

Disqualification from Membership of Governing Bodies

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www.milton-keynes.gov.uk/mkgovernors

Introduction

This leaflet outlines the circumstances where a governor or associate member shall be disqualified from the membership of a governing body under the School Governance (Constitution)(England) Regulations 2007.

1 Age

Any person under the age of 18 (with the exception of associate members).

2 Mental Disorder

A person shall be disqualified if s/he is detained under the Mental Health Act 1983.

3 Bankruptcy

A person shall be disqualified if his/her estate has been sequestrated (temporarily repossessed) and the sequestration has not been discharged, annulled or reduced, or she/he is the subject of a bankruptcy restrictions order or an interim order.

4 Disqualification of Company Directors

A person shall be disqualified if s/he is subject to a disqualification order under the Company Directors Disqualification Act 1986, a disqualification order under Part 2 of the Companies (Northern Ireland) Order 1989, a disqualification undertaking accepted under the Company Directors Disqualification (Northern Ireland) Order 2002, or an order made under section 429(2)(b) of the Insolvency Act 1986 (failure to pay

under County Court administration order).

5 Disqualification of Charity Trustees

A person shall be disqualified if s/he has been removed from the office of Charity Trustee on the grounds of any misconduct or mismanagement of the Charity in which s/he was involved.

6 Disqualification of Teachers/Workers with Children and Young People

A person shall be disqualified from holding or from continuing to hold office as a governor if:

- s/he is included in the list of teachers and workers with children or young persons whose employment is prohibited or restricted under section 1 of the Protection of Children Act 1999;
- s/he is subject to a direction of the Secretary of State under section 142 of the 2002 Education Act (Prohibition from Teaching);
- s/he is disqualified from working with children under sections 28, 29 and 29A of the Criminal Justice and Court Services Act 2000;
- disqualified from registration under Part 10A of the Children Act 1989 for child minding or providing day care;
- disqualified from registration under Part 3 of the Childcare Act 2006.

A check on all prospective governors (known as a List 99 check) will be made by the Local Authority prior to appointment, for which your date of birth will be required.

7 Criminal Convictions

A person shall be disqualified if s/he has been convicted, whether in the UK or elsewhere, of any offence which carries a sentence of imprisonment (whether suspended or not) for a period of:

- three months or more without the option of a fine. If this conviction and imprisonment occur within five years of the election or appointment of a person to a governing body then that person must be disqualified.
- two and a half years or more. If this conviction and imprisonment occur within 20 years of the election or appointment of a person to a governing body then that person must be disqualified.
- five years or more.

Any person convicted of an offence under section 547 of the 1996 Act (Nuisance and Disturbance on Education Premises) who has been sentenced to a fine within five years of her/his election or appointment to a governing body must be disqualified.

8 Refusal to make an application for a criminal records certificate

A person shall be disqualified at any time when s/he refuses to a request by the clerk to the governing body to make an application under section 113 of the Police Act 1997 for a criminal records certificate.

9 Failure to Attend Meetings

When a governor has sent an apology to the clerk to the governing body before a meeting which s/he cannot attend, the minutes of the meeting shall record the governing body's consent or otherwise to her/his absence.

When a governor does not send apologies and fails to attend meetings of the governing body for a continuous period of six months beginning with the date of a meeting, on the expiry of that period s/he will be automatically disqualified from continuing to hold office as a governor of that school. This is without prejudice, however, to her or his re-appointment or re-election.

Please be aware that the six-month period can expire in between meetings, i.e. disqualification is not dependent upon the number of meetings missed. It is therefore most important that apologies are presented to the governing body in advance of a meeting as in many cases disqualification can be avoided.

A foundation, LA, partnership, community or sponsor governor who has been disqualified as a governor of a school on these grounds shall not be eligible for nomination, election or appointment as a governor of any category at that school for a 12 month period immediately following her or his disqualification.

10 General

A person shall be disqualified as a **community governor** if s/he is:

- a registered pupil at the school;
- eligible to be a staff governor at the school;
- an elected member of the LA.

A person shall be disqualified from appointment as a **LA governor** if s/he is:

- eligible to be a staff governor at the school.

A person shall be disqualified from election or appointment as a **parent governor** if s/he is:

- an elected member of the LA;

- paid to work at the school for more than 500 hours in any consecutive 12 month period.

A person shall be disqualified for nomination or appointment as a **partnership governor** if s/he is:

- a parent of a registered pupil at the school;
- a registered pupil at the school;
- eligible to be a staff governor at the school;
- an elected member of the LA;
- employed by the LA in connection with education functions.

Note:

This is a general guide and is not intended to be an authoritative interpretation of the relevant legislation. More detailed information can be found in the School Governance (Constitution)(England) Regulations 2007.

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