

MAYOR AND CABINET			
Report Title	Making of Instrument of Government: The Governing Body of St. Mary's Church of England Primary School		
Key Decision	Yes	Item No.	
Ward	Lewisham Central		
Contributors	Executive Director for Children and Young People Head of Law		
Class	Part 1	Date:	25 June 2014

1. Summary

- 1.1 The report sets out a variation to the Instrument of Government for St. Mary's Church of England Primary School and proposes a nominee for the appointment as Local Authority governor by the governing body.
- 1.2 The Governing Body are reconstituting under the School Governance (Constitution) (England) Regulations 2012. The new Constitution Regulations remove the requirement that were within The School Governance (Constitution) (England) Regulations 2007, that "such number of foundation governors who are eligible for election or appointment as parent governors that, when they are counted with the parent governors, comprise one third or more of the total membership of the governing body". Varying the current Instrument of Government will thus provide the governing body with the opportunity to appoint foundation governors according to need rather than to regulation and to appoint co-opted governors based on skills required.

2. Purpose

- 2.1 To seek agreement to the variation of the Instrument of Government for St. Mary's Church of England Primary School.

3. Recommendation/s

The Mayor is recommended to:

- 3.1 Approve that the Instrument of Government for the school listed below be made by Local Authority order:

St. Mary's Church of England Primary School 1st September 2014

- 3.2 To consider and approve the nomination of the Local Authority governor detailed in paragraph 6 below for appointment by the governing body.

4. Policy Context

- 4.1 Each school has to have an Instrument of Government. The Local Authority must satisfy itself that the Instruments of Government for schools conform to the legislation. The Local Authority must also agree its content.
- 4.2 Lewisham's Children & Young People's Plan sets out our vision for improving outcomes for all children. The main purpose of a governing body is to account for the achievement of children and young people in their schools.
- 4.3 The appointment of governors supports the broad priorities within Lewisham's Sustainable Community strategy, in particular those of being "ambitious and achieving" and "empowered and responsible". Governors help inspire our young people to achieve their full potential and they also promote volunteering which allows them to be involved in their local area.
- 4.4 Two specific corporate priorities that are relevant pertain to "community leadership and empowerment" and "young people's achievement and involvement".

5. Background

- 5.1 At a full governing body meeting on the 8th May 2014, the governing body of St. Mary's Church of England Primary School made a decision to reconstitute the governing body. Reconstitution supports a review of its current membership and provides the opportunity to bring in additional skills to the governing body.
- 5.2 As a result, the governing body must be constituted in accordance with regulations made by virtue of section 19 of the Education Act 2002 namely The School Governance (Constitution) (England) Regulations 2012. The total membership of the governing body of a maintained school must be no fewer than seven governors.
- 5.3 The governing body of a maintained school must include the following:-
- at least 2 parent governors;
 - the Headteacher unless any such Headteacher resigns the office of governor in accordance with regulation 19 of the Constitution Regulations 2012;
 - one staff governor; and
 - one Local Authority governor.

- 5.4 The governing body may in addition appoint such number of co-opted governors as they consider necessary provided that the requirements in the Regulations are met.
- 5.5 The total number of co-opted governors who are also eligible to be elected as staff governors when counted with the staff governor and headteacher, must not exceed one-third of the total membership of the governing body.
- 5.5 The regulations now also state that the Local Authority governor is nominated by the Local Authority but appointed by the governing body.
- 5.6 Appendix 1 details the Instrument of Government the Local Authority is proposing to make by order. This has also been agreed by the Southwark Diocesan Board of Education.

6. Governor recommended for Nomination by the Local Authority .

- 6.1 James Stevens, details of whom appear at Appendix 2, is the Local Authority nominee for appointment as the Local Authority governor by the governing body of St. Mary's Church of England Primary School.

7. Financial implications

- 7.1 There are no financial implications arising from this report.

8. Legal implications

- 8.1.1 Section 20 of the Education Act 2002 requires all maintained schools to have an Instrument of Government which determines the constitution of the school and other matters relating to the school.
- 8.1.2 Each school must have an Instrument of Government detailing the name of the school, the type of school and the membership of the governing body. The category of governor and the number in each category is specified in the Regulations.
- 8.1.3 The Instrument of Government proposed for the governing body of St. Mary's Church of England Primary School conforms to The School Governance (Constitution) (England) Regulations 2012.

Equalities Legislation

- 8.2.1 The Equality Act 2010 (the Act) introduced a new public sector equality duty (the equality duty or the duty). It covers the following nine protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

8.2.2 In summary, the Council must, in the exercise of its functions, have due regard to the need to:

- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- advance equality of opportunity between people who share a protected characteristic and those who do not.
- foster good relations between people who share a protected characteristic and those who do not.

8.2.3 The duty continues to be a “have regard duty”, and the weight to be attached to it is a matter for the Mayor, bearing in mind the issues of relevance and proportionality. It is not an absolute requirement to eliminate unlawful discrimination, advance equality of opportunity or foster good relations.

