

School Governance Administrative Instruction

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This administrative instruction was issued by the Chief Executive, Department for Education under section 9 of the *Education and Children's Services Act 2019*. It replaces any earlier administrative instructions.

School governing councils and affiliated committees are bound by this administrative instruction.

Contents

Purpose of the Administrative Instruction	6
PART 1 - GENERAL	8
Introduction to school governance and management	8
Establishment, amalgamation and closure of schools	8
Establishing a new school	8
Amalgamation and closure of schools	9
What is governance?	9
What is management?	10
Powers and functions of governing councils	10
Powers of a governing council	10
Functions of a governing council	11
Strategic planning for the school	11
Determining policy for the school	11
Determining the application of the total financial resources available to the school	11
Presenting operational plans and reports on its operation to the community and Minister	12
Other functions and powers	12
Roles and functions of the principal as part of the governing council	12
Legal requirements	13
Limitation on action with respect to the curriculum and discipline	13
Directions to school staff	13
Complaint against the principal or school staff	13
Other limitations	14
Governing council code of practice	14
Duties of a council member	14
Duties to students and the school, as a whole	15
Duties to others	15
Due diligence	15
Use of information	15
Professional integrity - for council members nominated by the staff of the school	16
Professional integrity - for all council members	16
Immunity	16
Compliance with the Information Privacy Principles	16
Conflict of Interest	17
PART 2 – GOVERNING COUNCIL OPERATIONS	19
Operational matters	19
Memberships and structure of councils	19
Members of councils	19
Eligibility for council members on governing council	19
Ineligibility to serve as a council member on a governing council	20
Screening and suitability	20

Membership categories	21
Composition of governing councils	22
Terms of office	22
Council elections	24
Nomination to council	24
Election of council members	24
Appointment of council members	24
Office holders and council executive	25
Office holders	25
Executive Committee	27
Removal from council	27
Removal of officeholder from office	27
Council member vacancies	28
Ordinary meetings of council	28
Frequency	28
Notice of meetings	28
Format and procedures of meetings	29
Meeting proceedings	29
Meeting agenda	30
Minute taking	30
Voting	30
General meetings of the school community	31
Frequency	31
Notice of meetings	31
Pre-meeting formalities	31
Post-meeting formalities	32
Reporting to the Minister and school community	32
Minute taking	33
Voting at the meeting	33
Extraordinary council meetings	33
Amendments to a constitution	34
Constitution approval process	34
Considerations for approval of constitutions and amendments	35
Special resolution for the amendment of a constitution	35
Example wording for an amendment to a constitution	36
Proxy voting for a special resolution	36
Common seal	37
Sub-committees and affiliated committees	37
Sub-committees	38
Mandatory sub-committees	38
Other sub-committees	39
Affiliated committees	39
Dispute resolution	40
Governing Council Legal Fund	41
Applying for payments under the Fund	41
Process for applying under the Fund	42
Responding to Abuse and Neglect – Education and Care training	42
Organising the school year and closure days – council’s roles and responsibilities	42
PART 3 – FINANCE, PROPERTY AND INSURANCE	43
Finance Operations	43
General	43
Requirement to use Department for Education accounting systems	43
Financial delegations	43
Bank account operations	44
Governing council operating bank accounts	44
Governing council South Australian School Investment Fund (SASIF) investment account	45
Governing council responsibilities when managing bank accounts of the school	46

Governing council responsibilities when managing bank accounts of an affiliated committee	46
School budget	47
School income	47
Resource Entitlement Statement (RES) funding	48
Grant funding	48
Fundraising	48
Donations, gifts, bequests, sponsorship, and promotions	49
Materials and services charges	50
Debt collection	51
Preschool contributions	51
Other income	52
Audit and reporting	52
Borrowing power of governing councils	53
Procurement operations	53
Purchasing	53
Purchase cards for governing council employees	53
Store accounts	54
Stored value cards	55
Petty cash	55
Catering, entertainment and gifts	56
Acquisition and disposal of real property	56
Real property owned by the Minister	57
Council-owned real property	57
Purchase of equipment and assets	58
Purchase of vehicles	58
Insurance cover	59
Affiliated committees and any committees of the governing council	59
Departmental insurance	59
Equipment and materials insurance	60
Indemnity	60
Exclusions	60
Not to admit liability	60
Action to be taken following an incident that could result in a claim	61
Risk and safety management	61
Affiliated committees	61
Property cover	61
Students	62
PART 4: EMPLOYMENT AND CONTRACTUAL MATTERS	63
Council employment of non-teaching staff	63
Definitions and responsibilities	63
Terms and conditions of employment	64
Short-term positions (20 days or less)	64
Long-term positions (greater than 20 days)	65
Merit selection process	65
Contract for employment	67
Records management	67
Payment, tax, leave, superannuation	67
Work injury insurance	67
Supervision	68
Grievance procedure	68
Contracts	68
Contract of service (employee) v contract for services (contractor)	68
Liability of councils when entering contracts for service	69
Advice for the employment of non-teaching staff	69
Councils and a contract of service	69
Roles and responsibility of school principals	70
Principal selection process	70

Introduction	70
Role of the council nominee	70
Advice on awards, selection processes and supervision	70
Award and employment conditions	70
Supervision of employees	71
Standard contracts and letters of engagement	71
PART 5: GOVERNING COUNCIL ACTIVITIES	72
School canteen	72
Purpose of canteen	72
Responsibility	72
Policy document	72
Employment of canteen workers	72
Financial and accounting matters	73
Out of School Hours Care (OSHC)	73
Operating conditions for an OSHC service operated by a governing council	73
Financial and accounting matters	74
Playgroups	75
Play Centres	76
Administration of awards and scholarship	76
Residential facilities for the accommodation of students	77
Crèche care facilities	78
PART 6: VOLUNTEER INSURANCE COVER	79
Insurance cover	79
Nature of the insurance cover	79
Volunteer council and parent organisations	79
SUPPORTING DOCUMENTS	80
APPENDICES	80

Purpose of the Administrative Instruction

The School Governance Administrative Instruction contains the administrative instructions issued by the Chief Executive, Department for Education that apply to all governing councils and affiliated committees.

This administrative instruction provides principals, governing councils and affiliated committees with the operational guidance required to facilitate good governance and local decision making arrangements and to ensure schools comply with their obligations under *the Education and Children's Services Act 2019* (the Act), *Education and Children's Services Regulations 2020* (the regulations), and other key legislative and departmental requirements.

Legislative framework for governing councils and affiliated committees

Governing councils and affiliated committees, and their members, are legally bound by the Act, the regulations, their constitution and administrative instructions issued by the Chief Executive.

The Act

The Act means the *Education and Children's Services Act 2019*.

Other Legislation

Councils must also act within all other relevant laws.

Regulations

The regulations are the *Education and Children's Services Regulations 2020*.

Administrative instruction

Means an administrative instruction issued by the Chief Executive pursuant to section 9 of the Act.

Affiliated committee

A committee affiliated with the governing council which operates under its own constitution.

Chairperson

The presiding member of a governing council - see section 35(3) of the Act.

Chief Executive

The Chief Executive of the administrative unit of the public service that is responsible for assisting the Minister in the administration of the *Education and Children's Services Act, 2019*.

Council

Means a governing council as established by the Minister under Part 5 of the Act.

Council member or councillor

Members of a governing council.

Constitutions

A governing council or affiliated committee operates under a constitution which sets out its roles, responsibilities, powers and functions. The council or committee must act in accordance with the terms of its constitution. Most councils and committees operate under the model constitution published by the Minister in accordance with section 10 of the Act.

Department for Education

Means the administrative unit of the public service that is responsible for assisting a Minister in the administration of the *Education and Children's Services Act, 2019*.

Governing council

A group of people consisting of the school principal, staff, parents, community members and students, who share responsibility with the principal for the governance of the school. A governing council is a body corporate (see sections 34, 35 and 41 of the Act).

Minister

The person to whom the administration of the Act is committed, pursuant to the *Administrative Arrangements Act 1994*

OSHC (Out of School Hours Care)

Out of school hours care (OSHC) services provide quality care and recreational experiences:

- before school;
- after school;
- during vacation periods;
- on pupil free days.

Parent

The Act uses the term “person responsible for a child or student”. In this instruction, the term “parent” will be used instead. This term includes parents, guardians, and persons standing in loco parentis to a student or child, but excludes any person whose custody or guardianship of a student or child, or whose responsibility for a student or child, has been excluded under any Act or law (for example, the *Family Law Act 1975* (Cth)).

Preschool

Means a place at which education services are provided to children who have not yet attained the compulsory school age (and preschool education will be taken to have a corresponding meaning) but a reference to a preschool, or to preschool education, will be taken not to include a reference to the provision of primary education to such children at a school.

Principal

Means, in relation to government schools, the person for the time being designated by the Chief Executive as the principal of the school.

School-based preschool

Means a preschool established under the Act as part of, and providing preschool education as a program of, a government school.

School community

All parents, students and staff of the school and all other persons who have a legitimate interest in or connection with the school.

Special resolution

A special resolution of council is a resolution (or motion), usually used for the purposes of amending the constitution or to remove an office holder from office.

Part 1 - General

Introduction to school governance and management

Each government school providing courses of instruction in preschool, primary or secondary education must have a governing council which operates under a constitution approved by the Minister. The constitution outlines the roles, responsibilities and operations of the governing council.

Governing councils may be established or dissolved only by the Minister, and this is done in accordance with the provisions outlined in the Act, which require a notice to be published in the Government Gazette to give effect to the Minister's decision. This process is facilitated by the Department for Education (the department).

Principals must provide governing council members with access to training and relevant information to enable them to fulfil their role on council effectively; for example all council members must complete *Responding to Abuse and Neglect – Education and Care (RAN-EC)* course for volunteers. Council members should also complete relevant governing council training (face to face or online training).

A governing council is a body corporate with a common seal and is not an agency or instrumentality of the Crown.

Pursuant to section 34(2) of the Act, the same body may be the governing council for two or more schools.

A council must not establish any other legal entity (for example, a company or incorporated association).

Establishment, amalgamation and closure of schools

Establishing a new school

The Minister must by notice in the Gazette establish a governing council for a new government school (section 34 (1) of the Act).

The Act states that a governing council must operate under an approved model constitution, unless a request to operate under an amended constitution is sought from and approved by the Minister.

For the first governing council of a new school, the membership of the council will be proposed by the Principal, endorsed by the Education Director, and approved by Partnerships, Schools and Preschools. In general, the majority of members must be parents (section 35 of the Act). Parent members proposed may be drawn from the reference group, feeder schools or other areas, such as through the school's enrolment process.

When the new school has a parent community, the principal, as the returning officer, must call an election to elect the parent members of the council. Once the declaration of the results of the election are made, the principal must, as soon as practicable, call and preside at the first meeting of the governing council to:

- receive nominations from nominating bodies and determine the direct appointment of members of the community, and
- elect office bearers including a chairperson, secretary and treasurer.

At the first meeting the governing council should also review the constitution and membership composition to ensure it meets the needs of council. Schedule 1 of the model governing council constitutions should be used as a guide to determine membership, as it outlines a range of structures based on the type of school. If the council determines a change is required, it can seek approval to amend the constitution (section 40 of the Act).

Amalgamation and closure of schools

The Minister may, in the case of amalgamation or closure of school, by notice in the Gazette:

- dissolve a governing council of the school
- dissolve a governing council of two or more schools and establish a single governing council for those schools
- for a governing council that operates for two or more schools, dissolve the governing council, and establish separate governing councils for those schools (section 43 of the Act).

The Minister may by notice in the Gazette also dissolve an affiliated committee following the amalgamation or closure of a school (section 43 of the Act).

The Minister may, in establishing a governing council following amalgamation or closure, determine the constitution under which the governing council is to operate and make arrangements for the election or appointment of the governing council's elected or appointed members.

If the governing council of a school or affiliated committee is dissolved under the Act, the Minister may, by notice in the gazette, transfer specified assets or liabilities (or both) of the governing council or affiliated committee to a specified person or body; and any remaining assets and liabilities of the governing council or affiliated committee vest in the Minister.

What is governance?

Governance is a set of responsibilities, practices, policies and procedures exercised by an incorporated body to provide strategic direction, ensure objectives are achieved, manage risk, and use resources effectively and with accountability. For governing councils, the responsibilities, practices, policies and procedures are set out in the Act, the model constitution, and administrative instructions issued by the Chief Executive.

Governance has two main focuses:

- performance – ensuring the school's strategic directions are set and objectives are achieved (successful delivery of programs and services)
- accountability – being aware of and managing risk, using resources responsibly (budget and other), operating openly, with transparency and integrity (abiding by the Governing Council Code of Practice), and making information available to the school community.

What is management?

The management of a school is the responsibility of the principal. Management is the organisation and coordination of the activities of a school in order to achieve objectives, including:

- day-to-day oversight over the operations of the school
- delivering on the strategic objectives of the governing council
- responsibility for, and control of, resources and people (budget and staffing).

Examples of the difference between governance and management

Activity	Governance (council responsibilities)	Management (principal responsibilities)
Curriculum	Provides advice to the principal to make sure the curriculum offered meets the local community needs (within Department for Education guidelines)	Lead the development of teaching and learning programs, and set up timetables and teacher/classroom allocations
Student management	Consult with the school community to assist in the development and review of local policies	Manage all matters of student wellbeing and discipline
Staff management	Employ some staff, except as teachers, such as Out of School Hours Care (OSHC), grounds and canteen staff Representative to take part in the selection of a school principal	Manage all teaching staff as a delegate of the Chief Executive. Line-manage council employees (including responding to/investigating allegations of misconduct or negligence)
Strategic planning	Facilitate any community consultation of the plan, endorse the draft plan and monitor its progress.	Facilitate the planning process, develop a draft plan and implement the approved plan
Finance	Review, approve and monitor budget (The finance advisory committee reviews and reports on the budget and provides recommendations to council)	Prepare and provide financial reports to governing council via the finance advisory committee (the treasurer presents them to council)
Reporting	Endorse the annual report, report to the school community (and Minister) at least once per year)	Draft the annual report and provide the community with information about the strategic plan's progress

Powers and functions of governing councils

Powers of a governing council

A governing council is a legal entity, and it has all of the powers of a natural person that can be exercised by a body corporate. This allows the council to continue in existence and to operate regardless of changes to membership. It also means that the council has the ability to enter into contracts. However, a council's powers must be exercised in accordance with the Act, the council's constitution and administrative instructions.

Functions of a governing council

Under section 41 of the Act, a governing council has joint responsibility with the principal for the governance of the school.

The functions of a governing council also include:

- strategic planning for the school;
- determining policies for the school;
- determining the application of total financial resources available to the school;
- presenting operational plans and reports on its operations for the community and Minister.

Strategic planning for the school

Council participates in the development and monitoring of the school strategic plan, site improvement plan and other broad directions for the school. Strategic planning is the process of reflecting on a school's past performance and establishing future directions.

Determining policy for the school

Clearly written policies set out the school's position on particular issues. Good policies are essential to demonstrate that the school is being operated in an efficient manner, ensuring consistency in decisions and in school operations.

A governing council may develop a local school policy because the department requires a school to have a policy on a particular topic or because council determines a policy is required to provide guidance to set out the school's position on an issue (noting that any council driven policies need to be within the council's powers and functions). Some departmental policies and procedures delegate authority to governing councils to be decision makers and thus approve a site policy, or specify that the council must be consulted or should provide recommendations/advice in the process of developing site policy (but that council does not approve the policy).

There are different types of policies, including those driven by the department that guide system-wide responses to matters pertaining to schools, and local school level policy. Principals lead the development of department-driven policy and consult with the governing council to provide a school community view. At times, the department's process will delegate the authority to governing councils to be involved in department-driven policy, and in some cases the Act and/or regulations will specify that a governing council has the authority to approve certain types of policy. Examples of governing council approved policy include the school's pick up and drop off policy at the beginning and end of school, and policies for the operation and management of governing council services (such as a school canteen and OSHC).

Determining the application of the total financial resources available to the school

Councils review, approve and monitor the total financial resources available to the school, including regular review and monitoring of the budget. Councils also oversee the school's financial performance, through the Finance Advisory Committee.

Presenting operational plans and reports on its operation to the community and Minister

Reporting to the Minister is an annual legislated requirement. An annual report provides the community with information about the school's performance in implementing its improvement strategies and how the school's resources have been used. Annual reports are made available to the school community at an annual general meeting.

Other functions and powers

In addition to the functions and powers conferred under the Act, the following powers and functions are conferred on a governing council by its constitution:

- employ persons, except as teachers, as members of the staff of the school
- enter into contracts
- construct any building or structure for the benefit of the school, or make any improvements to the premises or grounds of the school
- purchase or take a lease or licence of premises for student residential facilities, and enter into any other agreements or arrangements for the establishment, management, staffing and operation of such facilities
- establish and conduct, or arrange for the conduct of, facilities and services to enhance the education, development, care, safety, health or welfare of children and students
- involving the school community in the governance of the school and representing their views on educational, cultural and social diversity needs
- responsibility for the proper care and maintenance of any property owned by the council
- performing such functions as necessary to establish and conduct, or arrange for the conduct of facilities and services to enhance the education, development, care, safety, health or welfare of children and students (out of school hours), and residential facilities for the accommodation of students
- raising money for school related purposes

A governing council's functions must be exercised in accordance with legislation, its constitution and administrative instructions.

