

# Governor Appointment Policy

<b>Approved by:</b> Governing Body	<b>Effective date:</b> 23 March 2021	<b>Next review:</b> 2024
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## Policy

This policy covers:

- the constitution of the Governing Body;
- identification of positions on the Governing Body;
- the process of appointment of Governors, including Governor Skills and Experience Framework;
- the fit and proper persons check including conflicts of interest;
- appointment of Chair, Deputy Chairs, Chairs of Committees and the Senior Independent Governor; and
- removal of Governors.

## Who needs to know about the Policy?

- Governing Body and Governors
- Staff
- Students
- Nominative bodies
- Students' Union
- Prospective Independent Governors

## Purpose of the Policy

The Policy represents the Governing Body's process and policy of appointment as required by the University's Articles and Instrument of Government.

It contains details of the Governing Body's constitution and membership. It also sets out Governor selection/appointment processes and the requirements regarding Governor removal. It also covers the appointment of co-opted members of Governing Body Committees.

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### 1. Constitution of the Governing Body

- 1.1. The Articles of Association and Instrument of Government of the University set out the membership of the Governing Body.
- 1.2. The Archbishops' Council of the Church of England and Governors are Company Members. There are no other Members. Company Members are 'guarantors', whose personal liability is limited by the Articles to a maximum of £1 to contribute to the assets of the University in the event of its winding up, who have the right to attend and vote at general meetings, which are technically separate from a meeting of the Governing Body itself.
- 1.3. The Governing Body consists of no more than 18 persons, not less than 10 of whom are members of the Church of England and at least eight of whom have experience of, and have shown capacity in, industrial, commercial or employment matters or in the practice of any profession.
- 1.4. There are four Nominative Governors who are members of the Church of England:
  - one appointed by the Archbishop of Canterbury;
  - one appointed by the Diocesan Boards of Education of Canterbury and Rochester dioceses acting jointly;
  - one appointed by the Archbishops' Council of the Church of England; and
  - the Bishop of Dover or the nominee of the Bishop of Dover.
- 1.5. Vice-Chancellor and Principal is also a Governor, as are three Staff Governors (the three being respectively a nominated member of the Academic Board and a member of teaching staff and a member of Professional Services Staff), a Student Governor, and up to nine Independent Governors, at least six of whom are members of the Church of England. (Staff with both teaching and Professional Services roles, will be able to be nominated only in respect of one Staff Governor vacancy at any one election.)
- 1.6. Membership of the Church of England is defined in the Articles as those who are baptised members of the *Church of England*, or of another Province of the world-wide Anglican Communion<sup>1</sup>.
- 1.7. Governors, including Staff Governors can be appointed or elected, as the case may be, to the Governing Body for a maximum of two terms of four years, except in the case of a Governor elected to serve as Chair or Deputy Chair, in which case the maximum term is 10 years from the date of their first appointment to the Governing Body, or a Student Governor, who is appointed to the Governing Body for one year, noting that the same Student Governor may be re-appointed to the Governing Body for another period of one year

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<sup>1</sup> This definition is subject to approval. The current definition is "includes Churches in communion with the Church of England as determined for the purposes of the Overseas and other Clergy (Ministry and Ordination) Measure 1967"

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following re-election by the Students' Union. Elections to the Students' Union are conducted by the Students' Union itself. Subject to the maximum terms of office set out in this paragraph, all Staff and Independent Governors, who have served an initial four-year term are subject to re-election should they wish to serve for a second term. Nominative Governors are subject to re-appointment by the relevant nominative body following an initial four-year term.

- 1.8. When necessary, the Governing Body can also co-opt members to committees from outside the University with relevant expertise or interests for a maximum of two terms of four years.
- 1.9. Governors are not remunerated but are able to reclaim reasonable travel and other expenses.
- 1.10. The Governing Body considers that a diverse board can increase public confidence and accountability. Having a diverse range of Governor skills and experience is also essential for good governance.
- 1.11. The Governing Body routinely considers its own composition, and it considers how to promote diversity in all its forms, leading by example, including considering the impact of decisions on equality, diversity and inclusion particularly in the context of representation on it. The Governing Body has an Equality, Diversity and Inclusion Governor Champion to assist it to hold to account and support the University in terms of its practice in relation to equality, diversity and inclusion. Practical ways the University increases diversity on the Governing Body include:
  - actively monitoring diversity;
  - tackling identified organisational or board inequalities and gaps;
  - making use of active, open and inclusive and specialist search methods;
  - attracting a diverse group of candidates;
  - seeking candidates with underrepresented characteristics;
  - providing an inclusive induction for new Governors;
  - organising accessible and convenient Governing Body meetings;
  - promoting inclusive boardroom culture, practices and behaviours; and
  - reimbursement of travel and childcare expenses.
- 1.12. At the point of submitting an expression of interest to become a Governor, there will be an invitation to disclose information for equal opportunities and diversity monitoring purposes. There is no obligation to disclose information, which will be securely held in accordance with data protection law.

