

GOVERNORS' UPDATE AUTUMN 2018

Durell Barnes, Head of Governance and Compliance, RSAcademics



INTRODUCTION

Governors who have been in touch with me this term have indicated that this is a uniquely challenging period for their board—again. This feeling is not uncommon at all levels in the education sector. In uncertain times it is vital that governors are able to support leaders and managers as they seek to fulfil a school's aims and maintain a vision for the future, at the same time as working out how to contend with severe financial constraints and changes in regulatory requirements—not to mention the apparent looming mental health crisis in our schools. Strong relations between school governors and leaders are essential at this time. It is also important that schools do not lose sight of the importance of strategic planning, however time consuming dealing with immediate requirements proves to be, and governors can play a crucial role here.

I have not on this occasion itemised matters separately for maintained and independent school governors, as the key issues facing schools this term are very similar for both sectors. Nor have I outlined any individual queries from governors, although these have been covered in what follows. I begin with some matters covered in previous Governors' Updates. Thereafter I have endeavoured to identify key priorities for this term. Those of you who have access to The Key <https://thekeysupport.com> will know that they list these as follows, with their own helpful suggestions about how to tackle each one:

- safeguarding—check compliance with updated guidance; elections of chair and vice chair; review committees and link governor roles
- approve the school improvement plan
- analyse end of Key Stage data
- teachers' pay and pensions
- conduct headteacher appraisal
- GDPR update.

Most of these priorities are covered in this Governors' Update, and you may wish to ascertain that each will feature in upcoming agendas.

TOPICS COVERED INCLUDE:

<ul style="list-style-type: none"> - MENTAL HEALTH - TEACHER WORKLOAD - RELATIONSHIPS (AND SEX) AND HEALTH EDUCATION - GDPR 	<ul style="list-style-type: none"> - TAX REGIME FOR INDEPENDENT SCHOOLS - FUNDING TEACHER PAY RISES AND PENSIONS - SAFEGUARDING AND SAFER RECRUITMENT 	<ul style="list-style-type: none"> - EXAMINATION RESULTS - INDEPENDENT/STATE SCHOOL PARTNERSHIPS - IICSA - OFSTED INSPECTION - ISI INSPECTION
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MATTERS ARISING

Mental health issues have been raised in several Updates. There has been criticism of the government's failure to act fast enough in this area, for example, as reported in Schools Week <https://schoolswEEK.co.uk> in August.

'Theresa May has described mental illness as a burning injustice that requires a new approach from government.... However, actions speak louder than words. The government response to the green paper consultation does not show enough action on how as a society we are going to stop sleepwalking into a children's mental health crisis.'

Javed Khan, CEO, Barnardo's

The context here was the rejection by both the Department for Education (DfE) and the Department of Health and Social Care select committees of the green paper, *Transforming Young People's Mental Health Provision*. The government response was that it 'completely rejects the findings of two committees that its green paper lacks ambition, will be rolled out too slowly, and does not prioritise early intervention.' So, there will continue to be intermittent announcements about this, but for the record at present you may wish to ask Designated Safeguarding Leads (DSLs) about these points:

- mental health leads will not be mandatory in schools—and their role will be strategic rather than diagnostic
- schools will not have to provide therapeutic treatments themselves
- the period 2018-23 will be a trailblazer trial phase and monitoring of the impact of proposals will take place over the next five years
- a steering group led by Tom Bennett (the 'behaviour czar' and founder of ResearchED <https://researched.org.uk/sessions/tom-bennett>) will be producing guidance, including how schools can identify pupils whose behaviour may be a result of underlying mental health difficulties
- the first school mental health teams should be in place by the end of 2019, with a view to reaching 25% of schools by 2022-3.

If you feel up to a challenging read, a fascinating insight into mental health issues appeared recently in The Guardian https://www.theguardian.com/society/2018/jun/30/nothing-like-broken-leg-mental-health-conversation?CMP=fb_gu.

On **teachers' workload**, arguably closely connected to their own mental health, the Department for Education (DfE) has produced a new toolkit for reducing teachers' workload <https://www.gov.uk/government/publications/supporting-excellent-school-resource-management> Key features include: a new deal for teacher recruitment to reduce costs; a toolkit to help reduce unnecessary workload (with free on-line training materials, audit tools, practical examples and model policies); recommendations of deals which could save schools money; and an increasing number of school resource management advisers to provide support to trusts and schools. You may be interested to ascertain what school leaders and managers have made of these elements. Senior leaders may be aware of the *talking toolkit* from the Health and Safety Executive, with downloadable free resources which provides templates for conversations about work issues which can be causes of stress <http://www.hse.gov.uk/gohomehealthy/stress/education.htm> }.