Roles and functions of the principal as part of the governing council

The roles and functions of the principal on a governing council are set out in clause 6 of the governing council model constitution. The roles of the principal on council are undertaken in the context of the principal's *joint responsibility* with the council for the governance of the school. These roles and functions of the principal on a governing council are in addition to their responsibility to manage a school in accordance with, the Act, the regulations, departmental policies and procedures and instructions through the Chief Executive.

The principal is answerable to the Chief Executive.

The principal must:

- comply with all relevant departmental policies, instructions and procedures
- implement the Site Improvement Plan, departmental and school policies and procedures
- provide accurate and timely reports, information and advice relevant to the council's functions
- report on learning, care, training and participation outcomes

- supervise and promote the development of staff employed by the council (line management)
- be responsible for the financial, physical and human resource management of the school
- be an ex-officio member of council with full voting rights
- be the returning officer for the election, nomination and appointment of council members
- chair the first meeting of the council, held to receive nominations, direct appointment of members by the council and the election of office holders
- contribute to the formulation of the agenda of council meetings

Legal requirements

Section 42 of the Act outlines the limitations on the powers of governing councils and affiliated committees, including in respect of curriculum, student discipline and school staff management.

Under section 45 of the Act, the Minister may, by notice in writing, prohibit or limit the performance of a specified function, or the exercise of a specified power, by the governing council or an affiliated committee. The Minister must give a copy of the notice to the principal of the school. Any limitation or prohibition imposed by the Minister has effect despite the provisions in the council's or committee's constitution.

The Minister may, by notice in writing, vary or revoke a notice limiting or prohibiting a governing council's or an affiliated committee's performance of a function or exercise of a power.

Limitation on action with respect to the curriculum and discipline

A governing council or affiliated committee must not interfere with, or take any action that interferes with, the provision, or day to day management of the provision, of instruction in the school in accordance with the curriculum determined by the Chief Executive, or in the administration of discipline to students enrolled at or attending the school.

Directions to school staff

A governing council or affiliated committee must not give directions to the principal, or any other member of the staff of the school (other than an employee of the council), in relation to the manner in which the person carries out their duties.

Complaint against the principal or school staff

Occasionally the governing council or an affiliated committee may receive a complaint against the principal or another member of the school staff (other than a governing council employee).

The Act in section 42(5) requires that a complaint against the principal be passed on without comment to the local Education Director, who is a delegate of the Chief Executive for this purpose, and that a complaint against any other member of the school staff be passed on without comment to the principal of the school.

A complaint against the principal or a school staff member must not be debated by the council.

More information is available in the department's [complaints and feedback process](#).

Other limitations

A governing council of a school may only enter into a transaction involving the acquisition or disposal of real property, or borrow money, with the Minister's written consent (see section 42(1) and (2) of the Act).

Section 42(6) provides that the Treasurer may guarantee repayment by the governing council of a school of a loan (together with interest and incidental charges connected with the loan. A liability of the Treasurer arising under such a guarantee will be satisfied out of the consolidated account (which is appropriated to the necessary extent) (see section 42(7) of the Act).

Governing council code of practice

A strength of community participation in local governance and decision-making is the relationships that are established and maintained within a school community. The school community elects or nominates members to the council and then relies on the council's constitution and decision-making processes, and council members' integrity and diligence.

To support members to conduct themselves in a manner that reflects integrity and diligence, the Minister has issued a Governing Council Code of Practice. Council members appointed to governing council are required to comply with the Code of Practice in accordance with clause 22 of the model constitution.

A copy of the Code of Practice can be found in appendix 8.

The Governing Council Code of Practice is a public document and is available [on the governing council portal](#).

Members of the council are responsible to the school for the manner in which they exercise their functions. The duties of a council member must be performed in an efficient and effective manner consistent with the legal requirements under the Act, the constitution of the council, administrative instructions, and any other Act or law.

Council members are protected under section 138(2) of the Act from personal liability for any act or omission in exercising the powers and functions of a council done in good faith and without negligence. Compliance with the code of practice is an integral part of that protection from liability.

Duties of a council member

There are two broad categories of duties for a council member:

- a duty to act in good faith and in the best interests of the school, and
- the duty to act with care and diligence.

In undertaking council's duties, a council member must:

- take reasonable steps to be informed of the functions of the council and to ensure that the council competently discharges those functions
- take reasonable steps to be informed about the school, policies and activities and the circumstances and context within which the school operates
- take reasonable steps through the processes of the council to obtain sufficient information and advice on all matters to be decided by the council
- exercise an active discretion with respect to all matters to be decided by the council

- exercise reasonable diligence in attendance at and preparation for meetings.

Duties to students and the school, as a whole

Each council member should try to make sure that the school is constantly reviewed and the resources of the school are effectively allocated so as to protect and enhance the interests of the students and parents.

Duties to others

All council members must comply with the legal framework governing the council's operations.

In making decisions about a range of matters, council members must pay particular attention to government and departmental policies, standards and guidelines, and ministerial directions particularly with respect to the curriculum of the school and the use of, and accountability for, resources.

The nature of the school as part of the public education system and, therefore, of services provided by government funding, requires that council decisions be transparent and publicly justifiable in a political, social and economic sense.

Although a council member owes a primary duty to the school community as a whole, the responsibilities imposed on schools under various Acts demand that the council member evaluate actions in a broader social context.

Due diligence

A council member should attend all council meetings. Where a council member cannot attend a meeting, they must provide an apology prior to the meeting.

In order to be fully effective, a council member must be able to access all relevant information to be considered by the council. This information should be made available in sufficient time to allow proper consideration of all relevant issues. Part of the duty of all council members is to participate in the establishment of systems within the school that provide to them the necessary information, on a regular and timely basis, to enable reasoned judgements to be made.

In relation to audit procedures, a council member should endeavour to ensure that relations between the council and the auditors are open, unimpeded and constructive. Similarly, the auditors should have direct and unimpeded access to the council.

Use of information

A council member must not make improper use of information acquired by virtue of being a member of council. A council member nominated to the council by other groups should recognise the particular sensitivity of the position and should be especially careful not to disclose matters that are confidential unless prior agreement of the council has been obtained.

Professional integrity - for council members nominated by the staff of the school

A staff member nominated to the council by the staff of the school should recognise that the position occupied is particularly sensitive. In exceptional circumstances it may be necessary for the council member to express disagreement with colleagues on the staff of the school. In any event, the council member should be prepared to implement the decisions of the council and the instructions of the principal as a loyal member of the council.

Professional integrity - for all council members

If there is any doubt whether a proposed course of action is inconsistent with a council member's honest duty, then the course of action should not be supported. Council members can seek advice through the Site Governance Team.

When a council member feels so strongly as to be unable to abide by a decision of the council, some or all of the following steps should be considered:

- making the extent of the dissent and its possible consequences clear to the council as a means of seeking to influence the decision
- asking for additional legal, accounting or other professional advice
- asking that the decision be postponed to the next meeting to allow time for further consideration and informal discussion
- tabling a statement of dissent and asking that it be minuted
- writing to the chairperson, or all members of the council, and asking that the letter be filed with the minutes
- if necessary, resign and consider advising the Minister.

Immunity

A governing council is an incorporated body and operates in accordance with a constitution that has been approved by the Minister (or delegate). The council, as a legal entity, incurs debt and liabilities in the name of the council; these are not incurred by the individual members of the council.

Section 138 of the Act states that no civil liability attaches to a member or former member of a governing council, a member or former member of a committee established by a governing council, or a member or former member of an affiliated committee, for an act or omission done in good faith in the exercise or discharge, or purported exercise or discharge, of a power or function of the council or committee. As such, a person cannot take civil legal action against a governing council member for something that council member has done in the course of their duty as a council member where that duty was done with due diligence and for proper purposes. Section 138 goes on to state that any liability that would lie against a council member if section 138(2) was not in place lies instead against the Crown.

Compliance with the Information Privacy Principles

The state government is committed to protecting the privacy of personal information. As such, the department must comply with the [Information Privacy Principles \(IPPs\) Instruction](#). These principles, known as the IPPs, regulate the way personal information can be collected, used, stored and disclosed. The IPPs also provide a right for an individual to access and amend their personal information.

Personal information is defined as *'information or an opinion, whether true or not, relating to a natural person, or the affairs of a natural person, whose identity is apparent, or can reasonably be ascertained from the information or opinion'*.

A governing council must comply with the IPPs. The IPPs are consistent with the governing council's code of practice and will provide clarity and guidance to councils concerning the use of personal information to which they have access.

In the IPPs, the 'principal officer' is to be read as a reference to each member of the council. If a council makes a disclosure under IPP (10), a record must be kept and details of such provided to the Minister if required.

For further information on the IPPs and a copy of the IPPs please click [here](#).

Conflict of Interest

Section 37 of the Act requires a governing council or an affiliated committee member who has a direct or indirect pecuniary, that is, monetary, interest in a contract or proposed contract with the council to:

- disclose the nature of the interest to the council, as soon as the member becomes aware of the interest
- not take part in discussions or decisions of the council with respect to that contract.
- not vote in relation to that contract
- be absent from the meeting room when any such discussion or voting is taking place.

Failure to comply with section 37 is an offence and may result in a penalty of up to \$20,000.

Section 37 also states that if a member discloses an interest in a contract or proposed contract:

- the contract does not need to be avoided by the council or affiliated committee on the basis that a fiduciary relationship exists between a member of council or affiliated committee (as the case requires) and the council
- the member is not liable to account for the profits made from the contract.

A monetary interest is when a person might gain or lose money or otherwise be financially advantaged or disadvantaged. This might include, but is not limited to, an impact on profits or sales, a commercial or employment benefit, an increase or decrease in the value of property, free advertising, or increased or decreased competition in a commercial area. A direct interest relates to the person on the council or affiliated committee, while examples of an indirect interest may include those that relate to a member of that person's family, an associate of that person, or a company connected to that person.

A disclosure made in accordance with section 37 of the Act must be recorded in the minutes of the council.

This section does not apply in relation to a contract in which a member of the governing council or affiliated committee has an interest while the member remains unaware that they have an interest in the contract, but in any legal proceedings against the member the burden will lie on the member to prove that they were not, at the material time, aware of the interest.

If a member of council or an affiliated committee is aware that another member has an undeclared conflict in relation to a contract or an issue to be decided by the council, they should raise this with the chairperson at an appropriate time. A resolution can be decided on and implemented by the

chairperson and the principal. This may result in the matter needing to be formally tabled at council again. When deciding on a suitable resolution, the chairperson and principal must be confident that the integrity and transparency of the decision is intact. Consideration should be given to seeking appropriate advice from the department.

Part 2 – Governing council operations

Operational matters

Operational requirements are outlined in the governing council or affiliated committee constitution. This promotes consistent operational practices and procedures across all councils and committees.

Memberships and structure of councils

Governing councils represent the entire school community and their members contribute to understanding local education needs. Governing councils meet regularly to discuss the broad directions of the site, manage and review site policy and monitor and report on the school's budget and achievements.

Councils are a representative group, consisting of at least five members. There is no upper limit to the number of people on a governing council.

The membership composition of a governing council can be different according to the needs of the local community and school. A school may be small, large, have multiple locations, or have a school-based preschool on site. It might be in a remote location, have a diverse cultural community or have a large number of students. Governing councils are made up of:

- the school principal (an ex officio member)
- parents of children enrolled at the school, or who are to attend the school, unless the school is wholly or principally for adult students
- staff nominated by the staff of the school (up to 3 representatives)

Under section 35 of the Act, membership of a governing council can also include persons appointed by the Minister.

Councils may also include:

- community members (up to 3 representatives)
- student members (up to 2 representatives)
- representatives from affiliated committees.

Members of councils

The type of member a person is will determine whether they are elected, nominated or appointed to council. A council constitution must outline how many council members are to make up the council, and indicate the composition of membership categories, depending on the school's needs.

Eligibility for council members on governing council

To be a member of a governing council, a person must be part of the school or local community and meet the requirements of one of the prescribed membership categories.

Ineligibility to serve as a council member on a governing council

In accordance with clause 7.5 of the governing council constitution, a person who:

- is an undischarged bankrupt or is receiving the benefit of a law for the relief of insolvent debtors (such as arrangements under Part IX or Part X of the *Bankruptcy Act 1966* (Cth)); or
- has been convicted of any offence prescribed in this administrative instruction (clause 7.5.2); or
- is subject to any other disqualifying circumstances as prescribed by administrative instruction (clause 7.5.3)

is **not** eligible for election, appointment or nomination to a governing council.

For the purposes of clause 7.5.2 of the constitution, the following offences are prescribed:

- any offence of dishonesty;
- any offence of a sexual nature involving a minor; or
- any offence of violence against a person.

For the purposes of clause 7.5.3 of the constitution, the following disqualifying circumstances are prescribed:

- the person has been issued with a barring notice in accordance with section 93 of the Act; or
- an intervention order has been issued against the person in accordance with the *Intervention Orders (Prevention of Abuse) Act 2009*, or with a foreign intervention order as defined in that Act has been issued against the person.

Screening and suitability

Department screening and suitability requirements must be met before an individual can be considered a council member.

Screening requirements are in addition to the council eligibility criteria which relates to a person's ability to nominate and be elected to council, outlined under council elections (see above and clause 7.5 of the constitution).

Suitability is determined by the principal who is ultimately responsible to ensure the safety and welfare of children and young people at their school. A principal must be confident that a nominated or an elected council member will conduct themselves in a manner that, at all times, is in keeping with a positive and safe site culture. The principal in determining suitability must follow the Department for Education [Screening and Suitability – Child Safety policy](#) and the [Screening and Suitability – Child Safety procedure](#) which outline the obligations of schools in relation to appropriate screening and suitability requirements.

After election, an individual will be considered an 'elected or appointed person'. Elected or appointed persons do not have voting rights and are considered observers to the council. A person does not become a council member until the principal is satisfied that the person meets the department's screening and suitability requirements. If the principal has reasonable grounds to consider someone is unsuitable or ineligible this may preclude them from nominating (or being nominated) for a position on council, or result in them being removed from council by the Minister.

Council members of a governing council that directly employs staff who work with children, for example for an OSHC service, must also meet working with children check requirements set out in the *Child Safety (Prohibited Persons) Act 2016*.

Membership categories

The Principal

The principal is an ex-officio member of a governing council. This means that the principal is appointed to the council because they hold the office of site leader. This is an automatic appointment that does not involve a vote or a nomination process. The principal has full voting rights.

If a council operates for more than one site, the principals from each of those sites are all *ex-officio* members of the council with full voting rights.

Parent members

Parent members are elected to council by parents of the school. This is done at a general meeting of the school community (usually the annual general meeting) (see clauses 11 and 13 of the constitution)

Aboriginal parents who are nominated by an affiliated committee expressly established to meet the needs of Aboriginal parents and families shall be deemed to be elected parents.

Staff members

Staff representatives on council must be employed at the school site but may be teaching or non-teaching staff. Staff members are elected by staff at the school, and nominated for council.

Staff members on council are elected by the staff of the school according to the following ratios.

Total number of students (<i>across all campuses or for each school</i>)	Staff members that can be elected to council
60 or fewer	Nil
61 to 300	1
301 to 600	2
601 or more	3

Where the council operates for more than one school, the student numbers for each school will determine the number of staff that may be nominated to the council by that school's staff. The number of staff members on council can be less than the allocated ratio if this is agreed to by all staff.

Community members

Community members may include:

- representatives from local business, industry or significant and relevant community groups
- people with particular skills, perspectives or expertise relevant to the current goals of the council
- a nominee of a member of the House of Assembly or of a local municipal council.

Community members are appointed to the council.

The council can either approach community members directly or can undertake an expression of interest or nomination process to fill this membership category.

Councils may have a maximum of 3 community members appointed to council.

Student members

A council can include student members who are children or young people enrolled at and attending the school, or who are enrolled but not yet attending the school. Student members are elected by the student representative council (or equivalent), or if one does not exist, the students of the school.

Affiliated committee members

Councils can include members from a committee affiliated with the council at the school, for example, a parents and friends affiliated committee.

Affiliated committees will nominate their own council member to represent the committee's interests. The governing council may ask an affiliated committee for an alternative nomination in order to comply with section 7.3 of the constitution.

Councils may have a maximum of 3 affiliated committee members appointed to council.

Composition of governing councils

The number of each of the different kinds of members on council will depend on a variety of factors, including the size of the school and the make-up of the school population.

Clause 7.1 of the constitution sets out the members that must comprise the council. The council is to comprise of at least 5 members. While there is no upper limit to the number of council members, this clause will state the specific numbers of members the relevant governing council is to have.

This number is determined in accordance with clause 7.2 of the constitution which states that the majority of council members must be parents of the school, except in the case of a school that is wholly or principally for adult students.

