

## **USING EMAIL FOR DECISION-MAKING FOR GOVERNING BOARDS**

**There is no provision under the current legislation for either maintained schools or academies to make decisions via email. Every effort should be made at this time to organise virtual meetings as the use of email is considered to be ‘correspondence’ and not the forum for discussion**

**Please note that, since this was written, the LA will accept school budget returns this year where governing body's approval of the budget has only been given to the school via e-mail. Juniper Education would, however, strongly recommend that, in these exceptional circumstances, that governors had previously met either virtually or in person and effectively scrutinised and made appropriate challenges to the draft budget before agreeing to the budget via email. If the budget has been scrutinised by the Finance Committee with a recommendation that the Governing Body approve the budget then approval can be given by email.**

Having taken advice from the NGA, it has been confirmed that there is no provision in the School Governance Regulations or in standard Articles of Association to make email decisions or approvals. However, in these unusual and difficult times, there may well be occasions when a Governing Body or Board meeting might need to be postponed, the opportunity to organise a virtual meeting is not possible but an approval (ie the school budget) desperately needs to be agreed.

It is possible to do this via Chair's Actions (for maintained schools only) under the usual extenuating circumstances. We believe that we are clearly in a time of crisis and thus there will be occasions when this is appropriate.

Please remember that, in a maintained school, their Standing Orders should confirm that they are able to hold virtual meetings. If one of your schools does not have this stipulation within their Standing Orders and Governors have (or are) postponing meetings due to the most recent Public Health England guidance, then there can be a Chair's Action to revise these to reflect the change (see Appendix 1).

As far as academies are concerned, Article 126 (of the latest Articles of Association – see Appendix 1) confirms that video conferencing is permitted; I am sure that we don't have to remind you that there are no Chair's Actions for Board Chairs unless your own Academy has had this written in or there is a formally agreed procedure in place with defined limits on the use of the power.

To clarify email decision-making further:-

- As you cannot hold meetings via email, any decisions made electronically can only be made if there has been a discussion regarding the matter at which Governors had been 'present'; this does not necessarily mean 'physically present' – it could be that the matter was thoroughly discussed during a virtual meeting but was not approved because further clarification was required before the final decision to approve could be made. Therefore, once this had been received (in whatever format), approval could be given via email but only by those who had been 'present' at the meeting. The whole matter hinges on transparency.
- Should there be a reason for a secret ballot during a video meeting, Governors can email their votes to the Clerk so that these remain anonymous
- Any decisions taken by email must be recorded in the minutes of the next available Governing Body/Board meeting
- At this particular time, Governors should be concentrating on decisions that take priority; agendas for virtual meetings should be structured to take account of this
- In the event that it is necessary for a Chair's Action, the following should be remembered:-
  - The Chair may take an action on behalf of the Governing Body when:
    - it is not possible to call a governing body meeting before the decision has to be made

- not to act would be seriously detrimental to the interests of the school, the pupils, parents or anyone employed at the school
- Regulations forbid the Chair or the Vice Chair taking decisions on behalf of the Governing Body in relation to:
  - Alterations to the school day
  - Closure of the school
  - Changes to school category
  - Approval of the budget
  - Changes to policies relating to discipline and admissions

If it worth remembering that Ofsted can ask to see the email chain for any Governing Body business as part of their inspection evidence. For this reason, it is important that Governors only use their school email addresses for discussion and voting and that they keep these for at least their current term of office.

## **APPENDIX 1**

### **Maintained schools:**

#### **Section 4 of model Standing Orders for a maintained school:**

If necessary, these should be amended to read as follows to allow for Governors to attend a virtual meeting

#### **Alternative arrangements for governor participation at meetings**

The governing board may approve alternative arrangements for governors to participate or vote at meetings.

Governors may participate and vote at meetings via a video conferencing facility if they have indicated this in advance of the meeting and this facility is available.

#### **Academies:**

Any trustee shall be able to participate in meetings of the trustees by telephone or videoconference as per Article 126.

**(providing at least 48 hours' notice of their intention is given and that trustees have access to appropriate equipment)**