We have covered delays in changes to Sex and Relationships Education (which has subsequently been called Relationships and Sex Education). This is now being referred to as **Relationships (and sex) and Health Education**, but it remains unclear what further changes are anticipated in the government's stance on this subject. Schools can continue to develop this area: the Sex Education Forum has published a blog about what you can do to get ready for statutory RSE {<https://www.sexeducationforum.org.uk/news/blog/5-ways-get-ready-statutory-rse>}.

Hopefully schools have implemented all the **GDPR** requirements, but governors must not forget to keep the subject on their radar, checking that milestones in implementation plans have been made, appropriate documentation updated and that data breaches are appropriately reported and actions taken. DfE has updated the data protection toolkit {<https://www.gov.uk/government/publications/data-protection-toolkit-for-schools>}. Senior staff will be aware that GDPR does not prevent the sharing of safeguarding information even, if necessary, without consent.

FINANCIAL CHALLENGES

These will feature at all governing body meetings this term. Schools will have different challenges but there are some unavoidable ones for all. Independent schools face the possibility before long of changes in business rates and the imposition of VAT on school fees. Independent school associations have been advising on these and governors will find the latest AGBIS newsletter helpful in this regard {<https://www.agbis.org.uk>}. The monthly ISBA bulletins also provide comprehensive and up-to-date information on this and other regulatory and financial matters. Maintained schools face the implication of the government's decisions on the School Teachers' Review Body (STRB) report. Headteachers' unions have been advising on these, for example {<https://www.ascl.org.uk/help-and-advice/pay-and-conditions-know-zone/>}. All schools will need to contend, sooner or later, with the unprecedented and unheralded rise in school pension contributions. ASCL has stated that 'We will be making strong representations that the additional cost of an increased contribution must be covered in full, and that it must continue to be fully funded beyond 2019-20. We will update you on the progress of this issue.' Similarly, ISC {<https://www.isc.co.uk>} wrote to Chief Secretary of the Treasury in September to outline their serious concerns about the devastating effect on school costs and budgets of a 43% increase in employer contributions. Whatever the outcomes of these representations, schools will need to plan for the impact of the final settlement in terms of budgets.

SAFEGUARDING AND SAFER RECRUITMENT CHALLENGES

These are alike for both sectors. Changes to *Keeping Children Safe in Education* and *Working Together* were well trailed by the DfE and were covered in previous Updates. There were some minor amendments to *KCSIE* shortly after publication and nominated safeguarding leads (safeguarding link governors) will want to satisfy themselves either that these did not affect their schools or have been acted on. It's helpful when making these sorts of checks to request tracked changed versions of policies so that you only need to check the requisite amendments—this approach to policy checking can be a useful one when checking on any regulatory updates. Compliance requires effective implementation of appropriate policies and there are several areas where governors will want to know how practice is changing in schools, for example: the



particular vulnerabilities of children with special educational needs or disabilities; how the school is developing a 'contextual' approach to safeguarding (taking account of the wider local picture). A useful introductory video on this appears on Andrew Hall's safeguarding website <https://safeguardingschools.co.uk>; the prevention of peer-on-peer abuse within the pupil body, including bullying (cyber or otherwise), physical abuse, sexual violence and sexual harassment, sexting and so-called 'initiation ceremonies'. To be confident about this, you will want to know what changes have been made to staff development and training and how safeguarding culture is communicated to pupils. You may also like to ask if there is any progress in your school's local area about the replacement of Local Safeguarding Children's Boards by 'safeguarding partners'.

In terms of spot checking, here are some suggestions which you may find helpful:

- Does the school have at least two emergency contact numbers for each pupil?
- Are risk assessments in place for volunteers?
- Have s128 (prohibition from management) checks been undertaken and recorded on all staff with head of department status?
- Have specific written undertakings been sought from alternative providers that they have completed all required vetting checks on staff sent to work in the school?
- What arrangements are in place for any adults in homestay settings (including foreign exchanges) arranged by the school?
- What amendments to procedures have been made in light of the changes to requirements in terms of disqualification by association?
- How have staff been reminded that their relationships and associations in school and at home (including on line) may have implications for the safeguarding of pupils?

DfE guidance in this area continues to proliferate and DSLs may be impressed if you show awareness of *Risk Assessment for Volunteers*

<https://www.safeguardingschools.co.uk/RAvolunteers>, *DBS ID checking guidelines* <https://www.gov.uk/government/publications/dbs-identity-checking-guidelines> and *Staffing and employment: advice for schools* <https://www.gov.uk/government/publications/staffing-and-employment-advice-for-schools>, which includes the following statement:

'All staff have a responsibility to ensure that they act appropriately in terms of their behaviour, the views they express (in particular political views) and the use of school resources at all times, and should not use school resources for party political purposes.'

Legal advice in this area is widely available in newsletter type form, notably from Farrer <https://www.farrer.co.uk>, Harrison Clark Rickerby <https://www.hcrlaw.com> and Stone King <https://www.stoneking.co.uk>.

