



Confederation
of School Trusts

SK STONE KING

GUIDANCE ON THE GOVERNANCE STRUCTURE, ROLES AND RESPONSIBILITIES IN SCHOOL TRUSTS

The Confederation of School trusts (CST) is the national organisation and sector body for academy and multi-academy trusts, advocating for, connecting and supporting executive and governance leaders. More information about membership of CST can be found [here](#).

With a leading reputation in the charity and education sectors, [Stone King LLP](#) provides tailored advice specific to your trust's needs. Stone King is one of CST's Platinum Partners.

INTRODUCTION

School trusts¹ are complex, dynamic organisations governed by a range of legislation and regulation.

This guidance is designed to help trust boards determine their governance structures and levels of delegation, ensuring that it is coherent and that the governance community is clear about the respective roles and responsibilities. The governance community refers to the entire governance structure of a trust incorporating members, trustee board and committees and the local governance function. The guidance refers throughout to the [Academy Trust Handbook \(ATH\)](#), [Governance Handbook](#) and [model Articles of Association](#).

This guidance does not explicitly address other features of effective governance, namely strategic leadership, accountability, compliance and evaluation.

There are a range of options for how to design governance structures. The trust board needs to take account of the size of the organisation, the number of schools, the maturity of the trust and its legal constitution.

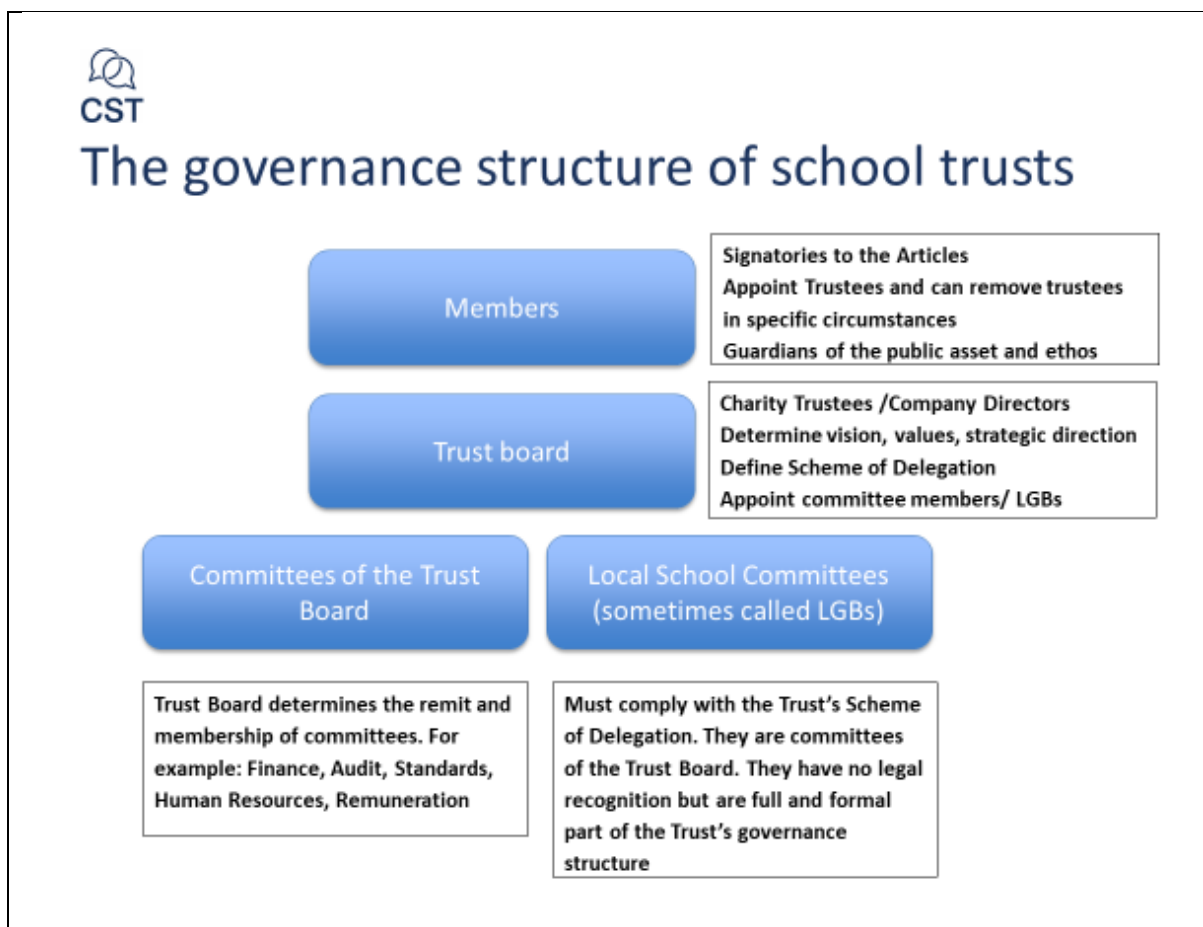
¹ CST refers to academy and multi-academy trusts as 'school trusts' in order to focus on the fact that they are education charities which exist to advance education for public benefit. We know that different terms are used in the sector. For example The Catholic Education Service uses the term multi-academy companies to differentiate it from the foundation trust which owns the land.

