

# Local Governing Body Terms of Reference

## 1.0 In this document

### 1.1 Glossary –

“academy”	means Cowes Enterprise College, an Ormiston Academy
“Articles”	means the Articles of Association of the Trust
“Associate”	means a person who is remunerated to attend the Local Governing Body to provide specific skills, knowledge or experience who will not have a vote on matters to be decided and any decisions about admissions, student exclusions, the academy budget, financial commitments or the appointment of governors
“Chief Executive”	means the person appointed by the Trustees as an employee to oversee and coordinate all Trust activities
“DfE”	Means the Department for Education and any successor in title
“Chief Financial Officer”	means the person appointed by the Trustees as an employee, under the overall direction of the Chief Executive, to oversee the financial aspects of the Trust
“governor”	means a member of the Local Governing Body
“LA”	means the local authority for the academy
“Local Governing Body”	means the local governing body for the academy constituted as provided by Clause 3 of this document
“Ormiston / OAT”	means Ormiston Academies Trust
“Parent Member”	means a member elected to the Local Governing Body by the parents of students at the academy
“Personal Financial Interest”	means any interest in the employment or remuneration of, or the provision of any other benefit to, a governor as further detailed within clauses 5.5 to 5.9 of the Memorandum

“Principal”	means the member of staff at the academy who has been appointed by the Trustees to have overall day to day control of and responsibility of the academy
“Principal Sponsor”	means Ormiston Trust
“Secretary”	means the Company Secretary of the Trust or any other person appointed to perform the duties of Secretary to the Trust
“Staff Member”	means a member of the staff elected to the Local Governing Body by members of staff of the academy
“this document”	means these Terms of Reference
“the Trust”	means Ormiston Academies Trust, a company limited by guarantee having registered number 06982127
“the Trustees”	means those persons appointed as directors and trustees of the Trust

- 1.2 Unless the context requires otherwise, a reference to –
- 1.2.1 A numbered clause is a reference to the clause so numbered in this document
  - 1.2.2 A numbered paragraph is a reference to the paragraph so numbered in this document
  - 1.2.3 Words importing one gender shall include any other gender, the singular number shall include the plural and vice versa and the headings are included for convenience only and shall not affect the construction of this document

## **2.0 Responsibilities of Trustees and the Local Governing Body**

- 2.1 The Trust is a charitable company limited by guarantee. It has entered into a Master Funding Agreement dated December 2014 and any Supplemental Funding Agreements covering the funding of the Academies within the Trust (together the “Funding Agreements”).
- 2.2 The Trustees are the charity trustees (within the terms of section 177(1) of the Charities Act 2011) and responsible for the general control and management of the administration of the Trust in accordance with the provisions set out in the Memorandum and Articles.
- 2.3 The Local Governing Body shall be a Committee of the Trustees established pursuant to articles 100 to 104 of the Articles of Association of the Trust.
- 2.4 The Trustees retain authority and responsibility for the following –
- 2.4.1 Compliance with the provisions of the Funding Agreements