## 2. Identification of positions on the Governing Body

- 2.1. In consultation with the Vice-Chancellor and the Chair the Clerk to the Governing Body ('the Clerk') shall identify on an ongoing basis the requirements for positions to be filled on the Governing Body, including co-opted members of committees, as they arise. These requirements may arise in a number of circumstances including vacancies, completion of terms of office, resignations or disqualification. The Chairs Committee, as Nomination Committee, will receive regular update reports from the Clerk regarding membership of the Governing Body including recruitment and appointment options for consideration, with the Governing Body retaining ultimate decision-making responsibility as set out in the Articles. The report will cover rotational retirement dates and committee membership information.

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### 3. The process of appointment of Governors, including Governor Skills and Experience Framework

- 3.1. A strong personal commitment to the University's aims and objectives is required from Governors. It is also essential that there are no legal or other barriers to a candidate's appointment. Another central component in the appointment and election of Governors is the skills and experience the Governing Body requires to be effective. In this respect, the Governing Body has approved a Skills and Experience Framework (at Attachment A), reflecting the University's current strategic priorities and risks, medium and longer-term priorities, hard and soft skills, knowledge and skills, which shall be periodically updated.
- 3.2. The Clerk's office shall undertake an annual skills audit with Governors aligned with the Skills and Experience Framework, identifying any specific gaps on any individual Governor basis or within the Governing Body as a whole. This process will take place along with a two-way audit of engagement and effectiveness of governance arrangements at the University. Before being nominated for election or appointment, the Clerk will support prospective Governors to appreciate the skills and experience required for the role of a Governor at the University.
- 3.3. Nominating bodies and the Governing Body will only appoint Governors with requisite skills set out in the Skills and Experience Framework to contribute to the effective governance and strategic success of the University in the context of any identified skills or experience gaps. Decisions will be informed by a review of CVs, interviews and references as appropriate and in the context of identified skills and experience requirements. Although the Governing Body is committed to providing current and prospective Governors with continued professional development, Governing Body vacancies enable any identified skills and experience gap to be filled.
- 3.4. The process of nomination of Staff Governor by the Academic Board shall be secured an election by the Academic Board following the arrangements set out in paragraphs 3.5 to 3.11 in respect of elections for teaching and Professional Services Staff Governors subject to the following modifications:
- a) The Governing Body will inform the Academic Board of the skills and experience it requires for the Academic Board Staff Governor nomination;
  - b) Academic Board members seeking nomination by the Academic Board as the Academic Board nominated Staff Governor shall also be given the opportunity to publish for circulation with ballots a statement as set out in paragraph 3.5;
  - c) All members of the Academic Board may be nominated, except the Students' Union's Officers/representatives and the KMMS representative (ex officio); however, all members of the Academic Board may vote;
  - d) Eligible members of the Academic Board seeking to be nominated as the Academic Board Staff Governor via the process of election set out in this Policy shall not be entitled also to stand for election as either a teaching Staff Governor or a Professional Services Staff Governor;
  - e) The election process will be administered by the University Solicitor and Clerk to the Governing Body as Returning Officer; and
  - f) Paragraphs 3.10 and 3.11 shall not apply; instead, in the event of any tied result or procedural discrepancy the Clerk will as Returning Officer make a declaration. In the case of a tied result, the Vice-Chancellor and Principal, as Chair of the Academic Board, will have the casting vote.

