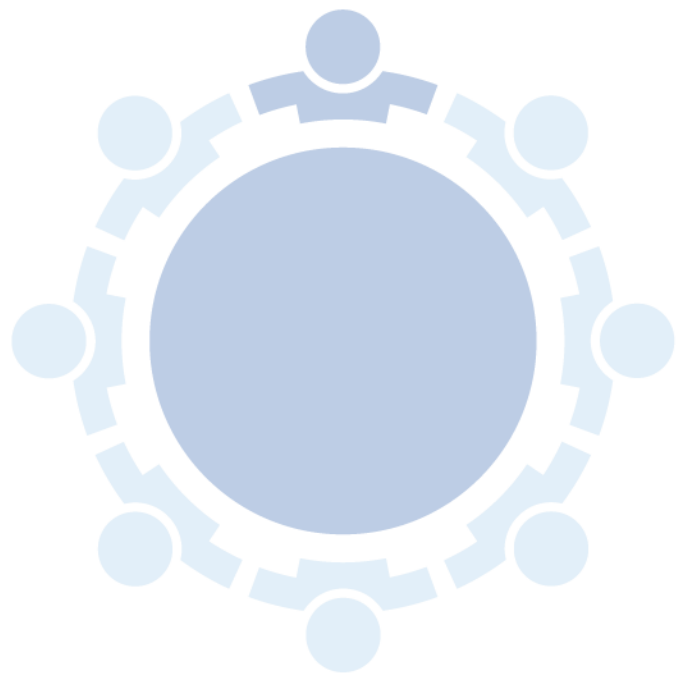


## Governing in COVID-19 times: Continuity and recovery

Guidance for governing boards and clerks

Updated 10<sup>th</sup> July 2020





### National Governance Association

The National Governance Association (NGA) is the membership organisation for governors, trustees and clerks of state schools in England.

We are an independent, not-for-profit charity that aims to improve the educational standards and wellbeing of young people by increasing the effectiveness of governing boards and promoting high standards. We are expert leaders in school and trust governance, providing information, advice and guidance, professional development and e-learning.

We represent the views of governors, trustees and clerks at a national level and work closely with, and lobby, UK government and educational bodies.

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## Introduction

Whilst schools have been partially closed, chairs, clerks and school leaders have worked together to ensure governing boards continue to function. School leaders and governing boards are now turning their attention to planning for all pupils to return to school full-time from the beginning of the autumn term.

This guidance is relevant to all types of state school and multi academy trusts in England. It details:

- maintaining good governance and business continuity whilst government guidance advises against meeting in person
- the governing board's role in monitoring risk assessments and the control measures needed for schools to open fully in September
- considerations for longer term COVID-19 recovery and strategy

### The value of effective clerking

Clerks and governance professionals provide invaluable advice and support, particularly whilst governing boards adopt different ways of working. Boards should recognise this by ensuring that their clerk/governance professional has the resources and time they need to do their job well. This may require a different routine for planning meetings with the chair and school leader or help with setting up a virtual meeting. It is crucial that the continuity of the clerking service is maintained, including timely payment for the work they undertake.

### Further NGA guidance is available:

[Webinar: planning for the autumn term, what do boards need to know](#)  
[COVID-19 frequently asked questions](#)

### NGA's GOLDline advice service

NGA's [GOLDline advice service](#) has provided an essential service to all governing boards with governance questions during the COVID-19 period. The service is available to all boards until September when it reverts to a service for NGA GOLD members.

Our annual GOLD membership is £275 for boards and provides access to all our best practice resources and expert tailored advice. [Sign up](#) to help your board save time and develop professional governance.

Contact GOLDline by email: [gold@nga.org.uk](mailto:gold@nga.org.uk) or by calling 0121 237 3782. NGA GOLD members are asked to make a request through the usual route.



## Making urgent decisions

Ideally, all decisions should be made collectively by the governing board. In circumstances where an urgent decision needs to be taken but it is not possible to convene a virtual meeting, governing boards should refer to their clerk for advice. Maintained school governance [procedures regulations](#) set out the provision for the delegation of functions to the chair or vice chair (if the chair is unable to act). This is appropriate when a delay in decision making is likely to be seriously detrimental to the interests of the school, a pupil, parent or member of staff. In the case of academy trusts and academy committees (LGBs), chairs and vice chairs delegated functions will depend on the provision made in schemes of delegation or by trustee resolution.