- 2.4.2 Preparation and approval of these Terms of Reference under which the academy is governed and subsequent amendments
  - 2.4.3 Agreement of the academy's annual funding in consultation with the Local Governing Body
  - 2.4.4 Compliance with the Academies Financial Handbook including, but without limitation, determination of procurement policies for the Trust
  - 2.4.5 Oversight with regard to the finances of the Trust and the academy, including, but without limitation, responsibility for compliance with the financial and accounting requirements detailed within the Funding Agreements
  - 2.4.6 Determination of the corporate planning and strategy for the academy and the Trust in consultation with the Local Governing Body
  - 2.4.7 Determination, after suitable consultation, of the extent of the central services provided to the academy by the Trust and how the costs should be allocated
  - 2.4.8 Determination of the cash flow policy for the Trust and the academy and monitoring income and expenditure for the Trust and the academy
  - 2.4.9 Setting of targets each financial year
  - 2.4.10 Determination of any additional financial and reporting targets for the academy
  - 2.4.11 As the legal employer of all staff, responsibility for human resource policies and procedures and terms and conditions of service
  - 2.4.12 Appointment, job description, remuneration, approval and dismissal of the Principal
  - 2.4.13 Maintenance of the fixed asset register
  - 2.4.14 Compliance with all statutory regulations and Acts of Parliament governing the operation of the academy
  - 2.4.15 Determination of the admissions policy and arrangements for the academy in accordance with admissions law and DFE codes of practice
  - 2.4.16 Determination of the educational vision of the academy in consultation with the Local Governing Body
- 2.5 Subject to the limitations set out above, the Trustees delegate the day to day running of the academy to the Principal and Local Governing Body. The Local Governing Body will specifically be responsible for the following duties –
- 2.5.1 Implementation of actions required to comply with statutory regulations and the Funding Agreements
  - 2.5.2 Implementation of the policies agreed by the Trustees with regard to admissions and to the educational vision of the academy, including, but without limitation, the academy's Academy Development Plan
  - 2.5.3 Oversight of the academy's activities
  - 2.5.4 Consideration of the academy's required funding and support to the Trustees in connection with the agreement with the DFE of the academy's budget
  - 2.5.5 Monitoring and reviewing expenditure on a regular basis and ensure compliance with the overall financial plan for the academy

- 2.5.6 Maintenance of proper accounting records and the preparation of income and expenditure and balance sheets as required by the Chief Financial Officer
  - 2.5.7 Assisting the Trustees in complying with the provisions of the Funding Agreements where requested from time to time (to include, by way of example, information required for the purposes of clause 45 of the Master Funding Agreement)
  - 2.5.8 Maintenance of the academy estate in accordance with the guidelines established by the Trust
  - 2.5.9 Implementation of the Trust's procurement policies insofar as they impact on the academy
  - 2.5.10 Managing the academy's cash flow and monitoring expenditure by the academy in accordance with policies determined by the Trustees
  - 2.5.11 Notifying the Trust of any changes to fixed assets used by the academy
  - 2.5.12 The appointment, job description, appraisal and dismissal of all members of staff of the academy excluding the Principal but the remuneration of every member of staff and their terms of service shall be within the parameters from time to time established by the Trustees
  - 2.5.13 Submit copies of the Minutes to the Trust within 14 days of the date of each meeting of the Local Governing Body
- 2.6 The governors are not, and nothing within this document is intended to make them, charity trustees within the terms of section 177(1) of the Charities Act 2011.
- 2.7 Each governor shall act in the best interests of the academy at all times.
- 2.8 The governors must keep confidential all information of a confidential nature obtained by them relating to the academy.
- 2.9 The Trustees reserve the right to withdraw delegated powers from the Local Governing Body and disband it at any time.

### **3.0 Composition of the Local Governing Body**

- 3.1 The membership of the Local Governing Body shall be determined in accordance with the following provisions –
- 3.2 The total membership shall be not less than 5 including the Principal and not more than 15.
- 3.3 The membership shall comprise:
  - (a) the Principal is an ex-officio member;
  - (b) at least one but no more than two elected Parent Members;
  - (c) at least one but no more than two elected Staff Members;
  - (d) at least one member co-opted by governors representing the local community;
  - (e) one OAT nominee and

(f) such other members as the Trust decides

3.1.3 The Local Governing Body may also appoint optional Associates to provide specific skills, knowledge and/or experience to the Local Governing Body. The scope and length of service shall be agreed with the Chair of governors but will not exceed a normal term of office (4 years). Associates may attend (but may not vote at) Local Governing Body meetings and may serve on committees. Associates may serve as chairs of committees where the committee has delegated powers to elect their own chair and where they are able to operate effectively within the legal constraints of their role

3.2 The Local Governing Body may continue to act notwithstanding a temporary vacancy in its composition.

#### **4.0 Resignation and removal**

4.1 A governor may at any time resign his office by giving notice in writing to the Clerk to the Local Governing Body.

4.2 With the exception of the Chair and OAT Nominee, a Local Governing Body can propose the removal of a governor by submitting a recommendation, approved by a majority vote at a governors' meeting, for the removal to be considered by the CEO.

4.3 The Trustees may terminate the appointment of any governor whose presence or conduct is deemed by the Trustees not to be in the best interests of the Trust or the academy.

