Governance Bulletin No. 2
Strategic Governance: planning ahead

June 2020

This Governance Bulletin has been developed specifically for the Chair, Vice Chair, Executive Leader and Clerk to all governance boards that currently subscribe to RoSIS and aims to draw your attention to, and summarise, two specific guidance documents that have been published recently:

- The DfE **School Governance June update** – https://www.gov.uk/government/publications/school-governance-update, and
- The NGA **Governing in Covid-19: preparing for the next stages** - https://www.nga.org.uk/Knowledge-Centre/Executive-leaders-and-the-governing-boards/Coronavirus-Information-for-governing-boards.aspx

This Bulletin will provide the primary focus for the two **Governance Forum events** on 30th June and 1st July, for which you have received separate notification, and we hope that this will support your governance board to plan strategically for the remainder of the Summer Term and into the Autumn Term 2020.

PLEASE NOTE: The guidance is clear that, in a **Multi-Academy Trust**, it is the Trust Board that is the accountable body and is therefore responsible for determining the issues below for all academies within the trust. It is only where specific issues have been delegated within the Trust Board's written Scheme of Delegation that academy committees (i.e. local governing bodies/boards) will have a role to play in making relevant decisions. If in doubt, please consult a representative of your Trust Board directly.

Strategic Governance – A Short- to Medium- Term focus
1. DfE and NGA Guidance

The DfE published updated guidance to governance boards on 4th June 2020, followed shortly by updated guidance from the National Governance Association published on 19th June 2020. These provide governance boards with guidance around a range of issues which should prove helpful to focus board discussions over the short to medium term, especially as all schools prepare to re-admit more/all pupils with effect from September onwards. To help your governance board's discussions, you may wish to ensure that the above weblinks are forwarded to all members of your board for information.

- **'Virtual' governance board meetings:** Whilst social distancing arrangements remain, governance boards should not be meeting physically in school or elsewhere and should have in place alternative arrangements for meeting 'virtually'. The NGA guidance includes a section titled '*Making virtual meetings work'* and at Appendix 1 has an example protocol which could be used where governance boards have adopted alternative arrangements for their governance board meetings. Any governance boards that have not yet established such arrangements and would welcome additional support should contact Paul Carney at paul.carney@rotherham.gov.uk to discuss options

N.B. Good practice suggests that the length of virtual meetings should be shorter than traditional face-to-face meetings, therefore governance boards might wish to consider scheduling virtual meetings more regularly than usual, but with a shorter, more focused agenda

- **Re-introduction of more/all pupils - testing the robustness of risk assessments:** The DfE guidance emphasises that the executive leader (CEO/headteacher/principal) is responsible for the day-to-day operational management of the school/trust, however the appropriate board should be made aware of the operational decisions being made and should be assured that an adequate risk assessment has been conducted, and that protective measures are in place to reduce risks to children and staff. HM Government has increasingly encouraged schools to consider re-admitting further pupils to school:
    - On 15th June, the DfE announced - https://www.gov.uk/government/news/primary-schools-to-be-given-flexibility-to-bring-back-more-pupils:
        - that **primary schools** have been given greater flexibility to invite back more pupils during the remainder of the Summer Term, but only if the school has capacity within existing guidelines (e.g. class groups of no larger than 15) and if protective measures are in place
        - that **secondary schools** can invite in young people who are not yet returning to onsite provision for a face-to-face meeting before the end of the Summer Term, where it is beneficial and as long as this happens in line with wider protective measures guidance
    - On 23rd June, Boris Johnson stated that '**primary and secondary education will recommence in September with full attendance**' after announcing that the government will reduce the distance that needs to be maintained from two metres to a '*one metre plus*' rule from 4th July. Further guidance from the DfE on the implications for schools is expected shortly.

