

## **Governing in challenging circumstances**

### **Business continuity and holding virtual meetings**

Guidance for governing boards and clerks

**Published March 2020**

**Updated 8<sup>th</sup> June 2020**





The National Governance Association (NGA) is an independent charity that aims to improve the educational standards and welfare of young people by increasing the effectiveness of governing boards of state schools in England. We are the experts in school and academy trust governance, providing information, advice, guidance, and professional development, including e-learning.

We also represent the views of governors, trustees, clerks and governance professionals at a national level, working closely with and lobbying government and educational bodies.

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## Introduction

The Coronavirus (COVID-19) pandemic has resulted in the [government deciding to close schools](#) whilst maintaining reduced provision for vulnerable pupils and the children of key workers. It is currently uncertain when schools will reopen, and in what manner.

Schools and trusts serving their communities have been coming to terms with the challenges of maintaining the required provision and ensuring continuity of education for pupils who are not in school. Those governing have been supporting them the best way that they can, first and foremost by ensuring that their governing boards continue to function, carry out their urgent business and make necessary decisions.

Chairs, clerks and school and trust leaders will be at the forefront of the discussions about how governing boards continue to function at this time, and the logistics of making it work. This is a good example of where an expert professional clerk/governance advisor can not only contribute to the efficient conduct of governing boards but can relieve the pressure on headteachers, CEOs and chairs.

Whilst we urge governing boards not to allow the COVID-19 issue to create an environment which allows for a lack of care and due diligence, we also recognise that it could lead to circumstances that make it impossible to make a decision or discharge a function operating strictly by the rules. In such circumstances doing the right thing by schools, pupils, staff and communities should come first. However, there should at the very least be a clear communication and audit trail that explains why it was necessary to take an alternative approach.

### Further information and support

NGA is committed to supporting you at this difficult time and to helping you navigate rules, procedures and practicalities you may not have engaged with before. We have therefore made our GOLDline advice service available to all governing boards that have questions about maintaining their business in the current circumstances. You can contact GOLDline by email to [gold@nga.org.uk](mailto:gold@nga.org.uk) or by calling 0121 237 3782.

GOLDline is supported by leading education law firm Browne Jacobson, the approved legal partner of NGA, who have also provided [answers to some of the most commonly asked questions](#).

NGA has also produced [information sheets](#) containing key messages about the Coronavirus, schools and governing boards; taking into account the evolving situation and the implications for school governance.



## Priorities for governing boards

[The DfE advice to governing boards](#) is to prioritise providing support to their school leaders and staff where needed, to allow them to get on with operational matters. School leaders should stay in touch with the governing board in a proportionate way, including providing information on the welfare of staff and pupils, so that they can retain a strategic overview of the situation and the school.

## Focus meetings on urgent business only

It is appropriate in the circumstances for all non-urgent business to be delayed and governing board meetings to be restricted to the matters listed below. This may result in shorter meetings (less than two hours) and meetings being held on a more frequent basis if circumstances allow. We advise governing boards to take a pragmatic and considerate approach to the reporting of these matters, relying on oral feedback and scaled down paperwork:

1. Business critical decisions (e.g. budget approval, ratifying school leadership appointments etc.) *might require governing boards to review and amend their levels of delegation to enable fewer governors/trustees to make business critical decisions*
2. Monitoring how the school is continuing to provide care for children who are vulnerable, children with an Education, Health and Care (EHC) plan, the children of key workers, associated risks, issues etc.
3. Monitoring actions taken by the school/trust to mitigate against concerns that the partial closure of schools will impact on the outcomes achieved by disadvantaged pupils and widen the attainment gap
4. Safeguarding - Monitoring the wellbeing and welfare of pupils, staff and stakeholders
5. Any issues arising from how the building is currently being used and remote working for staff
6. Support being given to parents and carers to help them educate their children at home
7. Issues relating to the future re-opening of the school

### Monitoring provision for vulnerable pupils

Vulnerable pupils are those that have a social worker or have been assessed as otherwise vulnerable by the school or local authority (LA). For those pupils that are deemed vulnerable by virtue of having an EHC plan, an assessment will need to be undertaken to ascertain whether the pupil's needs can be met at home. If not, then it is recommended that they attend school.

