to have breached their duties under charity law, company law or education law, or committed a criminal offence in relation to their role as governor.
4. Individual governors, groups of governors or committees have no power or right to act on behalf of the governing body, except where the governing body, at a meeting, has agreed to delegate a specific function to that individual, group of governors or committee, or where regulations specify that a function is to be exercised in a particular way.
5. The governing body remains legally liable for all actions taken in its name by individuals or committees to which it has delegated functions. The governing body should therefore ensure that decisions to delegate specific responsibilities are clear and that the scope and provisions of such delegations are properly and

fully recorded in the minutes.

6. The governing body as a whole needs to be insured. The local authority will either pay for such insurance from central funds or it may include funding for this in the school's delegated budget. The governing body as a whole should consider its insurance needs. Information should be available from the maintaining LA on the level of cover it provides. For further information please see Chapter 8, Managing the budget.
7. Governors are not disqualified by the normal rules on pecuniary interests as described in regulations (regulation 63 of and Schedule 7 to the Government of Maintained Schools (Wales) Regulations 2005) from participating in meetings about obtaining personal indemnity insurance. They can consider and vote on proposals for the governing body to take out insurance protecting members against liabilities incurred by them, arising out of their office.

The conduct and duties of governors

8. Governing bodies and individual governors should act at all times with honesty and integrity and be ready to explain their actions and decisions to staff, pupils, parents and anyone else with a legitimate interest in the school. Governors must be aware that minutes and papers of governing body meetings should, as soon as reasonably practicable after a meeting, be made available for anyone to see them at the school. For further information please refer to Chapter 4, Governing body procedures and meetings.
9. In general, the governing body should carry out its functions with the aim of taking a broadly strategic role in the running of the school.
10. A strategic role means the governing body decides what it wants the school to achieve and sets the strategic framework for getting there. It should establish the strategic framework by:
 - setting aims and objectives for the school
 - adopting policies for achieving those aims and objectives
 - setting targets for achieving those aims and objectives
 - reviewing progress towards achieving the aims and objectives.
11. Schools must have a school development plan under the Education (School Development Plans) (Wales) Regulations 2014 (SDP) to capture the school's improvement priorities. This will reduce workload, streamline schools' strategic planning processes and avoid unnecessary duplication and additional bureaucracy. For example, priorities and activities relating to school improvement grants should be embedded within the plan. The SDP, along with the governing body's agreed policies, will generally provide the strategic framework. In schools with trustees the governing body should also comply with any trust deed relating to the school.

12. Governing bodies will need to monitor progress and regularly review the framework for the school in the light of that progress. They are not responsible for collecting or monitoring data themselves, instead they should agree appropriate arrangements and reporting with the head teacher.
13. The head teacher is responsible for the internal organisation, management and control of the school, and for advising on and implementing the governing body's strategic framework. In particular, head teachers need to formulate aims and objectives, policies and targets for the governing body to consider adopting, and to report to the governing body on progress at least once every school year.
14. The conditions of employment for head teachers are set out in the School Teachers' Pay and Conditions Document which is updated each year. This document has legal force. See Chapter 10, Staffing.
15. Governing bodies are able to delegate some of their functions to a committee of governors, individual governors or the head teacher. Certain functions must be delegated to a committee. The functions which may not be delegated are set out at regulations 50 – 52 of the Government of Maintained Schools (Wales) Regulations 2005. When deciding whether to delegate any functions, governing bodies should consider their largely strategic role, and the head teacher's responsibility for internal school organisation, management and control.
16. Where the governing body agrees to delegate any function it should consider whether to give guidance in relation to how that function is to be carried out. The governing body must review the exercise of functions it has delegated annually.
17. The decision planner found at the end of this chapter may be useful in deciding which matters the governing body may wish to delegate.
18. Staff disciplinary and dismissal hearings, staff disciplinary and dismissal appeals, pupil discipline and exclusion hearings, and admissions (where the governing body is the admissions authority must be delegated by the governing body to a committee or committees. For further details on this see Chapter 4, Governing body procedures and meetings and Chapter 10, Staffing.
19. Governing bodies have a range of duties and powers in legislation. Later chapters of this guide explain these in more detail, but at a maintained school with a delegated budget, these would include all of the following:
 - conducting the school with a view to promoting high standards of educational achievement and behaviour
 - taking general responsibility for the conduct of the school - in practice this means policy making and how, in broad strategic terms, the school should be run

- managing the school's budget, including determining the staff complement and making decisions on staff pay in accordance with the [School Teachers' Pay and Conditions Document](#) (STPCD)
- making sure that the curriculum for the school is balanced and broadly based and in particular that the Curriculum for Wales is taught in accordance with the Curriculum and Assessment (Wales) Act 2021
- providing parents with a report every year which includes information about Curriculum for Wales assessments and examination results
- appointing the head teacher and deputy head teacher (with advice from the local authority and, in the case of voluntary aided and voluntary controlled schools, the diocese) and other staff, and regulating staff conduct and discipline
- drawing up an action plan following an Estyn inspection, as required.