Models for the composition of a governing council, relating to different types of schools, have been determined. These are set out in schedule 1 of the constitutions. The composition of the governing council in clause 7.1 will usually be specified for the model appropriate to the school. In accordance with section 39 of the Act, the Minister may approve a composition of a governing council that is different from that specified in the models.

Clause 7.3 of the constitution requires that the majority of council members on a governing council must not be comprise staff of the government school, employees of the department, and those appointed under the Act or the *Technical and Further Education Act, 1975*. This is underlined by clause 7.4, which obliges the council to consider the requirements of clause 7.3 in considering a nomination to the council by a nominating body or a direct appointment by the council.

Terms of office

Members are on council for different lengths of time, or terms of office, depending on their type of membership.

As ex-officio members, principals are ongoing members of council.

The terms of other types of council members are specified in clause 8 of the governing council model constitutions.

Parent members

Elected parent members can be appointed for a term not more than two years. The exception to this is in the case of the establishment of a council (for example, the first council for a new school), where half of the parent members elected at the annual general meeting of the school will be elected for a term not more than one year (refer clause 8.1 of the constitutions).

This supports continuity for councils, so that each year councils have continuing and new members.

In determining which parent members are elected for which terms (one year or two years), council should inform parents that half the vacancies will be for 1 year and the other for 2 year terms. The parents with the most votes (up to the number of category vacancies are filled) will be appointed for 2 year terms, and the other parents will be appointed to 1 year terms until all the positions are filled.

Staff members

A staff member who is elected by the staff of the school can be appointed for a term of not more than one year, subject to that person continuing to be a member of the staff of the school (refer clause 8.4 of the constitution).

Student members

Student members nominated by the Student Representative Council (SRC) or elected by the body of students can be appointed for a term not more than one year or until the nomination is revoked in writing by the nominating body (SRC or other student body) (refer clause 8.3 of the constitution).

Community members appointed by the council

A member of council appointed directly by the council can serve for a period not more than two years (refer clause 8.5 of the constitution).

Affiliated committee members

A council member nominated by an affiliated committee can be appointed for a term not more than two years, taking into consideration that:

- for the first council only (for example a new or amalgamated school), where two or more affiliated committees exist or are established, and each nominate a council member, one member will be appointed for two years, and the other for one year. The affiliated committees must agree on which nominee will be appointed for one year and which for two years, and where the committees cannot agree, this will be determined by lot.
- the nomination may be revoked, in writing, by the affiliated committee (refer clause 8.2 of the constitution).

Appointment

There is no maximum limit to the number of times a person can be elected, nominated or appointed to council. For example, a parent could be on council from the time their child commences school until that child finishes, dependent on the parent continuing to meet eligibility requirements, and being subject to appropriate nomination, election and appointment processes at the expiry of each term (refer clause 8.7 of the governing council constitution).

When a council member's term expires, they remain on council until the position is declared vacant at the next general meeting of the school. This is usually at an annual general meeting. Once the

position has been declared vacant, the person is no longer a member of council (refer clause 8.6 of the school or governing council constitution).

Council elections

The principal must be the returning officer for the nomination, election and appointment of parent council members. The returning officer is the person who has the responsibility to manage and coordinate the election process. The [returning officers guide](#) provides direction to principals about how to undertake this role. The guide covers all topics related to elections to support effective, transparent processes and provides templates of required forms.

Nomination to council

The principal should call for nominations by the method generally used to communicate with the school community. Nominations must be in writing on nomination forms approved by the council and the principal. The nomination process must take place prior to the general meeting where an election will be held (if required).

Nomination forms should be returned by nominating parents to the returning officer, and where possible, the names of the nominees should be displayed in an area of the school easily accessed by the school community, for example the front office or notice board.

Election of council members

Where there are more nominees than vacant positions on council the principal must call an election to determine which of the nominees will be elected. Only parents of the school can vote in the election of parents to council. This is done at a general meeting of the school community (usually the annual general meeting). Governing councils can also conduct an election for parent members via a postal ballot. The election process may involve a nomination and election process (voting). Voting is by the 'first past the post' method. In this method of voting, voters cast their vote for a parent member of their choice, and the parent members receiving the most votes are elected.

If the election of members of the governing council of the school fails because no persons nominate, or there are insufficient numbers of persons nominated, or no votes are cast in the election, then in accordance with section 35(4) of the Act the Minister (or delegate) must conduct at least one supplementary election. If this supplementary election also fails, the Minister may appoint members to governing council. Section 35(4) applies despite any governing council constitution provisions to the contrary.

If a school has a school-based preschool, parents of a child enrolled at or attending the preschool are part of the school community and are eligible (subject to the above eligibility criteria) to nominate, and be elected to, the governing council.

Appointment of council members

The principal will count the votes and in the case of an equality of votes the principal shall determine the issue by lot. This means that names of the tied nominees will be placed in a container and drawn out.

The principal must declare the candidates elected either at the annual general meeting or by the method usually used to inform the school community, or both (see clause 13.8 of the constitution).

Office holders and council executive

Office holders

Clause 9 of the governing council constitution specifies the office holders each council must have. These are the chairperson, secretary and treasurer. A deputy chairperson can also be appointed. Persons who are members of the council must be elected to these offices by the council within one month of the annual general meeting (refer clause 9.1.1 of the constitution).

Chairperson

The chairperson must be a governing council member who is a parent of a child enrolled at, or attending the school (except in the case of school wholly or principally for adult students), and cannot be person who is a member of the staff of the school or is employed in a department for which the Minister is responsible (refer section 35(3) of the Act and clause 9.1.2 of the governing council constitution). This includes employment in another government school, a government preschool or a children's centre, or in corporate office.

Section 35(3)(b) of the Act allows a governing council to elect a member who does not meet the above requirements to the position of chairperson, with the approval of the Chief Executive, if there is no other member who does meet the requirements and who is willing to be the chairperson. This member of council may hold the position of chairperson until such time as a willing member who meets the requirements is appointed.

A governing council may decide to elect a deputy chairperson. In the absence of the chairperson, or where the chairperson is unable to act, clause 9.3.3 of the constitution states that the deputy chairperson must undertake any role or function normally undertaken by the chairperson. As the deputy chairperson acts as the chairperson when the chairperson is unable to act, it is preferable, but not mandatory, that the deputy chairperson also meets the requirements set out in section 35(3) of the Act.

If both the chairperson and the deputy chairperson are absent or unable to preside at a meeting, the council must elect another council member to preside (refer clause 9.3.4 of the constitution).

The duties and responsibilities of the chairperson are set out in clause 9.3.1 of the constitution.

The chairperson must:

- ensure that the governing council is aware of this administrative instruction and that it is binding on council members;
- call and preside at council meetings and meetings of the executive committee;
- prepare the agenda for council meetings, in consultation with the principal and secretary;
- include on the agenda any item requested by the principal;
- facilitate full and balanced participation by all council members in meetings;
- decide on the manner in which meetings are conducted and matters of order;
- report at the annual general meeting on the proceedings and operations of the council for the period since the last annual general meeting.

The chairperson must act as spokesperson on behalf of the council unless an alternative spokesperson has been appointed by the council. The spokesperson may only comment on council matters. This includes speaking on council matters to the media.

Secretary

The duties and responsibilities of the secretary are set out in clause 9.4 of the constitution.

The secretary must ensure that the notices of meetings are given in accordance with the requirements outlined in the governing council constitution (refer clause 9.4.1 of the constitution).

The constitution in clause 9.4.2 states that the secretary is responsible for ensuring the maintenance and safekeeping of:

- the constitution of the council
- official records of the business of the council and a register of minutes of meetings
- copies of notices, a file of correspondence and records of submissions or reports made by, or on behalf of, the council
- the register of council members
- contracts or agreements entered into by the council
- copies of policies of the council.

A secretary of a governing council is responsible for ensuring the maintenance and safekeeping of the code of practice of the council (clause 9.4.2(i)).

The secretary must ensure that copies of the council's constitution and the code of practice are available for public inspection at the school during normal school hours, and that any copies requested are provided (clause 9.4.3).

The secretary must ensure the safekeeping of the common seal and that a record is kept each time it is used (clause 9.4.4 of the constitution). The secretary does not need to physically "keep" the seal (the common seal is usually kept by the school) but is responsible for ensuring its "safekeeping". The governing council, secretary and school must agree on a procedure for the secretary to access the seal when it is required for council business that includes:

- where the seal is to be kept and how it is to be accessed;
- a statement that there is to be no access to the seal without the knowledge and permission of the secretary;
- the process for using the seal when it is required for council business;
- the details to be recorded when using the common seal, for example, who used the seal, when, for what reasons and when was it returned.

Before each meeting, the secretary must make sure that a copy of the meeting agenda is sent to each council member (clause 9.4.5).

The secretary must conduct the official correspondence of the council (clause 9.4.6).

The secretary must ensure that the minutes of meetings are recorded and sent to each council member before the next meeting (clause 9.4.7).

Treasurer

The duties and responsibilities of the treasurer are set out in clause 9.5 of the constitution.

The treasurer must not be a member of the staff of the school (clause 9.1.3 of the constitution).

The treasurer of a governing council must be the chairperson of the Finance Advisory Committee of the council and preside at the meetings of this committee. The treasurer must:

- ensure that the council's financial budgets and statements are prepared
- submit a report detailing the finances to each council meeting. This reporting must include:
 - a report comparing year-to-date actual revenue, expenses and capital expenditure against year-to-date budget, with explanation of material variations
 - the current approved full year budget and implications on this budgets of year-to-date variations
 - the current profit and loss statement and balance sheet
- discuss key factors of these reports including:
 - the potential impact of year-to-date variances to budget on the final end of year financial results
 - the financial viability of governing council services such as OSHC and canteen
 - SASIF and operating bank account balances to make sure they are not in deficit and there are enough funds in the SASIF accounts to cover any upcoming obligations, including employee obligations
 - the value of the amount owed to the school and strategies to recover debts
- present the council's statement of accounts to the annual general meeting (refer clause 9.5.2 of the constitution).

Executive Committee

As stated in clause 9.1.4 of the constitution, a council may appoint an executive committee comprising the office holders and the principal. This executive committee is to:

- meet to carry out business delegated or referred to the committee by the council
- report to subsequent council meetings.

Removal from council

The Minister may remove a member of a governing council from council for misconduct, failure or incapacity to carry out the duties of office satisfactorily, or for any other reasonable cause (section 44 of the Act).

Removal of officeholder from office

The governing council can remove a member who holds the office of chairperson, secretary or treasurer from that office (constitution clause 9.2). An office holder of the council may be removed from office, but not from membership of the council, by special resolution of the council, provided that:

- at least 14 days written notice is given to all council members and to the office holder concerned of any proposed resolution, giving reasons for the proposed removal;
- the office holder is given the right to be heard at the council meeting;
- voting on the special resolution is by secret ballot (refer clause 9.2.2 of the constitution).

If the chairperson, the secretary, or the treasurer is absent from three consecutive executive committee meetings without leave of absence (that is, notice of and permission for the absence), that person's office automatically becomes vacant. If the office holder notifies that they will be an apology for the meeting, and the executive committee accepts the apology, this will be deemed to be a grant of leave of absence (clause 9.2.1 of the constitution).

Council member vacancies

A council member's position will in accordance with clause 10.1 of the constitution be vacated in circumstances where a member:

- completes their term of office and is not re-elected, re-nominated or re-appointed;
- who was nominated to council has their nomination revoked or withdrawn, in writing, by an affiliated committee in accordance with clause 8.2.2 of the constitution or by the Student Representative Council in accordance with clause 8.3 of the constitution;
- nominated by the staff of the school is no longer a staff member of the school;
- resigns by written notice to the council;
- is removed from the council by the Minister in accordance with section 44 of the Act;
- is declared bankrupt or applies for the benefit of a law for the relief of insolvent debtors;
- is convicted of any offence prescribed by this administrative instruction;
- is subject to any disqualifying circumstance as prescribed by this administrative instruction;
- dies.

For the purposes of clause 10.1.8 of the constitution, the following offences are prescribed:

- any offence of dishonesty;
- any offence of a sexual nature involving a minor; or
- any offence of violence against a person.

For the purposes of clause 10.1.9 of the constitution, the following disqualifying circumstances are prescribed:

- the person has been issued with a barring notice in accordance with section 93 of the Act; or
- an intervention order has been issued against the person in accordance with the *Intervention Orders (Prevention of Abuse) Act 2009*, or with a foreign intervention order as defined in that Act has been issued against the person.

A council member's position will also be vacated if the member is absent from three consecutive council meetings without leave of absence, that is, notice of and permission for the absence, approved by the council. If the member notifies that they will be an apology for the meeting, and the council at the meeting accepts the apology, this will be deemed to be a grant of leave of absence (clause 10.1.9 of the constitution).

The council may appoint a person to temporarily fill a casual vacancy in its membership until a council member can be appropriately elected, nominated or appointed in accordance with the constitution (clause 10.2 of the constitution).

Ordinary meetings of council

Frequency

Governing councils must meet at least twice each school term in accordance with clause 11.2.1 of the constitution.

Notice of meetings

Notice of a meeting must be given at the previous council meeting or by at least 7 days written notice distributed to all council members or, in an emergency, by such other notice as the council may determine (clause 11.2.2 of the constitution).

Format and procedures of meetings

There is no council meeting procedure prescribed in the Act or the constitution. This reflects the view that councils, as discrete legal bodies, should be capable of conducting their affairs in a manner consistent with recognised meeting practices, modified where necessary to suit local conditions.

Although there is no set format for council meetings, a council should allocate time during a meeting for formalities, the acceptance of apologies, accepting the minutes of the previous meeting, correspondence, reports and for debate and voting on motions and resolutions put to the meeting.

Each council must have a set of standing orders to guide how the formal part of the meetings is conducted. It is important that all council members be made aware of the standing orders for running the meeting so that they feel comfortable about participating. Council members may decide to purchase a recognised book as a guide and authority on meeting procedures and standing orders (as long as the procedures and standing orders do not contradict any direction provided through the Act, the council's constitution, or administrative instructions).

Time should also be allowed, where relevant, for open discussion, presentations, moving into sub groups, workshops, guest speakers, visits to areas of the school and other activities as the council deems appropriate to carry out its powers and functions.

Governing council may also meet via electronic means, conference call, telephone or video. Any such meeting will be taken to be a meeting of that governing council provided that all procedures in the constitution relating to council meetings are complied with, and that each participating member is capable of communicating with every other participating member during the conference (clause 11.2.3 of the constitution).

Meeting proceedings

Proceedings of the council are set out in clause 12 of the constitution.

Clause 12.1.1 specifies that a quorum for a council meeting is a majority (that is, 50 percent plus one) of the filled positions of the council.

If at the expiration of 30 minutes after the appointed starting time of the meeting there is no quorum present, the meeting must be rescheduled to such time and place as those council members present determine (clause 12.1.2).

Except in the case of a special resolution, a decision of the majority of those council members present and eligible to vote is the decision of the council (clause 12.1.3).

The chairperson of a governing council has a deliberative vote only. In the event of a tied vote (equal votes for and against a motion), the governing council chairperson does not have a second or casting vote and the motion will be taken as defeated (clause 12.1.4).

The council, or a committee of council, may, at its discretion, allow non-members who have special interests or knowledge relevant to the council to attend its meetings as observers and, if it agrees, take part in discussions on particular issues. Non-members cannot vote (clause 12.1.5).

Where there are vacancies in the membership of the council, the council is not prevented from acting by the requirement that the majority of its members must be elected parents of the school or by any other requirement of membership (except the requirement as to quorum) clause 12.1.6).

The council may from time-to-time determine procedures to facilitate and expedite its business (clause 12.1.7).

Meeting agenda

Items on the agenda must be related to the council's powers, functions and/or responsibilities as outlined in the governing council's constitution.

Councils should set aside the majority of the meeting time for discussions or workshops designed to carry out the powers and functions of the council.

Items for the agenda should be received by the chairperson or secretary prior to the preparation of the agenda. The chairperson has the right to include these items on any council agenda, pass them on to a committee or subcommittee of council or, if they do not relate to the powers and functions of the council, pass them on to the principal for action.

Time should be given in the meeting for any other business. The chairperson should check with each council member for any additional items.

The agenda should be circulated to all members prior to the meeting. This may also serve as a notice of meeting to the council members (clauses 9.4.1 and 9.4.5 of the constitution).

Copies of the minutes of the previous meeting and reports of the treasurer (clause 9.5.2(ii) of the constitution), the principal (clause 6.2.2 of the constitution), and where relevant of committees and affiliated committees should be distributed with the agenda. Reports and minutes circulated before the meeting can be taken as having been read by all council members prior to the commencement of the meeting.

Minute taking

Proper minutes of meeting should be taken and kept. The minutes must be confirmed at the next respective governing council. They should at least be a complete and accurate record of all decisions (passed and failed) of the meeting and a record of the proceedings. They should not be a word-for-word account of the meeting.

Minutes should be concise but unambiguous, and should be sufficiently clear to be followed by persons not present at the meeting.

Voting

Voting must be by show of hands, but a secret ballot must be conducted for:

- a contested election
- a special resolution to remove an office holder from office (not council) (clause 11.4.1).

