

**P108 Recruitment and selection – model policy for schools**

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**1. Introduction**

- 1.1 Recruitment and selection is a critical activity for the Governing Body and Headteacher. In selecting the best person for the role, the need for compliance with employment law, especially in the area of discrimination is clear. Recruitment practices must be safe in the context of appointing people who are suitable to work with children and young people.
- 1.2 Poor appointments to the School can lead to unnecessary and costly staff turnover, poor performance, dissatisfaction amongst the workforce and potentially put children at risk of harm. The importance of safer recruitment and recruitment best practice are recognised and underpin the school's recruitment processes.
- 1.3 All governors and employees involved in a recruitment exercise must adhere to the requirements of this policy and any related policies when conducting the recruitment process and in their decision making.
- 1.4 This policy should be read in conjunction with the G108f *Recruitment and Selection – Guidance for Schools* (available on Schools PeopleNet) which gives more detailed information on conducting recruitment and selection exercises.
- 1.5 Church schools, may wish to enhance this policy through advice from the local diocese.

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### **2. Safer recruitment**

- 2.1 The purpose of this policy is to provide a sound foundation for good recruitment and selection of staff, assisting a school in ensuring the requirements of the *Safer Recruitment Guidance* produced by the Norfolk Safeguarding Children Board (NSCB) and general employment legislation are met. It will do this by supporting the principles and recommendations set out in the Department for Education document 'Keeping children safe in education' 2014.
- 2.2 The *Safer Recruitment Guidance* states that recruitment and selection processes should embrace core principles around safeguarding children and young people and employment legislation. In addition the document states the core standards which should be incorporated into the practice of recruitment and selection. This policy and the related guidance reflects these core principles and core standards by:
- identifying:
    - the powers and obligations of the Governing Body and the County Council in selecting staff;
    - the main stages of the recruitment and selection process; and
    - the administrative procedures to be followed by the school and the Authority.
  - ensuring that fairness and equal opportunity are afforded to all applicants, and that the school adheres to current legislation and its equal opportunities policies
  - assisting the school in meeting the requirements of *Keeping Children Safe in Education 2014*
  - setting out the legal requirements on the recruitment and selection of staff stemming from relevant employment law and sector specific statute, for example the *Education Reform Act 1988*, the *School Standards and Framework Act 1998*, the *Education Act 2002*, the *School Staffing Regulations 2009*, the *Education (Independent Schools and Standards) (England) Regulations 2010 (as amended by the Education (Independent School Standards) (England) (Amendment) Regulations 2012 and the Education (Non-Maintained Special Schools) (England) Regulations 2011*, *Childcare Act 2006*, *Childcare (Disqualification) Regulations 2009* and various statutory guidance documents.

### *Safer Recruitment training*

- 2.3 A statutory requirement on every school going through recruitment and selection is to make arrangements to ensure actions are taken that safeguard and promote the welfare of children. All recruitment and selection events in schools need to have the involvement of an individual who has received appropriate Safer Recruitment training. Norfolk Governor Services deliver a safer recruitment training course to Governors and Headteachers. The DfE no longer co-ordinate arrangements for accredited training or online training. For details regarding other safer recruitment courses please contact the Norfolk Safeguarding Children's Board.
- 2.4 The Governing Body recognises its responsibility for ensuring at least one member of school staff and one governor are trained in Safer Recruitment and that at least one appropriately trained individual (member of staff or governor) is involved in each and every recruitment exercise.

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*Disclosure Barring Service (DBS) checks (formerly Criminal Records Bureau (CRB) checks,*

- 2.5 The School operates in accordance with the Local Authority's DBS policy. See P112 Disclosure and Barring Service (DBS) – model policy for schools on Schools' PeopleNet for further information.