- **Safeguarding:** The DfE updated its guidance to schools on 20th May - https://www.gov.uk/government/publications/covid-19-safeguarding-in-schools-colleges-and-other-providers. The governance board is advised to regularly keep under review its Child Protection policy, especially in light of increased numbers of children in attendance at schools since 1st June (nursery, primary, special and PRUs) and 15th June (secondary). Any revisions to the Child Protection policy, or a Covid-19 related annex/addendum to the policy, must be considered and approved by the appropriate governance board.

    N.B. On 17th June, the DfE announced that its consultation on proposed changes to Keeping children safe in education (KCSIE) had been withdrawn until a later date and subsequently published a revised version of KCSIE for information, which will come into effect from September 2020: https://www.gov.uk/government/publications/keeping-children-safe-in-education--2. A small number of changes have been made to this guidance:
    - to reflect legislative changes and as such are essential to ensure the guidance remains accurate
    - those that provide helpful support and information, such as on mental health and children in need, and
    - important clarifications which will help schools better understand and/or follow the guidance

    In due course, the Designated Safeguarding Lead (DSL) will need to acquaint themselves with these changes and consider if any revisions are required to the school's overarching Child Protection/Safeguarding policy. Any revisions will need to be reported to the appropriate governance board for consideration and approval during the Autumn Term 2020.

- **School finances:** The DfE has announced that it will be making available funds to cover certain specified additional costs incurred by schools from March through to the end of the Summer Term due to the coronavirus outbreak: https://www.gov.uk/government/publications/coronavirus-covid-19-financial-support-for-schools/school-funding-exceptional-costs-associated-with-coronavirus-covid-19-for-the-period-march-to-july-2020#additional-costs-covered-by-the-fund. This funding does not cover loss of income or costs incurred due to the wider re-opening of the school to more pupils. Additional costs covered by this fund include:
  - increased premises related costs, including utilities and resources needed to keep the school open, such as hygiene services
  - support for free school meals for eligible children who are not attending school, where costs are not covered by the national voucher scheme
  - additional cleaning required due to confirmed or suspected coronavirus cases over and above the cost of existing cleaning arrangements

Schools have up until 21st July to submit a claim.   Any additional costs incurred up to the end of term may be claimed in a subsequent claim window in the Autumn Term (further details will follow in due course). Details of how to claim these exceptional costs can be found at the following weblink: https://www.gov.uk/government/publications/claiming-exceptional-costs-associated-with-coronavirus-covid-19

- **Exclusion of pupils:** Temporary changes to the procedures for exclusion appeal hearings have been introduced wef 1st June until 24th September 2020. These regulations now allow the panel to consider an exclusion using a videoconferencing platform so long as the following conditions can be met:
  - all participants agree
  - all participants have access to the technology which will allow them to hear and speak throughout the meeting, and to see and be seen if a live video link is used
  - all participants will be able to put their point of view across, and
  - the meeting can be held fairly and transparently via remote access

It is the governance board's responsibility to ensure all these conditions are met before a 'virtual' meeting takes place. If a family does not want to engage via remote access, they do not have to; however they would need to be made aware that the appeal hearing is likely to be delayed until face-to-face meetings can safely resume.

- **Support to help pupils 'catch up', including disadvantaged pupils:** Whilst all children's learning will likely have been impacted negatively during the Covid-19 pandemic, Anne Longford, the Children's Commissioner, has stated that, '*without intervention, school closures are likely to widen the disadvantage gap still further.*'   The reality is that the long-term impact on all children's education and development, including those who are 'disadvantaged', will only truly start to be seen once lockdown is lifted and pupils return to school.