It is instructive for all governors to keep abreast of developments with regard to the Independent Inquiry into Child Sexual Abuse <https://www.iicsa.org.uk>. In terms of schools, there has been more coverage of independent schools than maintained ones but this should not prevent people involved in the entire sector being aware of what is being unearthed and lessons learnt.

- The report into the English Benedictine Congregations case study report into Ampleforth and Downside has lessons for all <https://www.iicsa.org.uk/reports>.



- Case studies from the Truth project are anonymised accounts of abuse suffered in schools, the armed forces, scouts, sports clubs and other settings <https://www.truthproject.org.uk/experiences-shared>.
- The next area for investigation is non-recent abuse in residential schools for boys with behavioural/emotional problems (now closed) and in prep schools (now closed), in residential music schools and in residential special schools. It will include thematic/issue based investigation including: governance and management; inspection and monitoring; recruitment and termination of employment; whistleblowing and reporting; peer-to-peer abuse; and the culture of schools vis-à-vis safeguarding including sexuality, gender, class and openness. Importantly, the following statement has been made:

'The Inquiry has noted that some phase 2 issues also arise in day schools and it is likely that the investigation will need to look at some evidence relating to day schools to ensure it understands the sector fully.'

Amongst other sources, Veale Wasbrough Vizards regularly provides updates from IICSA <https://www.vwv.co.uk/news-and-events/blog/child-sexual-abuse/residential-schools-investigation-update>.

INSPECTION CHALLENGES

Naturally, it may be assumed that inspection challenges are different for maintained and independent schools, and this is true to some degree, but it should be remembered that independent schools and academies are all subject to the Independent School Standards Regulations and so the inspection of regulatory compliance has the same requirements. I have published some thoughts about the possible implications of the DfE's consultation on the ISSR in the latest edition of *Governance Insight*, page 10 <https://iexcellence.co.uk/ii-summer/index.html?page=1>.

In particular, both Ofsted and ISI are concerned about the safeguarding culture in schools, as stated both by Her Majesty's Chief Inspector, Amanda Spielman and the ISI Chief Inspector, Kate Richards. Recent updates from both inspectorates echo this. ISI's Updates are available through the schools' log-in accounts on the portal <https://www.isi.net> and at least chairs of governors and nominated safeguarding leads will expect to have access to the revised ISI *Commentary on the Regulatory Requirements*. This is helpfully set out with marginal indications of where amendments have been made to the previous versions. In addition to those required by changes to regulatory requirements, there are changes (see paragraph 143 ff and 157 about governance of safeguarding and 73 etc. on gender segregation and transgender issues in relation to provision of separate accommodation for boys and girls over the age of eight). There is new guidance available on the Ofsted website <https://www.gov.uk/government/publications/common-inspection-framework-education-skills-and-early-years-from-september-2015> (sic). Another useful publication is the Ofsted 'mythbuster' <https://www.gov.uk/government/publications/school-inspection-handbook-from-september-2015/ofsted-inspections-mythbusting>.

Both Ofsted and ISI are working with DfE on the inspection of schools in relation to the impact of gender segregation in co-educational schools and they will be looking at the educational impact of any segregation on social development, preparation for adult life, availability of meaningful



choice and access to academic options and co-curricular activities. This is an area where precedent is being established and guidance may change over time.

Ofsted is giving clear indications of the likely changes to be made to the inspection framework from September 2019, (<https://www.gov.uk/government/news/chief-inspector-sets-out-vision-for-new-education-inspection-framework>) and these have been extensively trailed in the press. Amanda Spielman has indicated that the following will be the key changes.

- There will be four new judgements—quality of education, personal development, behaviour and attitudes, leadership and management—as well as one for overall effectiveness, graded as now ‘outstanding’, ‘good’, ‘requires improvement’ and ‘inadequate’.
- Schools will no longer receive a separate grade on outcomes for pupils.
- The focus will be on the substance of delivering a broad curriculum.
- There will be more involvement of classroom teachers.
- Less emphasis on data should reduce the pressure on headteachers and teachers.

‘Changes will move Ofsted away from headline data to look instead at how schools are achieving these results, and whether they are offering a curriculum that is broad, rich and deep, or simply teaching to the test.’

‘I don’t know a single teacher who went into teaching to get the perfect progress eight score. They go into it because they love what they teach and want children to love it too. That is where the inspection conversation should start.’

All ISC schools should have been inspected under the current (no longer new) ISI inspection regime by April 2019, either by means of a regulatory compliance inspection (RCI) or an inspection of the quality of education and focused compliance (EQI). An innovation from September in ISI inspections is the advent of staff questionnaires, which have long been a feature of Ofsted inspections. As with all ISI documentation, the questionnaires can be viewed on the ISI website (<https://www.isi.net>) through the school login. All things being equal, the next inspection should take the form of whichever they did not have the first time.