*Prohibition checks and the Single Central Record*

- 2.6 In addition to any DBS and/or Barred List check, anyone who is appointed to carry out teaching work will require an additional check to ensure they are not subject to a prohibition order<sup>1</sup> and therefore prohibited from teaching. This has been a statutory requirement since 1 September 2013. (retrospective checking is not required for teachers who commenced their current employment prior to 1 September 2013). This check can be undertaken using the Employer Access Online Service where a school has subscribed. This service will also identify any existing prohibitions and sanctions made by the General Teaching Council (GTCE) before its abolition in March 2012 or the Teaching Agency before its merger with the National College (to become the National College for Teaching and Learning) in April 2013.
- 2.7 The School has a responsibility to keep a Single Central Record detailing when appropriate checks on staff were made and by whom, including identity, qualification requirements, entitlement to work in the United Kingdom, DBS checks, prohibition order checks and Childcare (Disqualification) Regulations 2009 checks. The school holds a Single Central Record of recruitment and vetting checks covering all employed staff and others identified by the school as having access to children. The Headteacher oversees the maintenance of the Single Central Record.

*Overseas teachers*

- 2.8 Through the Headteacher, the School will ensure that prescribed checks, including additional checks as appropriate, are carried out in respect of staff members who have lived outside the United Kingdom.
- 2.9 Other essential pre-employment checks required and summarised in 'Keeping Children Safe in Education 2014' are to verify the candidate's:
- identity
  - right to work in the UK
  - professional qualifications
  - mental and physical fitness to carry out their work responsibilities including whether any reasonable adjustments are required to provide effective and

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<sup>1</sup> Secretary of state prohibition orders prevent a person from carrying out teaching work in schools, sixth form colleges, 16 to 19 academies, relevant youth accommodation and children's homes in England. A person who is prohibited from teaching must not be appointed to work as a teacher. These checks will also identify any existing prohibitions and sanctions made by the General Teaching Council (GTCE) before its abolition in March 2012

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efficient teaching – NB the Equality Act 2010 makes it generally unlawful to ask questions about disability and health **before** a job offer is made. Further information regarding this is outlined in section 60 of the Equality Act 2010. See weblink ‘EHRC Guidance for employers on Section 60 of the Equality Act 2010’ in the ‘Interview and other selection methods’ section of Schools’ PeopleNet

- suitability to work with children (where the applicant has lived or worked outside the UK and further checks are required because of that background)
- suitability to work with children aged under 8 the Childcare (Disqualification) Regulations 2009<sup>2</sup>.

### *Amendments to School Staffing (England) Regulations 2009 (applicable from 1 September 2012)*

- 2.15 Following amendments made to the School Staffing Regulations (England) 2009 (applicable from 1 September 2012), schools are required to pass on information to prospective employers about teachers and headteachers, who have been subject to capability procedures. Therefore, when requesting a reference the school must ask the referee whether that teacher has been subject, in the last two years, to their school’s capability procedure. They should also ask the interviewee at interview if they have been subject, in the last two years, to their school’s capability procedure.

### *Code of Practice on the English language requirements for public sector workers (applicable from 21 November 2016)*

- 2.16 Schools and academies are required to comply with the fluency duty as laid out in the Code of Practice on the English language requirements for public sector workers (Part 7 of the Immigration Act 2016). The code imposes a duty on public authorities to ensure that public facing workers have the necessary level of fluency in English to perform their role effectively. For further information see the [Code of Practice](#).

## **3. Equal opportunities**

- 3.1 The Governing Body and Headteacher recognise their responsibilities under equality legislation, specifically the Equality Act 2010 which consolidated previous equality legislation and in some cases extended equality law.
- 3.2 The ‘protected characteristics’ identified in the Equality Act 2010 of age, disability, gender reassignment, pregnancy and maternity, race (including ethnic or national origins, colour and nationality), religion and belief, sex, sexual orientation, marriage and civil partnership will not be used as the basis of selection for appointment or promotion within the School. All employees will be selected, trained and promoted on the basis of ability, the requirements of the job and other similar criteria that are as objective as possible. The only exception will be by virtue of legislation or a Genuine Occupational Requirement.

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<sup>2</sup> Childcare (Disqualification) Regulations 2009 stipulate that relevant staff in relevant settings must be checked to ensure they are not disqualified from being employed in the setting. Please see the Safer Staffing section of Schools’ PeopleNet and Childcare (Disqualification) Regulations requirements (G112b) for further information.