Curriculum

20. The governing body shares responsibility with the head teacher and the LA for making sure that the Curriculum for Wales and the appropriate assessment arrangements are carried out. This responsibility includes making sure that sufficient time is allowed to cover the Curriculum for Wales and other statutory requirements. For detailed information see Chapter 11, The Curriculum.
21. [Education in Wales: Our national mission](#) is the Welsh Government's plan of action setting out how the school system in Wales will move forward over the period up until 2021 to secure the effective implementation of the new curriculum under the Curriculum and Assessment (Wales) Act 2021. This plan was updated on 13 October 2020 in order to take account of the impact of the Covid-19 pandemic.

Visiting the school

22. Individual governors do not have an automatic right to enter the school whenever they wish. To be effective, governors should visit from time to time in order to develop their knowledge and understanding of the school. These visits enable them to fulfil their statutory responsibility for the conduct of the school. Governors should arrange their visits with the head teacher, who has responsibility for the day-to-day management and conduct of the school.
23. It would be useful for a governing body to agree a policy for governors' visits to cover matters such as giving notice and holding feedback sessions.

Relationships

24. Schools and governing bodies do not exist in isolation from their wider community. Governing bodies have important relationships and interactions with the local authority, head teacher, staff, pupils other schools and, in the case of

voluntary aided or voluntary controlled schools, the diocesan authority. Building on these relationships and strengthening them is a very important part of making schools more effective.

Relationship with the head teacher

25. The head teacher and governing body, in particular the chair, must work closely together. Each should respect the knowledge and contribution brought by the other.
26. The head teacher has responsibility for the internal organisation, management and control of the school and for implementation of the strategic framework set by the governors. Governors should not be involved in the detail of the day-to-day management of the school. The head teacher should discuss all the main aspects of school life with the governing body and expect the governing body to ask questions, challenge and hold them to account, in the cause of supporting the school.
27. To make the relationship work well, the governing body should act as the head teacher's critical friend. This means the governing body should offer support and constructive advice, but governors should not be deterred from questioning proposals and seeking further information to enable them to make sound decisions.
28. To assist the governing body in carrying out its functions, the head teacher has a duty to provide the governing body with such reports in connection with the exercise of his or her functions as the governing body requires. The head teacher should provide sufficient information, including explanation and justification of proposals and actions, to enable the governing body to feel confident that both it and the head teacher are fulfilling their statutory responsibilities.
29. A good governing body will delegate enough powers to allow the head teacher to perform their management duties as effectively as possible. The head teacher must report to the governing body regularly on how those delegated powers have been exercised and the governing body should keep the delegation under regular review.
30. The head teacher is also accountable to the governing body – both for the functions performed as part of the head teacher's normal role and for powers delegated by the governing body.
31. Governing bodies are required to support the head teacher to achieve a satisfactory work-life balance. This requires governors to have an understanding of the nature of the head teacher's workload and of the demands placed on the role. This should be consistent with the principles described above and be reflected in the working relationship between the chair and the head teacher. Further information can be found in Chapter 10, Staffing.

Relationship with the local authority (LA)