This guidance will deal with the constituent parts or three major tiers of governance in a school trust:

- Members
- Trustees
- Committees of the trust board, including local school committees

The guidance also considers the role of the governance professional, who is strategic advisor and in-house counsel to the trust board and oversees the governance arrangements and governance community.

A diagram summarising the governance structure of school trusts is set out below:



1. MEMBERS

Why do school trusts have members?

School trusts are charitable companies. As such they follow the Charity Commission guidance on structures. In most charities, members are the foundation of the legal structure so the charity must have one or more members in order to exist. The members are the guardians of the organisation and its ethos: custodians of governance in the trust and its vision and values. They are the first signatories to the Articles of Association. They can appoint and remove trustees in certain circumstances.

Who are the members?

The first members of the trust are the signatories or 'subscribers' to the Memorandum who confirm that they wish to form a company. Technically, further members are appointed when their name is entered into the trust's register of members. Members can be appointed by a foundation or sponsor body, the Diocese or by the existing members: the provisions are set out in the Articles of Association.

This means that if the trust is not a Church of England or Catholic trust, then the members are typically a self-perpetuating group with no term of office. In a Church trust, the Diocesan Board is a 'corporate member.'

What powers do members have?

The members:

- may, by special resolution (which requires 75% rather than a simple majority of members to agree), amend the articles of association, subject to any restrictions created by the trust's funding agreement or charity law including approval of ESFA;
- may, by special resolution appoint new members or remove existing members other than, where there is one, the foundation/sponsor body and any members that it has appointed;
- may appoint trustees as set out in the trust's Articles of Association, and have power under the Companies Act to remove any or all serving trustees;
- may, by special resolution, issue direction to the trustees to take a specific action;
- appoint or remove the trust's auditors and receive the trust's annual audited accounts (subject to the Companies Act); and
- have power to change the name of the charitable company and ultimately, wind up the school trust.

What duties do members have?

The duties are limited to:

- £10 nominal indemnity for the trust's debts;
- Act in the trust's best interest;
- Oversight of the trustees' pursuit of charity's "objects."

Who should be members?

Where a trust has a foundation or sponsor, or if the Diocese has a right to appoint members, the requirements are set out in the trust's Articles of Association.

In the absence of any specific provisions in the articles, there is no legal right and wrong.

CST's advice is that members should be identified on the basis that they must:

- Demonstrate both behaviours and values that are appropriate to the holding of public office ([Principles of Public Life](#));
- Approach the tasks of membership with seriousness of purpose, probity and integrity;
- Apply care, diligence and skill;
- Have resilience, in the sense that they must be able to take action in the context of dysfunctional governance:
- Observe confidentiality;
- Be able to commit to the role in longevity as there is no term of office.

Members must understand and accept that they are not *de facto* or shadow trustees which are specifically prohibited.

No more than 19.9% of members can be "Local Authority Associated Persons" (LAAPs) people, i.e., employees, members or officers of an Local Authority or those who are or have been, within the last four years, an employee, member or officer of an Local Authority. In addition, the number of votes exercised by LAAPs must never exceed 19.9% of the total number of votes exercisable by members in a general meeting.