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- 3.3 The Equality Act extends, beyond *direct* and *indirect* discrimination, the circumstances in which unlawful discrimination can take place. In respect of some ‘protected characteristics’, *associative* discrimination (i.e. direct discrimination against someone because they associate with another person who possesses a protected characteristic) and discrimination by *perception* (i.e. direct discrimination against someone because others think they have a protected characteristic). In any recruitment and selection exercise at the School, those involved will be alert to any potential unlawful discrimination.
- 3.4 Reasonable adjustments and/or supportive measures will be considered where a known disability exists to allow equality of access and opportunity.
- 3.5 All those taking part in the recruitment and selection process have responsibility for applying the policy on equal opportunities to avoid unlawful discrimination.
- 3.6 This Recruitment and Selection Policy forms part of the School’s wider Single Equality Scheme. The Governing Body recognise that all public sector organisations are under a single equality duty (from the Equality Act 2010) to demonstrate that they are achieving equality in their workforce across all the ‘protected characteristics’.

### 4. **Scope of this policy**

- 4.1 This policy applies to all teaching and support staff posts in the School.
- 4.2 The policy does not apply to students, contractors, agency staff, carers or volunteers who work in the school or its extended environment unless those individuals are applicants for vacant posts in the School. Also, although the general principles of this policy will apply to the recruitment of a Headteacher, different processes may be applied (see 7 below).

### 5. **Application**

- 5.1 The Governing Body will follow the procedures outlined in this policy for all vacancies, although the complexity of each stage will vary depending on the type of post.
- 5.2 This policy requires that the following stages are incorporated into every recruitment and selection event;
- workforce planning and identification of vacancy
  - post specification
  - advertising
  - applications and shortlisting
  - interview
  - appointment
- 5.3 In advance of any recruitment exercise, the Governing Body and Headteacher will consider relevant aspects of workforce planning in advance of advertising a vacancy.

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- 5.4 It is imperative that the Governing Body consider whether or not recruitment to the post needs to happen, whether a review of the post (and perhaps wider staffing structure) should occur before proceeding. This may be particularly relevant where the school is experiencing or anticipates financial ‘tightening’ perhaps through reducing pupil/student numbers. A decision not to recruit or to recruit to a different post (e.g. part-time instead of full-time, for a fixed term, or at a lower scale) may help avoid problems further down the line. A vacant post may well prove to be an opportunity to avoid a redundancy problem in the foreseeable future. The Governing Body recognises this and is committed to appropriate workforce planning considerations whenever a vacancy arises.
- 5.5 If any significant change in staffing structure arises from such workforce planning considerations, the Governing Body will need to carry out appropriate consultation with staff. This is most likely to be appropriate where the Governing Body is considering a change to the leadership and/or teaching and learning responsibility payments (TLRPs) structures of the school.
- 5.6 In reviewing or creating a job description, person specification and other documents linked to a post which is to be advertised, the Governing Body will have regard to any statutory or local agreement requirements applicable to the group in which the post falls. As a maintained school, the Governing Body is required to pay teaching staff in accordance with the School Teachers Pay and Conditions Document and to apply ‘Burgundy Book’ conditions of service for teaching staff appointments. For support staff appointments, if the school operates in accordance with Norfolk County Council’s Modern Reward Strategy (MRS), the Governing Body will either use model job specifications (which have been job evaluated through the MRS process) or will work with the County Council’s HR Service in the development of a bespoke job description which will then either be matched (in grading terms) or evaluated to establish the appropriate grade.

*Note: The Modern Reward Strategy is a local agreement which all Community and Voluntary Controlled Schools are required to work to. Foundation and Voluntary Aided Schools have the option of being part of the local agreement. Any Foundation or Voluntary Aided school that has not signed up to the MRS local agreement will be responsible for establishing its own arrangements for pay and conditions of service for support staff and may need to, if challenged, justify decisions made within relevant equal pay legislation. For any Foundation or Voluntary Aided School outside the scope of MRS, this paragraph of this model policy will need to be adjusted to reflect the arrangements adopted by the school for support staff.*

- 5.7 The *School Staffing Regulations 2009* require school governing bodies to notify the Local Authority of any vacant teaching post that it plans to fill for four months or more. Such information may prove helpful to the Local Authority in its attempt to support potentially redundant employees searching for suitable alternative employment. The Governing Body recognise this and will comply on notification from the Local Authority that the requirement is to be utilised.