## Making virtual meetings work

Governing boards have adapted to virtual meetings, just as wider society has adapted to using technology to work from home and stay in touch with family and friends. We anticipate that even when social distancing rules allow face-to-face meetings to resume, that governing boards will opt to combine face-to-face and virtual meetings to aid efficiency.

Most governing boards have approved their arrangements for participating and voting in meetings by telephone or video conference using the provision within maintained school governance [procedures regulations](#), academy articles of association and academy committee terms of reference. Trust boards also have the option of making decisions via written resolutions.

**NGA advocates holding virtual meetings over** conducting business and voting via email. The exchange of emails lacks immediacy, restricts interaction in real time, can result in losing track of contributions, and makes recording problematic for the clerk/governance professional. All governing boards should refer to their clerk for advice.

A simple protocol or set of ground rules (agreed by the board and documented by the clerk/governance professional) should be in place to cover virtual meeting practices. The protocol could acknowledge existing policies relating to data protection, appropriate use of ICT and maintaining confidentiality etc.

*An example protocol for virtual meetings is included as an appendix to this guidance.*

We recommend that boards take the following steps to make their virtual meetings effective:

### 1. Decide what form the virtual meeting will take

A conversation between the chair, head teacher/CEO and clerk will help identify what form of virtual meeting (conference call, video conference or online platform) is preferable for the governing board.

### 2. Provide clear instructions and offer support where necessary

Participants need clear instructions on how to join the meeting. Instructions are best provided by the clerk as part of their duty to convene the meeting and circulate papers. The clerk/governance professional may use expertise from the within school/trust or the board to help participants access the meeting.

### 3. Test the system platform

If it's the first time the governing board has held a virtual meeting, a test will make sure the platform or system being used works in practice.



#### 4. Pre-meeting preparation by the chair and clerk/governance professional

As usual, make time to discuss what's on the agenda, how much time is needed for each item, likely questions and required outcomes.

Chairs and clerks should support governors/trustees who find electronic communication challenging. A phone call to talk through how to join a meeting can increase confidence and maintain inclusivity.

#### 5. Set the tone and explain the rules of engagement for the meeting

Make clear the importance of:

- joining on time
- signing a digital attendance sheet
- keeping to the agenda
- using your mute button to minimise background noise
- using the chat facility to submit questions or make comments
- allowing additional time for participants to refer to documents

Seeing other meeting participants on screen makes remote communication easier and keeps everyone engaged, so it's worth encouraging everyone to use their webcams if possible.

#### 6. Evaluate and learn from experience

Don't be deterred by things that don't work perfectly to begin with. Take a note of what worked well, what could work better and apply this to future meetings.

### GDPR considerations

The duties of schools and governing boards in relation to GDPR has not changed and so this remains a priority. Governing boards must ensure that when meeting remotely they continue to have regard to the school's policies on data protection as referred to in the example protocol in the *Appendix*.

Governing boards must be satisfied that the school/trust online security is robust and data protection policies continue to be adhered to by staff. Consider:

- Is the equipment that staff are using remotely secure for data protection purposes?
- Are internal procedures for data protection continuing to be followed?
- Is data sharing with external parties being conducted in accordance with the GDPR?
- Are staff clear on the procedures around handling personal data when working remotely?

### Recruiting board members and managing membership

Maintained school governance regulations and some articles of association do not allow the terms of office of elected governors to be extended and governing boards have been unable to complete governor/trustee elections whilst schools have been partially closed. Holding governor and trustee elections in/from September may prove problematic whilst control measures are still in place that restrict the number of people visiting the school site to the essential minimum.

The latest [school governance update](#) from DfE advises a **pragmatic approach**, suggesting boards continue to function with vacancies where necessary and practical.



NGA's advice to governing boards in this situation is:

- to function with vacancies until such time it possible to hold governor/trustee elections and/or
- to use governors/trustees whose terms have expired in an associate and/or advisory capacity

Governing boards can continue to identify and recruit new volunteers to the board. Active volunteers registered on [Inspiring Governance](#) have confirmed that they are still keen to connect with governing boards and are happy to be interviewed using video conference calls.

## Governing board panels

The work of most governing board panels has been on hold whilst schools have been partially closed.

### Complaints

Complaints hearings currently on hold should be kept under review with a view to restarting them in September. This may be a face to face hearing, if this is possible whilst adhering to social distancing rules, or a hearing that is conducted using video conferencing.