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- 3.5. The Governing Body will inform the staff electorates the skills and experience it requires. Prospective Staff Governors shall be given the opportunity to publish for circulation with ballots a statement to consist of no more than a set number of words to be notified regarding their skills and experience in terms of those identified as required by the Governing Body. The statement shall enable them to include:
- evidence of the extent to which they possess the skills and experience the Governing Body requires;
  - their commitment to undertake training and development to acquire or develop the skills to make an effective contribution to the University's governance;
  - if seeking re-election, details of contributions to the Governing Body in their previous term of office; and
  - how they plan to contribute to the future work of the Governing Body.
- 3.6. Prospective Staff Governors are not permitted to canvass during working time. Use of University resources or facilities to support canvassing is not permitted.
- 3.7. The election process will be administered by the Clerk as Returning Officer. The process can be electronic or by paper ballot, or a combination of the two if deemed appropriate. The method of voting shall be 'first past the post', with the candidate with the most votes winning.
- 3.8. The process will be:
- (1) Call for nomination(s), with supporting statements in accordance with paragraph 3.5 – 14-day period
  - (2) Declarations of candidate(s) in confidence to the Clerk, the Vice-Chancellor and the Chair – two-day period
  - (3) Consideration by the Clerk, the Vice-Chancellor and the Chair about whether the candidate(s) have demonstrated the core skills and the required level of experience as set out for the role and have met the eligibility criteria – seven-day period
  - (4) Confirmed declaration of candidate(s) – two-day period
  - (5) Voting – 10-day period
  - (6) Successful candidate(s) declared two days later after validation of the result with the Returning Officer and one other nominated officer. The result will be documented and kept as a record.
- 3.9. The staff intranet and other media (including non-electronic) will be used by the Clerk to communicate the stages of the election process and the result of the nomination and voting processes.
- 3.10. Full time, part time or at least 0.4 fractional teaching and Professional Services staff employed by the University can nominate and vote respectively in respect of either (not both) teaching or Professional Services Staff Governor positions on the Governing Body. If you are employed in both eligible teaching and Professional Services staff roles, in the event of both teaching and Professional Services Staff Governor positions becoming available, you may only nominate in respect of either a teaching or a Professional Services Staff Governor position and you may only vote in respect of that chosen category. Sessional and casual staff are not permitted to nominate or vote, nor are staff of the Students' Union, or those employed in respect of any University subsidiary.
- 3.11. In the event of any tied result or procedural discrepancy the Clerk will as Returning Officer make a declaration. In the case of a tied result the Returning Officer will decide whether to extend the voting period. In the case of a discrepancy in process the Returning Officer will decide as to whether the election process remains valid or whether a re-election is required at a later date. This will be done after consultation with the Vice-Chancellor and the Chair if deemed appropriate.

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3.12. Three alternative methods of selection are used to appoint Independent Governors and co-opted members of committees. There is flexibility for the Chairs Committee to consider which of the following approaches are the most appropriate to adopt when considering vacancies. These approaches may be run singularly or in parallel with each other. The Clerk shall draft and keep updated a Governor role description specification for use in the following processes. Each method culminates with shortlisted candidates interviewed by a panel consisting of the Chair, Vice-Chancellor and Principal, and Clerk, and a preferred candidate or candidates will be recommended for appointment by the Governing Body via the Chairs Committee with a confirmation that pre-appointment checks have been satisfactorily carried out:

### 3.12.1. Appointment following internally managed search

3.12.1.1. An internally managed search for candidates will involve current Governors and the Vice-Chancellor being asked to recommend suitable candidates based on the Governing Body's current Skills and Experience Matrix. Suitable candidates may be identified from within existing networks and stakeholder groups and knowledge of specific individuals. The Vice-Chancellor and Clerk will, following consultation with the Chair, draw up a long list of recommended candidates for presentation to the Chairs Committee. This paper will include details of candidates' CVs and potential willingness to serve as a Governor.

### 3.12.2. Appointment after advertisement and expression of interest

3.12.2.1. The Clerk may place an advertisement seeking expressions of interest from those wishing to join the Governing Body, targeting identified skills and experience. Expressions of interest will be presented to the Chairs Committee for consideration prior to a short-list of suitable candidates being identified.

### 3.12.3. Appointment after externally assisted search

3.12.3.1. A firm of external consultants (acting in accordance with the University's internal procurement rules) may be appointed by the Clerk to seek out a candidate as a potential Governor. The Clerk shall agree the parameters of the search with the consultant, who will normally place a public advertisement, and conduct initial interviews to form a long list. The long list will be presented to the Chairs Committee for its consideration and shortlisting.

3.13. Following the appointment of a new Governor, their details are sent to Companies House, and all relevant parties are notified, including auditors and other professional advisers. The new Governor is formally welcomed to the Governing Body in letter of appointment.