Governing boards should seek assurances from their headteacher/CEO about the steps being taken to encourage vulnerable pupils to attend school, ensure their welfare and offer sufficient learning activity (which is not the same as replicating normal lessons) when they are in school. Governing boards should also ask their headteacher/CEO about the steps being taken to ensure that vulnerable pupils who are not attending school are not being placed at risk.

### Monitoring the provision for disadvantaged pupils

Governing boards will be understandably concerned about the impact that partial closure of their school is having on their disadvantaged pupils (e.g. those eligible to receive the pupil premium) and the widening of any attainment gap. It is important that this is considered as essential business and for governing boards to ask their headteacher/CEO to update them on what the school/trust is doing to meet the needs of disadvantaged pupils at this time. This will include their access to free school meals and on-line learning platforms.



## **Safeguarding**

We recommend that, as a priority, either the safeguarding governor/trustee, chair or other member of the board as appropriate makes contact with the school leader and/or Designated Safeguarding Lead (DSL) and receives an update on the safeguarding arrangements made in response to COVID-19. This would include any revisions made to the child protection policy that can be approved as a chair's action prior to a meeting of the governing board. It would also include the arrangements in place to keep children not physically attending the school or college safe, especially online. The agenda item on safeguarding should cover the retrospective approval of policies and procedures and give the governing board the opportunity to seek clarity and assurance that, as far as possible, their schools continue to be safe places for children.

### **Support being given to parents and carers to help them educate their children at home**

Governing boards will recognise that the current circumstances mean that the children who are in school will not be following a normal timetable and also that it isn't possible to replicate the normal school experience for the pupils who are at home. Whilst taking into account the context of the community served by the school/trust, those governing should gain an understanding of the approach being taken to supporting parents and carers to educate their children at home. This includes how teachers are maintaining contact with their pupils, supporting them in their work and managing issues relating to on-line learning. It also provides an opportunity for governing boards to recognise and show their appreciation for the time and effort the staff are giving to overcoming the challenges presented by remote teaching and learning.

### **Issues relating to the future re-opening of the school**

There are multiple possible scenarios for further partial re-opening and the DfE has consulted representative organisations on the issues for consideration by government ministers, including what would need to be in place before it would be practical and acceptable to have more pupils and staff in schools. At the same time as noting the direction given by the government, government agencies, local authorities etc. governing boards should be discussing with the headteacher/CEO what policies will need to be developed, what risk assessments will be required and what training will be needed in order for the partial re-opening of their school to become a practical reality. This will cover a range of issues including the site and facilities, transport, safety (social distancing, PPE etc.), staffing levels, teaching and learning and wraparound care.

## **Other business**

Being strategic should involve flexible thinking thus enabling boards to respond to unexpected changes in context. Governing boards may not wish to lose sight of their strategic priorities but will need to review them in the light of the current circumstances.

## **Recruiting to the board and managing membership**

Schools being closed to almost all pupils means that governing boards are not currently able to hold or complete the process of governor/trustee elections. Where the term of office for an elected governor/trustee is coming to end, the board will need to consider whether they can continue to function without replacements. Please see Appendix 2, question 10 for more details.

Appointed governor/trustee positions can continue to be made at meetings held virtually following the required procedures and protocol.



Governing boards wishing to continue their efforts to identify and recruit new volunteers to the board do not need to put this on hold. Active volunteers registered on [Inspiring Governance](https://www.nga.org.uk/knowledge-centre/inspiring-governance) have confirmed that they are still keen to connect with governing boards and are happy to be interviewed using video conference calls.

## Ensuring the continuity of clerking

The value of effective clerking to governing boards is clear at all times. However, during the period that governing boards are adjusting to different ways of conducting their business and holding virtual meetings, the expert advice, guidance and support given by the clerk/governance professional will be invaluable. It's important that governing boards recognise this by ensuring that the clerk/governance professional has the support they need to do their job well. This may require a new or different routine for planning meetings with the chair and or school leader, or help with setting up a virtual meeting. It is also crucial that the continuity of service is maintained including the arrangements in place which ensure that the clerk/governance professional/professional service are paid on time for the work they undertake.

## The work undertaken by panels

Although many schools will be providing care for a limited number of children (children who are vulnerable and children whose parents are critical to the COVID-19 response and cannot be safely cared for at home) and staff will be working (remotely in many cases), schools are effectively closed from Friday 20 March 2020 until further notice. This means that the work undertaken by most panels is technically on hold as it would be during a school holiday period.

