

Mayor and Cabinet			
Report Title	Drumbeat School and ASD Service Instrument of Government		
Key Decision	Yes	Item No.	
Ward	Whitefoot		
Contributors	Executive Director for Children and Young People and Head of Law		
Class	Part 1	Date:	20 September 2018

1. Summary

- 1.1 A variation to the Instrument of Government needs to be made for Drumbeat School and ASD Service, a community special school, following the governing body's decision to increase the size of the governing body from 11 to 14 members.

2. Purpose

- 2.1 To seek agreement to the variation of the Instrument of Government for the school listed below.

3. Recommendation

The Mayor and Cabinet is recommended to:

- 3.1 Approve that the Instrument of Government for Drumbeat School and ASD Service be made by Local Authority order dated 5 October 2018 as set out in Appendix 1.

4. Policy Context

- 4.1 Each school has to have an Instrument of Government. The Local Authority must satisfy itself that the Instrument of Government for each school conforms 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 On 13 July 2018 at Drumbeat School and ASD Service’s governing body meeting, governors agreed to vary their Instrument of Government, made on 24 October 2012, by increasing the size of the governing body from 11 to 14 members.

- 5.2 The governing body looked at their ability to provide proper representation for committees that did not mean the same people were attending every committee. They therefore agreed to increase their co-opted governor category from 5 to 8 members. In addition, they would look to recruit governors with additional skills in the areas of finance, fundraising and general HR, with particular emphasis on strong local community organisation links. This will provide support to the Headteacher and senior leadership team as well as rigour in providing appropriate challenge

- 5.3 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, as amended.

- 5.4 The total membership of the governing body of a maintained school must be no fewer than seven governors.

- 5.5 The governing body of a maintained school must include the following:-

- (a) at least two parent governors;
- (b) the headteacher unless the headteacher resigns the office of governor in accordance with regulations;
- (c) one staff governor, and
- (d) one local authority governor

- 5.6 The governing body may in addition appoint such number of co-opted governors as they consider necessary provided that the requirements in regulations are met.

- 5.7 The total number of co-opted governors who are also eligible to be elected as staff governors under Schedule 2, when counted with the staff governor and the head teacher, must not exceed one third of the total membership of the governing body.

- 5.8 Appendix 1 details the Instrument of Government the Local Authority is proposing to make by order.

6. Financial implications

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

7. Legal implications

- 7.1 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.
- 7.2 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 School Governance (Constitution) (England) Regulations 2012 as amended.
- 7.3 The Instrument of Government proposed for the Governing Body of Drumbeat School and ASD Service conforms to The School Governance (Constitution) (England) Regulations 2012 as amended.

Equalities Legislation

- 7.4 The Equality Act 2010 (the Act) introduced a public sector equality duty (the equality duty or the duty). It covers the following protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation
- 7.5 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.
- 7.6 It is not an absolute requirement to eliminate unlawful discrimination, harassment, victimisation or other prohibited conduct, or to promote equality of opportunity or foster good relations between persons who share a protected characteristic and those who do not. It is a duty to have due regard to the need to achieve the goals listed at 7.5 above.
- 7.7 The weight to be attached to the duty will be dependent on the nature of the decision and the circumstances in which it is made. This is a matter for the Mayor, bearing in mind the issues of relevance and proportionality. The Mayor must understand the impact or likely impact of the decision on those with protected characteristics who are potentially affected by the decision. The extent of the duty will necessarily vary from case to case and due regard is such regard as is appropriate in all the circumstances.
- 7.8 The Equality and Human Rights Commission has 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:

<https://www.equalityhumanrights.com/en/advice-and-guidance/equality-act-codes-practice>

<https://www.equalityhumanrights.com/en/advice-and-guidance/equality-act-technical-guidance>

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

- [The essential guide to the public sector equality duty](#)
- [Meeting the equality duty in policy and decision-making](#)
- [Engagement and the equality duty: A guide for public authorities](#)
- [Objectives and the equality duty. A guide for public authorities](#)
- [Equality Information and the Equality Duty: A Guide for Public Authorities](#)

7.10 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:

<https://www.equalityhumanrights.com/en/advice-and-guidance/public-sector-equality-duty-guidance#h1>

8. Crime and Disorder Implications

8.1 There are no specific crime and disorder implications.

9. Equalities Implications

9.1 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.

9.2 Lewisham Council's policy is to ensure that all sections of the community are to be represented on school governing bodies. It is a priority for the new Mayor to encourage further representation from the black communities and groups with protected characteristics, who are currently under represented as governors. The numbers of governors in these groups is kept under review and we will consider options for encouraging recruitment so that our governors better reflect our diverse borough.

10. Environmental Implications

10.1 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/ukxi/2012/1034/regulation/28/made	Suhaib Saeed
The School Governance (Miscellaneous Amendments) (England) Regulations 2015	2015	http://www.legislation.gov.uk/ukxi/2015/883/contents/made	Suhaib Saeed
The School Governance (Constitution and Federations) (England) (Amendment) Regulations 2016	2016	http://www.legislation.gov.uk/ukxi/2016/204/contents/made	Suhaib Saeed

If there are any queries arising from this report, please contact Suhaib Saeed, Service Group Manager School Services, 3rd Floor, Laurence House, telephone 020 8314 7670

INSTRUMENT OF GOVERNMENT - COMMUNITY SPECIAL SCHOOLS

1. The name of the school is **Drumbeat School and ASD Service**
2. The school is a **community special school**
3. The name of the governing body is **The governing body of Drumbeat School and ASD Service**
4. The governing body shall consist of:
 - a. **3** parent governors
 - b. **1** head teacher
 - c. **1** staff governor
 - d. **1** LA governor
 - e. **8** co-opted governors
5. Total number of governors **14**
6. This instrument of government comes into effect on **5 October 2018**
7. This instrument was made by order of Lewisham Local Authority on **20 September 2018**
8. Date of variation to Instrument **20 September 2018**
9. A copy of the Instrument must be supplied to every member of the governing body (and the headteacher if not a governor).