Can an employee be a member?

In the current model articles of association, no employee may be a member.

Older versions of the articles permit employees including the CEO to be a member. CST's position is that where this is the case, the members should give careful consideration to the appropriateness of this arrangement and may, by special resolution, wish to amend the articles of association.

Can a trustee be a member?

The ATH says that there should be "*significant separation*" between the individuals who are members and those who are trustees, and the DfE's strong preference is for a majority of members to be independent of the board of trustees. If members sit on the trust board this may reduce the objectivity with which the members can exercise their powers.

What does 'significant separation' mean in practice?

Significant separation does not mean that no trustee can serve as a member. Arguably having one trustee serving as a member can help with the task of keeping members informed.

The DfE's view is that the most robust governance structures will have a significant degree of separation between the individuals who are members and those who are trustees. If members also sit on the board of trustees this reduces the objectivity with which the members can exercise their powers and increases the risk of unchecked 'group think' by the board. The DfE's strong preference is for a majority of members to be independent of the board of trustees.

CST believes careful consideration should be given to having the Chair of the trust board serve as a member. This is because of a potential conflict of interest – if the members hold the trust board to account, then it does not make sense that the Chair as a member holds themselves to account.

How many members should there be?

According to the ATH, the trust must have at least three members, although the DfE’s strong preference is that trusts should have at least five members, which prevents any one member blocking special resolution (requiring a 75% majority). Having more members provides for a more diverse range of perspectives and ensures members can take decisions via special resolution without requiring unanimity.

How often should the members meet?

This is prescribed by the articles of association. The current model articles provide only that there must be an Annual General Meeting in each financial year. There should be no more than fifteen months between each one and the first must take place within eighteen months of incorporation.

General meetings are closely regulated by the requirements of the Companies Act 2006 (Part 13, Chapter 3). Members’ meetings are called by the trustees who must convene a meeting if it is requested by members in accordance with the process. Trustees are entitled to attend general meetings but not vote.

How can members hold the trust board to account?

The Governance Handbook states that members “should assure themselves that the governance of the academy trust is effective, that academy trustees are acting in accordance with the trust’s charitable object(s) and that they, the Members, use their powers to step in if governance is failing”. It is important that members ensure that they do not get involved in the day-to-day business of the trust or stray into the trustees’ role.

The trust must determine how best to keep members informed so they can “be assured that the board is exercising effective governance and leadership” of their trust. Members will want to be “well informed of the skills the board needs to be effective and to have confidence in the board at all times”; there should be “sufficient arrangements in place for them to know when they may need to exercise their powers – particularly to appoint or remove one or more trustees”. It should be clear to trustees and others involved in the governance of the trust how they can escalate concerns to the members.

In practice, how do members ensure that they are kept informed?

- Receiving the Accounts and attending the Annual General Meeting;
- Possibly through a limited number of board observations (although this is not common practice in school trusts);
- Receiving regular information from the board and official communities e.g. ESFA Accounting Officer letters;
- Through regular but not too frequent meetings with the Chair and CEO;
- Setting the vision, mission and values and/or attendance at an annual strategy day –without becoming inappropriately involved in trustee’s decisions.

What happens when things go wrong?

ATH says that when “governance of the trust by the board of trustees becomes dysfunctional the members will have a strong interest in ensuring the board has plans to address the issues or otherwise to remove the board or individual trustees and re-appoint trustees with the skills necessary for effective governance.”

It is advisable to seek legal advice when things go wrong and, potentially, engaging with the Regional Schools Commissioner. Members should convene a meeting to understand the issue and consider appointing a member to liaise with the trustees and/or those involved in governance.

2. TRUSTEES/ DIRECTORS

Who are the trustees?

Trustees are both charity-law trustees and company-law directors. This guidance refers to those serving on the trust board as trustees, but in Church trusts, those on the board are often known instead as 'directors' as the term 'trustee' is reserved for those on the board of the separate trust owning the land.

What duties do trustees have?