Where a governing council meeting is held by conference (whether by telephone or other electronic means), voting may be by voices or in writing (clause 11.4.1 of the governing council constitution).

For the purposes of voting on a special resolution, each council member is entitled to appoint another member as their proxy by notice in the form issued as an administrative instruction (clause 11.4.2 of the constitution). Proxy voting is not permitted in matters that are not decided by special resolution. A model proxy voting form template can be found on the [governing council portal](#).

General meetings of the school community

In accordance with clause 11.1.1 of the constitution, all persons within the school community are eligible to attend general meetings of the school community and vote on any matters proposed for resolution, with the exception of a council election where only parent members of the community are entitled to vote.

Frequency

The governing council chairperson must call a general meeting of the school community at least once in each year (annual general meeting). The period between each annual general meeting must not exceed 16 months (clauses 11.1.5 of the constitution).

A general meeting must be held for the purpose of electing parents to the council or to declare election results, and can be held for any other reason relating to the affairs, roles and responsibilities, or membership of the council, determined by agreement between the council chairperson and the principal (clause 11.1.4 of the constitution).

In accordance with clause 11.1.6, a general meeting must be held to elect parent council members, to discuss the finances of the council, or for any other reason relating to the affairs or functions of the council:

- at the request of the Chief Executive
- by resolution of the council
- at the request of 20 parents of the school or half of the parents of the school, whichever is less.

A general meeting may also be conducted via electronic means, conference call, telephone or video provided that all procedures in the constitution relating to general meetings are complied with and each participating member is capable of communicating with every other participating member during the conference (clause 11.1.7 of the constitution).

Notice of meetings

At least 14 days written notice of a general meeting must be given to the school community by the means generally used to communicate with the school community. The notice must specify the date, time and place of the meeting. In addition to traditional means of communication, such as school assembly announcements, electronic applications and newsletters to parents, the meeting should be brought to the notice of the community at large, for example by notice on an external community bulletin board, if one exists, social media platforms or by advertisement in a local or regional newspaper.

Pre-meeting formalities

Prior to an annual general meeting, the chairperson and principal have a number of responsibilities that must be undertaken.

The chairperson must:

- send a letter of appreciation to each retiring council member advising them of the expiry of their term of office and informing them of their eligibility to re-nominate or seek nomination for another term
- remind the treasurer that financial statements must be produced, including any committee or affiliated committee accounts (supported by school staff or the principal), in a format approved by the department, for the 12-month school financial year
- where a school's financial statement has been subject to audit, produce the audited statements.

The principal must:

- as the returning officer, arrange for the election of staff representatives and, where appropriate, elected/nominated representatives of students in accordance with the constitution
- determine the names of persons for consideration at the first council meeting who:
 - have been nominated as a representative of an affiliated committee
 - may be considered by the council members for appointment to council in accordance with the constitution.

Post-meeting formalities

Following the annual general meeting, the principal must:

- arrange for the return to the council of such books, papers, funds, and council property that may be in the possession of retiring members
- amend school records to reflect the names and addresses of continuing and new council members
- forward to the education director the names, addresses and contact details of the members of the new council, and the names of the office bearers
- forward to the site governance team and education director the details of retiring council members who have served more than 10 years in total, so a certificate of appreciation from the Minister can be arranged (see appendix 5 of this instruction)
- determine, in consultation with council members, the date, time and location of the first council meeting and notify all members.

Reporting to the Minister and school community

The governing council must report to the school community at least once per year at the annual general meeting on a range of matters including the operations of council and the school's finances. Annual general meetings are public meetings.

Governing councils must also report to the Minister in a form determined by the Chief Executive, at least once per year.

The chairperson must report on:

- strategic plans
- the proceedings and operations of the council for the period since the last annual general meeting of the school community
- the outcomes of those proceedings in relation to the functions of the council.

The treasurer must present an up-to-date statement of receipts and expenditure with respect to all accounts controlled by the council, and a copy of the statement of receipts and expenditure of the council for the year ended as at the designated financial year.

At the time of the annual general meeting, where any financial statements have been subject to an audit, the audited statement subsequently is to be made available for inspection, at the school, as determined at the meeting.

Minute taking

Proper minutes of an annual general meeting should be taken and kept. The minutes must be confirmed at the next respective annual general meeting and signed by the chairperson of the meeting at which the proceedings took place or by the chairperson of the subsequent meeting.

The minutes must at least be a complete and accurate record of all decisions (passed and failed) of the meeting and a record of the proceedings. They should not be a word-for-word account of the meeting.

Minutes should be concise but unambiguous, and should be sufficiently clear to be able to be followed by persons not present at the meeting.

Copies of the minutes of the annual general meeting should be made available publicly (once endorsed), for example on the school website, available in the front office, or via other electronic means.

Voting at the meeting

Persons 18 years and over can attend and vote at a general meeting. However, only parents can participate in the election of parent council members (clause 11.1 of the constitution).

Extraordinary council meetings

The chairperson must call an extraordinary meeting of the council if they receive written requests from at least 3 council members (clause 11.3 of the constitution).

Written notice of an extraordinary meeting must be given to all council members within a reasonable time, setting out the time, date, place and object of the meeting. While there is no defined timeframe for “reasonable notice”, this should be at least seven days, or for urgent requirements, 48 hours.

The business of any extraordinary meeting must be confined to the agenda item/topic for which it is called.

If at the expiration of 30 minutes after the appointed starting time of the extraordinary meeting there is no quorum present, the meeting must be rescheduled to such time and place as those council members present determine.

However, in the case of a special resolution considered at an extraordinary meeting, a decision of the majority of not less than three quarters of council members who vote in person or by proxy at the meeting is the decision of the council. In these circumstances, a quorum does not need to be met because members who are unable to attend are able to vote by proxy.

Amendments to a constitution

Constitution approval process

A constitution may be amended, modified or substituted at the direction of the Minister, in accordance with section 40 of the Act. The Minister may also direct a governing council or affiliated committee to amend its constitution under this section of the Act.

The constitution can also be amended, altered, modified or substituted by the council by special resolution and subsequent approval in writing by the Minister (or delegate).

Councils must in accordance with section 34(4) operate under the model constitution approved by the Minister (unless the Minister has approved the council's constitution under section 39). The model constitution provides a consistent framework under which governing councils operate; the only changes generally required to the model constitution are to insert the name of the council and its membership composition. However, council may:

- propose additional definitions
- propose additional functions.

Proposed additions need to be clearly marked and a supporting statement and/or evidence must be provided to support the requested amendments. The constitution must then be approved by the Minister in accordance with section 39 of the Act.

A council constitution must specify a number of persons for each category of membership and a total number of members, using schedule 1 of the model constitutions as a guide. Any variation to the membership guidelines in schedule 1 of the constitutions is a proposed amendment to the model constitution and must be approved by the Minister.

Councils must complete the following steps before seeking approval to amend their constitution:

1. Council must meet to consider the model constitution and seek advice through the governing council portal or from the department's Site Governance Team, to confirm that the proposed changes and motion(s) meet all criteria. The proposed changes can be made to a copy of the model constitution but must be clearly identifiable. Alternatively, the proposed changes can be clearly outlined in council's meeting minutes.
2. The council must pass a special resolution by a majority of not less than three quarters of council members who vote in person or by proxy to adopt the proposed changes, as outlined in the draft constitution or minutes. In a special resolution, proxy voting is allowed, so that every council member is permitted a vote (even if they cannot attend the meeting).
3. The chairperson must forward the proposed constitution with a letter and the special resolution meeting minutes to the education director, who will then endorse and forward it to the Partnerships, Schools and Preschools Division, through the Site Governance Team.
4. The Minister (or delegate)
 - will approve the constitution and return the original to the school via the chairperson; or
 - will not approve the constitution and will advise the council that the requested changes have not been approved. The council can reconsider the changes and may resubmit (following steps 1 to 4 again).

An amendment to the constitution has no effect until submitted to and approved by the Minister (or delegate).

A copy of each constitution approved by the Minister is available for public inspection during normal office hours at an office determined by the Minister (i.e. school, local education office or corporate office), and is published on the department's website, in accordance with section 39(5) of the Act.

Considerations for approval of constitutions and amendments

Any changes or amendments to a model constitution must comply with legislative requirements and administrative instructions.

Constitutions for governing councils of Aboriginal and Anangu schools should be based on the relevant approved model constitution developed for those schools.

Councils of schools with Aboriginal student enrolments (other than Anangu schools) should, depending on the numbers of those enrolments, implement one of the following strategies to ensure the views of Aboriginal parents are considered in council business:

- Council can form an affiliated committee (with a name approved by the Aboriginal community) using the affiliated committee model constitution. Council must seek approval through the Minister (or delegate) and the education director to establish such a committee. The governing council constitution must then allow for two Aboriginal parents to be nominated from that affiliated committee (these parents will be taken to be elected parents on council).
- Specify in the governing council constitution that up to two Aboriginal parents may be nominated to the membership of the governing council in lieu of elected parents. These nominated members will be taken to be elected parents on council.
- Demonstrate how proposed committees formed by resolution of the council, or other means, provide ways by which the views of Aboriginal parents will be obtained and taken into account.

The council must demonstrate that it has effective mechanisms in place to provide opportunities to hear about the specific needs of cohorts/groups within the school community. This can be through representatives from affiliated committees on council, members who are appointed from a community group and/or elected parent members who come from a particular cohort/cultural group. Appropriate policies and practices should also be developed to ensure effective consultation and information gathering.

Councils of all schools, including those with significant cultural diversity, must be able to show what consultation and inclusive practices they implement to encourage and increase participation and engagement with families in the school community from culturally diverse backgrounds.

Special resolution for the amendment of a constitution

Before a council can amend its constitution, its members must discuss the changes at a council meeting. The meeting agenda must include an agenda item that references the intention to discuss an amendment to the constitution. Sufficient time should be allocated during the meeting for council members to discuss and deliberate proposed changes. Meeting minutes need to record the outcome of these discussions, including the agreed amendment(s) to the constitution.

Council must also formally decide that a meeting will be called for the purpose of a special resolution to amend the constitution.

Members must be sent a notice of the meeting which indicates that a special resolution will be discussed, states the purpose of the special resolution and provides the precise wording of the resolution and any explanation of the resolution.

Example wording for an amendment to a constitution

If a governing council seeks to reduce its parent members from 14 to 12, the precise wording of the resolution would be ‘that clause 7.1 of the constitution be amended by deleting ‘14’ and inserting ‘12’.

The effect of such a change should also be written down and accompany the proposed special resolution:

Special resolution motion: that clause 7.1 of the constitution be amended by deleting ‘14’ and inserting ‘12’ elected parent members.

Effect of change: that the parent members of ABC Governing Council will decrease from 14 parent members to 12. This change will decrease the total membership on council to [insert new council membership number].

A special resolution to amend the constitution is a ‘motion’. As such, the motion may be amended in the usual way, provided any changes to the special resolution motion are not outside the scope of the resolution provided in the notice to members.

The special resolution motion can propose a number of changes to the constitution. A resolution affecting several different clauses, but which effectively amounts to a single change should always be dealt with by a single motion. This will avoid any potential problems which could result from some, but not all, alterations being adopted.

However, it is best to have separate resolutions for different subject matters and thus one resolution should deal with several clauses only if they are related or dependent on each other.

Members wanting to propose additional new or amended clauses beyond those in the draft special resolution(s) circulated to council members will need to give reasonable notice, that is, at least 14 days. Similarly, members wishing to introduce amendments to the circulated resolution that are beyond the options covered by acceptance or rejection or any intermediate position of what is proposed in the circulated resolution will need to give notice of at least 14 days.

Proxy voting for a special resolution

For a special resolution, voting by proxy is allowed. A council member who will be absent for a meeting at which a special resolution is to be discussed and voted on can appoint another council member, or in that members absence, the chairperson, to act as their proxy for voting on a special resolution.

The council member must complete a proxy voting form and provide the completed form to the council member appointed as their proxy. It is recommended that council members appoint the chairperson as their proxy. In any event, the council member should inform the chairperson of their absence and provide to the chairperson the name of the council member who has been appointed as their proxy.

The proxy voting form must contain the following:

- the name of the absent council member;
- the name of the appointed council member (proxy) or in their absence, the chairperson (named by title only in case the chairperson is absent for the meeting and another council member acts as the chairperson);
- the date of the council meeting at which the special resolutions will be discussed and voted on;
- how the appointed council member should use the proxy vote for each resolution (for example 'in favour of / against / abstain / use their discretion);
- the council member's signature and the date the proxy form was signed.

Common seal

A governing council must have a common seal, which may be:

- a metal dye, which is affixed to a document by mechanical impression;
- a metal stamp which is impressed by hand on a piece of warm wax affixed to the document;
or
- a rubber stamp.

The cost of a seal must be met from council funds.

The seal may be any shape, but it is usually circular. It must contain the name of the incorporated body, usually spaced around the circumference. The word 'Incorporated' or the abbreviation 'Inc' must follow the council name.

The council secretary is responsible for the safekeeping of the common seal. It is usually kept at the school, and the council, the secretary and the school must determine procedures that outline how it is accessed and returned (see discussion relating to the secretary under "Office Holders" above). The seal may be used in any particular case after the council has authorised its use by a resolution recorded in the minutes. When used, the signatures or initials of two council members, one of whom must be the principal or chairperson of the council, must be affixed near the seal.

Every use of the seal must be recorded in the minutes of the council.

The seal should be used for:

- any agreement or contract entered into by the council with other bodies or persons;
- bank forms for change of operators on the school council consolidated account;
- any document which is binding on the council.

Sub-committees and affiliated committees

To assist governing councils to undertake their powers and functions they can establish sub-committees of council. Some sub-committees are mandatory, and others are not. Sub-committees can help with budgets, running school services, fundraising and more.

In addition to the sub-committees that councils can establish, schools can also have affiliated committees, with the Minister's (or delegate's) approval. These committees, although affiliated with the council, are separate from the governing council and operate under their own constitution that is approved by the Minister.

Sub-committees

Sub-committees are a good way for councils to engage with the school community and get more parents involved in local school governance decision-making. Some parents may not be able to commit to being on a governing council but may be able to volunteer on a sub-committee. Parents also might have certain interests or expertise and be happy to help out for shorter periods of time.

Any sub-committee must consist of at least three people, and at least one of those people must be a governing council member.

This provides a conduit between council and its sub-committees. Council members on sub-committees should report on the business of the sub-committee at council meetings.

Councils must ensure that sub-committees are clear about their purposes and powers. The sub-committees need to understand the scope and limitations of their tasks and responsibilities. They must appreciate their aims and functions in terms of the council's and the school's whole operation.

To achieve this, sub-committees must be given clear terms of reference by the council. The terms of reference must state clearly what the task of the sub-committee is, and what action the sub-committee is authorised to take. The terms of reference should be in writing and embodied in the minutes of the council which recorded the appointing of the sub-committee. Examples of sub-committee terms of reference are located on the department's [governing council portal](#).

A council may delegate any of its powers and functions, with the exception of approving the budget and entering into contracts, to a committee. Committees must refer matters relating to contracts back to the council with their recommendations.

A council can remove any delegated power and function from a committee either temporarily or permanently. Any such delegation, or removal of delegation in place, must be properly recorded in the minutes of a council meeting.

Councils can establish and wind up sub-committees (other than mandatory sub-committees) at their discretion, via a decision of council. Sub-committee members should be consulted during this process.

Mandatory sub-committees

There are some sub-committees that must be established; these are referred to as mandatory sub-committees.

Finance advisory committee

A governing council must establish a finance advisory committee. The council determines the membership, but it must include the treasurer as chairperson, and the principal or their nominated delegate. If any affiliated committee monies are included in the school's consolidated account, then a representative of the affiliated committee must also be on the finance advisory committee. Student representatives from the governing council may be included.

Other mandatory committees – Canteen and OSHC

Where a governing council operates a canteen, Out of School Hours Care (OSHC) service or residential facilities, the council must establish a sub-committee to manage these services.

Other sub-committees

Other sub-committees may be established at the discretion of the council. Examples include a grounds committee, parents and friends committees, fundraising committees, etc.

Affiliated committees

Constitution

Affiliated committees have their own constitution and are not committees of the council. Each affiliated committee must operate under the model constitution for affiliated committees approved by the Minister (or delegate).

The affiliated committee model constitution is a legal framework. It sets out the powers and functions of the committee. Each school holds an approved copy of the constitution of each affiliated committee.

The establishment or dissolution of an affiliated committee must be with the authorisation of the Minister and education director.

Acts, regulations, other legal documents

An affiliated committee and its members are legally bound by the Act, the regulations, its approved constitution, and these administrative instructions issued by the Chief Executive.

The activities of an affiliated committee must be endorsed by the principal.

Amending an affiliated committee constitution

If an affiliated committee wishes to develop its own constitution, such constitution must be based on the affiliated committee model constitution and must be approved by the Minister (or delegate) (section 39 of the Act).

A constitution may be altered, modified or substituted by the Minister or by the affiliated committee by special resolution, and must then be approved by the Minister (or delegate) (section 40(5) and (6)).