On 19th June, the DfE announced a £1billion '*Covid-19 catch-up premium*' package to directly tackle the impact of lost teaching time to support children who have fallen behind while out of school. The funding will be split, as follows:
  - £650m to be shared across state primary and secondary schools over the 2020/21 academic year. Schools will have discretion on how they spend this 'premium' to tailor the funding towards their particular needs and the needs of their pupils, though the government expects this one-off grant to be spent on **small group tuition for whoever needs it**
  - A separate £350m National Tutoring Programme, which will be used to increase access to **high-quality tuition for the most disadvantaged young people** over the 2020/21 academic year

The Education Endowment Foundation has published a guide to help school leaders and staff decide how to use this funding to best support their pupils and their outcomes: https://educationendowmentfoundation.org.uk/covid-19-resources/covid-19-support-guide-for-schools/

It is anticipated that once routine school inspections recommence (at the time of publishing this Bulletin, no formal announcement has been made to indicate when this might be), Ofsted will be asked to look at how this additional funding has been spent, and how children have been supported in their catch-up plans.

- **School/trust priorities for September:** This is an opportune time for the governance board to begin discussions with senior leaders about priorities for the 2020/21 academic year. Whilst the Government expectation is that all pupils should return to school from September, each school will need to determine how feasible this is based on guidance issued by the DfE and their own specific context. Whenever all pupils can return safely, provision for those pupils will by necessity be different to previous years. Senior leaders will need to consider the specific needs of the school to determine priorities from September, which may include:
  - o   an assessment of what pupils have learned during lockdown, and any gaps
  - o   the specific support needed for vulnerable and disadvantaged pupils
  - o   an assessment of the physical, mental health and wellbeing throughout the school
  - o   building on/maintaining powerful welfare and pastoral systems
  - o   engaging wider support where necessary, and
  - o   collaboration with parents, carers and the wider community

The NGA guidance provides governance boards with a range of questions which they might wish to reflect whilst considering the school's/trust's priorities for the forthcoming academic year.

2. Other issues for consideration

- **Appraisal and pay progression:** DfE guidance (https://www.gov.uk/government/publications/covid-19-school-closures/guidance-for-schools-about-temporarily-closing#what-are-our-expectations-regarding-vulnerable-children-and-young-people-attending-educational-settings – sections 14.3 and 14.4) states that performance management requirements remain in force, however it expects that schools and governance boards should '*use their discretion and take pragmatic steps, to adapt performance management and appraisal arrangements to take account of the current circumstances.*' The DfE guidance makes it clear that there should be no detriment to individuals. RoSIS is currently developing a guidance note to executive leaders and governance boards of subscribing schools and academies, which will supplement our more detailed Appraisal and Pay guidance. This guidance note will suggest ways that senior leaders and governance boards can implement an effective appraisal process taking account of the current coronavirus pandemic. This guidance note will be circulated shortly.

  - **LA-maintained schools:** The governing body is bound by the Appraisal Regulations and the STPCD. The board's Appraisal policy should clarify **who** will undertake the executive leader's appraisal and **must** reference the need to appoint an external adviser for advice and support. The governing body may wish to review which governors will undertake the executive leader's appraisal and agree how an external adviser is appointed.
  - **Academy Trusts** – The trust board is free to determine its own appraisal process and may adopt the arrangements for maintained schools. The trust board may wish to review which trustees will

undertake the executive leader's appraisal and determine whether to appoint an external adviser for advice and support.

- **Relationships and sex education:** The DfE has confirmed that Relationships education and Health Education in primary schools, and Relationships and Sex Education and Health Education in secondary schools will become compulsory from September 2020 as planned; however, schools are being offered flexibility on when to begin delivering these subjects within the 2020/21 academic year.

    Schools that are prepared to deliver teaching in these subjects and have met the requirements of the DfE's statutory guidance can begin delivering teaching from 1st September, or whenever practicable to do so within the first few weeks of the academic year. Schools that feel they will not be able to meet the requirements due to the impact of the coronavirus (i.e. time lost in school; competing priorities from September, etc.) should start teaching the subjects as soon as practically possible, and no later than the start of the Summer Term 2021. In these cases, a phased approach should be used (if needed) when introducing the subjects – mental health and wellbeing curriculum should be prioritised (see 'School/trust priorities for September' above).