### The school complaints procedure

DfE advice confirms that school complaints procedures can be paused until the normal re-operation of schools has been re-established. However, where the opportunity exists to manage and complete the procedure during the period that the school is closed, and there is the unanimous agreement between all concerned that the process should be completed, then it may be possible to do so by holding virtual meetings. This will require careful consideration and whilst it is important to maintain contact with complainants and keep them informed, in most cases it will be prudent to "pause" the procedure. The handling of complaints relating to admission of children to school during this period (i.e. vulnerable children and the children of key workers) is covered in the frequently asked questions that are included as an appendix to this guidance.

### Reviewing exclusions

The timeframes attached to reviewing exclusions including governing board and independent panel reviews remain in place. However, the government appreciates that it may not be possible for these timeframes to be met due to the disruption caused by COVID-19. The DfE has therefore advised governing boards and arranging authorities to assess the facts of the case and decide whether the review needs to be delayed until as soon as is reasonable practicable, or whether to proceed using alternative technology such as video conferencing.

### Recruiting a headteacher/executive leader



School closure and social distancing rules have implications for governing boards seeking to recruit headteachers/executive leaders. Those stages in the recruitment process that normally happen in person, like panel shortlisting, interviews and decision ratification meetings, can, at present, only take place through the use of alternative technology such as video conferencing.

The governing board may decide to delay the recruitment process if they think that using alternative technology does not provide sufficient opportunity for all parties involved in the recruitment process to engage appropriately or reliably in order for a fair and meaningful process to be undertaken. In such cases we advise that the decision is informed by careful consideration of the risk posed by delaying the process and the contingencies that need to be put in place. For example the capacity of the school/trust to implement interim leadership arrangements and the support required to do this.

Whilst it may prove to be relatively straightforward to manage shortlisting and the ratification meeting, the use of alternative technology such as video conferencing will almost certainly involve changes being made to the recruitment process, how it is approached and the emphasis on certain other activities (e.g. presentations). We recommend that governing boards seek the advice of a HR and school improvement professional as appropriate on such matters (e.g. adapting selection activities) and the adjustments that need to be made.

## Taking urgent decisions

Clearly it is best for all decisions to be taken collectively by the governing board. This should be possible if appropriate plans are put in place for the board to hold virtual meetings, perhaps at short notice as deemed necessary by the chair.

There may however be circumstances where an urgent decision needs to be taken but it is not possible to convene a meeting of the governing board, or hold a quorate meeting. This is more likely in the current climate when personal and family circumstances may be extremely challenging.

### Maintained school governing boards

In cases of urgency where a delay would be likely to be seriously detrimental to the interests of the school, a pupil, a parent or member of staff, maintained school governance [procedures regulations](#) and covered in the Governance Handbook para 4.3.39, set out the provision for the delegation of functions to the chair or vice chair (if the chair is unable to act). These functions do not extend to approving the budget, the suspension of governors and reviewing exclusions (except in cases of urgency).

### Academy trust boards

Whether chairs and vice chairs of academy trusts and academy committees (LGBs) can be delegated functions in cases of urgency will depend on the provision made in schemes of delegation or by trustee resolution. If no such provision currently exists then it may be advisable to call an urgent trustees meeting to approve the principle and circumstances in which decisions can be made by individuals in cases of urgency.

As always governing boards should refer to their clerk for advice.

## Holding virtual meetings



The COVID-19 crisis has required many of us to use unfamiliar technologies for the first time so that we can continue to work from home, communicate and meet with colleagues and clients. For most governing boards it will also be the first time they have had to consider holding virtual meetings.

The key point here is that with a small amount of preparation it is relatively easy to provide an alternative to meeting face-to-face. Once governors and trustees realise how easy and efficient the alternatives are, it may be that this will have a profound and positive effect on how business is conducted in the future.

The obvious alternatives to meeting face to face are:

- governors/trustees dialling in to a telephone conference call;
- governors/trustees signing in to an online video conference using a platform like [Zoom](#), [Skype](#) or [Microsoft Teams](#);
- governors/trustees using a unified communication and collaboration platform like Microsoft Teams to hold a simultaneous electronic conversation, and
- governors/trustees conducting business and voting by email correspondence.

**NGA recommends that governing boards arrange virtual meetings by telephone, video conference or through an online platform**, rather than conducting business and voting by email correspondence. The exchange of numerous emails lacks immediacy, restricts the opportunity for the governing board to interact in real time, can result in some governors/trustees losing track of others' contributions, and can make recording problematic for the clerk/governance professional. All governing boards should refer to their clerk for advice.

