

# Salisbury Diocesan Board of Education: Academy Trust Members Meetings

## A guidance paper

### **1. Introduction**

The Members of a charitable company, such as an Academy Trust, are the equivalent of shareholders in a commercial company. This means they:

- 1.1** make changes to the constitution of the Academy Trust
- 1.2** appoint the Trustees **and hold those Trustees to account for the way that the Academy Trust is operated**
- 1.3** appoint external auditors to ensure that the accounts are independently interrogated
- 1.4** guarantee the debts of the Academy trust – the extent of the guarantee is ten pounds per member if the company goes into insolvent liquidation.

Members should not act in any way, which directs the Trust.

### **2. The separation between Members and Trustees**

In the past, Members, or most of them, have often also been Trustees. The role of Member has been limited to the formalities of appointing Auditors, approving audited accounts and appointing Trustees

The DfE has moved to a position where there should little or no crossover between the Members and Trustees, with the possible exception of the Chair of Trustees.

As a consequence, a Trust should now have a majority of Members who are not also Trustees, and so the Members must establish a means by which they are able to hold the Trust Board to account.

Ultimately the Members may remove individual Trustees and replace them with individuals whose skills the Members believe will improve the performance of the Trust Board.

### **3. Members appointing Members**

Consider how you are dealing with your role: it is for the Members to elect a Chair and to appoint new Members. It is for Members to set a pattern of regular meetings. Prepare to be challenged by the Chair of Trustees in respect of how you are working. Do you require some training, or is there a Member who is not attending or contributing at meetings – e.g. finding it difficult to prepare by reading papers. Challenge and support yourselves as well as the Trust Board. If there is not a strong enough skill set to effectively challenge across the 3 key areas of Finance, Strategy and Performance, and Compliance, it is important to secure training or a change in Members.

#### **4. Appointment of Trustees and succession planning**

- 4.1** Members are responsible for the appointment of the Board of Trustees and should plan for Trustee vacancies. A standing agenda item should be the list of Trustees with the dates upon which their term of office expires, and their skills sets, which central committees they sit on and possibly their attendance record.
- 4.2** Members might contact any Trustee whose term of office is due to expire over the following twelve months to ask whether they wish to be considered for re-appointment.
- 4.3** Re-appointment should not be automatic. Consider whether the requirements of the Trust Board have changed. Consider the contribution of the individual and whether the individual has been able to give appropriate time for meetings.
- 4.4** Plan for the recruitment of replacement Trustees before the existing term of office ends. Inviting the Trust Board to make suggestions is one means of identifying candidates, speaking with the Diocesan Board of Education in respect of Foundation Trustees is another. Consider advertising locally or contacting Academy Ambassadors to widen the pool of candidates.
- 4.5** It is the responsibility of the Trust to nominate Foundation Members and Foundation Trustees. It is Salisbury Diocesan Board of Education (SDBE) which gives approval to these foundation appointments.
- 4.6** As a public office holder, The 7 Principles of Public life apply to the role of Members<sup>1</sup>

#### **5. Removal of Trustees**

Trustees are (with the exception of the CEO) not employed by the Trust and may be removed by the person who appointed them - usually SDBE Member, Foundation Members and Trustees are appointed by SDBE and may only be removed by SDBE.

There is a risk, that if Members act other than in good faith, or otherwise unfairly, a Trustee could bring a claim for “loss of office”, therefore a decision to remove a Trustee mid-term should not be taken lightly; it is reasonable to do so, where a Trustee is unable to attend enough meetings, (for example less than half the meetings in a year) or is otherwise not making a significant contribution to the Trust Board.

#### **6. Changes to Articles**

Consider whether there are there are any potential changes to the Articles required. For example to update or change the rules on the appointment of Trustees, to increase the ratio of Foundation Members e.g. if your Trust is a VC Mixed model but your strategic plan includes taking in VA schools.

---

<sup>1</sup> [7 principles of public life](#)

## **7. “Written Resolutions”**

Not all decisions need be made in a meeting, rather you are able to use written resolutions; if you have identified an issue at a meeting, or an issue has arisen between meetings – e.g. a resignation, you can resolve it in writing as long as a simple majority (or in the case of a change to the Articles at least 75% of you) sign that resolution.

Use written resolutions to give you the flexibility to react between meetings; they allow you to approve a change in articles or an appointment of a new Trustee or new Member, but remember that if you are a SDBE Corporate Member Representative, you should not be signing a Written Resolution yourself, but sending it to SDBE for signing on behalf of the DBE Trust itself.