### Exclusions

Normal timeframes for reviewing exclusions, including governing board and independent panel reviews, have remained in place. However, DfE advice has given governing boards and arranging authorities discretion to assess the facts of each case and decide whether the review needs to be delayed until reasonably practicable, or whether to proceed using technology such as video conferencing. Once schools are fully open in September, governing boards should consider how to proceed with outstanding exclusion reviews as they would do with complaints (above).

### Recruiting senior leaders

Some governing boards have decided to delay the process of recruiting senior leaders during the period that schools have been partially closed. This is either for logistical reasons or because they think that using alternative technology does not provide opportunity for all parties to engage appropriately or reliably.

These decisions will need to be reviewed from September in the context of social distancing guidelines and considering the risk of further delay.

The process of shortlisting candidates and ratification can be straightforward using video conferencing technology. However, the selection process will need to be carefully adapted. Choose selection activities which explore the candidate's suitability for the post (avoid selecting activities based on suitability for video conferencing). We recommend that governing boards seek the advice of an HR and school improvement professional as appropriate.

### Other HR and organisational matters

Partial school closures have disrupted a wide range of professional and organisational matters within schools and trusts including performance management and appraisal, pay progression decisions, restructuring decisions as well as disciplinary and capability procedures. NGA, the Association of School and College Leaders (ASCL) and the National Association of Headteachers (NAHT) have provided [joint guidance](#) on the conduct of schools on professional matters in light of COVID-19. NGA expects that school leaders will respond flexibly with care, due diligence and concern for the mental health and wellbeing of those working in schools.



## Planning for the full opening of schools in September

Schools will welcome back all pupils in September. The DfE have produced [operational guidance](#) to support all schools in achieving this. The guidance makes clear that every school will also need to plan for the possibility of local lockdown and how they will ensure continuity of education.

It is advisable for governors/trustees to read the DfE guidance and for governing boards to meet before the end of the academic year to review their school/trust plans for full opening. If a board meeting is not possible, some form of consultation between members of the board and school leaders should take place. The meeting should consider how the guidance is being used to support risk assessment and subsequent plans.

The governing board's employment responsibilities include taking reasonable steps to make sure staff and pupils aren't exposed to health and safety risks. Carrying out risk assessment and monitoring remains the duty of executive leaders. However, governing boards should support and engage with this process through:

- testing risk assessments and plans for robustness (referring to the control measures detailed within DfE guidance)
- ensuring effective communication with stakeholders: listen to and address the concerns of parents, pupils and staff

### Monitoring the risk assessments and plans for full opening

Whilst it is not possible to ensure a totally risk-free environment, governing boards should seek assurances from their school leaders on the following aspects linked to full opening in September:

- the implementation of control measures to manage COVID-19 risks (government guidance specifies the measures that must be put in place, but schools need to consider how best to apply these controls in their own setting)
- contingency planning: in the event of a local outbreak, schools may need to close temporarily. Flexible plans will need to be made to manage closure (this might include remaining open for vulnerable children only)
- remote education provision: in a local lockdown scenario, these plans will need to be deployed immediately and align with in-school provision
- the school's approach to teaching a broad and balanced curriculum from September 2020
- the school's plans for the re-engagement of pupils and securing regular attendance. The DfE have published a [behavior and attendance checklist](#) for school leaders to support full opening.
- how issues and concerns raised by staff, their representatives and wider stakeholders have been sought and taken into account

The Health and Safety Executive (HSE) expect organisations who employ more than 50 people to publish their health and safety risk assessments. It is wise in our view for all schools/trusts, regardless of the number of staff they employ, to share their risk assessment with stakeholders, for example by publishing it on their website. This will demonstrate transparency and help to instil confidence that the risks (associated with the full opening of the school) have been considered and, as far as possible, mitigated for.



## Developing the recovery strategy for your school/trust

Governing boards and their school leaders will need time to assess the impact that COVID-19 lockdown/partial closure has had on their whole school community and to plan a way forward. This is likely to lead to a reframing of the strategic priorities for the school/trust, at least in the short term. We recommend that governing boards schedule a strategy review discussion with their school leaders at the earliest available opportunity.

The aim of the strategy review discussion **should not be** to overhaul the school/trust improvement plan or the governing board's strategic plan. It should not result in school leaders radically changing or amending the timetable (teaching of the school's curriculum needs to start immediately).

