

<b>MAYOR AND CABINET</b>			
<b>Report Title</b>	Making of Instrument of Government The Governing Body of St. Michael's Church of England Primary School		
<b>Key Decision</b>	Yes	Item No.	
<b>Ward</b>	Sydenham		
<b>Contributors</b>	Executive Director for Children and Young People Head of Law		
<b>Class</b>	Part 1	Date:	22 October 2014

## 1. Summary

- 1.1 In May 2014, amendments to the School Governance (Constitution) (England) Regulations 2012 and the School Governance (Federations) (England) Regulations 2012 were made and laid before Parliament. The Department for Education (DfE) also published statutory guidance on the constitution of maintained schools which governing bodies and Local Authorities must have regard to.
- 1.2 The amendments require all governing bodies of maintained schools to be constituted under the 2012 Constitution Regulations or the 2012 Federation Regulations, as appropriate, by 1 September 2015.
- 1.3 The Constitution Regulations are the ones that determine the size and membership of governing bodies. We are currently working to two different sets of Regulations in maintained schools. Most governing bodies in Lewisham are still constituted under the 2007 Regulations and for these schools, up until they reconstitute, the Local Authority still appoints Local Authority governors.
- 1.4 Those governing bodies who have already reconstituted do not need to go through the reconstitution process but need to be mindful of the new skills based criteria when filling 'appointed' governor places and for the Local Authority governor position the Local Authority would nominate a governor for "appointment" by the governing body.
- 1.5 Officers are currently working closely with all schools to manage the transition effectively within the timeframes.
- 1.6 This report sets out a variation to the Instrument of Government for St. Michael's Church of England Primary School which is reconstituting to be compliant with the 2012 Regulations and proposes a nominee for the appointment as Local Authority governor by the governing body.

- 1.7 The Governing Body are required to reconstitute under the School Governance (Constitution) (England) Regulations 2012 as amended by The School Governance (Constitution and Federations) (England) (Amendment) Regulations 2014.

## **2. Purpose**

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

## **3. Recommendations**

The Mayor is recommended to:

- 3.1 Approve that the Instrument of Government for St. Michael's Church of England Primary School be made by Local Authority order dated 22 October 2014.
- 3.2 To consider and approve the nomination of Cuong To 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 8 September 2014, the governing body of St. Michael's Church of England Primary School, including its foundation governors, made a decision to reconstitute 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.
- 5.6 The governing body of a voluntary aided school must also include such number of foundation governors as to outnumber all other governors by two.
- 5.7 The regulations now also state that the Local Authority governor is nominated by the Local Authority but appointed by the governing body.
- 5.8 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 who have also confirmed that they are the Trustees of the school.

## **6. Governor recommended for Nomination by the Local Authority .**

- 6.1 Cuong To, 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. Michael'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. Michael'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	<a href="http://www.legislation.gov.uk/uksi/2012/1034/contents/made">http://www.legislation.gov.uk/uksi/2012/1034/contents/made</a>	Suhaib Saeed
The School Governance (Constitution and Federations) (England) (Amendment) Regulations	2014	<a href="http://www.legislation.gov.uk/uksi/2014/1257/contents/made">http://www.legislation.gov.uk/uksi/2014/1257/contents/made</a>	Suhaib Saeed

If there are any queries arising from this report, please contact Suhaib Saeed, Strategic Lead Governors' Services and School Leadership, 3<sup>rd</sup> 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. Michael'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. Michael's Church of England Primary School
- 4 The Governing Body shall comprise:
  - (a) Two parent governors;
  - (b) One LA governor;
  - (c) One headteacher;
  - (d) One staff governor;
  - (e) One co-opted governor;
  - (f) Eight foundation governors.
- 5 The total number of governors is 14.
- 6 The foundation governors in 4(f) above shall comprise:
  - (a) Two appointed by the Southwark Diocesan Board of Education;
  - (b) Five appointed by the Parochial Church Council of St. Michael's Lower Sydenham
  - (c) The person referred to in 7(a) below.
- 7 (a) The holder of the following office shall be a foundation governor ex officio:

The principal officiating minister of the ecclesiastical parish of St Michael & All Angels, Lower Sydenham.

  - (b) The Archdeacon of Lewisham & 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 (a) above, in the event that the ex officio foundation governor is unable or unwilling to act as a foundation governor, or has been removed from office under regulation 21 (1).
- 8 The Archdeacon of Lewisham & Greenwich shall be entitled to request the governing body to remove the ex officio governor referred to in 7(a) 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 24 November 2014.

12 This instrument was made by order of the London Borough of Lewisham on 22 October 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**

**LA Governor Nominee**

**APPENDIX 2**

<b>Name</b>	<b>School</b>	<b>Occupation</b>	<b>Residential Area</b>	<b>Précis of Suitability and skills to be considered as a school governor</b>	<b>Governor Monitoring Information</b>
Cuong To	St. Michael's Church of England Primary School	Finance Manager	SE13	Mr. To is a qualified accountant and member of the Chartered Accountants of England and Wales. The financial skills he has can be used for the benefit of the governing body and he is keen to support a faith school. He is currently a Local Authority governor at the school, but will need to be nominated now for appointment by the governing body.	Male Chinese