Membership on governing council

Affiliated committees of governing councils may nominate a member to be on the governing council and, if the affiliated committee's account is a part of the consolidated account, must nominate a member to be on the governing council's finance advisory committee.

Conflict of Interest

Affiliated committee members must comply with section 37 of the Act relating to conflicts of interest. Members with a direct or indirect pecuniary, that is monetary, interest in a contract or proposed contract with the affiliated committee, or the governing council with which the council is affiliated, must disclose this conflict and not take part in any discussions or decisions (voting) and must be absent from the meeting room when any such discussions or voting is taking place.

Failure to comply with section 37 is an offence and may result in a penalty of up to \$20,000 (see section on Conflict of Interest above).

Auditing of accounts

The Chief Executive or Auditor-General may inspect or audit accounts kept by affiliated committees.

Powers, functions and limitations

An affiliated committee has such functions and powers as may be conferred on it by the Act, by the governing council with which is it affiliated, and by its constitution. The powers and functions of affiliated committees are outlined in section 41 of the Act.

Section 42 of the Act sets out limitations on the powers of affiliated committees. An affiliated committee must not interfere, or take any action that interferes, with the:

- provision of instruction, or the day-to-day management of the provision of instruction in a school in accordance with the curriculum determined by the Chief Executive; or
- the administration of discipline to students attending or enrolled at the school. An affiliated committee must not give directions to the principal, or any other member of the school staff, in relation to the manner in which the person carries out their duties.

Under section 45 of the Act, the Minister may, by notice in writing, prohibit or limit the performance of a specified function, or the exercise of a specified power, by an affiliated committee. The Minister must give a copy of the notice to the principal of the school. This limitation or prohibition on powers and functions has effect despite the provisions in the constitution of the affiliated committee.

The Minister may, by notice in writing, vary or revoke a notice limiting or prohibiting the use of powers by an affiliated committee.

Power to remove affiliated committee members from office

The Minister may remove a member of an affiliated committee from the committee for misconduct (including any breach of the code of practice), failure or incapacity to carry out the duties of office satisfactorily, or for any other reasonable cause (section 44).

Dispute resolution

There may be circumstances where a governing council is in dispute with the department about a matter. Usually, this would be between council and the principal (site leader). When this occurs, the governing council must participate in a process for the resolution of disputes, as required by clause 24 of the constitution. The process is as follows.

Where the governing council considers it is in dispute, the chairperson will ensure the dispute is recorded appropriately in the minutes at a formal meeting of the council. At its next meeting, the governing council must move and pass a formal resolution by a majority of the council members present and eligible to vote that independent mediation is required. The governing council must be operating within the scope of its designated role and function, that is, the dispute must be in relation to the powers and functions of council.

The chairperson must then write to the department's Chief Executive detailing the nature and issues of the dispute. The chairperson and Chief Executive will then jointly agree on the appointment of an independent mediator.

The Law Society of South Australia has a list of accredited mediators who can provide such a service. The cost of the mediation service will be met by the department.

Once appointed, the independent mediator, in accordance with their professional conduct rules, will convene a meeting of representatives of both the governing council and the department to help them to identify the issues, explore options, and, if possible, agree to a quick resolution of the dispute.

A dispute mediation process flow chat can be found in appendix 6 of this instruction.

Governing Council Legal Fund

The Act provides that funds can be made available from the Governing Council Legal Fund (the Fund) to assist governing councils to cover legal costs associated with legal disputes between councils and the department. The Fund is kept by the Department of Treasury and Finance (section 47 of the Act).

The Fund can only be accessed to support governing councils of schools with payment for the cost of independent legal advice incurred, or to be incurred, in relation to a dispute between the governing council and the department.

Prior to seeking funds for legal advice, the governing council must be able to establish that there is an issue that has led to a genuine dispute with the department, and the disagreement could not be resolved using dispute resolution processes.

Applying for payments under the Fund

As per section 48(1) of the Act, a governing council may apply to the Crown Solicitor for a payment from the Fund.

The application must be in a manner and form approved by the Crown Solicitor (section 48(2)).

The Crown Solicitor may refer the matter to another person (a nominated person) for determination (section 48(3)).

A payment can be made from the Fund only with the approval of the Crown Solicitor or nominated person (section 48(4)).

The governing council must provide any information or documents reasonably required by the Crown Solicitor (or nominated person) to enable them to determine the application against the criteria outlined in section 48(6) of the Act, which are:

- that there is a genuine, and not trivial, frivolous or vexatious, dispute between the governing council and the department
- that it is necessary or appropriate that the governing council seek independent legal advice with respect to that dispute
- that a legal practitioner with appropriate skills and experience has provided or will provide the advice, and
- that the costs incurred, or to be incurred, are reasonable.

The Crown Solicitor (or nominated person) determines whether other information or documents are necessary for such determination.

The Crown Solicitor (or nominated person) must approve payment from the Fund if satisfied the criteria set out above is met (section 48(6)).

In some matters, the payment may be reimbursement for legal costs, which will be paid to the governing council, while other matters may result in payment going directly to a legal adviser.

Nothing in the Act prevents a governing council from seeking any legal advice it sees fit (section 48(8)). The costs associated with any legal advice for matters not covered by the Fund (that, is, any matter not involving a genuine dispute between the council and the department)) will need to be covered by the governing council.

Process for applying under the Fund

The chairperson may apply for a payment from the Fund through the Site Governance Team, who will provide the information to the Crown Solicitor. When applying the chairperson should include any relevant council meeting minutes and documents.

Site Governance, Partnerships, Schools and Preschools
Phone: (08) 8226 9617
Email: Education.sitegovernance@sa.gov.au

Responding to Abuse and Neglect – Education and Care training

Principals must provide council members with access to training and relevant information to enable them to fulfil their role on council effectively, for example governing council induction training.

This must include the mandatory RAN-EC course for volunteers. All council members must complete this training as part of their induction process.

Organising the school year and closure days – council’s roles and responsibilities

When considering the structure of the school day, the principal must make sure the timetable reflects the best interests of students and their local circumstances, for example transport and care arrangements. The principal will seek endorsement of the timetable by majority from the governing council. Councils will need to consider the proposed timetable to make sure it reflects the school community’s needs and may put forward suggestions about the proposed timetable for the principal’s consideration.

Councils, together with the principal, may recommend to the education director that the school be closed for a maximum of one school day, or two half days, each school year for events of local significance. Governing councils must make sure there is sufficient consultation with the school community, including staff, students and parents, to determine that the majority of the school community supports a proposed closure day.

Governing councils can endorse up to a maximum of 3 student free days, and in the case of small schools of 2 or 3 teaching staff including the principal a maximum of 4 student free days, scheduled during the school year and approved by the principal, for particular activities relating to school management, planning meetings or staff development programs. This is reduced to 2 days, or 3 in the case of small schools as described, if the school is temporarily closed for events of significance or due to emergency or building works. These student free days are scheduled on the principal’s recommendation.

Part 3 – Finance, property and insurance

Finance Operations

General

The Act, the regulations, governing council and affiliated committee constitutions and this administrative instruction impose certain controls with respect to financial matters relating to the operations of governing councils and affiliated committees (section 42 of the Act and clauses 17 and 18 of the council constitution).

Requirement to use Department for Education accounting systems

Appropriate financial records for governing council activities such as canteen and OSHC activities must be maintained using EDSAS.

Separate accounting systems that are procured and implemented in order to process payroll for governing council employees can be used and do not require the approval of the Chief Executive (or delegate), however the systems must be ATO Single Touch Payroll compliant. In stating this, all transactional data must be recorded in EDSAS.

Staff employed by the department must follow all relevant departmental finance policies, instructions and procedures when managing transactions of the governing council or affiliated committee.

Financial delegations

The department assigns delegated authority to the principal to enable the efficient operation of the school, for example to approve purchases for the school. If a transaction or agreement exceeds the limit of the principal's authority, the principal will need to approach corporate office for approval.

The principal must make recommendations to the governing council about further financial delegations to other school employees that are required for the school to operate efficiently.

In addition, the governing council must decide what delegations are necessary for the efficient operation of governing council services.

Each year, the governing council must approve, and minute updated financial delegations for the school and governing council services. If authorisations need to be changed during the year, the governing council must approve the changes and minute the approval. Approved delegations must be recorded in a register and made available to the department or auditors upon request.

The department requires that financial authority is not sub-delegated below the principal in the following cases:

- signing contracts and agreements;
- approving invoices to debtors that are not student-related;
- travel expenditure;
- entertainment and gift expenditure;
- ledger journals;
- governing council payroll.

Approved delegation of authority to other employees must cover who can:

- approve purchases, and any value limits applicable;
- approve payments, and any value limits that apply;
- sign cheques or authorise EFTs;
- authorise SASIF account withdrawals;
- have a purchase card and their monthly and transaction limits;
- hold store cards with their name on it, and their monthly and transaction limits;
- issue petty cash;
- access and submit information on ATO online services.

Principals may remove the delegated authority of a school employee or any other employee within the scope of the principal's management responsibilities at any time. The change must be approved and minuted at the next governing council meeting. Where the employee is a governing council employee, the principal shall seek the approval of the governing council chair prior to removing an officer's delegated authority. If there is an immediate need for the removal of a governing council's employee's delegation, the principal is authorised to suspend the delegated authority until the governing council chairperson is contacted and the decision shall be minuted at the next governing council meeting.

Bank account operations

Governing council operating bank accounts

Operating accounts are to be used in the management of the day-to-day operations and activities of a canteen, out of school hours care (OSHC) service or other governing council services.

Governing council operating bank accounts can only be held with the following authorised deposit-taking institutions (ADIs):

- Commonwealth Bank of Australia (CBA)
- National Australia Bank
- Westpac Banking Corporation
- Australian New Zealand Banking Group Limited
- St George Bank (trading as Bank SA)
- Bendigo Bank.

Council must approve the opening of operating accounts and record the approval in the council's minutes. If the governing council approves the establishment of a new operating bank account, the Chief Executive's (or delegate's) approval is also required before the account can be opened. All related bank forms must be signed by the council chairperson and/or treasurer.

Where an operating bank account is approved, all transactions processed in that account relating to revenue and expenses must be recorded within EDSAS.

For all operating bank accounts, the principal must nominate and the council must approve at least three signatories annually and record relevant details of the approval and the signatories in the council's minutes. Changes during the year must also be approved in the same way. Signatories will have the authority to approve transactions through the nominated bank account(s).

The signatories can include office bearers of the governing council or in the case of an affiliated committee bank account, office bearers of the affiliated committee.

High standards of money management must be upheld, including:

- not operating accounts in overdraft;
- ensuring sufficient funds are available to make payments;
- storing unused cheques securely;
- ensuring signatories don't sign blank cheques;
- marking cancelled cheques as 'cancelled'.

Operating bank accounts of governing councils must be reconciled regularly to the general ledger. Cash shortages must be investigated immediately. If suspicious activity is suspected, the governing council and/or principal must determine whether it needs to be reported for further investigation to the department's Audit and Risk Directorate on 8226 3176.

Governing council approval is required when a bank account is to be closed.

- In the case of a school closure – existing bank signatories are to be removed and replaced with three signatories from the School and Preschool Financial Services unit. Any balance in the account must be transferred to an identified bank account or accounts as approved by the Chief Executive (or delegate).
- In the case of a change of financial institution – the current account is to be closed and a new account with another bank opened. All related bank forms must be signed by the council chairperson and/or treasurer.
- In the case of the closure of a governing council service - Any funds remaining in the relevant operating account must be transferred to the SASIF account of the council. All related bank forms must be signed by the council chairperson and/or treasurer.

All approvals relating to bank account closures must be recorded in the council's minutes.

Governing council South Australian School Investment Fund (SASIF) investment account

Funds that are not required for immediate need must be held in a SASIF account. The governing council must approve and minute the opening of such SASIF accounts. To do this the council chairperson must complete the *Open New SASIF Account form* (ED138) and submit it to the department's SASIF officer for processing.

Canteen and OSHC services must, at a minimum, have at least one SASIF investment account separate from the school's SASIF accounts. In addition, it is recommended that canteen and OSHC services have an additional SASIF account for governing council employee entitlements. This will assist the governing council to monitor employee benefit liabilities to ensure they are fully funded at all times.

Depending on the operations of the governing council, the following additional SASIF investment accounts will be considered for approval by the Chief Executive (or delegate) where relevant services are provided to the school community:

- out of school hours care investment account
- canteen investment account
- long service leave (LSL) investment account
- investment accounts for other governing council services such as aquatics, farming and operating boarding houses/residential facilities.

These investment fund accounts must all be interest-bearing.

A council cannot open or keep open any other investment accounts without the approval of the Chief Executive (or delegate).

For all SASIF accounts, the principal must nominate and the council must approve at least three signatories annually or during the year (as the case requires) and record relevant details of the approval and the signatories in the council's minutes. Approval of signatories does not carry over from one year to the next and approval is required for any changes. Approved signatories have the authority to approve transactions through the SASIF account(s).

The signatories can include office bearers of the governing council or controlling committee.

When a SASIF investment account is to be closed, governing council approval is required, and any balance in the account must be transferred to an identified bank account or accounts as approved by the Chief Executive (or delegate).

Governing council responsibilities when managing bank accounts of the school

When a new school is opened, the Chief Executive (or delegate) will approve the opening of an operating bank account and a South Australian Schools Investment Fund (SASIF) investment account. Additional SASIF investment accounts can only be opened with the approval of the Chief Executive (or delegate). The governing council must maintain oversight and approve signatories of the operating bank account and SASIF investment accounts (as set out above).

If the principal proposes to close a bank or investment account, all decisions with respect to this must be approved by the governing council and recorded in the minutes. The department will need to be advised on the closure of SASIF accounts.

Governing council responsibilities when managing bank accounts of an affiliated committee

Any committee affiliated with the governing council is encouraged to seek the agreement of the governing council to conduct its financial affairs through the school (consolidated) bank and SASIF investment accounts. Where this approach is implemented, the school must ensure that financial transactions are appropriately separated within EDSAS.

Money raised by an affiliated committee that is not handled through the school (consolidated) bank and SASIF investment accounts must be deposited in an account in the name of the affiliated committee in line with its constitution and with a financial institution approved by the Chief Executive (or delegate). The affiliated committee must ensure that financial transactions are appropriately recorded and managed.

Where an affiliated committee using the school (consolidated) bank and SASIF investment account indicates that it no longer desires to operate under such accounts, the committee must seek the approval of the Chief Executive (or delegate) to discontinue the arrangement.

After receiving advice from the Chief Executive (or delegate) of the approval for the affiliated committee to no longer operate under such an account, the affiliated committee can no longer use the school's accounts, and must use an account in line with its constitution and this instruction.

School budget

The principal must provide the finance advisory committee with a draft budget showing:

- accumulated funds available;
- anticipated income from all sources;
- proposed expenditure to be made;
- details of any funds held for special purposes.

The governing council must approve the school's budget by the end of term 1 each year. The council must also approve any changes to the budget thereafter. All approvals must be recorded in meeting minutes.

In developing the budget:

- consideration must be taken of the school's priorities and other plans;
- funds must be used for the purposes intended, while complying with all relevant terms and conditions.

The principal must consult with the personnel advisory committee (PAC) in developing the human resources plan. The personnel advisory committee is a department structure that supports human resource matters.

Budgets must also be prepared for all governing council services. This includes reviewing, approving and minuting the prices for the canteen, OSHC and other governing council services provided.

School income

All income of the school and council must be receipted and banked into the appropriate bank account in the name of the school, governing council or affiliated committee.

High standards of money management must be upheld, including:

- generally banking cash and cheques within 5 working days;
- holding no more than \$2,000 cash on site overnight;
- issuing sequentially numbered receipts to payers for all amounts over \$10;
- banking receipts intact, and not using them to make payments;
- reconciling bank deposits to receipts, and immediately taking action to address any discrepancies. This may include reporting suspicious circumstances to the Director, Audit and Risk for further examination;
- receipting money in EDSAS in a timely way;
- resolving instances of dishonoured cheques;
- not exchanging cheques received for cash.

In situations where a third party is to hold school money (for example, an event organiser or fundraising service), the governing council, on the recommendation of the principal, must approve the financial arrangement with the third party. The approval must be recorded in the meeting minutes.

Schools must offer a range of methods for debtors to pay the school. School staff will manage this in line with department policies, instructions and procedures.

EFTPOS is mandatory in all schools unless the governing council endorses not having EFTPOS and the Chief Executive approves it.

Sales on credit are discouraged, due to the financial risk and administrative burden that may result.

The governing council should be satisfied that there is sufficient and appropriate action to recover debts owed. Before any debts are written off, the governing council must approve the write off and the approval must be minuted.

All relevant laws including laws in relation to goods and services tax requirements must be complied with. School staff will generally manage this in line with department policies, instructions and procedures, including where an affiliated committee has elected to operate its accounts via the school's financial accounting system with the school's staff managing the financial activities.

Resource Entitlement Statement (RES) funding

Schools receive their annual funding in the form of a resource entitlement statement (RES). The RES is the amount of resources a school is allocated in order to appropriately staff the school and manage its educational program as well as to meet operational costs for the school. The department also allocates funding via the RES in respect of approvals targeting funding for individual students. Consolidating funding via the RES enables schools to resource their operations and priorities with flexibility and certainty.