32. The governing body is responsible for the school. The local authority maintains schools, which means that it has an interest in them being governed and managed well and that, as a whole, schools in the authority area deliver effective and efficient provision. The LA should support a governing body's efforts to improve the school by providing advice, resources and challenge.
33. Generally, local authorities will necessarily focus significant efforts on a school causing concern, or a governing body acting in a way that is detrimental to a school. If this happens, the LA must bring its concerns to the attention of the governing body and the head teacher. The LA should also inform any other stakeholders, for example the diocese or the foundation, of its concerns. In order to improve the situation the LA should offer appropriate support to the school. Where the LA judges it necessary, it can intervene using powers granted in legislation. For detailed information on these issues see Chapter 24, Schools causing concern and Interim Executive Boards.
34. The relationship between a local authority and school is captured in a partnership agreement. The Maintained Schools (Partnership Agreements) (Wales) Regulations 2007, imposes a duty on governing bodies and LAs in respect of all schools maintained by them, excluding pupil referral units. LAs are required to enter into an individual partnership agreement with each governing body.
35. [Partnership agreements: guidance for local authorities and schools](#) details the information to be included in a partnership agreement or statement, as follows:
- the statutory functions to be included
 - non-statutory functions which may be included
 - the level of detail required.
36. A partnership agreement is defined in the Regulations as an agreement about how a LA and the governing body of a school will act to discharge their functions in relation to the school. It is envisaged that most agreements will be achieved by mutual consent but, where a LA is unable to reach agreement with a governing body, it can draw up a statement setting out how the LA and governing body will discharge their functions.

Relationships with pupils - giving children and young people a say

37. The Education Act 2002 places a duty on local authorities and governing bodies of maintained schools, in the exercise of their functions, to have regard to any guidance from the Welsh Government on consultation with pupils when taking

decisions affecting them.

38. The School Councils (Wales) Regulations 2005 set out the requirements for all maintained schools (other than a maintained nursery or maintained infant school) to establish a school council to act as a representative body on behalf of all pupils attending the school. Please note, some provisions do not apply to community special schools and foundation special schools. The purpose is to provide pupils with the opportunity to discuss and make representations on any issues that affect them relating to school. The Regulations set out the minimum requirements for the correct running of school councils, including election by secret ballot and that school council meetings should be held six times a year. [Guidance for Governing Bodies on the Establishment and Operation of School Councils](#) provides more information.
39. Both the governing body and the head teacher of a school must consider any matter communicated to them by the school council and provide a response to the school council.
40. Governing bodies should consider how effective their school council is in terms of the range of issues considered, communication between the council, pupils, the governing body and the head teacher, and resources. It is recommended that the governing body appoints a link governor to liaise with the school council.
41. Schools must ensure that the school council has the opportunity to nominate up to two pupils from years 11, 12 and/or 13 from its membership to be associate pupil governors on the school's governing body.

Relationships with the wider community

42. The Well-being of Future Generations (Wales) Act 2015 ('The Act') repealed those parts of the Children's Act 2004 and The Education Act 2002 relating to Children and Young People's Partnerships and Children and Young People's Plans¹.
43. The Act established Public Services Boards (PSBs), who must carry out assessments of local well-being, which may include analyses relevant to children and young people under 18 years old. Subsequently, they must set well-being objectives and take reasonable steps to meet those objectives. This takes place once per local government election cycle. The next cycle of Local Well-being Plans is expected to be published in May 2023.
44. Governors will wish to be aware of objectives of particular relevance to children and young people in their PSB area and the extent to which schools are or have been engaged in the consultation of their local well-being plan.
45. Schools play an important and pivotal role in the community. Schools not only provide education for pupils and create a community spirit amongst parents, but

¹ <https://www.legislation.gov.uk/anaw/2015/2/schedule/4>
Guide to the Law: Updated autumn 2021

they also have the opportunity, and often the facilities, to benefit the whole community. Governing bodies control the use of the school premises outside school hours subject to the restrictions referred to in Chapter 26, Control and community use of school premises.

46. It is up to schools, in consultation with their partners, to develop as little or as much provision as they think suitable for their community, as long as it does not interfere with their main duty to educate pupils or promote high standards of educational achievement.
47. A community focused school is one that provides a range of services and activities, often beyond the school day, to help meet the needs of its pupils, their families and the wider community. Across Wales many schools provide community services including adult education, study support, ICT facilities and community sports programmes. Further information on this is provided in Chapter 26, Control and community use of school premises and Chapter 27, Community focused schools.

Complaints

48. Sometimes a parent, staff member, pupil or someone in the community may raise a concern or make a complaint about a school. All governing bodies must establish and publish procedures for dealing with such complaints. Please see the Welsh Government guidance [Complaints procedures for school governing bodies in Wales](#) for further information.
49. Further information on dealing with complaints is included in Chapter 12, Complaints and whistleblowing.