The government has given clear guidance on [self-isolation](#), [household isolation](#) and [social distancing](#) and the Department for Education has advised that **during this isolation period governing boards can agree to hold meetings via telephone or video-conferencing without having to meet first**. The Chair or clerk can contact governors directly to agree to alternative meeting arrangements.

### **Maintained school governing boards**

Maintained school governance [procedures regulations](#) allow governing boards to approve alternative arrangements for governors to participate in or vote at meetings, including, but not limited to, via telephone or video conference. This can extend to their committees.

### **Academy trust boards**

Academy trusts and academy committees will almost certainly have provision to meet by telephone or video conference. This is subject to certain rules being followed, which ensure that reasonable notice is given and individuals are not excluded because they don't have the means/equipment required in order to participate.

Another option for academy trusts does not involve the trustees meeting at all. Instead, decisions can be taken by passing a written board resolution provided that the written resolution is signed by all the trustees entitled to receive notice of a meeting of trustees (or of a committee of trustees).

## **Making virtual meetings work**





Governing boards do not need to adopt a substantial, stand-alone policy document that covers virtual meetings. A simple protocol or set of ground rules which are agreed by the board and documented by the clerk/governance professional will suffice. These could acknowledge existing policies relating to data protection, appropriate use of ICT, maintaining confidentiality etc.

*An example protocol for virtual meetings is included as an appendix to this guidance.*

NGA advises that boards take the following steps to introduce virtual meetings to the governing board and to make them work.

### **1. Decide what form the virtual meeting will take**

An initial conversation between the chair, head teacher/CEO and clerk will help identify what form of virtual meeting (conference call, video conference or online platform) is likely to work best for the governing board. In all probability the school or trust and some governors/trustees will have experience of remote working so canvassing them for suggestions is a good idea. It also highlights any presenting issues like internet connectivity.

### **2. Provide clear instructions and offer support where necessary**

Once the form of virtual meeting has been decided then it is important that participants are provided with clear instructions on how they will join the meeting e.g. the weblink, phone number or PIN codes that participants need to either dial in or connect to join the meeting. These instructions are best provided by the clerk as part of their duty to convene the meeting and to circulate the agenda papers. The clerk/governance professional may want to draw on experience and expertise from within the school or trust and the board itself to help them and any governors/trustees who require additional support to access the meeting.

### **3. Test the system platform**

Particularly if it's the first time the governing board has held a virtual meeting then it is worth someone testing that the platform or system being used works in practice, thus avoiding finding out just prior to the meeting starting that it doesn't.

### **4. Pre-meeting preparation by the chair and clerk/governance professional**

The preparation carried by the chair and the clerk prior to any meeting makes a difference to the way that the business is conducted. Virtual meetings are no different. Make time to discuss what's on the agenda, how much time is needed for each item, likely questions, required decisions and outcomes.

Chairs and clerks should be particularly alert to governors/trustees for whom electronic communication presents challenges. Arranging a one-to-one session whereby one person can be on the phone talking the other through how to connect and join a meeting can serve to raise levels of confidence and thus maintain inclusivity.

### **5. Set the tone and explain the rules of engagement for the meeting**



With any new way of working, being clear about expectations helps ensure success. Consider making clear the importance of:

- Joining on time
- Signing a digital attendance sheet
- Keeping to the agenda
- Saying your name before speaking
- Using your mute button as appropriate for minimising background noises
- Allowing additional time for participants to refer to documents that they may have open in another application

Many people are surprised that being able to see other meeting participants on screen makes remote communication easier and it keeps everyone more engaged, so it is worth encouraging everyone to use their webcams if at all possible.

## **6. Evaluate and learn from experience**

The more the governing board practices virtual meetings then the more efficient the meetings will become. Don't be deterred by things that don't work perfectly the first time around. Take a note of what worked well and what could work better and apply this this experience at your next virtual meeting.

### **GDPR considerations**

The duties of schools and governing boards in relation to the GDPR has not changed and so it is important that this remains a priority.

Governing boards must therefore ensure that when meeting remotely they continue to have regard to the school's policies on data protection as referred to in the example protocol in Appendix 1.

