

## **SCHEME OF DELEGATION (2)**

### **1 SCHEME OF DELEGATION**

- 1.1 This Scheme of Delegation (2) is made between Wellspring Academy Trust (“the Trust”) and the Local Governing Body of [name of Academy] in accordance with the provisions of the Trust’s Articles of Association (the “**Articles**”) and the Constitution of the Local Governing Body (wherein this Scheme is referred to as “the Scheme”).
- 1.2 This Scheme has been put in place by the Directors and is effective from 12<sup>th</sup> July 2017.
- 1.3 The Scheme explains the ways in which the Directors fulfil their responsibilities for the leadership and management of the Academy, the respective roles and responsibilities of the Directors and the members of the Local Governing Body and the commitments to each other to ensure the success of the Academy.
- 1.4 Subject to the requirements of the Trust set out in this Scheme, the Trust delegates to the LGB its responsibility and powers as the Governing Body of the Academy which shall be discharged by the LGB in accordance with its Constitution and Terms of Reference, the Policies of the Trust and advice published from time to time by the Department for Education and Ofsted.
- 1.5 Responsibilities and powers delegated to the LGB may be further delegated to the Headteacher or Principal/Executive Principal of the Academy by prior agreement by the Trust Board. It should be remembered that although decisions may be delegated, the LGB together with the Trust as a whole remains responsible for any decision made under delegation.
- 1.6 The Local Governing Body must comply with the obligations set out in the Constitution and Standing Orders, which deal with the functioning of the Local Governing Body and the limits on its authority.
- 1.7 The members of the Local Governing Body have a duty to act independently and not as agents of those who may have appointed them and must at all times act with integrity, objectivity and honesty in the best interests of the Company and the Academy and must be open about decisions and be prepared to justify those decisions.
- 1.8 The Local Governing Body shall adopt, and must comply with, the policies laid down by the Directors from time to time. All policies referred to in this Scheme mean those currently in existence by that title and published at [www.wellspringacademytrust.co.uk](http://www.wellspringacademytrust.co.uk)
- 1.9 The Local Governing Body shall review its policies and practices on a regular basis, having regard to recommendations made by the Directors from time to time, in order to ensure that the governance of the Academy is best able to adapt to the changing political and legal environment.
- 1.10 The Local Governing Body must promptly provide (in writing if required) such data and information regarding the business of the Academy and the pupils attending the Academy as the Directors may from time to time require.
- 1.11 The Local Governing Body shall submit to periodic inspections by the Directors, any inspections pursuant to section 48 of the Education Act 2005 and any other inspections made by regulators from time to time.
- 1.12 The Local Governing Body shall work closely with and shall promptly and co-operatively implement any advice given or recommendations made by the Directors in the event that intervention is either threatened or is carried out by the Secretary of State. The Directors

expressly reserve the unfettered right to review and/or remove any power or responsibility conferred on the Local Governing Body under this Scheme of Delegation in such circumstances.

## **2 VALUES**

- 2.1 The LGB shall be responsible for ensuring that the Academy is conducted in accordance with its agreed values. The determination of the Academy's mission statement shall be the responsibility of the LGB.
- 2.2 At all times, the Directors and the Local Governing Body shall ensure that the Academy is conducted in accordance with the object of the Company, and any agreement entered into with the Secretary of State for the funding of the Academy.

## **3 MEMBERS OF THE LGB AGREE TO:**

- 3.1 Attend such training as reasonably required by the Trust in order to update and improve the knowledge and skills available to enable the LGB to fulfil its role in respect of the Academy and as part of the Academy Trust operated by the Trust;
- 3.2 Provide the information required by the Trust in the form indicated in the Scheme and Annex 1 and not to withhold any information which the Trust reasonably requires.