Trustees must comply with the trust's charitable object/s, with Company and Charity Law, and with their funding agreement. Company directors' duties are described in sections 170 to 181 of the Companies Act 2006, but in summary are to:

- act within their powers
- promote the success of the trust company
- exercise independent judgement
- exercise reasonable care, skill and diligence
- avoid conflicts of interest
- not accept benefits from third parties
- declare an interest in any proposed transactions or arrangements

The Charity Commission guidance, [the essential trustee](#), provides a clear and concise outline of the role of trustees under Charity Law.

The trustees must ensure regularity and propriety in use of the trust's funds, and achieve economy, efficiency and effectiveness – the three elements of value for money. The trust board signs off the annual accounts and is responsible for the funding agreement – the contractual agreement with the Secretary of State.

The trust board must appoint a named individual as its accounting officer - this should be the senior executive leader. The board must also appoint a chief financial officer.

CST has published separate [guidance](#) on the role of the accounting officer and chief financial officer.

What functions does the trust board have?

The trust board has three core functions:

- Ensuring clarity of vision, ethos and strategic direction;
- Holding executive leaders to account for the educational performance of the organisation and its pupils, and the performance management of staff; and
- Overseeing and ensuring effective financial performance.

The trust board can delegate governance powers and functions to an individual trustee, committee and to any member of the executive including the Chief Executive Officer. The delegation must be made in writing; the board must approve a formal scheme of delegation.

What is a scheme of delegation?

A scheme of delegation sets out clearly who has the authority to make decisions: it must make clear who is responsible as well as who is accountable as the two things may not be the same. This is one of the most important documents for a trust. The scheme of delegation must reflect the size, scale and structure of your trust. It must be 'readable' and able to be understood and used by all those involved in leadership and governance.

The executive and committees of the trust board draw their authority, legitimacy and power to make decisions from the scheme of delegation.

The trust board should keep its strategic function in mind when exercising the power to delegate:

- Delegate as much as possible; and
- Delegate as close to the point of impact as possible.

Consider the following:

- What capacity do local school committees have for significant decision-making?
- What goes to the local school committees and what is delegated to other committees of the trust board? Avoid duplication or lack of clarity as to who is responsible for what.
- What must be kept back for trust board decisions?
- What should be delegated to the executive?

Any decision taken under delegated powers is binding and immediately effective.

There are no automatic delegations to the Chair of the trust board - so the Chair cannot take 'Chair's Action' unless they have a delegated power to do so. This contrasts with maintained schools where the Chair has this power under regulation. Any powers delegated to the Chair should be set out in the scheme of delegation.

The scheme of delegation should be updated regularly to reflect the trust's changing operations and governance. CST recommends that the scheme of delegation be reviewed annually.

What should a scheme of delegation include?

The Constant Group, CST and Stone King have published separate [guidance](#) on this issue. Our guidance does not take the form of sample schemes of delegation. This is because it is important that each trust consciously decides what and how it delegates. Our guidance is a checklist that will help your trust understand what you should or shouldn't include in your scheme of delegation.

Can an employee be a trustee?

ATH states that “any newly appointed senior executive leader can only be a trustee if the members to appoint them as such”. It notes that the DfE’s “strong preference is for no other employees to serve as trustees, nor for trustees to occupy staff establishment roles on an unpaid voluntary basis, in order to retain clear lines of accountability”.

In the charity sector, employees are not typically allowed to be trustees of the organisation they work for as it is considered to be a fundamental conflict of interest. However, in the corporate sector, the unitary board model has both executive and non-executive directors serving on the board.

This is a matter for each trust board to consider. CST has developed the table (below) of advantages and disadvantages to support the board’s deliberations.

<p><i>Advantages of the CEO serving as a trustee</i></p> <ul style="list-style-type: none"> Aligns decision-making of the board with the accounting officer’s regulatory accountability, a shared view of the direction of travel and the execution of corporate strategy 	<p><i>Disadvantages of the CEO serving as a trustee</i></p> <ul style="list-style-type: none"> Lack of executive/ non-executive separation – comprises the principle of the board’s independence from the executive. CEO as a trustee holds themselves to account – conflict of interest. Charitable principle of no financial benefit to a trustee is compromised.
<p><i>Advantages of the CEO not serving as a trustee</i></p> <ul style="list-style-type: none"> Protection of board independence from the executive. The role of the accounting officer to report regulatory breaches is not compromised by them also serving as a trustee and therefore having to take corporate responsibility along with other trustees for actions or decisions that constitute regulatory breaches. 	<p><i>Disadvantages of the CEO not serving as a trustee</i></p> <ul style="list-style-type: none"> Potential for lack of alignment between board and executive – the risk that the CEO is (or feels) alienated from the decision-making of the board and/or the executive has a different view of the direction of travel than the board.