Governing boards must also be satisfied that data protection policies continue to be adhered to by staff and so they should consider the following:

- Is the equipment that staff are using remotely secure for data protection purposes?
- Are internal procedures for data protection continuing to be followed?
- Is data sharing with external parties being conducted in accordance with the GDPR?
- Are staff clear on the procedures around handling personal data when working remotely?
- Are staff required to use their own electronic devices? If so, what safeguards are in place?
- Are staff aware that hard copies of personal data should not be removed from the school?
- Is the school's online security up to date?



## Use e-learning to support effective governance

NGA has teamed up with Virtual College, one of the UK's top e-learning providers, to deliver accessible, engaging and convenient [e-learning](#). With 24/7 multi-device access to [modules](#), learning can be completed anytime, anywhere and at any place that suits the learner.



***Coming soon: e-learning module on managing virtual meetings.***

You can ensure your governing board has all the training it needs by purchasing Learning Link for just £165 per year for your entire board. If you already have an NGA membership then you can purchase Learning Link at a discounted rate.

Discounts are available for multiple purchases for multi academy trusts and local authority governor services. [Please contact us to find out more.](#)

## Sharing your experience and practice

NGA knows that most boards are doing their very best to balance keeping their need to continue core governance business with supporting their schools and trusts. We will continue to keep members up to date with developments; however we also want to celebrate how boards are adapting to these unprecedented circumstances.

Representatives of three governing boards have shared in a [blog](#) their own experiences, tips and advice having moved quickly to holding a virtual board meeting due to the impact of COVID-19.

To share your experience and practice please email [gold@nga.org.uk](mailto:gold@nga.org.uk) or call us on 0121 237 3782.



## Appendix 1

### ***(Example) protocol to be followed when using alternative arrangements to participate and vote in meetings of the governing board***

#### **The protocol that applies to governors/trustees using alternative arrangements to participate and vote in meetings**

Where the governing board has approved and has in place alternative arrangements for governors/trustees to participate and vote in meetings (e.g. by telephone or video conference) and a governor/trustee wishes to use these alternative arrangements they should:

- restrict themselves to using the arrangements agreed by the governing board;
- inform the clerk to the governing board that this is their intention as soon as possible but no later than 72 hours before the meeting is due to take place (subject to the meeting being convened giving the normal notice period);
- communicate and co-operate with the clerk to the governing board, school or trust as necessary to ensure that the alternative arrangements can be put in place and work well for all concerned, and
- abide by the normal rules, procedures and code of conduct adopted by the governing board and give particular regard to the duty to maintain confidentiality.

#### **The protocol that applies to the governing board when using alternative arrangements to hold their meetings**

Where the governing board decides that a meeting should take place using alternative arrangements (e.g. by telephone or video conference) that have been previously agreed then following will apply:

- the usual (statutory) notice and arrangements for issuing papers except where the chair has exercised their right to waive the usual notice;
- all participants to receive clear instructions regarding how to access the meeting including where they can access support if they experience difficulty;
- all participants will note and follow any instructions given on how to manage their participation at the meeting. For example confirming attendance, speaking through the chair of the meeting, voting on matters etc;
- the governing board will abide by their normal rules, procedures and code of conduct adopted by the governing board and give particular regard to the duty to maintain confidentiality;
- governors/trustees will contribute towards a safe and secure environment for the meeting by giving due regard to the school's policies relating to data protection and the appropriate use of ICT, and
- the minutes of the meeting will be taken by the clerk to the governing board and the meeting should not be recorded by any governor/trustee or the clerk without the approval of the governing board and for a specified purpose.



## Appendix 2

### *Some frequently asked questions*

#### **Roles and responsibilities**

1. *Does the situation that COVID-19 creates for schools change the role and duties of the governing board and if so how?*

No, the role, duties and three core functions of school governance have not changed as a result of schools closing to almost all pupils due to COVID-19. [The DfE has confirmed](#) that it will not be making any changes to the statutory governance functions in any upcoming regulations related to COVID-19. However, it has urged governing boards to be pragmatic in what they cover in meetings during this time, and to be proportionate in the decisions that they are planning to take.

#### **Safeguarding duties**

2. *How should the governing board fulfil its safeguarding duties during this period?*

The governing board's responsibility to safeguard and promote the welfare of children continues even when schools and colleges are operating in a way that is fundamentally different to business as usual. NGA recommends that, as a priority, either the safeguarding governor/trustee, chair or other member of the board as appropriate makes contact with the school leader and/ or DSL and receives an update on the safeguarding arrangements made in response to COVID-19. This would include any revisions made to the child protection policy (see below) and the arrangements in place to keep children not physically attending the school or college safe, especially online. Safeguarding should be a specific agenda item at all governing board meetings held during this period and cover the retrospective approval of policies and procedures. NGA has produced an [information sheet](#) that includes a list of safeguarding questions for governing boards to ask in their own school's context.