The Law

[The Education Act 1996](#)

[School Standards and Framework Act 1998](#): section 48 (local authorities' financial schemes)

[The Education Act 2002](#)

[The School Councils \(Wales\) Regulations 2005](#)

[The Government of Maintained Schools \(Wales\) Regulations 2005](#)

[The Education and Inspections Act 2006](#)

[The Maintained Schools \(Partnership Agreements\) \(Wales\) Regulations 2007](#)

[The Education and Skills Act 2008 Part 5](#)

[The Equality Act 2010](#) (which replaced the Race Relations Act 1976, the Disability Discrimination Act 2005, and the Sex Discrimination Act 1975)

[The School Standards and Organisation \(Wales\) Act 2013](#)

The Education (School Development Plans) (Wales) Regulations 2014

[Well-being of Future Generations \(Wales\) Act 2015](#)

[Additional Learning Needs and Education Tribunal \(Wales\) Act 2018](#)

Curriculum and Assessment (Wales) Act 2021

Guidance

[School Teachers' Pay and Conditions Document](#) (STPCD) - (published annually)

[Partnership agreements: guidance for local authorities and schools](#)

[Complaints procedures for school governing bodies in Wales](#)

[Guidance for Governing Bodies on the Establishment and Operation of School Councils](#)

Governing body decision planner

Key	
Level 1 = decisions made by GB	
Level 2 = decisions made by GB with advice from head teacher	
Level 3 = decisions delegated to head teacher	
Level 4 = decisions made by head teacher	
Column blocked off: Function cannot legally be carried out at this level.	
Tick:	Recommended level(s) or where law assigns specific responsibility.
Blank:	Action could be carried out at this level if governing body so decide, but is not generally recommended.
*	Functions which the whole governing body must consider
**	All schools must ensure that their financial arrangements comply with the current financial regulations, standing orders and schemes of delegation issued by their local authority.
***	GB may, if they wish, be involved in the selection panel.

		Action Sheet	Decision level			
Key Function	No	Tasks	LEVEL 1	LEVEL 2	LEVEL 3	LEVEL 4
School	1	To approve the first formal budget plan each financial year *		✓	X	X
Budgets **	2	To monitor monthly expenditure			✓	
	3	Miscellaneous financial decisions (e.g. write-offs)		✓	✓	
	4	To investigate financial irregularities (head suspected)	✓	X	X	X
	5	To investigate irregularities (other suspected)		✓	✓	
	6	To enter into contracts (above set financial limit)		✓		
	7	To enter into contracts (below set financial limit)			✓	
	8	To make payments		✓	✓	
	9	To provide insurance – where funding has been delegated		✓		X

Key Function	No	Action Sheet Tasks	Decision level			
			LEVEL 1	LEVEL 2	LEVEL 3	LEVEL 4
Staffing	10	Head teacher appointments (selection panel) *	✓	X	X	X
	11	Deputy appointments (selection panel) *	X	✓	X	X
	12	Appoint other teachers ***		✓	✓	X
	13	Appoint non teaching staff ***		✓	✓	X
	14	Pay discretions (the head teacher should not advise on his/her own pay)		✓		X
	15	Dismissal (head teacher) NB: governing body must act through staff discipline and dismissal committee *	✓	X	X	X
	16	Dismissal (other staff) NB: governing body must act through staff discipline and dismissal committee	X	✓	X	X
	17	Establishing disciplinary/capability procedures		✓		X
	18	Suspending head	✓	X	X	X
	19	Suspending staff (except head)		✓		✓
	20	Ending suspension (head)	✓	X	X	X
	21	Ending a suspension (except head)		✓	X	X
	22	Determining dismissal payments/early retirement		✓	X	X
	23	Determining staff complement		✓		
	24	In VA and Foundation schools to decide whether or not the Chief Education Officer (CEO)/diocesan authority should have advisory rights. In VC schools, to decide whether the diocesan authority should have		✓	X	X

		Action Sheet	Decision level			
Key Function	No	Tasks	LEVEL 1	LEVEL 2	LEVEL 3	LEVEL 4
		advisory rights in appointing staff				
Curriculum	25	Ensure Curriculum for Wales taught to all pupils and to consider any disapplication for pupil(s)		✓		✓
	26	To draft curriculum policy			✓	
	27	To implement curriculum policy				✓
	28	To agree and review curriculum policy		✓	X	X
	29	Responsible for standards of teaching				✓
	30	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)				✓
	31	Responsibility for individual child's education				✓
	32	Provision of sex education - make and keep up to date a written policy *		✓	X	X
	33	To prohibit political indoctrination and ensuring the balanced treatment of political issues *		✓		✓
	34	To draw up a charging and remissions policy for activities (non curriculum based) in consultation with the local authority*		✓		✓
Exclusions	35	To decide a discipline policy *		✓	X	X
	36	To exclude a pupil fixed term (less than 45 days in total a year) or permanently	X	X	X	✓