3.14. The Clerk's office will co-ordinate an induction for all new Governors. Induction typically includes a comprehensive induction pack, introductory meetings with the Chair/Deputy Chair, Vice-Chancellor and Principal, Clerk, Chief Financial Officer, Students' Union President or CEO plus any member of the Senior Management Team (SMT) or Schools or Departments of specific interest. There is a buddy scheme in operation to pair the new Governor with an SMT member and also scope for new Governors to meet existing Governors and others involved with the University. An assessment of any required training will be made. Governors are also able to participate in the Advance HE Governor Development Programme. Regular sectoral updates to enable Governors to contribute effectively to the Governing Body will be provided.

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3.15. The induction pack will contain key documents relating to the University and the Governing Body, with an explanation of their purpose and effect. In this way new Governors can find out how the University works and can make an effective contribution to the Governing Body as soon as possible. Key documents will include:

- the Articles of Association and Instrument of Government;
- key University publications including its latest annual report and accounts;
- the University's strategic plan, KPIs and its vision and values or mission statement;
- details about the structure and membership of the Governing Body and the SMT
- the policy on dealing with conflicts of interest;
- sector guidance documents including statutory and regulatory information;
- minutes of recent meetings; and
- various forms for completion.

### 4. Fit and proper persons check and conflicts of interest

4.1. The Governing Body is obliged to ensure that all Governors are fit and proper persons.

4.2. The current higher education sector regulator (the Office for Students) defines a fit and proper person as follows

- is of good character;
- has the qualifications, competence, skills and experience that are necessary for their role;
- is able by reason of their health, after reasonable adjustments are made, to properly perform the tasks of the office or position for which they are appointed; and
- has not been responsible for, been privy to, contributed to, or facilitated any serious misconduct or mismanagement (whether unlawful or not) in their employment or in the conduct of any entity with which they are or have been associated.

4.3. The OfS says that the following are indicators that a person may not be a fit and proper person:

- disqualification from acting as a company director, or from acting as a charity trustee, as set out in the Company Directors Disqualification Act 1986 or the Charities Act 2011;
- conviction of a criminal offence anywhere in the world or the subject of any adverse finding in civil proceedings, where relevant, including, but not limited to bankruptcy or equivalent proceedings (in the last three years);
- subject of any adverse findings in any disciplinary proceedings by any regulatory authorities or professional bodies;
- involvement in any abuse of the tax systems;
- involvement with any entity that has been refused registration to carry out a trade or has had that registration terminated;
- involvement in a business that has gone into insolvency, liquidation or administration while the person has been connected with that organisation or within one year of that connection;
- dismissal from a position of trust or similar;
- involvement with a higher education provider that has had its registration refused or revoked by the OfS or has had similar action taken against it by another regulator (this includes, but is not limited to,

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serving on a board/governing body, having voting rights, being a significant shareholder/owner, serving in a senior position, etc.).

- 4.4. The Clerk will obtain a declaration from the prospective Governor that they are not disqualified by virtue of its Articles of Association and Instrument of Government (paragraph 7 of this policy sets out the disqualification grounds) and that none of the OfS fit and proper indicators apply. The Clerk will also consult official registers of disqualified persons and arrange for identification and right to work checks to be undertaken (<https://www.canterbury.ac.uk/human-resources-and-organisational-development/docs/Acceptable-Right-to-Work-Documentation.pdf>).
- 4.5. The Governing Body is mindful that Governors act with integrity, objectivity and honesty and in the best interests of the University. As such the Governing Body requires Governors to agree to *'The Seven Principles of Public Life'*, as set out by Lord Nolan. These principles apply to anyone, locally and nationally, who is elected or appointed as a public office-holder. They are selflessness, integrity, objectivity, accountability, openness, honesty and leadership.
- 4.6. The Chairs Committee will consider the outcome of fit and proper person checks and any existing conflicts of interest before the appointment of a Governor. It is inevitable that conflicts of interest will emerge from time to time, particularly in local communities where interests may overlap and the University considers that it is important to identify the conflicts of interest as they arise, and to make sure that they are properly managed.
- 4.7. Governors will be asked about potential conflicts of interest, and these shall be declared by way of a declaration of interests form. Governors will also be required to submit an annual declaration of conflicts of interest at the start of each new academic year. As well as each Governor being required to annually declare any changes in circumstance, there is a specific Declaration of Interests item on the agenda of every Governing Body and committee meeting to prompt Governors and co-opted members of committees to declare conflicts of interest within meetings. An annual register of interests is shared with the Governing Body and published on the University's website.