What is the role of the senior executive Leader/accounting officer in relation to governance?

ATH states that trust board must appoint a named accounting officer who is the senior executive leader, ie the CEO in a multi-academy trust or the Principal in a single academy trust. The accounting officer is personally responsible to Parliament and must be able to assure Parliament and the public of high standards of probity in the management of public funds. The accounting officer must be “a fit and suitable person” for the role. The roles of senior executive leader and accounting officer must not rotate.

The accounting officer has a formal role in relation to the trust board whether or not they are a trustee. They must execute the strategy and decisions of the trust board and are therefore the formal link between the governance and operations of the organisation.

The accounting officer is held to account by the trust board for the educational performance of the organisation and its pupils, the performance management of staff, and financial regularity,

propriety and value for money. The accounting officer also has responsibilities for keeping proper financial records and accounts, and for the management of opportunities and risks.

- The accounting officer has a duty to raise concerns and must advise the board in writing if it fails to act or if action it is considering is incompatible with the articles, funding agreement or ATH.

ATH states that where the trust board is “minded to proceed”, despite advice of the accounting officer, the accounting officer must consider the reasons the trust board gives for its decision. If, after considering the reasons given by the trust board, the accounting officer still considers that the action proposed by the board is in breach of the ATH or funding agreement, they must advise the ESFA’s Accounting Officer of the position immediately in writing.

Can local governors be trustees?

CST’s advice is that the principle of “significant separation” should also apply between the tier of local governance and the trust board. If local governors or members of a local school committee sit on the trust board this may reduce the objectivity with which the trust board can exercise its powers.

Local governors may be conflicted in that, for the best possible reasons, they may wish to represent the interests of the school or schools where they serve on the local committee, rather than the interests of all schools in the group. Trustees must not be partial – they must make decisions in the interests of all schools and all pupils, they must exercise independent judgement and avoid conflicts of interest.

For this reason, CST advises that all or a significant majority of trustees to be independent of local governance.

How many trustees should there be and who should they be?

The constitution of the trust board – including the numbers of trustees that may be appointed by different bodies including any sponsor or foundation as well as the board itself, is set out in each trust’s articles of association.

The Governance Handbooks states:

- The trust board must include at least two elected parent trustees or, a multi-academy trust may alternatively include two elected parents on each local school committee;
- No more than one third of the board can be employees of the trust; – but the DfE’s strong preference is for no employees other than the senior executive leader to serve as trustees in order to retain clear lines of accountability through the trust’s senior executive leader;
- No more than 19.9 per cent of the board can be Local Authority associated, i.e., employees, members or officers of a local authority or those who are or have been, within the last four years, an employee, member or officer of a local authority, where that local authority has “a responsibility for education or is a district or parish council where there is a land or other commercial relationship with the trust”.

CST is mindful of the difficulties of recruiting trustees, but ideally there will be at least one trustee who is a finance specialist, at least one who is an education specialist and at least one with strategic human resources knowledge and experience.



Smaller boards tend to be more efficient, but boards also need to have sufficient trustees to serve on committees and perform the tasks of governance. CST recommends between nine and 11 trustees (including the CEO if appointed).

Who appoints trustees?

The members usually have responsibility for appointing some trustees – and have the power to remove trustees. The trust’s articles of association determine how many trustees are appointed by members.

Usually, members appoint trustees by ordinary resolution, i.e. where at least 50% plus one of the votes cast are in favour. If the need to address vacancies does not tie in with any planned general meeting, appointments can be made on the basis of a written resolution.

CST’s advice is that members should ensure that their own appointments to the trust board are carried out as part of a wider, rigorous recruitment process for new trustees which includes a knowledge and skills audit, role description and an interview.

The trust board themselves may have a role in putting forward candidates to the members for them to appoint. Once appointed, it is the responsibility of the chair of the trust board, working with the senior executive leader, to provide a suitable induction to the board and the trust.