## **4 BUDGETS AND FINANCE**

### **4.1 General provisions**

- 4.1.1 The LGB shall ensure proper procedures are in place for the safeguarding of funds, and that the requirements of the Academies Financial Handbook and all requirements and recommendations of the Directors and the Secretary of State are observed in full at all times by the LGB and the Academy.
- 4.1.2 The LGB shall promptly inform the Directors of any need for significant unplanned expenditure, and must discuss with the Directors options for identifying available funding.
- 4.1.3 The LGB must comply in full with the Trust's Financial Regulations and shall develop appropriate risk management strategies. The LGB shall at all times adopt financial prudence in managing the financial affairs of the Trust in so far as these relate to the Academy.
- 4.1.4 In the exercise of its powers and functions, the LGB must follow all recommendations given by the CEO and/or the Directors.
- 4.1.5 Any bank account in which any money of the Trust which relates to the Academy is deposited shall be operated by the LGB in the name of the Trust. All cheques and orders for the payment of money from such an account shall be signed by at least two signatories authorised by the LGB.

## **5 PROCUREMENT AND ESSENTIAL SERVICES**

### **5.1 Central Essential Services**

The Trust shall determine, having regard to but not being bound by, the view and recommendations of the LGB, the scope of mandatory core services to be procured and delivered by the Trust on behalf of its academies and shall deliver those services ensuring that they represent good value for money.

## 5.2 Non-Central Essential Services

The Trust shall also determine those essential services which must be procured by each Academy. The LGB shall ensure that such services are procured ensuring that they represent value for money.

## 6 **BUDGET AND BUDGET PLAN**

6.1 The Trust shall determine the proportion of the overall Academy budget to be retained for Central services and shall inform the LGB of the balance (the “Budget”).

6.2 Subject to the limitations set out in Annex 1, the LGB may enter into contracts on behalf of the Trust in so far as they relate to the Academy.

6.3 The LGB shall develop the individual Budget Plan for spending the budget in accordance with the Academies Financial Handbook and the School Development Plan and shall present the proposed Budget Plan to the Trust for approval.

6.4 The Trust shall approve the Budget Plan provided that:

- It is consistent with the Academies Financial Handbook
- It is consistent with the ethos of the Trust and the Academy;
- It is consistent with all policies published by the Trust;
- It represents what the Trust considers to be the most appropriate allocation of resources consistent with the Development Plan for the Academy.

## 7 **FINANCIAL MONITORING**

7.1 The LGB shall:

7.1.1 Monitor the monthly expenditure of the Academy against the approved Budget Plan;

7.1.2 Enter into contracts within the financial limits published by the Trust from time to time (Wellspring Academy Trust Financial Regulations) and within the Budget Plan;

7.1.3 Observe the policy on charging and remissions published by the Trust from time to time;

7.1.4 Not agree to any expenditure outside of the approved Budget Plan without the approval of the Trust;

7.1.5 Provide (in writing if required) such information about the finances of the Academy as often and in such format as the Directors may require. Without prejudice, ensure that reports relating to the financial position of the Academy are available to the Trust immediately following the month to which the management accounts relate.

## 8 **PREMISES, INSURANCE AND HEALTH AND SAFETY**

### 8.1 Premises

8.1.1 The LGB shall develop an estate management strategy, which shall identify the suitability of buildings and facilities in light of the needs of the Academy and the need for, and availability of, capital investment to meet the Local Governing Body’s responsibility to ensure the buildings and facilities are maintained to a good standard.

8.1.2 Subject to and without prejudice to clauses 6.2 and 8.2.2, ensuring that the buildings and facilities used in respect of the Academy are maintained is the responsibility of the LGB, who shall have regard at all times to the safety of the users of the buildings and the

facilities, and the legal responsibilities of the Directors (and/or any others) as owners of such buildings and facilities.

- 8.1.3 The responsibility for any disposals or acquisitions of land to be used by the Academy shall be that of the Directors alone.

## 8.2 Insurance

- 8.2.1 The Trust shall put into effect an insurance policy for buildings, public liability, business continuity and officer's liability in accordance with the Articles.

- 8.2.2 Insuring the land and buildings used by the Academy shall be the responsibility of the Directors who shall recover the cost from the budget delegated to the Local Governing Body.

## 8.3 Health and Safety

- 8.3.1 The LGB shall ensure that the Academy implements and complies with the Health and Safety Policy published by the Trust from time to time.

- 8.3.2 The LGB is required to ensure that risks at Academy level are identified and mitigated against by Management and that they are escalated for inclusion in the Trust's Risk Register where appropriate.