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5.8 The *Schools Standards and Framework Act 1998* introduced the requirement for governing bodies to ensure appropriate consideration is given to potential redeployees put forward by the Local Authority. The Governing Body recognises this requirement and will ensure compliance provided details of the nominated candidate are forwarded to the Headteacher by the stated closing date.

### **6. Appointment of Headteacher**

6.1 Separate processes exist for the appointment of Headteachers to schools. The Governing Body will follow established processes for the recruitment of a Headteacher should that post become vacant. The Director of Children's Services (and/or appropriate officer from the Diocese for church schools) will provide support for any Headteacher appointment through the identification of a lead officer who will guide the Governing Body through the process.

### **7. Governing Body and Headteacher Responsibilities**

7.1 The responsibilities of the Governing Body, Headteacher and local authority in the appointment of school staff are specified in the School Staffing Regulations 2009, summarised at Appendix A to this policy.

7.2 One significant area covered by the 2009 regulations is that of delegation of authority for appointment of staff. Before embarking on any recruitment exercise, the Governing Body and Headteacher need to be clear about where responsibility lies. Decisions taken by the Governing Body in relation to the discretion to delegate aspects of the appointments process will be reviewed annually and recorded in full Governing Body minutes.

**This policy will be reviewed by Staff & Governors in Spring 2018.**

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### **Appendix A**

#### **Responsibilities of the Governing Body, Headteacher and Local Authority**

The *School Staffing Regulations 2009* is the current statute dealing with responsibilities for appointment of staff in schools. This appendix outlines the main responsibilities and highlights particular discretions available for the Governing Body to consider. It is not a full copy of the regulations but serves to highlight the main issues relating to the appointment of staff.

Separate arrangements apply for schools that have their delegated budget suspended by the Local Authority or have an Interim Executive Board (IEB) appointed. The following list of responsibilities and discretions would change should the delegated budget be suspended or an IEB appointed.

#### **A1 All appointments**

##### **Giving and receiving advice**

###### *Community and voluntary controlled schools:*

The Local Authority has a statutory entitlement to send a representative to all proceedings relating to the selection or dismissal of any teacher (including the Headteacher and deputy Headteacher) and offer advice. If the local authority decides to send a representative they must be allowed to attend. Any advice offered by the local authority at these proceedings must be considered by the Governing Body (or those to whom the function has been delegated) when reaching a decision. All advice offered by the local authority, and decisions made by the Governing Body in the light of that advice should be fully documented.

###### *Foundation, voluntary aided schools:*

The Local Authority does not have any statutory entitlement to advise the Governing Body in relation to the appointment and dismissal of teachers (including Headteachers and deputy Headteachers). However, it may do so where, and to the extent that, an agreement between the Governing Body and the Local Authority provides for it to do so. Any advice offered by the Local Authority, in accordance with the agreement, must be considered by the Governing Body (or those to whom the function has been delegated) when reaching a decision. All advice offered by the Local Authority and decisions made by the Governing Body in the light of that advice should be fully documented.

###### *Diocesan authority advice*

The diocesan authority does not have any statutory entitlement to advise the Governing Body in relation to the appointment and dismissal of teachers. However, it is recommended that the governing bodies of foundation, voluntary controlled and voluntary aided schools which are Church of England or Roman Catholic Church schools agree, in writing, with the diocesan authority to give it the same advisory rights as the Local Authority in relation to the appointment or dismissal of teachers at the School. All advice offered by the diocesan authority, and decisions made by the Governing Body, in the light of that advice should be fully documented.

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### Delegation of Authority

#### *All maintained schools.*

The Governing Body may delegate any of its functions relating to the appointment of teachers (other than Headteacher or deputy Headteachers) to:

- the Headteacher; or
- one or more governors; or
- the Headteacher and one or more governors.

If the delegation is made to governors only, the Headteacher is entitled to attend all relevant procedures and offer advice which the governor or governors must consider.

The delegation of functions should be agreed by the whole Governing Body and reviewed at least annually.