Key Function	No	Action Sheet Tasks	Decision level			
			LEVEL 1	LEVEL 2	LEVEL 3	LEVEL 4
	37	To consider certain exclusions and any representations (must consider any pupil excluded permanently or for more than 5 days) NB: governing body must act through the pupil discipline committee		✓	X	X
	38	To direct reinstatement of excluded pupils	✓	X	X	X
Admissions	39	To set an admissions policy (community & controlled schools where the LA has delegated this power to the governing body) *		✓	X	X
	40	To set an admissions policy (VA and foundation schools) *		✓	X	X
	41	To set an admissions policy (special schools where pupils do not have a statement) acting with the LA *		✓	X	X
	42	Admissions: application decisions (community & controlled schools where the LA has delegated this power to governing body)		✓	X	X
	43	Admissions: application decisions (VA, foundation & special)		✓	X	X
	44	To appeal against LA directions to admit pupil(s) (VA, foundation and special schools; also community and VC schools where the LA is the admissions authority)		✓	X	X
Religious Education	45	Responsibility for ensuring provision of RE in line with school's basic curriculum (all schools)		✓	X	✓

Key Function	No	Action Sheet Tasks	Decision level			
			LEVEL 1	LEVEL 2	LEVEL 3	LEVEL 4
	46	Decision to provide RE according to trust deed/specified denomination (Foundation & VC schools of religious character at request of parents)	✓			
	47	Decision to provide RE in line with locally agreed syllabus		✓		
Collective worship	48	Joint responsibility (with LA and head teacher) to ensure collective worship		✓	X	✓
	49	To make application to the advisory councils, SACRE concerning the requirements for collective worship (schools without a religious character) to disapply. Head must consult GB.	X	X	X	✓
	50	Arrangements for collective worship (schools without religious character). Head teacher must consult governing body.	X	X	X	✓
	51	Arrangements for collective worship (foundation schools of religious character, VC or VA schools) *	X	✓	X	X
Premises	52	Buildings insurance - advice from LA, diocese or trustees where appropriate		✓		
	53	Strategy (including budgeting for repairs, etc.)		✓		
	54	To ensure health and safety issues are met		✓		✓
	55	To set a charging and remissions policy *		✓	X	X
School Organisation	56	Proposal to alter or discontinue voluntary, foundation or foundation special school *		✓	X	X

		Action Sheet	Decision level			
Key Function	No	Tasks	LEVEL 1	LEVEL 2	LEVEL 3	LEVEL 4
	57	To set the times of school sessions and the dates of school terms and holidays (VA and Foundation Schools) *		✓	X	X
	58	To draw up instrument of government and any amendments thereafter *	✓		X	X
	59	To publish proposals to change category of school *		✓	X	X
Information for parents	60	To hold a parents' meeting up to three times per year		✓	X	X
	61	Annual report to parents - to approve and distribute		✓	X	X
	62	To provide information to be published by governing bodies (approval of the school prospectus) *		✓	X	X
	63	To ensure provision of free school meals to those pupils meeting criteria			✓	X
Governing body procedures	64	To appoint (and remove) the chair and vice-chair of a permanent or a temporary governing body *	✓	X	X	X
	65	To appoint and dismiss the clerk to the governors	✓	X	X	X
	66	To hold a governing body meeting once a term, or a meeting of the temporary governing body as often as occasion may require *	✓		X	X
	67	To appoint and remove community governors, including temporary additional community governors *	✓		X	X

Key Function	No	Action Sheet Tasks	Decision level			
			LEVEL 1	LEVEL 2	LEVEL 3	LEVEL 4
	68	To consider whether or not to exercise delegation of functions to individuals or committees *	✓		X	X
	69	To regulate the governing body's procedures (where not set out in law) *	✓		X	X
	70	To review at least once a year the establishment, terms of reference and membership of committees, including selection panels *	✓		X	X
	71	To set up a register of governors' business interests		✓	X	X
	72	To approve and set up a governors' expenses scheme		✓	X	X
	73	To discharge duties in respect of pupils with special needs by appointing a responsible person		✓	X	X
	74	To discharge duties in respect of pupils with looked after status by appointing a responsible person		✓	X	X