Whichever regime schools are subject to, governors will want to satisfy themselves that senior leaders have maintained inspection readiness at all times.

ACADEMIC RESULTS

I have placed this item last, but it is by no means the least important consideration for boards and will be amongst the first priorities of school leaders in terms of their ongoing discussions with governors. All boards will be interrogating senior leaders about academic results this term. In terms of public examinations at A level and GCSE level, the conversations will need to incorporate some context in terms of how qualifications have changed in terms of syllabus content and grades awarded. There are useful guides to these changes on the Ofqual website, which have been drawn to your attention in previous Updates (<https://www.gov.uk/government/collections/gcse-as-and-a-level-reforms>). Sally Collier, Ofqual’s Chief Regulator, has written about the impact of the changes and said that the ‘over-riding aim’ is to ensure that students are ‘treated fairly’ and ‘not disadvantaged by being the first to sit these new qualifications.’ An important element to be aware of is what are termed ‘comparable outcomes’.



'We know that students tend to perform less well in the first years of a new qualification, as teachers are less familiar with the content and style of assessment and there tend to be fewer past papers and other resources. Using statistics (to set grade boundaries) compensates for this expected small drop in performance, so that students in the first cohort are not disadvantaged.'

Sally Collier, Ofqual Chief Regulator

'With the abolition of modules, A levels are obviously more demanding as you need to retain the full two years syllabus in one go without the opportunity to take re-sits. [Although harder] this year's cohort are protected due to comparable outcomes. The grading process will compensate for that, so you might not need as many marks as you think to pass.'

Barnaby Lenon, Ofqual board member and Chair of ISC

It is important to remember in all discussions about examination results, including Key Stage 2 tests or even Common Entrance, that while it is tempting, and sometimes appropriate, to focus on results by subject department, this should never be the sole consideration. Results may show particular strengths or weaknesses in teaching in particular curriculum areas, but there are other things to think about, e.g. how accurate were predictions generally, by subject and for particular groups of pupil? Similarly, the outcomes for groups, not just split by male and female, but also, for example, pupils with special educational needs or disabilities, those with English as an additional language, those in receipt of free school meals, gifted and talented pupils, and pupils who have been at the school for longer and shorter periods). The Key has published some suggested questions for governors to ask when looking at different types of results <https://www.thekeysupport.com>.

On a related note, there has been considerable press coverage of the practice of universities making unconditional offers of places to students. At 67,915 they constituted 7% of all offers this year (up from 2,983 and 0.4% respectively in 2013). Geoff Barton, the ASCL General Secretary echoed the almost unanimous view of the schools' sector in the aftermath of results day in August:

'[Unconditional offers are] not in the best interests of students. It can lead to [them] making less effort in their A levels because their place is assured. That can then hamper their job prospects later... if potential employers take into account their A level grades... We urge universities to desist from making unconditional offers as an inducement and we urge students to make their choice on the basis of the course which best suits their needs.'

Governors may like to enquire about how their schools were affected by this.

AND FINALLY

You may be interested in comparing your own experience with the results of the Veale Wasbrough Vizards compliance survey which, in summary, indicates that there is greater use of compliance committees and officers as regulatory compliance continues to consume increasing resources, that they are conscious of the load borne by finance officers and DSLs, that on the

whole governors are more confident about their performance although GDPR 'is casting a long shadow' and concerns about recruitment remain.

As pressure on resources grows, many schools are benefitting from Independent State School Partnerships, which can originate from governors. There is a Memorandum of Understanding between DfE and ISC about this {<https://www.gov.uk/government/publications/joint-understanding-between-dfe-and-independent-schools-council-isc>}. Free support is also available to schools from Inspiring the Future which uses innovative technology to connect students to volunteers to discuss career opportunities {<https://www.inspiringthefuture.org>}. You may also wish to enquire as to the extent of engagement in your school or college with the Chartered College which provides extensive guidance and resources for staff {<https://chartered.college>}.

Challenges remain numerous for the entire sector and it has never been more important to collaborate and economise on effort to maximise success.

Durell Barnes, Head of Governance and Compliance

Durell joined RSAcademics in 2016 and throughout his career he has worked with hundreds of school leadership teams to support them with all aspects of governance and compliance.



Formerly deputy director and head of communications at the Independent Schools Inspectorate, Durell was also ISI's lead on quality assurance and safeguarding. He was closely involved in the development and implementation of the revised frameworks for inspection. A governor of both maintained and independent schools, Durell has hands-on experience of the challenges faced by busy and highly-committed governors endeavouring to exercise their responsibilities within time constraints.

In September 2018, Durell was appointed Chairman of the Independent Schools Examinations Board (ISEB), alongside his role at RSAcademics.