## **9 STAFFING AND RESOURCES**

### 9.1 Appointments

- 9.1.1 The LGB shall make key management appointments at the Academy, in conjunction with the CEO (or a designated representative). With regard to the appointment of the Principal/Executive Principal or Executive Vice-Principal, the LGB Chair (or Vice-Chair) or a Director will be on the appointment panel, as will the CEO (or a designated representative).

With regard to the appointment of a Head of School, the LGB Chair (or Vice-Chair) or another Governor appointed by the LGB will be on the appointment panel, in addition to which the CEO (or a designated representative) may be present.

- 9.1.2 The LGB must ensure there is a LGB representative on appointment panels for all senior leadership team positions.

### 9.2 Delegation

- 9.2.1 The Directors and the Local Governing Body (by prior agreement of the Trust Board) may delegate such powers and functions as they consider are required by the Principal/Executive Principal for the internal organisation, management and control of the Academy (including appointments and the implementation of all policies approved by the Directors and the Local Governing Body and for the direction of the teaching and curriculum at the Academy).

### 9.3 Policies

9.3.1 The LGB shall comply in full with health and safety and HR policies published by the Trust from time to time and shall be responsible for the staff employed at the Academy. The LGB shall:

- (i) comply with all policies dealing with staff issued by the Directors from time to time;
- (ii) comply with any pay terms set by the Directors;
- (iii) adopt any standard contracts or terms and conditions for the employment of staff issued by the Directors;
- (iv) manage any claims and disputes with staff members, having regard to any advice and recommendations given by the Directors or CEO.

### 9.4 Performance Review, Pay Discretions

#### 9.4.1 **Principal/Executive Principal**

The performance review of the Principal/Executive Principal shall be conducted by the Chair of the LGB, the CEO and/or an External Advisor, with the agreement of the CEO, in accordance with the Trust's Performance Review Policy.

#### 9.4.2 **Other staff**

The LGB shall ensure that the performance review of all other staff is conducted in accordance with the Trust's Performance Review Policy published from time to time. The LGB shall ensure procedures are in place for the proper professional and personal development of staff.

#### 9.4.3 **Pay Discretions**

(i) The Board may, in line with the Trust Pay Policy and the Budget Plan, and with any written recommendations from the Performance Review procedure, make discretionary pay awards for the Principal/Executive Principal.

(ii) The LGB may, in line with the Trust Pay Policy and the Budget Plan, award pay discretions to staff other than the Headteacher or Principal/Executive Principal, consistent with recommendations from the PR Procedure and in consultation with the views of the CEO.

## 10 **HUMAN RESOURCES MATTERS**

### 10.1 Disciplinary and Capability Procedure

The LGB shall undertake any capability or disciplinary procedure in accordance with the Trust's policies and in accordance with advice from the Trust's HR provider.

### 10.2 Determining Contract Settlements

In the event that a staff member agrees to a contract settlement, no payment in respect of that settlement shall be made without the consent of the Trust's CEO and in accordance with the Academies Financial Handbook.

### 10.3 Dismissal

The LGB has the authority to dismiss, in line with the Disciplinary and Performance Capability Policies. The advice of the CEO must be sought if a decision to dismiss is considered. If the dismissal relates to the Principal/Executive Principal, the CEO must be in agreement with the proposal.

In the event of the CEO potentially dismissing a Principal/Executive Principal it would be intended that the Chair and the full Local Governing Body would be party to, and partners in, the process.

Were a situation to arise whereby the CEO did not feel that the Local Governing Body was acting in the best interests of the Trust in both their support and challenge to the Principal/Executive Principal, the CEO would be able to insist on a course of action.

### 10.4 Requests for Early Retirement

The LGB shall consider any requests for early retirement and may seek advice in that respect from the Trust's HR provider.

## **11 STANDARDS, CURRICULUM AND TARGET SETTING**

11.1 The LGB shall determine the curriculum of the Academy but shall have regard to any views of the Directors, in recognition of the Directors' obligation to the Secretary of State to provide a broad and balanced curriculum.

11.2 The LGB shall be responsible for the standards achieved by the Academy and the pupils attending the Academy.

## **12 ADMISSIONS, STRUCTURE AND OPENING TIMES**

### 12.1 Admissions

12.1.1 The LGB shall determine and review from time to time the Academy's Admissions Policy. The LGB shall ensure that the Policy is correctly and fairly applied.