When considering whether to delegate to one governor, or to a small group, the Governing Body:

- should be mindful of the corporate responsibility of all governors for any act in the name of the Governing Body;
- should consider whether one member of the group is a professional; and
- should avoid placing staff governors in a position where they would effectively usurp, or undermine the role of the Headteacher as professional adviser to the governors.

When considering whether to delegate to the Headteacher, the Governing Body should consider:

- the regulatory position;
- the person's level of experience;
- whether the functions relate to senior management;
- whether an appeals process might be compromised;
- in schools with a religious character, any agreed staffing policies which provide for governor involvement in the interests of preserving the school's religious character;
- the views of the Headteacher; and
- the desirability or otherwise of so delegating, and the advantages and disadvantages of doing so.

The Governing Body should also agree under what circumstances the delegated functions will be removed from the Headteacher, how the removal will be implemented and who may assume responsibility for the functions that have been removed. Particular issues that should be considered are where:

- a Headteacher is subject to suspension, disciplinary procedures, disciplinary sanctions or capability procedures;
- the Local Authority has made representations to the chair of the Governing Body regarding serious concerns about the performance of the Headteacher; and
- the Headteacher has failed to abide by the financial limits agreed by the Governing Body for any school purpose.

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The Headteacher should have the opportunity to make representations on any decisions to discontinue delegated functions.

The governing body should also agree if, and under what circumstances, delegated functions will be restored and how the restoration will be implemented.

The Governing Body should consider and agree whether the delegation of functions should continue in the event of an acting Headteacher being used or if the deputy Headteacher is asked to undertake the duties of the Headteacher in the long term absence of the Headteacher.

It is recommended that the Governing Body delegates functions relating to staff appointments outside of the leadership group to the Headteacher, unless it thinks this would be inappropriate. Subsequent appeals procedures should be delegated to one or more governors not involved in the original determination in order to provide a greater degree of impartiality.

The Governing Body should document fully all decisions made, and may want to consider the use of standing orders.

Where functions have been delegated, the person (or persons) to whom the functions have been delegated cannot delegate the functions to another person or persons.

If the functions relating to appointments and dismissals of teachers (other than the Headteacher or Deputy Headteacher) and support staff are not delegated to the Headteacher, the Headteacher has a right to attend and offer advice at all relevant proceedings. Any advice given must be considered by the governor, or governors to whom the delegation has been made.

### **Headteacher and Deputy Headteacher appointments**

The Governing Body must notify the local authority in writing of:

- any vacancy for the Headteacher; and
- where it identifies either a current or new post of deputy Headteacher as one to be filled.

*Specific processes exist for the recruitment of Headteachers and these can be accessed through the Local Authority (or diocese for church schools). No further detail from the Schools Staffing Regulations is, therefore, given here.*

### **Deputy Headteacher appointments**

The 2009 Regulations specify that the Governing Body must advertise the vacancy or post in such manner as it considers appropriate, unless it has good reason not to. It is recommended that the Governing Body seeks advice from their local authority and diocesan authority, before deciding not to advertise.

The appointment process should be conducted in a fair and open manner that does not contravene any discrimination legislation and includes safer recruitment measures.

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The Governing Body should consider the most appropriate way of advertising the post. It should decide the best way of reaching its target audience, taking into consideration the type of media to be used and the level of exposure the advertisement will receive. A decision not to advertise should only be taken if the Governing Body can demonstrate there is good reason not to and that it does not leave them open to challenge. All decisions should be documented fully, as the Governing Body will need to demonstrate that it has acted reasonably if it is challenged.

The Governing Body must appoint a selection panel consisting of at least three of its members, excluding the Headteacher. As three is the minimum number of panel members it is possible to have all the Governing Body on the selection panel. In deciding the size of the panel the Governing Body needs to be mindful of the possibility that an individual may lodge a grievance against the panel and the fact that in such circumstances the Governing Body would need to be able to give that person a fair hearing.

The appointment of the panel cannot be delegated by the Governing Body.

It is the role of the panel to:

- select applicants for interview;
- interview the applicants selected; and
- where appropriate, recommend one of the interviewed applicants to the Governing Body for approval.