3. *Does the governing board have to approve a new safeguarding policy?*

The DfE has published [interim safeguarding guidance](#) for the COVID-19 period, which recommends that schools review and revise their child protection policies to accurately reflect new arrangements in response to COVID-19. In all likelihood the Designated Safeguarding Lead (DSL) or their deputy will manage the task of reviewing and revising the child protection policy. The interim guidance says that in some cases drafting an annex/addendum that summarises any key COVID-19 related changes might be more effective than re-writing and re-issuing the whole policy. Any changes that are made can be approved as a chair's action prior to them being discussed and approved at meeting of the governing board.



## Managing statutory processes

4. *NGA's advises that the school complaints process is on hold. How should the board respond to a complaint about a child not being allowed to attend the school because the school does not believe that their parents/carers meet the government definition of a key worker?*

The consideration of school complaints under the adopted procedure is on hold. However, as this issue is time sensitive it is in the best interest of everyone concerned for it to be considered as soon as possible. Therefore it is reasonable for the chair (or another nominated governor/trustee with the relevant skills) to look into the matter, provide feedback and hopefully a resolution that is appropriate in the circumstances. If the complainant is not satisfied with the chair's response, then they still have the option to escalate it through the adopted complaints procedure (i.e. request that it is considered by a complaints panel). However, it should also be made clear from the outset that the panel will be considering the complaint retrospectively after the school has re-opened to all pupils.

5. *How does the board manage the performance management/appraisal process for the head teacher, should this be put on hold?*

Whilst it isn't necessary to place the performance management/appraisal process for the head teacher on hold completely (and in doing so create unintended issues relating to future pay decisions), it is likely to be the case that their objectives will be adversely affected by the inability to work towards them during a substantial part of the performance management cycle/appraisal. Bearing this and the other pressures faced by school leaders as a result of COVID-19 in mind, it is very important that governing boards have a flexible response. We recommend that a conversation takes place between the head teacher and those governors/trustees involved in the process to establish how best proceed.

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

Typically articles of association require the notice of a general meeting to state the time, date and place of a general meeting. This could mean that general meetings would have to be held in a physical place as this is not possible, an alternative solution will need to be considered.

If possible, the AGM should be delayed although given that the AGM plays an important role in helping maintain effective governance, this is only a temporary solution and so plans will, at some point need to be arranged for the AGM take place.

NGA's legal partner, Browne Jacobson have produced a [legal update](#) on this matter.

NGA also forwarded the question to the DfE.

Their response was that trusts that have an urgent need to hold their AGM are encouraged to consider whether their articles of association allow for it to be held remotely using video conferencing technology.

Where this is not possible, it is advisable for trusts to postpone the AGM. DfE do not expect any action to be taken against the trust for taking a reasonable decision to postpone the AGM meeting in these circumstances.

Where postponing the AGM has wider implications for the trust, for example it delays the sign off of the accounts, then they are advised to contact the Education Skills and Funding Agency (ESFA) to discuss alternative arrangements.



The AGM is an opportunity for the Members to hold the trust board to account and so trustees should be prepared to report back to Members and answer their questions about how they have carried out their role. NGA's Leading Governance Development for Boards programme is an effective way to demonstrate and evidence how your governance practice has evolved. Fully funded by the DfE, it is consultant-led and tailored to your board's circumstances, designed to improve both practice and outcomes. For more information about the programme, visit <https://www.nga.org.uk/LeadingGovernance/Boards.aspx>. Trust boards can access up to £2,500 of funding to access both the Development for Boards, and Development for Chairs Leading Governance programmes; to learn more or enquire about eligibility, call the team on 0121 237 3780 (option 4), or email [leading.governance@nga.org.uk](mailto:leading.governance@nga.org.uk).

## Taking urgent decisions

### *7. When is appropriate to use chair's action?*

For governing boards of maintained schools, in cases of urgency where a delay would be likely to be seriously detrimental to the interests of the school, a pupil, a parent or member of staff it is possible for the chair or vice chair (if the chair is unable to act) to make decisions independently. This does not extend to approving the annual budget, the suspension of governors or reviewing the exclusion of pupils except where permitted in accordance with the law around pupil exclusion.