4.4 Any staff member, non-teaching staff member or parent member shall automatically cease to hold office if he ceases to be associated with the academy in the capacity in which he was elected.

#### **5.0 Persons ineligible to be governors**

5.1 No person shall be qualified to be a governor unless he is aged 18 or over at the date of his election or appointment. No current student of the academy shall be a governor however a current student may be invited to attend a meeting of the governors at the discretion of the governors.

5.2 A governor shall cease to hold office if he becomes incapable by reason of mental disorder, illness or injury of managing or administering his own affairs.

5.3 A governor shall cease to hold office if he is absent without the permission of the governors from all their meetings held within a period of six months and the governors resolve that this office be vacated.

- 5.4 A governor shall cease to hold office if he is disqualified from acting as a governor by virtue of section 178 of the Charities Act 2011 (or any statutory re-enactment or modification of that provision).
- 5.5 A person shall be disqualified from holding or continuing to hold office as a governor:
- 5.5.1 If –
- (a) his estate has been sequestrated and the sequestration has not been discharged, annulled or reduced;
  - (b) he is the subject of a bankruptcy restrictions order or an interim order
- 5.5.2 At any time when he is subject to a disqualification order or a disqualification undertaking under the Company Trustees Disqualification Act 1986 or to an order made under section 429(2)(b) of the Insolvency Act 1986 (failure to pay under county court administration order)
- 5.5.3. If he has been removed from the office of charity trustee or trustee for a charity by an order made by the Charity Commission or the High Court on the grounds of any misconduct or mismanagement in the administration of the charity for which he was responsible or to which he was privy, or which he by his conduct contributed to or facilitated.
- 5.5.4 At any time when he is:
- (a) included in the list of teachers and workers with children or young persons whose employment is prohibited or restricted under section 1 of the Protection of Children Act 1999; or
  - (b) disqualified from working with children under section 28, 29, 29A and 29B of the Criminal Justice and Court Services Act 2000
- 5.5.5 If he is a person in respect of whom a direction has been made under section 142 of the Education Act 2002
- 5.5.6 Where he has, at any time, been convicted of any criminal offence, excluding any that have been spent under the Rehabilitation of Offenders Act 1974 as amended, and excluding any offence for which the maximum sentence is a fine or a lesser sentence except where a person has been convicted of any offence which falls under section 178 of the Charities Act 2011.
- 5.5.7 If he has not provided to the Chair of the Trustees a criminal record certificate at an enhanced disclosure level under section 113B of the Police Act 1997. In the event that the certificate discloses any information which would in the opinion of the Chair of the Trustees confirm their unsuitability to work with children that person shall be disqualified. If a dispute arises as to whether a person shall be disqualified, a referral shall be made to the Secretary of State to determine the matter. The determination of the Secretary of State shall be final.

5.6 Where a person becomes disqualified from holding or continuing to hold office as a governor and he is, or is proposed, to become such a governor, he shall upon becoming so disqualified give written notice of that fact to the Secretary.

## **6.0 Term of office**

6.1 Any governor shall hold and vacate office in accordance with the terms of his appointment but (except in the case of the Principal) the length of his term of office shall not exceed four years.

6.2 Unless otherwise requested by OAT or (in the case of the OAT nominee) Ormiston, governors retiring at the end of their term of office shall not be eligible for re-appointment.

## **7.0 Conflicts of interest**

7.1 The income and property of the academy must be applied solely towards the provision of the Objects as detailed in the Articles of Association. The restrictions which apply to the Trustees with regard to having a Personal Financial Interest shall also apply to the governors.

7.2 The procedure detailed at clause 6.8 of the Articles of Association shall apply to the Governing Body always provided that, in the case of a Personal Financial Interest for a governor who is not also a Trustee, the Governing Body may meet to authorise the benefit.

7.3 Any governor who has any duty or personal interest (including but not limited to any Personal Financial Interest) which conflicts or may conflict with his duties as a governor shall disclose that fact to the governors as soon as he becomes aware of it. A governor must absent himself from any discussions of the governors in which it is possible that a conflict will arise between his duty to act solely in the interests of the academy and any duty or personal interest (including but not limited to any Personal Financial Interest).