Grant funding

The governing council must review a grant's terms and conditions before submitting an application for the grant, ensuring the purpose of the grant is consistent with school plans, policies and instructions.

All decisions must be recorded in meeting minutes.

The governing council must minute endorsement of any acquittal of funding.

Fundraising

Schools and governing councils are permitted to raise money for relevant purposes. The activity must have, as its dominant purpose, the raising of funds, and would usually take the form of traditional fundraising activities or modern variants, for example fetes, raffles, competitions, quiz nights, etc. This also applies to affiliated committees.

All fundraising activities must be endorsed by the principal in terms of the activities and the intended application of any proceeds, which need to be consistent with department guidelines and the goals of the school. All proposed fundraising activities including the relevant budget must be approved by the governing council and noted in the minutes of the meeting.

The governing council and the principal are jointly responsible for ensuring:

- proposed fundraising activities are consistent with the relevant constitution;
- relevant departmental financial management instructions for schools are complied with including policies dealing with the management of alcohol and entertainment;
- compliance with lottery, gaming and liquor licensing requirements;
- fundraising activities are included in the approved budget;
- fundraising activities are sustainable, that is, they do not make a loss;
- there is financial reporting in line with this instruction;
- GST requirements are met.

After receiving information from the school about fundraising income and the application of funds, the governing council must acknowledge these in the meeting minutes. For audit purposes, fundraising end of year financial results should be reported to and minuted by the governing council.

Donations, gifts, bequests, sponsorship, and promotions

Schools should only accept donations, gifts or bequests, or enter into sponsorship or promotion arrangements, that are consistent with the functions of a school or governing council service, and amongst other things, enhance educational programs. The principal and governing council must approve and minute the arrangements including any conditions, and ensure compliance with any conditions.

Together with the principal, governing councils must:

- determine the appropriateness of a proposal;
- ensure that the proposal does not place inappropriate obligations, restrictions or burdens on the school, staff, school community or governing council, or risk damage to reputations;
- ensure there is no inappropriate pressure on staff, students or parents to purchase a particular product or service, and that there is no inappropriate product endorsement involved;
- ensure that the level of acknowledgement of an arrangement is not inconsistent with the level of contribution;
- ensure there are no direct private benefits to employees, their family members, or other related parties;
- only accept a proposal under acceptable conditions.

Governing councils can refuse a proposal, especially where, in the view of the council, the conditions of the receipt cannot be met or may result in future obligations that cannot be committed to. The department's Chief Financial Officer can be contacted to provide advice about these matters.

Written agreements related to the school must be signed by the principal. Other agreements must be signed by the governing council chairperson.

After receiving the information from the school about income from the activity and the details of the application of funds received, the governing council must acknowledge them in the meeting minutes.

If it is intended to treat donations of gifts as tax-deductible, the Australian Taxation Office's requirements for deductible gift recipients must be followed.

Materials and services charges

Section 129 of the Act provides the legislative basis for schools, in consultation with governing councils, to impose a materials and services charge.

Principals are responsible for ensuring compliance with the department's Materials and Services Charges Instruction, and that this Instruction is complied with.

All materials and services charges must reflect the actual cost of the essential items and services used or consumed by an individual student during the course of their study.

The school must not impose a materials and services charge in an amount exceeding the prescribed amount unless all persons who, in the opinion of the governing council, would be liable for the materials and services charge have been given an opportunity to participate in a poll on the matter, a majority of the votes cast in the poll support the proposed materials and services charge, and the Chief Executive has approved the proposed materials and services charge (section 129(2)(c) of the Act).

Prior to the governing council approving the charge, the council must ensure that the proposed materials and services charge 'notice' has been endorsed by the department and approved by the principal and issued to all parents, caregivers and independent students with an invitation to attend the governing council meeting where the charge will be discussed. Once this discussion has occurred, at this meeting the governing council can then vote to approve the charge. In all circumstances, the governing council must approve the school's proposed materials and services charge before it can be imposed.

Where the approved materials and services charge is above the prescribed amount, the governing council must poll the school community to seek support for the proposed charge. In undertaking the poll the department requires that each parent, caregiver or independent student be issued with a standardised letter and voting slip. Each family is entitled to 1 vote per student per poll. Where enrolling parents are separated and are both liable for the charge as per this instruction, both parents must be given the opportunity to participate in the poll. Where the parents have opposite views about the poll, that is, where one is supportive of and the other is against the proposed charge, the school must net the impact for a nil response but still record this vote in the total number of vote responses. Where both parents are supportive of the proposed charge or are both against it, then the vote is counted as only 1 vote per applicable student.

The poll results must be counted by 2 individuals nominated by the council. The nominated officers must not include the principal.

- If the poll is successful, that is, where a majority of the school community supports the proposed charge, the governing council must then seek approval from the Chief Executive for the charge. The Chief Executive has delegated this approval function to the relevant school principal.

- If the poll is unsuccessful, that is, the proposed charge is not supported by a majority of the school community, the school can impose only the prescribed amount as the charge.

All parents, caregivers and independent students must be notified, in writing, of the outcome of the poll.

Once the materials and services charge is approved, if the items and services provided to a student are different to those in the approved notice, then the governing council must approve and minute this change.

Debt collection

An unpaid materials and services charge is legally recoverable as a debt due to the governing council, subject to the regulations (section 129(5) of the Act). In addition, the governing council can also legally recover where a signed written agreement or commitment to pay form has been signed with respect to any amount a parent, caregiver or independent student has agreed to pay.

Each year, the governing council must review the debt collection methods used by the school. The decisions relating to recovering the current year's outstanding materials and services charges must be documented in the council's minutes.

Recovery options available to the school to be approved by the governing council include:

- waiver or reduction of the materials and services charge;
- engagement of an independent debt collector;
- legal recovery action through the Magistrates Court;
- engagement of central debt collection (the department).

The principal can waive or reduce a materials and services charge debt owed by a person, and the governing council can write off an outstanding debt. The governing council's approval to write off a debt must be minuted. A recommendation to the governing council to write off is submitted by the principal outlining the debt collection steps taken to date and the age, quantity and value of the debt or debts recommended for write off.

Preschool contributions

A school-based preschool may set parent contributions as determined by the governing council.

The preschool contribution is a contribution from families towards the costs of running a government funded preschool program over the course of a year. It should be based on, and not exceed, the costs of an individual child undertaking the preschool program.

Preschool contributions are not legally recoverable. A preschool can't exclude a child from a government funded preschool program because their parent, guardian or carer didn't pay the preschool contribution.

Principals of school-based preschools and governing councils are responsible for developing, approving and collecting preschool contributions and other charges. The governing council must approve the preschool contribution. Families must be advised of the amount of preschool contribution before they enrol their child.

The child or dependant of an international student undertaking tertiary education may attend a South Australian government preschool. The preschool can ask the student to pay the contribution. The contribution charge is the same as for a resident or citizen's child or dependant.

A preschool contribution subsidy is available to assist multiple birth families with the cost of preschool. Families should contact the preschool for information about how to apply.

The school card scheme does not apply to preschools. In the case of financial hardship, the principal, following confidential communication with the family and discussion of the circumstances, has authority to defer, reduce, not pursue or refund the preschool contribution. While family details must not be disclosed, principals are encouraged to provide general information to keep the governing council informed of the level of preschool contribution recovery.

A school-based preschool can set other charges for optional extras, for example, an excursion, that are not part of the preschool program. When a parent, guardian or carer does not pay for an optional extra, the preschool is not obliged to provide it to their child. Other charges should be based on, and not exceed, the costs of an individual child undertaking the activity. Other charges can be made legally recoverable by asking the parent, guardian or carer to sign a commitment to pay form.

Other income

Income may be derived from other sources including:

- interest on funds invested that do not relate to funding provided from the department;
- canteen profits;
- a proportion of the fees paid by international students to the department;
- book and stationery profit;
- tuck shop profit;
- hire of school facilities.

Audit and reporting

The financial year for schools is from 1 January to 31 December.

The governing council chairperson must certify the final balance sheet and profit and loss statement by signing them. The school staff must follow the department's end of year procedures in preparing the final balance sheet and profit and loss statement.

The Chief Executive or the Auditor-General may, at any time, inspect or audit accounts kept by the governing council of a school or an affiliated committee.

Governing councils must receive, review and minute the financial statements including the external auditor's audit letter and report where the accounts have been audited.

Governing councils and affiliated committees must send a copy of the statement of accounts for the previous school financial year to the Chief Executive no later than 1 June each year. Where accounts have been audited, the audited statement of accounts should be provided.

Borrowing power of governing councils

Pursuant to section 42(2) of the Act, governing councils can borrow funds only with the permission of the Minister.

Procurement operations

Purchasing

A governing council is a public authority within the meaning of the *State Procurement Act 2004* and must comply with State Procurement Board directions concerning the acquisition, distribution, and management of goods and services and the disposal of goods. A council must also comply with whole-of-government contracts requirements.

Items purchased with funds provided by the Minister become the property of the Minister unless otherwise directed by the Minister. Items purchased with funds provided by the governing council remain the property of the governing council.

All purchases and payments must be for valid school or governing council service purposes. Goods and services cannot be purchased for private use or gain, or for another organisation's use or gain. Staff and governing council members and their associates must not personally benefit from purchases.

The use of purchase orders is encouraged (where relevant) and is integral to the effective operation of the EDSAS finance module, which is mandated for use by the school and governing council.

Payments must be:

- supported by a compliant tax invoice or payment voucher;
- approved by a delegate approved by the governing council;
- processed through the EDSAS finance module in a timely way;
- reviewed and resolved if the payment process is unsuccessful, while managing financial risk to the school or governing council.

Payment documentation must be kept and filed appropriately for future reference.

Payments should generally not be made in advance of receiving goods or services, except where it is in the ordinary course of business to do so.

Purchase cards for governing council employees

Governing councils have authority to approve the issue of purchase cards to governing council employees. Approval to issue purchase cards must be documented in the council's minutes, including the cardholder name, transaction limit and monthly card limit.

Indicative limits could be a monthly credit limit of up to \$10,000 (including GST if applicable) and an individual transaction limit of up to \$5,500, however card limits should be minimised to manage risk.

Liability rests with the governing council where they approve a purchase card for use by their employee.

A detailed register of purchase card holders must be maintained and updated promptly to reflect any changes implemented.

Ongoing cardholders and card limits must be included in the financial delegations approved by the governing council annually.

The establishment of a purchase card account is subject to the cardholder signing an Application and Agreement School Purchase Card Form (SPPC01) that is provided by the school. The form must be endorsed by the principal and the governing council chairperson.

Purchase card application forms must be in the name of the governing council service, not the name of the school. The governing council ABN must be quoted on the application form. Forms must be signed by the chairperson or treasurer of the governing council.

Purchase cards must be connected with the operating bank account of the service established by the governing council. Card accounts must be set up to automatically to pay the card balance from the relevant operating account each month. Direct debit authority forms must be completed at the time of the card application and signed by the approved bank account signatories.

Purchase card accounts must not allow the withdrawal of cash, unless endorsement is minuted by the governing council for an exceptional circumstance, and approval is provided by the Chief Executive (or delegate).

Governing councils must, through the principal, ensure that any instances of misuse of cards is investigated and appropriate remedial action taken.

Governing councils or principals, at their discretion, may cancel a purchase card if the card holder has not complied with the above requirements.

Any changes to purchase card accounts must be approved by the governing council before implementation and documented in the council's minutes. Changes may include:

- a change of cardholder name (the cardholder must provide documentary evidence, filed at the school, to confirm the name change);
- a temporary or permanent change to the monthly credit limit;
- a temporary or permanent change to the transaction limit;
- temporarily or permanently enabling the ability to withdraw cash from the account (exceptional circumstances only).

Store accounts

The governing council may establish store accounts for the purchases of generic goods and services on a frequent basis for official governing council service purposes. Store account cards must not be co-branded with any credit card logo such as Visa, MasterCard, and American Express and if so, must be cancelled immediately.

Governing councils must ensure:

- the application, use and management of store account cards is documented and assigned to appropriate employees only;

- cards are issued and used only for official business purposes;
- application forms are signed by the governing council chairperson for other accounts such as OSHC, canteen, etc;
- where card limits can be specified, that they are appropriate and no higher than purchase card limits;
- compliance with all card terms and conditions;
- cards are kept securely at all times;
- there is timely and appropriate reconciliation of transactions on the monthly store account card statement with supporting transaction documents (compliant tax invoices and receipts) for all purchases listed;
- disputed or unauthorised transactions are followed up promptly;
- statements are settled promptly so that no interest costs are incurred;
- there is timely accounting for transactions and GST so that financial reports reflect all relevant transactions of the period;
- store account cards are cancelled when no longer required.

Stored value cards

Governing councils may allow stored value cards for the purchase of goods or services for a governing council service when other options are not available. Where these are used governing councils must ensure:

- the responsibility for the acquisition, distribution, use and management of stored value cards is documented and assigned to appropriate employees only;
- a register of cards is maintained;
- cards are kept securely (for example in a locked facility) at all times;
- stored value cards are issued only for school business purposes;
- the value held on cards is modest and appropriate;
- appropriate documentation (for example tax invoices) is collected and retained to support transactions on the card;
- timely and appropriate reconciliation of transactions on the card is undertaken;
- there is a regular review of transactions on the cards;
- stored value card balances are accounted for as an asset on the school's balance sheet with the original load amount;
- there is timely accounting for transactions and GST so that financial reports reflect all relevant transactions of the period, for example transfer journals are completed to recognise purchases once made;
- appropriate arrangements are implemented to ensure that a cardholder is aware of and understands all relevant stored value card compliance and governance matters.

Petty cash

Schools and governing councils can allow a petty cash float for small value needs of a governing council service.

To manage the petty cash effectively:

- the float must be modest and approved by the principal or governing council;
- a person must be nominated to be responsible for the petty cash;
- there should be guidelines for the use of petty cash;
- the float must be held securely;

- petty cash must be issued by officers with delegated authority to do so and recorded on a petty cash voucher or register;
- tax invoices (receipts) must be provided to support use of petty cash;
- unused cash must be noted on the voucher or register and returned to the float;
- petty cash must be reconciled to the supporting tax invoices (receipts) on a regular basis, and cash shortages or surpluses investigated and resolved immediately;
- petty cash must be replenished regularly as required, with appropriate entries in the accounting system to record costs.

Catering, entertainment and gifts

Department staff must comply with financial management instructions dealing with catering, entertainment and gifts and governing council members are also encouraged to comply with these policies.

All catering, entertainment and gift expenditure must be:

- for the benefit of the school or governing council service, its students or clients, or its community;
- allowed in the terms and conditions of the funding being used to pay for the costs;
- within the approved budget;
- proportionate to the occasion;
- generally modest;
- capable of withstanding public scrutiny.

Examples of appropriate expenditure can include:

- catering for staff development activities or sessions or meetings to ensure they can continue without the need for an extended break;
- catering or entertainment for an approved curriculum, promotional or fundraising event;
- catering, entertainment or gifts to appropriately recognise volunteer contributions;
- catering for an event to demonstrate compassion in response to adversity in the school community;
- catering, entertainment or gifts to acknowledge guests, visitors or dignitaries;
- gifts to recognise student achievement.

School and governing council funds must not be used to pay for:

- staff functions of a social nature, such as happy hours, get-togethers and Christmas functions;
- food and beverages provided in connection with a staff birthday, farewell or tribute event not involving the wider school community;
- items purchased for morning or afternoon teas or short in-house meetings only attended by local staff;
- alcohol at an official student event.

Acquisition and disposal of real property

Pursuant to section 42(1) of the Act, governing councils may only enter into a transaction involving the acquisition or disposal of real property with the permission of the Minister.

Councils must seek and act on advice about the process for obtaining the Minister's written consent for the acquisition or disposal of real property from the department's Property Services Team. The Property Services Team will obtain the land valuations for any purchases or disposal

of land and provide advice about what information and documentation is needed to seek the Minister's consent.

Real property can only be acquired by councils for education-related purposes, which includes residential facilities for students (clause 4.1. of the council constitution).

Property on the Minister's land, if not movable, is regarded as belonging to the Minister in regards to its sale, lease or disposal and must be dealt with according to the government's procedures for the disposal of surplus real property.

Real property owned by the Minister

The Minister's property must be maintained in accordance with the approved site asset management plan and council must plan for the provision of resources to implement the asset management plan.

Any new construction or modification of existing built structures (including civil works) must be included in the asset management plan. Ministerial approval is required before any project is tendered, or before construction work commences.

Renewal SA is responsible for all purchases and disposals of real property by South Australian government agencies. The Minister's consent must be obtained before any property is bought or sold.

Councils must not negotiate disposal of the Minister's land with any individual or agency. All dealings with land will be handled by the department's Property Service Team and Renewal SA, who will coordinate the development of a strategy for the disposal of the land.

Council-owned real property

Any ongoing costs for the repair and maintenance of land and buildings acquired by the council are the responsibility of the council. The council must comply with standards appropriate to the building (for example for dormitory accommodation, the Building Code of Australia (BCA)).