Diversity, in the widest sense, is essential for boards to stay informed and responsive to the fast-paced and complex changes facing the education sector. Boards whose trustees have different backgrounds and experience are more likely to make better decisions.

The term ‘diversity’ includes the nine protected characteristics of the Equality Act 2010 as well as different backgrounds, life experiences, career paths and diversity of thought. CST’s advice is that boards should try to recruit people who think in different ways, as well as those who have different backgrounds.

How often should the trust board meet?

ATH states that the board and its committees must meet regularly enough to discharge their responsibilities and ensure robust governance and effective financial management. Board meetings must take place at least three times a year (and business conducted only when quorate), although ATH suggests that trust boards should consider meeting more frequently.

If the board meets less than six times a year it must describe in its governance statement, accompanying its annual accounts, how it maintained effective oversight of funds with fewer meetings.

What happens when things go wrong?

ATH states that when “governance of the trust by the board of trustees becomes dysfunctional the members will have a strong interest in ensuring the board has plans to address the issues, or otherwise to remove the board or individual trustees and re-appoint trustees with the skills necessary for effective governance.”

Likewise, where things go wrong at the local tier of governance, the trustees and accounting officer will have a strong interest in ensuring the local school committee has plans to address the issues or otherwise to remove the local school committee or individual governors and re-appoint local governors with the skills necessary for effective governance.

Who has the power to remove trustees?

The Governance Handbook says that the board is able to remove from office any trustee *that they have appointed*. In addition, members have the power to remove any trustee irrespective of whether the individual was appointed or elected to the board.

3. COMMITTEES OF THE TRUST BOARD, INCLUDING LOCAL SCHOOL COMMITTEES

Who appoints committees?

The trust board decides its committee structure and appoints members of the committees.

Local school committees (sometimes called local governing bodies or LGBs) have no separate legal status in a trust. They are technically and legally committees of the trust board.

What committees should form part of a trust governance structure?

The board may delegate functions to its committees, which include local school committees. Each committee (other than those constituted at the local tier of governance) must contain a majority of trustees, but it may also include other people the board chooses to appoint.

ATH states that the trust board must establish an audit and risk committee, appointed by the board.

- trusts with an annual income over £50 million must have a dedicated audit and risk committee.
- Other trusts must either have a dedicated audit and risk committee or can combine it with another committee.

The audit and risk committee should meet at least three times a year. The audit and risk committee must direct the trust's programme of internal scrutiny and report to the board on the adequacy of the trust's financial and other controls and management of risks.

CST's advice is that all trust boards (regardless of annual income) should establish an audit and risk committee to oversee the trust's programme of internal scrutiny.

In addition to the audit and risk committee, the board should consider what is needed and at what tier of governance:

- Finance
- Human resources/ staff
- Curriculum
- Standards
- Pupil welfare
- Premises
- Admissions
- Pupil discipline and exclusions
- Complaints (note the need for independent member)

For example, if the trust wants to create curriculum coherence across its schools, it could establish a curriculum committee as a formal committee of the board. However, if it delegates curriculum to school level, then curriculum matters could be determined at local school committee level.

CST advises that care should be taken not to have overly complex tiers of governance with sub-committees of committees. Duplication of function should also be avoided in the governance

What are the functions of local school committees – sometimes called LGBs?

It is the decision of the trust board about what, if any, governance functions they delegate to local school committees. Trust boards may choose not to delegate any governance powers – in which case local school committees are wholly advisory. Such committees without powers tend to be called “advisory” board or committees rather than “local governing bodies”.

The board must be clear and honest about what, if any, governance functions are delegated to the local tier of governance. Local school committees do not automatically have the same functions as the governing board of a maintained school and must understand their role and responsibilities. They are part of a governance community with governance functions delegated by the trust board.

There are a range of names for local school committees. CST’s guidance is that the naming of this tier of governance should reflect the functions which are delegated:

- ***Local advisory committees or councils*** – no delegated governance functions or powers– the advisory committee is tasked with meaningful engagement with parents and local communities;
- ***Local school committees*** – limited delegated governance functions (but no powers) for example scrutiny of standards, health and safety and safeguarding, and community engagement;
- ***Local governing boards*** – a fuller set of delegated functions and some powers, which may include some decisions over school level finance.

