



Delegated Authority Report

Making of Instruments of Government.

Date: 20 September 2021

Key decision: Yes

Class: Part 1.

Ward(s) affected: Forest Hill

Contributors: Head of Schools Services

Outline and recommendations

The governing body of Sydenham School have resolved to increase the number of co-opted governors from 6 to 7 and have asked the Local Authority to make a variation to their Instrument of Government to increase the total number of governors from 13 to 14.

The purpose of this report is to seek agreement to vary the Instrument of Government for the governing body of Sydenham School.

The Executive Director of Children and Young People is recommended to approve that the Instrument of Government for the governing body listed below be made by Local Authority order dated 20 September 2021 as set out in Appendix 1.

- The governing body of Sydenham School

Timeline of engagement and decision-making

The Instrument of Government for the governing body of Sydenham School was last made on 21 November 2018 by Mayor and Cabinet.

1. Summary

- 1.1. The governing body of Sydenham School have resolved to amend their Instrument of Government and have asked the Local Authority to make a variation to their Instrument of Government.

2. Recommendations

- 2.1. The Executive Director of Children and Young People is recommended to approve that the Instrument of Government for the governing body listed below be made by Local Authority order dated 20 September 2021 as set out in Appendix 1.
 - The governing body of Sydenham School

3. Policy Context

- 3.1. Each maintained school has to have an Instrument of Government. The Local Authority must satisfy itself that the Instrument of Government for each maintained school conforms to the legislation. The Local Authority must also agree its content
- 3.2. The report is consistent with the third priority identified in the 2018-2022 Corporate Strategy listed below.

“Giving children and young people the best start in life - Every child has access to an outstanding and inspiring education and is given the support they need to keep them safe, well and able to achieve their full potential”

4. Background

- 4.1. At the governing body meeting on 9 June 2021 the governing body of Sydenham School resolved unanimously to increase the number of co-opted governors from 6 to 7 and thus amend the Instrument of Government previously agreed in November 2018.
- 4.2. The Governing Body of Sydenham School was larger previously and the school struggled to fill some of the Governor positions. With a full complement of Governors, there is a need to increase the Governing Body by one co-opted Governor. This would allow for even distribution over committees and to aid in co-opting a governor to aid in adding diversity to the governing body.
- 4.3. The governing body or local authority can review and vary the instrument of

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government at any time after it is made.

- 4.4. Each governing body must be constituted in accordance with regulations made by virtue of section 20 of the Education Act 2002 namely The School Governance (Constitution) (England) Regulations 2012, as amended by The School Governance (Constitution and Federations) (England) (Amendment) Regulations 2017.
- 4.5. The total membership of the governing body of a maintained school must be no fewer than seven governors
- 4.6. 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
- 4.7. The governing body may in addition appoint such number of co-opted governors as they consider necessary provided the requirement in paragraph 4.8 are met in respect of governing bodies of maintained schools.
- 4.8. The total number of co-opted governors who are also eligible to be elected or appointed as staff governors (when counted with the staff governor and the headteacher) must not exceed one third of the total membership of the governing body.
- 4.9. Appendix 1 details the Instrument of Government the Local Authority is proposing to make by order.

5. Financial implications

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

6. Legal implications

- 6.1. Section 20 of the Education Act 2002 requires all maintained schools to have an Instrument of Government which determines the constitution of the governing body and other matters relating to the school.
- 6.2. 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.
- 6.3. The Instrument of Government proposed for the governing body of Sydenham School conforms to The School Governance (Constitution) (England) Regulations 2012 as amended.

7. Equalities implications

- 7.1. 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
- 7.2. In summary, the Council must, in the exercise of its functions, have due regard to the need to:

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- 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.
- 7.3. 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 7.2 above.
- 7.4. 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 decision maker bearing in mind the issues of relevance and proportionality. The decision maker 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
- 7.5. 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>
- 7.6. 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](#)
- 7.7. 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->

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[duty-guidance#h1](#)

8. Climate change and environmental implications

8.1. There are no climate change or environmental implications arising from this report]

9. Crime and disorder implications

9.1. There are no crime and disorder implications arising from this report

10. Health and wellbeing implications

10.1. There are no health and wellbeing implications arising from this report

11. Appendices

- Appendix 1 Instrument of Government for the governing body of Sydenham School

12. Background papers

12.1.

Short Title of Document	Date	File Location
The School Governance (Constitution) (England) Regulations 2012	2012	https://www.legislation.gov.uk/uk/si/2012/1034/contents/made
The constitution of governing bodies of maintained schools Statutory guidance for governing bodies of maintained schools and local authorities in England	2017	https://www.gov.uk/government/publications/constitution-of-governing-bodies-of-maintained-schools
The School Governance (Constitution and Federations) (England) (Amendment) Regulations 2017	2017	https://www.legislation.gov.uk/uk/si/2017/487/made

13. Glossary

13.1.

Term	Definition
Instrument of Government	An Instrument of Government is the legal document for Local Authority schools that records the constitution of the governing body and the term of office for each category of governor as well as the name of the school.

14. Report author and contact

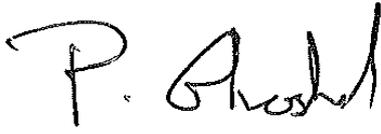
14.1. Suhaib Saeed, Head of School Services suhaib.saeed@lewisham.gov.uk

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Signed under Delegated Authority



Pinaki Ghoshal

Date 21st September 20221

Executive Director for Children and Young People

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Appendix 1

INSTRUMENT OF GOVERNMENT: COMMUNITY SCHOOLS

1. The name of the school is **Sydenham School**
2. The school is a **community school**
3. The name of the governing body is **The governing body of Sydenham School**
4. The governing body shall consist of:
 - a. **4** parent governors
 - b. **1** Local Authority governor
 - c. **1** staff governor
 - d. **1** Headteacher
 - e. **7** co-opted governors
5. Total number of governors **14**
6. This instrument of government comes into effect on: **5 October 2021**
7. This instrument was made by order of Lewisham Local Authority on **20 September 2021**
8. The variation to the Instrument of Government comes into effect on **5 October 2021**
9. A copy of the instrument must be supplied to every member and associate member of the governing body (and the headteacher if not a governor)

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