The council must keep appropriate records of the property and comply with any legislative requirements, for example, keeping an asbestos register and a fire extinguisher register. The Minister may call for spot checks of compliance with legislation.

Councils must obtain the Minister's consent in writing before buying and selling real property.

Councils must obtain the Chief Executive's consent and before any construction is undertaken on either the Minister's or the council's land.

Council owned property must not be included in the asset management plan of the school.

The council may seek approval to transfer property excluding vehicles, boats, aircraft, campsites and canteens to the Minister. If approval is given it then becomes the property of the Minister and is included in the Asset Management Plan of the school.

Purchase of equipment and assets

When minor equipment and non-current assets are purchased by a governing council service, the governing council must ensure:

- adequate security is provided for the storage and control of the items;
- consideration is given to maintaining a location or movement log for items prone to misplacement or theft;
- all relevant details are recorded in a minor equipment and non-current asset register;
- warranty details are recorded in a register (it can be the same register as above);
- equipment is marked with the site name;
- a stocktake is performed at least annually, and the register updated;
- there is a process for reporting equipment losses and damage to the governing council;
- non-current assets, that is, assets with a value of more than \$5,000, are correctly shown on the balance sheet;
- depreciation of non-current assets is recorded in the accounting system.

When minor equipment and non-current assets of a governing council service are disposed of, the governing council must ensure:

- the principal has endorsed the disposal (the principal will have to follow the department's procedures);
- approval for disposal and the method of disposal is minuted by the governing council;
- disposals are conducted in an ethical manner and goods that are known to be faulty are not sold without full disclosure of the fault;
- health and safety is ensured;
- ICT equipment is appropriately treated before disposal;
- sale proceeds are received (where relevant);
- the minor equipment and non-current asset register is updated.

Purchase of vehicles

The government has mandated that all government vehicles are leased through Fleet SA. Schools do not have to comply with this mandate if they use solely their own funds. However, schools are approved to use the mandated service if they so choose and are advised to contact Fleet SA for information regarding costs, etc.

A school purchasing a vehicle with its own funds, for example through fundraising, for school use is responsible for all maintenance, insurance, running and replacement costs and for vehicle registration in the school's name.

Schools sourcing passenger or light commercial vehicles with the Minister's funds, or partly with the Minister's funds, for school use must comply with the whole-of-government mandate. Currently passenger and light commercial vehicles are leased through Fleet SA.

More information and support can be provided through the Department for Education Vehicle Management Team, on Phone: 8226 3447, or by email at education.fleet@sa.gov.au.

A school may purchase a used departmental (yellow) bus if one is available, at an agreed price. Enquiries by the principal about the availability of buses may be directed to the department's Infrastructure Division.

A school must ensure that any bus it owns is fitted with a current certificate of inspection issued by the Department for Infrastructure and Transport.

Insurance cover

Uniform cover for bodily injury and death is provided to volunteers under the government's insurance and risk management arrangements administered by the South Australian Government Financing Authority through SAicorp.

This cover extends to people who undertake volunteer duties and activities at the direction of the department leader (for example the principal or governing council), whether on private or public land.

The criteria for the amount payable for bodily injury and death will reflect and be equivalent to the benefits outlined in the *Return to Work Act 2014*. For other criteria see section 18 of the *Guideline: Volunteers* issued by the Commissioner for Public Sector Employees, which deals with insurance cover for South Australian government volunteers.

Vehicles and other personal property of volunteers are not covered by the department's insurance, unless, on the basis of legal opinion, the damage is attributable to a negligent act or omission on the part of the Minister, the Minister's staff or agents other than the driver or owner.

Volunteers who use their own car must have their own insurance.

If a volunteer's vehicle or other property is damaged while volunteering, the volunteer must make a claim through their own insurance company.

A volunteer claim made for medical expenses must be submitted, in writing, as soon as possible to the principal or preschool director (education or early childhood service leader) who must forward it to the claims mailbox at Education.legalclaims@sa.gov.au or via the department's courier system to: Claims Manager, Legal Services directorate, R11/13.

Workers compensation forms should not be used to report volunteer accidents or make claims. For more information contact the claims manager in the Legal Services Directorate at education.legalclaims@sa.gov.au.

Affiliated committees and any committees of the governing council

All members of councils, committees of council and affiliated committees are volunteers and have the same insurance cover as set out above for volunteers, with the exception of the principal, who is covered for personal injury and third party liability claims as an employee of the department.

Departmental insurance

Where governing councils are involved in activities on private property, the owner may require evidence of adequate public risk insurance cover. As the department is self-insured in line with government policy, the principal can use the department's [confirmation of insurance protection \(PDF, 303.1 KB\)](#) as proof of public liability insurance. Schools can print and use this as required. This must be done by a departmental staff member, as a staff login is required to access this document.

Queries should be directed to education.insurance@sa.gov.au.

Public liability insurance claims should be directed to the Claims Manager, Legal Services, by email education.LegalClaims@sa.gov.au or phone 8226 1822.

Equipment and materials insurance

The department will not replace equipment and materials not owned by the Minister. A governing council must arrange insurance for its own equipment and materials, and if these are lost or stolen they will not be replaced by the department.

Indemnity

The Minister indemnifies governing councils against personal injury and property damage claims arising from the conduct of their affairs, provided that the activity is not excluded from cover. Successful claims are funded through the department in line with government policy on self-insurance.

The indemnity is conditional on the strict observance by councils of the terms and conditions outlined below.

Exclusions

Claims arising from the following are not covered:

- operation by the council of mechanical amusement devices, for example a carousel or bouncy castle at a council run gala day;
- gaming devices;
- the activities of private stall holders at an event conducted by the council;
- use of private aircraft, watercraft and hovercraft;
- motor vehicle and motor cycle competition sports;
- serious and wilful misconduct by the governing council, its servants or agents;
- vehicles that normally require registration or statutory motor insurance under South Australian road traffic laws;
- death, bodily injury or property damage to employees of the council (as employees of council are covered by Return to Work SA).

In addition, the Minister reserves the right to exclude other activities from the terms of the indemnity in the light of claims experience.

The council should ensure that any equipment which is borrowed, hired or leased by the council from outside organisations or individuals is insured by that organisation or individual.

The use of mechanical amusement activities as part of a council event where the operator hires a portion of school grounds must be adequately covered by the operator's public liability insurance.

Not to admit liability

The governing council, its members, servants and agents must not without the written consent of the Minister (or delegate) make any admission as to liability, promise or make any payment to a claimant, or compromise a claim in any way.

Action to be taken following an incident that could result in a claim

For any matter involving a claim, the council must contact the Claims Manager, Legal Services Directorate in the first instance by email to: education.legalclaims@sa.gov.au or by mail to: Claims Manager, Legal Services Directorate, Department for Education, GPO Box 1152, Adelaide, SA , 5001.

If any member of a council is approached by a solicitor or lawyer about any incident the member must not answer any questions but refer them to the Claims Manager in the Legal Services Directorate. Following an incident that could result in a claim, the council's chairperson or delegate must:

- ensure that a full written report, including the names and addresses of eye witnesses (if any), is prepared and forwarded to the Claims Manager in the Legal Services Directorate.
- provide officers of the department or any legal representative engaged with respect to the matter with any information about the claim that they might request and ensure that any correspondence sent to the council by the claimant, his/her solicitor, or his/her insurer is promptly redirected the Claims Manager in the Legal Services Directorate
- assist the legal representative or the Legal Services Directorate in every way possible to negotiate, defend or settle any liability claim including the exercising of the council's legal right of recovery against any other party.

Risk and safety management

Councils must at all times comply with all statutory obligations, by-laws or regulations relevant to their sphere of activity. This includes the Act and regulations, and the [Work Health and Safety Act 2012](#).

Affiliated committees

Similar liability cover to that available to governing councils is extended to affiliated committees, except that in the case of affiliated committees, the relevant activity of the committee must be approved, in advance, by the principal.

The exclusions set out above also apply to affiliated committees, and claims arising from any of those activities when undertaken by affiliated committees will not be covered.

Property cover

Council owned property, such as canteen fittings, equipment and stock, is not covered by the government's self-insurance arrangements. Governing councils should consider acquiring insurance cover for these purposes.

The department does not fund the repair or replacement of school property in the event of accidental damage or loss. Protection against accidental damage or loss should be taken either through insurance or local budgeting arrangements according to the school's resources and priorities.

Students

The council is not liable for damages for injuries to students at school as a result of activities involving council employees or volunteers unless it can be established at law that the council's employees or volunteers were negligent, that is, they failed to exercise the required duty of care and that failure resulted in the accident.

Parents should consider the merits of purchasing 24 hour accident insurance cover for their children, for example private health insurance.

Part 4: Employment and contractual matters

Council employment of non-teaching staff

The constitution allows governing councils to employ persons, except as teachers, as members of the staff of the school (see clause 4.1.1 of the constitution).

The council must enter into an employment contract which conforms with the relevant industrial award.

There must be a link between the employment of the non-teaching staff and one or more of the powers or functions of the council under the constitution.

If no award is applicable, the provisions of the [Department of the Premier and Cabinet, Public Sector Workforce Relations – Conditions of Employment Manual for Weekly Paid Employees](#) should be followed wherever possible.

Refer to: https://www.treasury.sa.gov.au/_data/assets/pdf_file/0017/37403/Certified-South-Australian-Public-Sector-Wages-Enterprise-Agreement-Weekly-Paid-2017.pdf

Councils must use the whole-of-government panel contract for the provision of clerical temporary staff services. Details of this contract can be obtained from the department's Procurement Unit.

When entering into employment arrangements, the governing council becomes the legal employer in the full sense of the word and is therefore required to fulfil all the obligations of an employer.

This places great responsibility, legal and moral, on the council to ensure that employment arrangements are entered into professionally. People employed by councils must be given all the support and monitoring that would be expected in any other employment arrangement.

The department has a number of model letters of engagement and contracts available for councils. These can be found on the [governing council portal](#).

Definitions and responsibilities

Non-teacher

A non-teacher must not accept personal responsibility for any portion of the formal learning program or the wider school curriculum. They may have delegated to them a wide range of tasks that may include, according to their industrial award, teaching duties, provided that a teacher assumes personal oversight, supervision and ultimate responsibility. A non-teacher may be left in charge of students for short periods but responsibility for the students' health, safety and welfare rests with the supervising or controlling teacher.

Casual employee

A casual employee is one engaged as such, and to work on short term and/or variable, unpredictable or irregular employment arrangements or often for less than 15 hours per week. Casual employees do not have guaranteed hours of employment.

A casual employee is paid for their actual hours worked. An additional 25% casual loading is also applied to the actual hours worked to compensate for not receiving sick/carer's leave, annual leave or payment for public holidays not worked.

Terms and conditions of employment

Non-teaching staff may be employed by the council to assist in carrying out the powers and functions of the council as stated in the constitution and as may be conferred by the Minister or Chief Executive.

It is preferable for the department to employ staff identified by council on a recharge basis rather than have the council employ them. This applies where the roles and duties described in the position are essentially covered by existing classifications of department employees (for example, School Services Officer (SSO), Aboriginal Education Worker (AEW), Bilingual School Services Officer (BSSO)). It is particularly the case where it is proposed that the hours worked by an existing department employee will increase.

Although the governing council will be charged on-costs for such appointments, they will be saved the necessity of allowing for the employee's long service leave, PAYG tax, etc.

The employment of such staff by the department must be managed by the principal.

Before employing any non-teaching staff, the council must:

- ensure that the council is able to comply with ATO Single Touch Payroll reporting obligations, where the council intends to employ staff;
- clearly determine the tasks to be done, the content of the work and the roles/duties of the person to be employed and the length of time of the employment;
- decide whether a *contract of service* or a *contract for service* is more appropriate (see contract of service (employee) vs contract for services (contractor) below);
- through the principal, seek and act on advice from the department about the most appropriate industrial award and the appropriate tenure for the tasks;
- determine the time of the employment including the length of tenure and the starting and finishing dates after considering the council's financial position and the ability of the school to sustain the generation of funds. It is advisable to keep the extent of the tenure to within the term of the current Site Improvement Plan. However, for canteen and OSHC managers, the council may employ with a tenure that goes beyond the term of the services agreement;
- develop a job and person specification for the position;
- develop an employment contract for the position using the standard contracts (templates can be found on the [governing council portal](#)).

If the position being advertised falls within the definition of 'working with children' in the *Child Safety (Prohibited Persons) Act 2016*, a governing council cannot employ a person in that position unless they have a working with children check issued in accordance with that Act.

Short-term positions (20 days or less)

For short-term positions the council may invite applications from people who have worked in the school before (as a paid employee or as a volunteer), people who have worked in nearby schools, or persons who the principal or a member of council know who are able to fill the requirements of the position. The council may also use an employment agency or advertisement in the school newsletter, in the local press or on an employment website.

The school may develop a register of people prepared to be employed for short-term positions.

Applicants may apply by an expression of interest, and must supply the names of at least two people who can be contacted as referees for them.

Selection of the most suitable person should be done by the council chairperson (or nominee) and the principal (or nominee). At least one of the referees for each applicant must be contacted to confirm that the applicant is suitable for work in the position and in a school.

The council chairperson and principal (or their nominees) must discuss the contract of employment with the successful applicant and give them a [letter of engagement](#).

Long-term positions (greater than 20 days)

In carrying out the selection for filling the position the council must:

- advertise the position and invite applications from interested people with suitable qualifications (if required). This can be done in a local newspaper, a school newsletter or employment website.
- contact the department's People and Culture Division for advice where the position involves tasks normally done by ancillary staff.
- send information about the position, including the job and person specifications, to anyone who enquires about the position. The names, addresses and contact numbers of these people should be recorded, and kept confidential until the process is complete and a success person is appointed. These records should be kept with the official governing council records.
- advise applicants to address the terms of the job and person specifications and to give the names and contact numbers of at least two referees, with one being their current line manager.
- conduct a merit selection process.

The selection panel should consist of the council chairperson, the principal and the administration officer of the school or a representative from the appropriate council sub-committee, for example the OSHC committee.

Merit selection process

The position must be filled by the most suitable person who matches the skills, abilities, knowledge and experiences listed in the person specification. The selection must be based on merit with no favouritism, nepotism or patronage shown to any person. There must be no discrimination based on race, age, physical impairment, sex, marital status, pregnancy, sexuality or intellectual impairment.

When filling any position where the task is the same as that done by school ancillary staff (for example providing support in areas such as secretarial, curriculum delivery, resource centre, laboratory, finance, special education, grounds maintenance, facilities maintenance and stores), the council must first contact the ancillary staffing section of the department's People and Culture Division to see if there are any suitable people needing placement or in the ancillary staff temporary employment pool. This pool has been established to fill temporary non-teaching school-based vacancies for periods from 1 to 12 months under the provisions of the School Services Officers (Government Schools) Awards and the South Australian Government Services Award.

The chairperson of the selection panel must:

- acknowledge the receipt of all applications for the position;
- advise applicants whether they have been short listed or not;
- advise short-listed applicants whether they will be required for an interview and if so given adequate notice of interview, including the time, place, format and length of any interview as well as the names of the members of the interviewing panel. It is strongly recommended that short-listed applicants be interviewed;
- conduct any interview within merit selection and equal opportunity principles;
- contact at least 1 of the referees for each of the short-listed applicants to seek information about the suitability of the applicant for the duties of the position and for work in a school. Preferably all members of the panel, but at least two, should be present for discussions with any referee;
- advise short-listed applicants of the timeline for the final decision on employment;
- advise all applicants of any delay in the selection process;
- check that the successful applicant holds a current, valid Working with Children Check (WWCC) issued by the Department of Human Services;
- check that the successful applicant has attended a full day, Responding to Abuse and Neglect - Education and Care (RAN-EC) training session, or ensure that this occurs shortly after commencing employment;
- check with the appropriate sub-committee that the successful applicant meets the needs of the sub-committee before advising the applicant of their success;
- together with the principal, discuss with the successful applicant the terms of the contract and agree on a starting date;
- organise with the principal for the co-signing of the contract for employment and the letter of appointment;
- advise all of the applicants and the council of the outcome of the selection process. Applicants may be provided with feedback on their applications and interview;
- complete appropriate documentation of the selection process and store it at the worksite for 2 years.

The signatories of the contract for employment should be the council chairperson and the principal. The signatories should be appointed by council and their appointment minuted.

When a contract has been entered into with the successful applicant it should be recorded in the council's minutes, along with the name of the successful applicant. A copy of the contract should also be filed by the secretary appropriately with council records or at the school.

The letter of engagement used by a council for a long-term position can vary from the model letter of engagement, but must contain the following elements:

- name of employee and governing council;
- type of employment arrangement (for example casual, temporary for a fixed term, permanent);
- probation period (where applicable);
- date employment to commence;
- date employment to cease;
- title of the position;
- award/agreement applicable;
- rate of pay/wages per week/hour;
- hours of duty per week, daily commencement and finishing times or other arrangements as agreed;
- any restrictions on times of taking leave.

Contract for employment

Councils must use the relevant standard contract for employment for long-term positions. Detailed descriptions of the work to be done, location, hours of work and any conditions that may apply must be set out in the schedule to that contract.