On balance, it is probably not helpful to use the language of a governing board if no governance powers are delegated to local level. A trust board may use wholly advisory bodies at local level to engage meaningfully with parents and local communities to understand their views and needs and listen to their feedback.

Even where local school committees are wholly advisory in nature, the DfE expects the trust board (or any committee established by the trust board to exercise the governance functions on its behalf) to have very close links with the advisory committee and actively take into account and respond to the issue and risks it identifies and escalates.

CST advises that it is useful to talk about ‘the governance community’ to refer to all parties and layers across the governance structure.

Must every school committee in a trust have the same delegated governance functions?

No. Trusts will delegate functions between local school committees and trust wide committees (e.g. finance) depending on how leadership of the trust is organised. Whilst the trust may choose to delegate responsibilities in proportion to the strength of individual schools and the skills and expertise of the people on their local school committees, the so-called ‘earned autonomy’ arrangement has fallen out of fashion as it has not been found to be effective. Whatever the trust

board decides must be made explicit in the scheme of delegation– including that the trust board has the right to remove delegations.

Must every school in a trust have a local school committee?

No. Particularly in a large trust, the trust board may decide to appoint a committee to oversee a group of schools, for example in a geographical cluster.

Are local governors trustees?

No. Local school committees are made up of people that the trust board appoints – this may include trustees but can be anyone that the board selects for their knowledge and skills. People appointed to trust committees or local school committees are not trustees unless they also sit on the trust board itself. They are nevertheless a formal part of the governance community.

All individuals involved in the governance of a trust should know who the trustees are and understand clearly what functions have been delegated by the trust board to local school or other committees.

Should local governors serve as trustees?

CST’s advice is that the principle of “significant separation” should also apply between the tier of local governance and the trust board. If local governors sit on the trust board this may reduce the objectivity with which the trust board can exercise its powers.

Local governors may be conflicted in that, for the best possible reasons, they may wish to represent the interests of the school or schools where they serve on the local school committee, rather than the interests of all schools in the group. Trustees must not be partial – they must make decisions in the interests of the trust as a whole, they must exercise independent judgement and avoid conflicts of interest.

For this reason, CST advises that all, or a significant majority of trustees to be independent of local governance.

Who performance manages the school-level principal or headteacher?

It depends on the scheme of delegation of the individual trust board. The Governance Handbook states that there is a need for “absolute clarity” on the role and remit of each part of the governance structure and the relationship and reporting arrangements between them – including, between the role of a local school committee and an executive principal in holding a school-level principal or headteacher to account. It is essential that the scheme of delegation is clear about the arrangements for the performance management of the school-level principal or headteacher.

What is meant by ‘executive governance’?

The term ‘executive governance’ is sometimes used to describe the executive reporting arrangements in a school trust. With the exception of the CEO who must be performance managed by the trust board, many trusts delegate the performance management of all employed staff – including school-level principals/ headteachers - to an executive line management structure. Where this is the case, there should be absolute clarity that the local school committee does *not* perform the performance management of the school-level principal/ headteacher.

CST’s position is that it is clearer to call this executive management rather than executive governance.



Some trust board appoint their executive leaders to chair local school committees. This is particularly the case where there are concerns about the performance of a school and executive governance is needed to secure improvement. It has a parallel in the maintained sector where local governance of a failing school is dissolved and replaced by an Interim Executive Board (IEB).

Executive governance can be an effective way to secure improvement, but where trusts implement an executive governance arrangement, care should be given to ensure overall governance oversight of executive leadership by the board, and to ensure that the requirement for at least two elected parent trustees to serve either on the trust board or on each local school committee is met.

How should the trust board exercise oversight of the effectiveness of local school committees and what are effective arrangements for communication between the trust board and the local tier of governance?

There should be a continuous feedback loop between the trust board and local tier of governance so that the trust board has oversight of the effectiveness of the local school committee. CST's advice is that there should be a single governance community with a shared sense of mission, vision, values and culture as well as purpose and the execution of the strategy set by the trust board.