## **8.0 Appointment of chair and vice-chair**

8.1 The Chair of the Local Governing Body shall be appointed by the CEO of Ormiston Academies Trust.

8.2 The Vice-Chair of the Local Governing Body shall be appointed by the governing body.

8.3 If both the Chair and the Vice-Chair are absent from any meeting of the Local Governing Body, those governors present shall appoint one of their number to chair the meeting.

## **9.0 Meetings of local governing body**

9.1 The Local Governing Body shall meet at least once in every term and shall hold such other meetings as may be necessary.

- 9.2 All meetings shall be convened by the Clerk to the Local Governing Body, who shall send to the governor's written notice of the meeting and a copy of the agenda at least seven clear days in advance of the meeting. The agenda shall be prepared by the Clerk to the Local Governing Body with input from the Principal.
- 9.3 A special meeting of the Local Governing Body shall be called by the Clerk whenever requested by the Chair or at the request in writing by any three governors. Where there are matters demanding urgent consideration, the Chair or, in his absence, the Vice-Chair may waive the need for seven days' notice of the meeting and substitute such notice as he thinks fit.
- 9.4 The convening of a meeting and the proceedings conducted shall not be invalidated by reason of any individual not having received written notice of the meeting or a copy of the agenda.
- 9.5 Copies of all notices, agendas and minutes of meetings of the Local Governing Body shall be sent to the Trust's Governance Department at the same time as they are sent to governors.

## **10.0 Quorum**

- 10.1 Meetings of the Local Governing Body shall be quorate if three or one-third of Members are present (whichever is greater)
- 10.2 If the number of governors assembled for a meeting of the Local Governing Body does not constitute a quorum, the meeting shall not be held. If in the course of a meeting of the Local Governing Body the number of governors present ceases to constitute a quorum, the meeting shall be terminated forthwith.
- 10.3 If for lack of a quorum a meeting cannot be held or, as the case may be, cannot continue, the Chair shall, if he/she thinks fit, determine the time and date at which a further meeting shall be held and shall direct the Clerk to convene the meeting accordingly.

## **11.0 Proceedings of meetings**

- 11.1 Every question to be decided at a meeting of the Local Governing Body shall be determined by a majority of the votes of the governors present and voting on the question. Every governor shall have one vote. Where there is an equal division of votes the chair of the meeting shall have a second or casting vote.
- 11.2 A governor may not vote by proxy.



- 11.3 No resolution of the governors may be rescinded or varied at a subsequent meeting unless consideration of the rescission or variation is a specific item of business on the agenda for that meeting.
- 11.4 Any governor who is also an employee of the Trust shall withdraw from that part of any meeting of the Local Governing Body at which his remuneration, conditions of service, promotion, conduct, suspension, dismissal or retirement are to be considered.
- 11.5 A resolution in writing, signed by all the governors (or all of the members of a committee of the governors), shall be valid and effective as if it had been passed at a meeting of the governors or (as the case may be) a committee of governors duly convened and held. Such a resolution may consist of several documents in the same form, each signed by one or more of the governors (or the members of a committee, as the case may be).
- 11.6 Any governor shall be able to participate in meetings of the governors by telephone or video conference provided that he/she has given reasonable notice to the Clerk and that the governors have access to the appropriate equipment.

## **12.0 Minutes and publication**

- 12.1 At every meeting of the Local Governing Body the minutes of the last meeting shall be taken as the first agenda item after any apologies, except in cases where the governors present decide otherwise, and, if agreed to be accurate, shall be signed as a true record.
- 12.2 The Clerk to the Local Governing Body shall ensure that a copy of the agenda for every meeting of the governors, the draft minutes of every such meeting (if they have been approved by the chairperson of that meeting), the signed minutes of every such meeting and any report, document or other paper considered at any such meeting are, as soon as is reasonably practicable, made available to the OAT governance department.