## **8. Holding the Trust Board to Account**

8.1 To ensure that the Members are holding the Trust Board to account it will be important to manage workload and to maintain focus. To do so you might allocate one of the following three accountability strands to one of **three** planned meetings each year:

1. Audited Accounts will usually be ready in December / January, so meet subsequently to look at finance
2. the Strategy and Planning focussed meeting might be planned for September/ October, by which time the end of year attainment and progress data will have been available and analysed by the Board, the School Improvement Plan for the year just started will be in place
3. a meeting focussed on Compliance might balance the year, happening around Easter

8.2 An agenda should be framed around the key points raised above and one of the three accountability areas.

8.3 The meeting should have the support of a clerk; possibly the Company Secretary.

8.4 You should invite the CEO to present to you for specific agenda items. If the Chair of the Trust is not a Member then he/she should attend with the CEO. The Members meeting which focuses on finance might be attended by the Finance Director of the Trust.

8.5 Members should decide which documentation they wish to receive, for example the minutes of the Trust Board and the regular CEO report presented to the Trust Board. CEO and Chair should be asked to present in respect of the key questions and issues set out below.

8.6 If as a Members group you have not been working in this way it is important to set dates for the year ahead and to determine now how you will develop and professionalise your practice.

## **9. Financial Accountability**

The Members appoint the external auditors and approve audited annual accounts.

### **So what are you going to do that the Trustees have not already done?**

In terms of appointing auditors, consider whether the appointment should be reviewed in accordance with the public procurement rules, and if so instruct the senior finance staff member to implement that procedure.

In terms of approving the accounts, compare the auditor's report and the accounts with information from the previous year.

Are any recommendations from last year repeated this year? Does this indicate that last year's recommendations have not been implemented and if so, why not? Put the question to the Board.

Do the accounts indicate that the final budget produced for the relevant year was broadly accurate and followed? If not, ask the Board to account for the discrepancy.

Consider whether any issues raised have implications for compliance, and whether the Board needs strengthening in terms of financial skills and experience.

Is the Trust Board confident in the financial viability of each of its schools? And of the Trust?

## **10. Strategy and Performance Accountability**

### **So what are you going to do that the Trustees have not already done?**

If you were shareholders in a commercial company, you would be asking whether the company was producing adequate profits. In an Academy Trust, your "profit", in keeping with your charitable objects, is the educational experience and outcomes for the children in your schools. This is what determines what is "in the best interests of the company".

Review the Trust Strategic and annual Schools' Improvement Plan, and results against those plans. This plan should include clear strategy for the development of the Church schools' deeply Christian foundation and the impact of this foundation on outcomes for children and young people

Is the Strategic Plan delivering the vision of the Trust? Is the strategic plan on course? How is the strategic plan evaluated for impact by the Trust Board? How has the Board adjusted the plan in light of its self-evaluation? Are you satisfied that the change is in the best interests of the Trust? Does your Trust Board have the skill set required to address the challenges, areas of weakness and secure long term strategic development of the Trust? If not does the Board need strengthening?

School Improvement Plans – is the Trust achieving the targets it has set for itself, in terms of the percentage of teaching assessed as good or outstanding, impact of Pupil Premium, impact of SEN provision, as well as in year progress and end of Key Stage outcomes?. If not, does the Board need strengthening in this respect?

## **11. School Improvement and Growth**

### **So what are you going to do that the Trustees have not already done?**

It can be difficult to assess performance against targets in terms of school improvement in a period of growth. A target set for percentage of teaching to be good or outstanding might be skewed by taking on new schools. Ask the Board to separate out those schools which were in your Trust when the target was set, and see whether those schools have met the target.

What is the Trust's vision and strategy for Trust growth and the time-frame for this?

## **12. Compliance Accountability**

### **So what are you going to do that the Trustees have not already done?**

Ask the Board to confirm its' review and management of a risk register. **Is the Board clear about how they are identifying, reviewing and mitigating risk?**

**Has the Board implemented and reviewed all the policies it says it will implement and review?** Ask the Board to confirm.

**Has the trust complied with those policies, and with external requirements?** Ask the Board to confirm

Ask the Board to confirm that a Health and Safety Audit has been commissioned, and all recommendations complied with, ditto Safeguarding.

**Ask the Board to confirm how is has audited compliance with its other policies:** for example, has it audited the application of capability procedures in accordance with its policy: if a % of teaching is not good or outstanding, how many teachers are in an improvement programme or undergoing a formal capability procedure? Of those capability procedures which have been instigated during the previous year, how many have reached a conclusion, how many resulted in the teacher successfully meeting the targets set?

Have Pay Decisions, Grievance and Disciplinary procedures been audited to ensure that policies are being implemented? How many claims have been received and or settlements paid out – what is the percentage of staff turnover and does this indicate any HR issues? Does the Board need strengthening, or might you recommend that the Board increase the HR capacity or training?

How many Complaints have been received, how many resolved and at what stage in the process – have any resulted in legal action and if so, how have they been resolved (the annual auditors report should include any outstanding legal action).

**Has the EFA issued a Notice to Improve? If so, what are the additional conditions now attached to your Funding Agreement and how is the Board ensuring that these are being complied with?**

**Trustee Performance** - invite comments from the CEO or Chair of Trustees as to how all Trustees, including the Foundation Trustees, are contributing to the Board.