CST's advice is that trust boards should exercise oversight of the work of all of their committees and should be able assess the relative strengths of each local school committee. This is particularly important where a trust board delegates the governance functions of the scrutiny of educational performance and/or finances.

Where trust boards delegate the scrutiny of educational performance and/or finances, they should assure themselves that local school committees are fulfilling these functions effectively. Ultimately, the trust board is the legal entity and the accountable body (the governance body) for all the schools in the trust.

There are a variety of ways in which the feedback loop can work – these are not mutually exclusive and doing only one of these is unlikely to be effective in and of itself:

- Have a dedicated Governance Professional who oversees the work of the governance community and quality assures/line manages the clerks to each committee;
- Implement exception reporting to scrutinise the work of the local school committees (collated by the Governance Professional);
- Have a dedicated trustee for each local school committee who is tasked with observing some (but certainly not every) meeting and being the conduit between the committee and the trust board;
- Have joint strategy days/conferences;
- Convene a chairs' forum so that local school committee chairs meet with the chair of the trust board and/or all the trustees are regular intervals;
- Have mechanisms in place so that local school committees can feedback the meaningful engagement they have done with parents and communities so that the trust board understands and can act on their views.

What happens when things go wrong?

When things go wrong at the local tier of governance, the trustees will have a strong interest in ensuring the local school committee has plans to address the issues or otherwise to remove the local school committee or individual governors and re-appoint local governors with the skills necessary for effective governance.

Who has the power to remove local governors?

The trust board has the power to remove individual local governors/committee members and/or the local school committee.

4. THE GOVERNANCE PROFESSIONAL

What is a governance professional?

Increased regulation of school trusts and emphasis on highly effective, accountable and ethical governance means that there is a need for skilled professionals who can balance regulatory compliance with the educational purpose of the trust.

The governance professional is in-house counsel on governance matters for the trust board. The governance professional is the holder of knowledge and administration of the legislative and regulatory requirements on the trust.

ATH provides that the governance professional can contribute to the efficient functioning of the board by providing:

- guidance to ensure the board works in compliance with the appropriate legal and regulatory framework, and understands the potential consequences of non-compliance
- independent advice on procedural matters relating to operation of the board
- administrative and organisational support.

Is the governance professional the same as the clerk?

No. What was previously the role of the 'clerk to the governing body' in a local authority-maintained school is no longer recognisable in scope or function from the role of the governance professional in a school trust. The clerk role is that of technical expert and governance administrator. The governance professional is the strategic governance enabler in a complex governance environment which may have multiple tiers of governance. These roles can be combined but are often separate in School trusts: in particular the administration of meetings and minute taking is often delegated to a separate clerk role.

Is the governance professional the same as the company secretary?

Not necessarily. Within trusts, the company secretary is typically seen to have certain company law responsibilities largely associated with company law filing and listing, accounting, financial reports and the preparation of financial accounts, risk management, property administration and sometimes the development of strategy.

In corporate terms, company secretaries have roles that are typically aligned to the role of the governance professional, namely high level responsibilities for governance structures and mechanisms, corporate conduct within an organisation's regulatory environment, board meetings, compliance with legal and regulatory requirements, the training and induction of trustees, and contact with regulatory and external bodies. The company secretary is the chief administrative officer of the



trust and a high-ranking professional. They have responsibilities under company law and can be found personally liable as an officer of the trust company.

There is no longer any legal requirement to appoint a designated company secretary so long as the requirements are fulfilled by the trust.

Why is a governance professional a good thing?

Trusts have obligations to fulfil an ever-expanding range of legal and regulatory requirements. The governance professional is the professional with responsibility to have this knowledge, advise the trust board accordingly and ensure regulatory compliance.

The governance professional works on behalf of the trust board and reports to the board chair. Given that trustees are volunteers with limited time available to undertake the role, a governance professional can support the workload.

The governance professional can help to build coherence across the governance community, at all tiers of governance, enabling efficient and effective communication and informing decision-making.

The governance professional can ensure that a training programme is in place for all tiers of governance and that board and governance evaluation is undertaken in an effective and timely way.

It is a requirement that all boards appoint a governance professional. They should ensure that they have the skills, training and knowledge required to fulfil the role and pay an appropriate salary.