In community, voluntary controlled, community special and maintained nursery schools, where the person recommended by the selection panel is approved by the Governing Body for appointment then, unless they fail the relevant checks, the Local Authority must appoint that person. In foundation voluntary aided schools the Governing Body may appoint the person recommended by the selection panel, unless they fail the relevant checks.

If:

- the selection panel does not make a recommendation to the Governing Body, or
- the Governing Body does not approve the selection panel's recommendation; or
- in the case of a community or voluntary controlled school, the authority declines to appoint the person approved by the Governing Body because they have failed the relevant checks,

the selection panel may carry out the selection process again or, in the case of the last two bullets, recommend an existing applicant identified as being suitable through the current selection process.

### **All other teaching appointments**

#### **Notification to the Local Authority of a vacancy**

##### *All maintained schools*

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Where the Governing Body decides to recruit a teacher to a post that is to be filled for a period of more than 4 months, it can be required to send a specification of the post to the Local Authority and to consider any nominated candidates out forward by the Local Authority for consideration against the selection criteria.

In the interest of fair and open recruitment, consideration should be given to advertising the post and how best to bring it to the attention of persons qualified to fill it, including making use of any the local authority's advertising publications.

### Appointment

#### *Community and voluntary controlled schools*

The local authority must appoint person selected by the Governing Body, unless they fail the relevant checks. If the local authority declines to appoint a person selected by the Governing Body, the Governing Body may select an existing candidate or repeat the selection process in full.

#### *Foundation and voluntary schools,*

There are no similar requirements (as the employment relationship is with the Governing Body and not the local authority).

## **Support staff appointments**

#### *Foundation and voluntary aided schools*

The appointment of support staff is the responsibility of the Governing Body unless the Governing Body and the local authority have agreed that such appointments will be made by the local authority.

#### *Community and voluntary controlled schools*

Governing bodies should be mindful of their obligations under equal pay legislation when making recommendations about support staff pay and grading. Any such recommendation may have implications for other staff working for the local authority. In putting together the job specification for the post, the Governing Body should refer to the agreed local authority job profiles and associated guidance. When considering what grade to recommend for the post, the Governing Body may wish to seek advice from the local authority which has greater experience of determining the appropriate grades for individual posts. Where the Governing Body wishes to employ support staff to take on a new kind of role that does not have a direct comparator within the local authority, it should consult the local authority at the point of determining the job specification. The Governing Body should consider any pay and grading issues the local authority may raise before putting forward a formal recommendation. The Governing Body may recommend a person to the local authority for appointment. The recommendation must include a job specification which contains:

- the duties to be performed;
- the hours of work (where the post is part time);
- the duration of the appointment;
- the grade; and
- the remuneration.

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The recommendations should include sufficient detail to allow the local authority to come to a view on the appropriateness of the recommendation and the grade recommended must be on the scale of grades used by the local authority. In making the recommendations on pay and grading, the Governing Body should have regard to the responsibilities of the post and to the pay scales, terms and grading applicable for similar roles or work throughout the Local Authority area. Where the local authority has discretion with regard to remuneration, it must exercise that discretion in accordance with the Governing Body's recommendation. Local authorities have discretion if any provisions regulating the rates of remuneration or allowances payable to their employees either:

- do not apply to that appointment; or
- leave to the authority any degree of discretion as to the rate of remuneration.

The Local Authority may, within seven days of receiving the job specification, make written representations to the Governing Body relating to the grade or remuneration to be paid. On receiving such representations, the Governing Body must (Regulation 17(6)):

- consider the representations; and
- where it decides not to change the grade or remuneration, notify the local authority in writing of the reasons.

*Note: The requirements detailed above are covered by the arrangements put in place by the Local Authority through its Modern Reward Scheme.*

The Local Authority must appoint the person recommended by the Governing Body, unless they fail the relevant checks.

### **Nature of contracts**

Contracts should be permanent unless there is good reason for them not to be, and governing bodies should be mindful of the Fixed-term (Prevention of Less Favourable Treatment) Regulations 2002 when considering the use of fixed-term contracts.

### **Record keeping**

All decisions made by the Local Authority or Governing Body should be documented fully.