12.1.2 Any decision to expand the Academy shall be that of the Directors. The Directors shall have regard to the views of the LGB.

### 12.2 Structure

12.2.1 The LGB shall refer to the Trust any proposal to alter:

- Opening Times of the Academy,
- Term dates,
- The age range of the Academy,

prior to implementation of, or consultation on such change, and shall not make or consult upon any such change without the prior consent of the Trust.

12.2.2 Any such changes shall be consistent with any policy set by the Directors. The LGB shall have regard to, and report to the Directors upon, the viability of such activities, the impact on the Academy's activities, and any financial implications such as the threat of taxation in light of the Trust's charitable objects and any threat to funding provided by the Secretary of State.

### **13 SAFEGUARDING**

- 13.1 The LGB shall ensure that the Academy has a Designated Officer and Deputy and that their details are published on the Academy website. The LGB shall also ensure that the names of the Designated Officer and Deputy are sent to the Trust so that contact details may be published on the Trust's website.
- 13.2 The LGB shall appoint a member with specific responsibility for safeguarding and make details for that member available on the Academy website. The LGB shall also inform the Trust of the name of the person responsible for publication on the Trust's website.

### **14 EXCLUSIONS**

- 14.1 With regard to exclusions, the procedure outlined in the Terms of Reference for LGB Panels will be adhered to.
- 14.2 In the case of a permanent exclusion, the Board shall be informed.

### **15 REGULATORY MATTERS**

- 15.1 The Directors are responsible for the satisfaction and observance of all regulatory and legal matters. The LGB shall promptly and co-operatively do everything the Directors may specify as being necessary to ensure that the Trust is meeting its legal obligations. The members of the LGB shall not do or omit to do anything that would give rise to a breach of the Trust's Funding Agreements with the Secretary of State, or to censure of any kind by the Principal Regulator, the Charity Commission or any other regulator.

### **16 ANNUAL REVIEW**

- 16.1 This Scheme of Delegation shall operate from the Effective Date in respect of the Academy.
- 16.2 The Directors have the absolute discretion to review and amend the Scheme of Delegation at least on an annual basis.
- 16.3 In considering any material changes to this Scheme of Delegation, the Directors shall have regard to and give due consideration of any views of the Local Governing Body.
- 16.4 The Local Governing Body shall undertake annual self-review at a meeting specifically convened for this purpose. The outcomes of the governance self-review shall be shared with the Board of Directors.

## **ANNEX 1 - LIMITATIONS ON THE AUTHORITY OF THE LOCAL GOVERNING BODY**

- 1 Doing or omitting to do any act or thing which might reasonably be expected to give rise to a breach of the Company's Funding Agreements with the Secretary of State or to give rise to censure of any kind by the Principal Regulator, the Charity Commission or any regulator.
- 2 Doing or omitting to do any act or thing which might reasonably be expected to give rise to a breach of the Company's policies from time to time.
- 3 Incurring any capital expenditure which is not provided for in the Budget.
- 4 Adopting or amending the Budget in respect of each year.
- 5 Commencing any new business except as provided in the Budget.
- 6 Forming any subsidiary or acquiring shares or an interest in a company or participating in any partnership or joint venture (incorporated or not) except as provided in the Budget.
- 7 Making any acquisition or disposal of any asset(s) except as provided in the Budget and in accordance with the Academies Financial Handbook.
- 8 Making any loan (otherwise than by way of deposit with a bank or other institution the normal business of which includes the acceptance of deposits or in the ordinary course of business) or giving any guarantee or indemnity.
- 9 Entering into, modifying or terminating any material contract (being a contract with an annual value of £5,000 or more (or such other figure as may be set by the Directors).
- 10 Without prejudice to the foregoing, entering into any arrangement, contract or transaction except as provided in the Budget.
- 11 Establishing or amending any bonus or other incentive scheme of any nature for employees except as provided in the Budget.
- 12 Instituting, settling or compromising any legal proceedings instituted or threatened against the Academy or submitting to arbitration or alternative dispute resolution any dispute involving the Academy.
- 13 Responding to any investigation or Ofsted inspection visit, without consultation with and acting in accordance with the requirements of the Directors.
- 14 Acquiring any interest in, or varying the terms on which freehold or leasehold property is held or settling any rent review.
- 15 Altering the name of the Academy.