8.2.4 The Equality and Human Rights Commission has recently issued Technical Guidance on the Public Sector Equality Duty and statutory guidance entitled “Equality Act 2010 Services, Public Functions & Associations Statutory Code of Practice”. The Council must have regard to the statutory code in so far as it relates to the duty and attention is drawn to Chapter 11 which deals particularly with the equality duty. The Technical Guidance also covers what public authorities should do to meet the duty. This includes steps that are legally required, as well as recommended actions. The guidance does not have statutory force but nonetheless regard should be had to it, as failure to do so without compelling reason would be of evidential value. The statutory code and the technical guidance can be found at:

<http://www.equalityhumanrights.com/legal-and-policy/equality-act/equality-act-codes-of-practice-and-technical-guidance/>

8.2.5 The Equality and Human Rights Commission (EHRC) has previously issued five guides for public authorities in England giving advice on the equality duty:

1. The essential guide to the public sector equality duty
2. Meeting the equality duty in policy and decision-making
3. Engagement and the equality duty
4. Equality objectives and the equality duty
5. Equality information and the equality duty

8.2.6 The essential guide provides an overview of the equality duty requirements including the general equality duty, the specific duties and who they apply to. It covers what public authorities should do to meet the duty including steps that are legally required, as well as recommended actions. The other four documents provide more detailed guidance on key areas and advice on good practice. Further information and resources are available at: <http://www.equalityhumanrights.com/advice-and-guidance/public-sector-equality-duty/guidance-on-the-equality-duty/>

9. Crime and Disorder Implications

9.1 There are no specific crime and disorder implications.

10. Equalities Implications

10.1 Governors will have enough flexibility in their choice of constitutional models to enable them to address issues of representation of stakeholder groups and to ensure that governing bodies reflect the communities they serve.

11. Environmental Implications

11.1 There are no specific environmental implications.

Background Documents

Short Title of Document	Date	File Location	Contact Officer
The School Governance (Constitution) (England) Regulations 2012	2012	http://www.legislation.gov.uk/uksi/2012/1034/contents/made	Suhaib Saeed

If there are any queries arising from this report, please contact Suhaib Saeed, Strategic Lead Governors' Services and School Leadership, 3rd Floor, Laurence House, telephone 020 8314 7670.

Instrument of Government

Church of England Voluntary Aided Primary School



- 1 The name of the school is **St Mary's Church of England Primary School**.
- 2 The school is a voluntary aided school.
- 3 The name of the governing body is **The governing body of St Mary's Church of England Primary School**.
- 4 The governing body shall comprise:
 - (a) **2** parent governors
 - (b) **1** Local Authority governor
 - (c) **1** Headteacher
 - (d) **1** staff governor
 - (e) **2** co-opted governors
 - (f) **9** foundation governors.
- 5 The total number of governors is **16**.
- 6 The foundation governors in 4f. above shall comprise:
 - (a) **2** appointed by the Southwark Diocesan Board of Education
 - (b) **6** appointed by the Parochial Church Council of St Mary's, Lewisham
 - (c) The person referred to in 7a. Below.
- 7
 - (a) The principal officiating minister of the ecclesiastical parish of St Mary's Lewisham shall be a foundation governor ex officio.
 - (b) The Archdeacon of Lewisham and Greenwich shall be entitled to appoint a foundation governor to act in place of the ex officio foundation governor whose governorship derives from the office named in 7a. above, in the event that the ex officio foundation governor is unable or unwilling to act as a foundation governor, or there is a vacancy in the office by virtue of which his/her governorship exists, or has been removed from office under regulation 21 (1).
- 8 The Archdeacon of Lewisham and Greenwich shall be entitled to request the governing body to remove the ex officio governor referred to in 7a. above and appoint any substitute governor.
- 9 The School has a trust.
- 10 Ethos statement:

Recognising its historic foundation, the school will preserve and develop its religious character in accordance with the principles of the Church of England and in partnership with the Church at parish and diocesan level.

The school aims to serve its community by providing an education of the highest quality within the context of Christian belief and practice. It encourages an understanding of the meaning and significance of faith and promotes Christian values through the experience it offers to all its pupils.

11 This Instrument of Government comes into effect on the **1st September 2014**.

12 This instrument was made by order of Lewisham Local Authority on the **25 June 2014**

13 A copy of the instrument must be supplied to every member of the governing body (and the headteacher if not a governor), the Trustees and the Southwark Diocesan Board of Education.

MAYOR AND CABINET**New LA Governor Nominee****APPENDIX 2**

Name	School	Occupation	Residential Area	Précis of Suitability to be considered as a school governor	Governor Monitoring Information
James Stevens	St Mary's CE Primary	Civil Servant – Home Office	SE13	James has been an Local Authority appointed governor on St Mary's governing body for three years. His attendance is regular and he is an active and informed participant in meetings, offering appropriate support and challenge. Following the recent OFSTED he has been elected as a second Vice-Chair and Chair of the Resources Committee.	Male White British