## **13.0 Delegation of functions and committees**

- 13.1 The Local Governing Body is to establish a Finance and General Purposes Committee ("F & GP Committee"), a Strategic Progress Board and such other committees as it considers desirable to carry out its responsibilities. The powers of any such committees, their terms of reference and membership shall be determined by the Local Governing Body in accordance with any guidance or policies of the Trust.
- 13.2 Membership and remit of the F&GP Committee and SPB committees are determined in individual terms of reference.
- 13.3 Committees may include a minority of members who are not governors.

- 13.4 Except where it is otherwise constrained within its terms of reference, a committee may invite attendance by persons who are not governors or committee members where such attendance is considered by the members of the committee to benefit its deliberations.
- 13.5 Copies of the minutes of Committee meetings are to be circulated to all governors and those who are entitled to attend Local Governing Body meetings with the exception of confidential business.

#### **14.0 Financial matters**

- 14.1 Following the recommendation by the Local Governing Body, the budget is to be submitted to the Trustees for approval and, for the avoidance of doubt, the academy budget shall not be effective until such times it has been approved by the Trustees.
- 14.2 The Local Governing Body is required to work to cash limits as may be determined by the Trust and based on the approved budget. Under no circumstances has the Local Governing Body the authority to borrow money.
- 14.3 Except where prior permission has been obtained from the Trustees, the academy budget is to be prepared to show break even or better.

#### **15.0 Accounts and audit**

- 15.1 The Local Governing Body shall:
- 15.1.1 Keep proper accounts and proper records in relation to the accounts; and
  - 15.1.2 Prepare in respect of each financial year of the academy a statement of accounts.
- 15.2 The statement shall give a true and fair account of the state of the academy's affairs at the end of the financial year and of the academy's income and expenditure in the financial year.
- 15.3 The accounts (including any statements prepared under this clause) shall be audited by persons appointed in respect of each financial year by the Trust.
- 15.4 The Local Governing Body will provide such access and assistance as maybe required by the Trust to review the finances of the academy

#### **16.0 Responsibilities of principal**

- 16.1 Subject to responsibilities of the Local Governing Body and the policy statements of the Trust, the Principal shall be responsible to the Local Governing Body for –
- 16.1.1 Implementing the agreed policies and procedures laid down by the Local Governing Body (including the implementation of all statutory regulations);
  - 16.1.2 Advising the Local Governing Body on strategic direction, forward planning and quality assurance;

- 16.1.3 The leadership and management of the academy;
- 16.1.4 The admission of students;
- 16.1.5 Managing the delegated budget and resources approved by the Trust;
- 16.1.6 Advising the Local Governing Body on the appointment of the Vice Principal and such other senior posts as the Local Governing Body may determine;
- 16.1.7 The appointment of all other staff and (except to the extent directed otherwise by the Trustees and/or the Local Governing Body), the salary grading, allocation of duties, appraisal and discipline of all staff;
- 16.1.8 The maintenance of good order and discipline by the students including their suspension and/or exclusion within the framework laid down by the Local Governing Body; and
- 16.1.9 All such additional functions as may be assigned under the job description or contract of employment

## **17.0 Conduct of staff**

- 17.1 The Trust is responsible for determining the human resource policies, procedures and terms and conditions of service for all employees including the setting of appropriate rules for the conduct of staff. Changes to such policies and procedures will be effected only after consultation with the Local Governing Body and staff groups where appropriate.

## **18.0 Rules and bye-laws**

- 18.1 The Local Governing Body shall have power to make rules and bye-laws in respect of the government and conduct of the academy as it shall think fit. Such rules and bye-laws shall be subject to the provisions of this document and to approval by the Trustees.

## **19.0 Amendment of instrument and rules of government**

- 19.1 This document shall be adopted at the first meeting of the Governors in each academic year.
- 19.2 Notwithstanding clause 19.1, this document may be modified or replaced by the Trustees as they may from time to time consider appropriate.

## **20.0 Copies of these terms of reference**

- 20.1 A copy of this document, and of any rules and bye-laws, shall be given to every governor and shall be available for inspection upon request by members of staff during normal office hours at the offices of the academy and the Trust.

## **21.0 Effective date**

- 21.1 These Terms of Reference shall come into effect on 23<sup>rd</sup> March 2018