### 5. Appointment of Chair, Deputy Chairs, Chairs of Committees and the Senior Independent Governor

- 5.1. The Articles provide that a Chair and up to two Deputy Chairs are elected by the Governing Body from among its members, provided that neither the Vice Chancellor and Principal or any Staff Governor or the Student Governor shall be Chair or Deputy Chair.
- 5.2. The Chairs Committee on behalf of the Governing Body will, in terms of succession planning, consider approximately 12 months in advance (before the retirement of the current Chair, or Deputy Chair), the appointment process it considers appropriate in the circumstances. The Vice-Chancellor will consult with the Chairs Committee to enable it to make formal recommendations to the Governing Body about the process, which may involve the placement of a public advertisement, but it is not mandatory and will be relied upon where deemed appropriate.
- 5.3. If a Chair or Deputy Chair wishes to be re-elected following the expiry of their initial term of office of 4 years, subject to the maximum term of office set out in paragraph [2] they may express an interest in doing

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so to the Vice-Chancellor or the Clerk. The Vice-Chancellor will consult with the Governing Body on the expression of interest and will advise the Chairs Committee at its next meeting (in their capacity as Nominations Committee). The Chairs Committee will consider the nomination and make a recommendation to the full Governing Body at the next opportunity.

- 5.4. Those nominated as Chair or Deputy Chair will not participate in the discussions or take part in the voting and shall withdraw from the meeting at which the matter is discussed. At any such times the Deputy Chair or Senior Independent Governor shall act as Chair of the meeting for that item when seeking a decision on the appointment.
- 5.5. The University may use an appointed firm of consultants (acting in accordance with the University's internal procurement rules) to seek out a candidate as a potential Chair. The consultant will agree parameters of the search, place a public advertisement, and conducted formal interviews. The candidate identified through this process will then be elected as an Independent Governor Chair-Elect under a succession plan for a minimum period of one calendar year, and thereafter take up the role of Chair subject to being elected by the Governing Body.
- 5.6. The Governing Body will appoint one of the Independent Governors to be a Senior Independent Governor to perform the duties ascribed to it by the Governing Body. The appointment will be made on recommendation of the Chairs Committee acting as the Nomination Committee taking into consideration the Governing Body's Skills and Experience Matrix.

## 6. Removal of Governors

- 6.1. The Articles of Association and Instrument of Government require Governors to vacate membership of the Governing Body:
- if disqualified from acting as a trustee by virtue of sections 178 and 179 of the Charities Act 2011 (or any statutory re-enactment or modification of these provisions);
  - if they fail to satisfy a demand under section 268 of the Insolvency Act 1986, or enter into dealings with a view to avoiding or in expectation of insolvency, or stop or threaten to stop payments generally, or a receiver is appointed over or an incumbrancer takes possession of or exercises any power of sale in relation to all or any of their property, or a bankruptcy petition is presented, or an application for an interim order under Part VIII of the Insolvency Act is made by or against them;
  - if they become incapable by reason of mental disorder, illness or injury of managing and administering their own affairs;
  - if a disqualification order is made against them under the Company Directors Disqualification Act 1986;
  - if they are removed from office by a resolution duly passed pursuant to section 168 of the Companies Act 2006;
  - if they are absent from all meetings of the Governing Body during a period of one year (except for a reason approved by the Governing Body);
  - on the expiration of one month's written notice to the Clerk of their intention to resign from the University;
  - if being a Nominative Governor or an Independent Governor appointed in accordance with the Articles who is also a member of the Church of England, they cease to be a member of the Church of England;

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- or being the Vice Chancellor and Principal ceases to be a Practising Christian;
- or if they are an ex-officio Governor and have ceased to hold the relevant office, or if they are a Staff Governor and have ceased to fulfil the membership criteria.

6.2. Notwithstanding the above grounds to vacate membership of the Governing Body, the Governing Body will consider whether a Governor should be removed in circumstances in which any of the fit and proper person indicators in paragraph 5 apply.

6.3. Nominative Governors may be removed from office by the body or person who appointed them. The appointing body shall provide written notice of the removal to the Clerk. Where the Governing Body is concerned by the effectiveness or behaviour of a Governor appointed by another body, this should be brought to the attention of that body. The Governing Body expects only to exercise the power to remove a Governor in very exceptional circumstances when warranted, for instance, where there has been serious misconduct, compromise of the Nolan Principles, repeated and serious incompetence, or detrimental conduct.

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