Whilst this approach is embedded in maintained sector governance regulations, there is no such equivalent power for academy trusts. Whether chairs and vice chairs of academy trusts and academy committees (LGBs) can be delegated functions in cases of urgency will depend on the provision made in schemes of delegation or by trustee resolution. If no such provision currently exists, then it may be advisable to call an urgent trustees meeting to approve the principle and circumstances in which decisions can be made by individuals in cases of urgency.

### *8. Can we make decisions via email?*

The governance regulations for maintained school governing boards do not state specifically whether decisions can be taken by email. However, provision is made within the regulations for "alternative arrangements for governors to participate or vote at meetings".

Academy trust boards do have the option of making decisions by passing a written resolution. A written resolution would require agreement by all the trustees so would be unsuitable if some trustees were precluded from voting due to conflict of interest.

In either case NGA thinks that holding governing board meetings by alternative means such as telephone or video conference, is preferable to governing boards conducting business and voting by email correspondence. The exchange of numerous emails lacks immediacy, restricts the opportunity for the governing board to interact in real time, can result in some governors/trustees losing track of others' contributions, and can make recording problematic for the clerk/governance professional. All governing boards should refer to their clerk for advice.



## Maintaining the membership of the governing board

9. *What should the governing board do if the term of office of an appointed governor/trustee ends during this period?*

There is nothing to prevent the governing board proceeding with appointment and or re-appointment of governors/trustees as they normally would and having these confirmed at meetings held by telephone or video conference. The governing board may wish to consider how the process is managed on a practical level given that they are not going to be in the same room at the same time. For example whether they wish to ask the individuals concerned to join the virtual meeting at a later stage after their appointment/re-appointment has been confirmed.

10. *What should the governing board do if the term of office of an elected governor or trustee ends during this period?*

Legislation does not allow for an extension to the terms of office for elected governors at maintained schools. At academy trusts, the articles of association will determine if it is possible to extend the terms of office for elected trustees and academy committee members.

The latest [school governance update](#) from DfE advises maintained school governing boards to take a pragmatic approach to the timing of governor elections during the outbreak and continue to function with vacancies where necessary and practical. It also advises academy trusts to make pragmatic decisions as to whether elected parent trustees and/or local parent governors can be extended under the terms of their articles or whether the trust can continue to function with less governors or trustees if necessary.

NGA recognises that most schools and governing boards are currently not in a position to hold or complete the process of governor/trustee elections and that this may continue for some time. Therefore, we have taken the view that although maintained school governance regulations and some articles of association do not allow the terms of office of elected governors/trustees to be extended, it is still sensible to do this when it is not possible to elect replacements and the governing board is unable to function without replacements.

We have taken this view based on an intelligent assessment of the risks attached to circumstances that make it impossible to make a decision or discharge a function in strict compliance with the regulations/articles. However, governing boards should not take these decisions lightly. We accept that the preferable alternative to extending terms of office is:

- to function with vacancies until such time it possible to hold governor/trustee elections and/or
- to use governors/trustees whose terms have expired in an associate and/or advisory capacity

All governing boards in this position, whether or not they have taken the decision to extend terms of office, should now be considering the timing of governor/trustee elections even if this is provisional and subject to change.

## Virtual meetings procedures and protocol

11. *Is the procedure for voting the same at a meeting held by telephone or video conference?*

Yes, decisions made in virtual meetings have the same legal standing as face to face meetings in person, although there are some practical considerations, for example how votes are cast at the meeting.





*12. How can governors vote in virtual meetings?*

In practice, voting at governing board meetings usually takes place by a show of hands. This is still possible if the meeting is being held by video conference and the clerk can see all the voting participants on their screen. Otherwise it may be necessary for clerk to either ask each voting participant to confirm their vote, or ask if there is anyone who wishes to vote against a proposal working on the assumption that the vote will be carried.

**Clerks to governing boards**

*13. As a clerk to the governing board, how can I make sure that I am paid during this period?*

Government guidance clearly states that to ensure service continuity during and after Covid-19, public bodies should continue to pay suppliers. NGA thinks that now more than ever, it is vital that boards have access to an effective clerk and so we encourage that schools ensure that financial commitments in relation to clerking are promptly met.