- **Issues specific to Academy Trusts only:**
    - **BFR3Y 2020**: The Education and Skills Funding Agency (ESFA) has announced one-off changes to the Budget Forecast Return 3 Year. For this year only:
        o the deadline for submission to ESFA has been extended by 2 months to **29th September.** The AFH stipulates that the BFR3Y **must** be approved by the Trust Board prior to submission to ESFA, therefore you will need to ensure that a meeting of the Trust Board is scheduled to take place prior to the deadline date for submission
        o ESFA is removing the need to **submit** budget forecasts for academic years 2021/22 and 2022/23 (so in essence it's a BFR1Y!!!). This requirement will be re-introduced for the BFR3Y 2021. ESFA has emphasised that, in accordance with the AFH, Trusts must still compile longer-term forecasts for their own internal financial planning, and that these need to be reviewed and agreed by the Trust Board
        o ESFA has included 8 additional summary revenue fields for 2018/19, which will allow it to better understand the financial position of trusts before and after school closures
    Further details can be found at the following weblink: https://www.gov.uk/guidance/academies-budget-forecast-return

- **Academies Financial Handbook:** ESFA has published the revised version of the AFH which comes into effect on 1st September 2020. A copy can be accessed at the following weblink: https://www.gov.uk/guidance/academies-financial-handbook.   More detailed guidance on the changes to the Handbook will feature in the Autumn Term edition of the Governance Guide.

    The Handbook stipulates that it should be read by academy members, the chair of trustees, other trustees, local governors, the accounting officer, the chief financial officer and the clerk to the board. The clerk to the trust board may wish to draw the weblink to the attention of the above individuals.

Issues to consider:

a) If you haven't already done so, the clerk to the governance board should ensure that all board members are aware of the **School Governance Update** published by the DfE, and the revised NGA guidance document; **Governing in Covid-19: preparing for the next stages.** A copy of this Governance Bulletin might also be circulated to board members

b) The governance board may wish to consider the frequency and length of its meetings schedule, especially for the remainder of the Summer Term and into the first half of the Autumn Term

c) The executive leader should continue to update risk assessments in line with revised DfE guidance, and keep the governance board up to date on their plans for wider re-opening to pupils, including:
   - **(for primary schools)** whether it is feasible to invite back more pupils this term
   - **(for secondary schools)** whether it is feasible to invite any other students who are not already currently accessing provision for face-to-face meetings this term
   - **(for ALL schools)** discussions and preparations for fully re-opening to all pupils in September, in light of further DfE guidance once published

d) When appropriate, the governance board should consider the updated risk assessments at 'virtual' governance board meetings

e) The DSL should provide the board with any revisions to the school's/trust's overarching Safeguarding policies, in light of any increases in the groups of pupils in attendance at school and, in due course, any revisions required due to changes to statutory guidance (KCSIE)

f) The School Business Manager/Finance Officer should inform the governance board of any eligible Covid-19 related costs incurred, and the timeline for claiming these costs. These should be considered as part of the board's financial monitoring arrangements

g) The governance board should be informed of outline draft priorities for September, including how the school/trust might utilise additional funding made available via the Covid-19 catch-up premium (including the amount of funding allocated to the school/trust once announced)

h) The governance board should ensure that it has agreed the timeline for undertaking the executive leader's appraisal during the Autumn Term, which board members will undertake the appraisal and, where applicable, the arrangements for appointing an external adviser. All designated board members, especially those new to the role, should consider undertaking relevant training to undertake the role effectively

i) The executive leader should inform the board of plans for the introduction of Relationships education and Health Education (in primary schools) and Relationships and Sex Education and Health Education (in secondary schools), in light of the flexibilities announced by the DfE

j) **Academy Trusts only:**
   i) Ensure that a Trust Board meeting has been scheduled in advance of the deadline of 29th September for submitting the BFR3Y
   ii) The clerk to the trust board should ensure that all involved in governance within the trust are made aware of the revised Academies Financial Handbook and ensure that the trust board considers the implication of any changes as soon as practicable