The aim of the strategy review discussion **should be** for the board and school leaders to identify their priorities for the academic year, which stem from the immediate task of reinstating school routines and assessing the readiness of pupils to learn. Priorities that cover:

- the support needed for vulnerable and [disadvantaged pupils](#)
- the assessment of the physical, mental health and wellbeing throughout the school
- building/maintaining powerful welfare and pastoral systems
- engaging wider support where necessary
- collaboration with parents, carers and the wider community

The discussion should generate tangible objectives, milestones and success criteria which cover:

- what the school/trust needs to put in place to deal with issues created or exacerbated by COVID-19
- governance arrangements needed to support and monitor these activities
- any changes to ensure compliance with requirements
- maintaining the productivity, efficiency and effectiveness of the board

### Questions for governing boards to ask about full opening and the recovery strategy

- a. *How do we maintain oversight of the school/trust plans and risk assessments for all pupils returning to school from September?*
- b. *How are we defining the "recovery phase" – is this the next academic year?*
- c. *What are our priority actions for the "recovery phase"?*
- d. *How should we, as a board, monitor and evaluate this?*
- e. *What level of reporting can we expect from senior leaders (that is reasonable and proportionate)?*
- f. *What data can we expect to have available to triangulate with executive reports and other sources of evidence?*
- g. *Should we approach our monitoring differently e.g. appoint different link governor/trustee roles?*
- h. *Should we prioritise reviewing certain policies (e.g. pupil premium) and align them to the "recovery phase"?*
- i. *Are there financial planning and resource implications that the governing board/finance committee need to consider?*
- j. *Should the governing board hold shorter meetings on a more frequent basis during the "recovery phase"?*
- k. *Should we maintain or adapt our existing committee structure during the recovery phase?*
- l. *Have we accounted for statutory compliance and annual tasks that still need to be undertaken throughout the year?*
- m. *Have we considered the board's own development needs during this period?*





### **Virtual governance from September**

We anticipate that governing boards will continue to hold virtual meetings, mixing them with face to face meetings when social distancing allows. We also anticipate that they will use video conferencing in other ways such as recruiting senior leaders (see page 5) and new members of the board. This approach supports good meeting attendance and promotes more sustainable ways of working.

### **Reinstating local governance in multi academy trusts**

Some MATs suspended local governance arrangements during the pandemic in order to relieve operational pressures and provide a more co-ordinated approach to decision making. NGA encourages these MATS to re-engage their local governance arrangements at the earliest opportunity from September. The connection that those governing at academy level have with their schools and communities will be of vital importance over the coming months.



## Appendix - Example virtual meeting protocol

### **The protocol that applies to governors/trustees using alternative arrangements to participate and vote in meetings**

Where the governing board has approved and has in place alternative arrangements for governors/trustees to participate and vote in meetings (e.g. by telephone or video conference) and a governor/trustee wishes to use these alternative arrangements they should:

- restrict themselves to using the arrangements agreed by the governing board;
- inform the clerk to the governing board that this is their intention as soon as possible but no later than 72 hours before the meeting is due to take place (subject to the meeting being convened giving the normal notice period);
- communicate and co-operate with the clerk to the governing board, school or trust as necessary to ensure that the alternative arrangements can be put in place and work well for all concerned, and
- abide by the normal rules, procedures and code of conduct adopted by the governing board and give regard to the duty to maintain confidentiality.

### **The protocol that applies to the governing board when using alternative arrangements to hold their meetings**

Where the governing board decides that a meeting should take place using alternative arrangements (e.g. by telephone or video conference) that have been previously agreed then following will apply:

- the usual (statutory) notice and arrangements for issuing papers except where the chair has exercised their right to waive the usual notice;
- all participants to receive clear instructions regarding how to access the meeting including where they can access support if they experience difficulty;
- all participants will note and follow any instructions given on how to manage their participation at the meeting. For example, confirming attendance, speaking through the chair of the meeting, voting on matters etc;
- the governing board will abide by their normal rules, procedures and code of conduct adopted by the governing board and give regard to the duty to maintain confidentiality;
- governors/trustees will contribute towards a safe and secure environment for the meeting by giving due regard to the school's policies relating to data protection and the appropriate use of ICT, and
- the minutes of the meeting will be taken by the clerk to the governing board and the meeting should not be recorded by any governor/trustee or the clerk without the approval of the governing board and for a specified purpose.