The form of the relevant contract for employment should not be changed. If the council wishes to make a change to the substance of the contract it must seek approval for the proposed changes from the department's Employee Relations Unit or People and Culture Division.

Employee Relations unit email: Education.IRU@sa.gov.au
People and Culture Division email: Education.hr@sa.gov.au

Records management

As an employer, a governing council must follow legislative requirements with respect to records management by retaining and storing all employment related human resource information.

The department's *Information Management policy* provides direction to principals, who have the delegated legislative obligations, regarding the storage of information on governing council employment. More information is available on the department's internet site [here](#).

It is recommended that all human resources information relating to governing council employment be subject to the department's obligations with respect to retention and disposal of documents under the *State Records Act 1997*. Further, pursuant to section 535 of the *Fair Work Act 2009* (Cth), governing councils must maintain employee records (payroll info, timesheets, leave details etc) for a period of seven years.

Payment, tax, leave, superannuation

The council must ensure that all conditions of payment for work done, payment of taxation, entitlement to leave, and cover for superannuation are allowed for and carried out.

Payment for work done should be according to the relevant industrial award. Payment is based on the number of hours worked in a week. Advice on award coverage should be sought from the department's Employee Relations Unit (phone 8226 1296 or Education.IRU@sa.gov.au). In some instances, payment may be made through the department and paid by the school on a recharge basis or deduction from the global budget.

Tax must be deducted from employee wages. Contact the Australian Taxation Office by phone on 13 28 61 for the latest details and rates. Governing councils must ensure that they comply with the ATO Single Touch Payroll reporting obligations.

Sick leave, annual leave, long service leave and superannuation payments may vary with different industrial awards. Advice on these should be sought from the department's Employee Relations Unit.

Work injury insurance

Governing councils are private employers and as such are required to be registered with ReturnToWorkSA (RTWSA) within 14 days of being established.

RTWSA must be notified of any changes in employee numbers, remuneration or employment category (for example an increase or reduction in staff levels or an alteration to an existing employee's working hours), or predominant activity.

Any workers compensation claim lodged by a governing council employee is managed by the insurance agent Gallagher Bassett.

For further information about registering for work injury insurance please call ReturnToWorkSA on 13 18 55 or email info@rtwsa.com

The department's Workplace Health and Safety (WHS) Directorate coordinates the annual consolidated remuneration paid to workers directly employed by councils for the purpose of calculating workers compensation premiums paid to RTWSA.

In July each year all governing councils must provide their Remuneration Statement for paid governing council employees for the previous financial year and forward it to Workplace Health and Safety, Education.WHS@sa.gov.au The premium is currently paid by the department.

Supervision

The principal must supervise and promote the development of staff employed by the council (clause 6.2.4 of the constitution).

Grievance procedure

Where a governing council employee has any concerns or grievances, they should discuss these with the principal to resolve the issues.

Where the concern or grievance is about health or safety issues, the school's Health and Safety Representative should be a part of the discussions between the employee and the principal.

Contracts

Councils may enter contracts as necessary for, or incidental to, carrying out their functions under their constitution. Non-teaching staff can be employed under a contract of service (where they become employees of the council) or, alternatively, the work may be undertaken by an independent contractor under a contract for services.

Contract of service (employee) v contract for services (contractor)

A council must consider carefully whether it is more appropriate to engage a person as a permanent or casual employee or to contract work before making a decision on this issue.

Whatever method for achieving the work is preferred it is important to have a clear understanding of the difference between a contract of service and a contract for services.

Failure to make a proper distinction could lead to financial and legal problems.

The following test is a useful guide to decision making:

1. Is the worker paid a wage or salary?
2. Is the work performed at the school and not away from it?
3. Does the worker work regular and/or defined hours?
4. Is the worker engaged to produce a certain result, the completion of which will terminate their relationship with the governing council at this time?
5. Does the worker provide their own plant, equipment or materials as a means of accomplishing the work?
6. Does the worker have the right to subcontract or delegate the work?
7. Is the worker subject to, or does the council reserve the right to subject the worker to, detailed and direct control?

Positive answers to questions 1, 2, 3 and 7 and negative answers to questions 4, 5 and 6 would tend to indicate a contract of service.

All other things being equal, a positive answer to question 7 (the control test) usually indicates a contract of service, that is, the worker is an employee.

When considering which employment conditions are best, the potential for cost savings is a significant factor, but other considerations may support a course of action contrary to what economics would indicate. For example, greater efficiency may be achieved by engaging a more experienced but more expensive contractor for service (who has access to expensive equipment) or there may be greater flexibility in employing a grounds person on a casual basis rather than in a permanent capacity.

Liability of councils when entering contracts for service

Councils entering into contracts for service are responsible for following up if they consider that the contract has not been carried out satisfactorily.

Advice for the employment of non-teaching staff

Councils and a contract of service

Examples of when a governing council could be party to a contract of service (for example employment) are:

- establishment, maintenance and control of residential facilities for the accommodation of students;
- management of the school canteen;
- conduct of OSHC programs;
- council owned and operated school buses;
- developing community and parent liaison with the school;
- provision of books and materials to students of the school;
- administration of awards and scholarships;
- clerical and management support;
- management of land, buildings and equipment of the school;
- maintaining a desired curriculum breadth and employing persons other than teachers to, under the supervision of a teacher, supply skills, knowledge or supervision not otherwise available at the school or to conduct curriculum based excursions or camps.

Roles and responsibility of school principals

The authority and responsibility of school principals in South Australia are derived from the Act and its regulations. Principals operate within the powers and functions determined by the Chief Executive. They are accountable to the Chief Executive through the education directors for the performance of their duties and responsibilities.

Principals have functions in council as specified in the council constitution and in this administrative instruction.

Principal selection process

Introduction

There are two main ways in which principals are appointed to lead a school. One is by the placement of a person who is already a substantive principal and the other is through a merit based selection process which may involve advertising each vacancy.

Members of the school community take part in both forms of appointment but the type of involvement differs. The way in which the school community takes part in the placement process will be explained by departmental officers at the time.

Role of the council nominee

There is a council nominee on the selection panel. The council nominee's role on the panel is vitally important and it is essential that the person nominated be well-trained and able to participate fully in all phases of the process. Training activities and materials have been designed to ensure this happens and training sessions for school communities and prospective council nominees are available. More information can be found the [governing council portal](#).

The chairperson of the panel has a responsibility to ensure that all panellists, including the council nominee, have the necessary knowledge to participate fully in the process. Once the panel is constituted the council nominee is responsible to the chairperson and is not to be in any sense a representative of the governing council or any other group.

All panellists are to participate fully and contribute equally to the process. In addition, all panellists are to maintain confidentiality both during deliberations and indefinitely after the appointment has been made.

Panels make a recommendation and report to the appropriate Executive Director(s) within the department.

Advice on awards, selection processes and supervision

Award and employment conditions

Each of the positions for which councils are likely to consider employment is covered by an industrial award.

Each award has different terms and conditions built into it and therefore each employment arrangement must be treated separately. Industrial awards likely to be applicable to employees of

councils include the *Children's Services Award 2010 (Cth)* and the *Fast Food Industry Award 2010 (Cth)*.

It is important that the council consults the appropriate industrial award to ensure it is being applied accurately in each situation.

Governing councils need to analyse their global budgets carefully to calculate whether they can afford to employ a person and if so for what length of time. Principals should use the site budget planning tool to analyse the school's three year cash flow and advise the council. Governing councils are advised to only make the tenure of employment to the end of the current term of the Site Improvement Plan. Employment terms may include a clause for a review of performance and extension of tenure.

Councils should note that continuing employment beyond the contract end date without negotiating a new contract may imply permanency of position.

The department does not provide ongoing employment for excess/redundant governing council employees.

If the council decides to meet a need by extending the hours of an existing departmental employee, such action is an independent arrangement from the employee's contractual obligations with the department. In other words, any such extension constitutes a new employment contract between the council and the employee.

Supervision of employees

The principal is responsible for supervising all council employees at the school. As such the principal must:

- welcome the employee to the school and provide them with an induction program;
- provide suitable working conditions and have an expectation of the employee of reasonable and achievable workloads;
- provide clear instructions of the work to be done, the standard of work expected and timelines for completion;
- check that the employee knows how to use relevant equipment and is aware of work health and safety policies and practices;
- monitor the performance of the employee and provide regular feedback on their performance;
- maintain a roster to delineate when the employee is responsible to which employer where the employee is a dual employee of both the department and the council;
- consider and address any complaints or grievances of the employee.

The principal is responsible for managing employee complaints and grievances, including governing council employees. The principal is required to follow relevant department policies and procedures when managing these matters.

Standard contracts and letters of engagement

Councils must use the standard contract forms when determining any agreement for services by a contractor or for employing any person. The relevant information is added to standard contracts, but the contract terms must not be altered. If any change to the standard contract is contemplated, councils must seek advice from the department's People and Culture Division.

The model letter of engagement may be altered but its essential elements should be retained.

Part 5: Governing council activities

School canteen

Purpose of canteen

Canteens supply a service to students and can be a means of raising additional funds. They should operate wholly and solely for the purpose of food and drink sales and not for the sale of stationery, clothing and other general merchandise.

Responsibility

The governing council is responsible for the operation of the school canteen, including the maintenance and repair of fixtures and fittings, disbursement of its profits and the recoupment of its losses.

A canteen management committee must be established as a subcommittee of council where a school canteen operates. The composition of the committee is at the discretion of the council, but it should include a nominee from the school, together with the canteen supervisor.

An example of the [Canteen Management Committee terms of reference](#) can be found on the governing council portal.

Before a council considers licensing a contractor to operate the canteen, or leasing the canteen to a contractor, the council must discuss their proposals with department's Property Services Division.

The council must ensure that the canteen complies with all relevant legislation.

Refer to the department's website, [Canteens and food supply in schools and preschools \(education.sa.gov.au\)](#) for further information.

Policy document

It is recommended that each school operating a canteen on behalf of the governing council prepare a policy statement containing:

- the objectives of the canteen – these should fit the school's ethos;
- how the policy will be implemented and terms of reference;
- duties of the canteen committee (see [Working with governing council committees \(education.sa.gov.au\)](#));
- job and person specifications for paid workers and unpaid workers (volunteers);
- allocation of responsibilities for ensuring compliance with the finance requirements in this instruction;
- frequency and types of meetings
- the canteen rules.

Employment of canteen workers

The council must employ canteen workers in accordance with Part 4 of this administrative instruction and any other administrative instructions issued by the Chief Executive.

Financial and accounting matters

Refer to part 2 of this instruction for detailed information on the committee's financial reporting requirements for each governing council meeting.

Refer to part 3 of this instruction for detailed information on finance and procurement requirements.

The governing council must:

- keep sufficient cash to pay for any canteen financial obligations, for example employee long service leave entitlements;
- make sure the canteen is financially viable and sustainable, and does not operate at a loss;
- ensure the appropriate mark-up of item prices so that canteen income covers all costs;
- ensure stock is managed effectively, including avoiding losses and minimising wastage;
- note that the school principal and department employees must comply with the department's finance instruction regarding canteen operations.

Canteen profits can be transferred to the school consolidated account by approval of the governing council. Transfers may occur at any time, however the governing council must ensure that the canteen has funds available to meet liabilities, including adequate employee entitlement provisions and equipment replacement reserves (as relevant).

Audits of canteens may be conducted and are managed and monitored by the department under the Site Financial Audit Program. Prior to the end of the school financial year, the Principal of the school will be advised if an audit is to take place.

When a governing council decides to cease canteen operations, the governing council must ensure that:

- employee entitlements are paid out;
- stock and equipment are sold at the best possible price;
- remaining funds are held in the canteen consolidated account and the canteen SASIF account;
- the canteen SASIF account is closed with any remaining funds paid to the school account;
- financial statements are prepared and signed by the governing council chairperson;
- the signed final financial statements are audited.

Out of School Hours Care (OSHC)

Operating conditions for an OSHC service operated by a governing council

Out of school hours care (OSHC) services provide quality care and recreational experiences:

- before school;
- after school;
- during vacation periods;
- on pupil free days.

OSHC services provide care for children attending school, or children not yet attending but enrolled at the school. OSHC services on department sites are either operated by the governing council or a third party provider. Governing councils that choose to engage a [third party provider for the provision of OSHC](#) must follow department procedures.

For OSHC services operated by the council, the council must:

- be the approved provider of the service under [the Education and Early Childhood Services \(Registration and Standards\) Act 2011](#), Schedule 1 of which contains the *Education and Care Services National Law (South Australia)*. That is, the council must be the incorporated body under whose auspices the service operates.
- ensure that the service complies with requirements of the [National Quality Framework \(NQF\) for Early Childhood Education and Care](#), the [Education and Care Services National Law \(South Australia\)](#), and the [Education and Care Services National Regulations](#).
- ensure the service complies with Australian Government Child Care Subsidy funding requirements.
- employ, manage and support the OSHC staff according to any department policies and procedures, and any other administrative instructions issued by the Chief Executive.
- ensure that the service's operation meets the requirements of the department's OSHC policy and procedure.
- make school facilities and resources available to the service in consultation with and with the agreement of the principal, noting that OSHC services operate within existing space which may be required for core education purposes outside of OSHC hours.
- establish an OSHC committee as a subcommittee of council which includes the principal (or nominee) or another member of council, a parent user of the service and an OSHC staff member to undertake oversight of the service.
- ensure that the OSHC committee reports regularly to the council on the overall operation of the service, including on matters such as service viability and meeting quality requirements under the NQF, and nominates a liaison person to ensure liaison between the OSHC service and the school regarding day-to-day issues.
- conduct an annual child and family satisfaction survey using the following approved form: https://www.education.sa.gov.au/sites/default/files/oshc-annual-survey.pdf?acsf_files_redirect.
- ensure that the OSHC committee and staff maintain any school property used in connection with the OSHC service in a clean and sound condition, and make good any damage to departmental property caused specifically by the service.
- participate in quality assurance processes as required, including assessment and rating under the *Education and Care Services National Regulations*.

More information can be found on the Department for Education website: [Out of school hours care \(OSHC\) \(education.sa.gov.au\)](#)

Financial and accounting matters

Refer to part 2 of this instruction for detailed information on the OSHC committee's financial reporting requirements for each governing council meeting.

Refer to part 3 of this instruction for detailed information on finance requirements.

The governing council must:

- keep sufficient cash to pay for any OSHC financial obligations, for example employee long service leave entitlements;
- make sure the OSHC is financially viable and sustainable, and does not operate at a loss; and
- note that the school principal and department employees must comply with the department's finance instruction regarding OSHC operations.

The governing council must approve the OSHC fees each year before implementing them, and must make sure that:

- government-funded goods and services are not included in the fee;
- fees set will ensure ongoing financial viability and sustainability;
- fees are based on the actual costs of caring for an individual child;
- the ability of parents, guardians or carers to pay the fee is considered;
- the approval of the proposed fees is minuted, following review of the proposed OSHC budget;
- the chairperson signs the schedule of approved fees;
- the signed schedule is kept with the minutes; and
- the details of the fees are available to families, and if requested, an explanation of how the amount was established should be provided.

Financial assistance with the cost of child care is provided by the Australian Government to eligible families. It is important that OSHC services understand and comply with obligations under these Australian Government arrangements and recover revenue from the Australian Government or other sources as appropriate.

OSHC profits can be transferred to the school consolidated account by approval of the governing council. Transfers may occur at any time, however the governing council must ensure that the OSHC has funds available to meet liabilities, including adequate employee entitlement provisions and equipment replacement reserves (as relevant).

The council must appoint an auditor and have the OSHC financial records audited annually as soon as possible, following the end of the designated financial year for schools. A copy of the audited statement of accounts for the previous school financial year must be submitted to the Chief Executive no later than 1 June each year.

When a governing council decides to cease OSHC operations, the governing council must ensure that:

- employee entitlements are paid out;
- stock and equipment disposal are sold at the best possible price;
- remaining funds held in the OSHC consolidated account and OSHC SASIF account are closed with any remaining funds paid to the school account;
- financial statements are prepared and signed by the Governing Council chairperson; and
- the signed final financial statements are audited.

Playgroups

The governing council of a school with a school based preschool may choose to establish a playgroups subcommittee.

For playgroups in school based preschools that choose to operate as a sub-committee of council, the council must:

- support the playgroup as a program of the preschool or school, recognising its importance in providing a venue for parents and children to learn together;
- in consultation with the site leader, support access to an appropriate early childhood space, equipment and facilities;
- promote the playgroup to the community;
- determine the level of parent contributions and monitor the budget;
- monitor the outcomes of the playgroup.

A playgroup subcommittee should comprise council members and non-members, and is responsible for reporting on the playgroup's operations at each governing council meeting. The council must specify terms of reference for a playgroup subcommittee.

It is recommended schools contact Playgroup SA to consider the benefits associated with Playgroup SA registration options.

The [Playgroups on a department site procedure](#) provides information to support the establishment and operation of a playgroup.

All department playgroup programs provided by the school or preschool are covered by the department's [public liability insurance](#).

Play Centres

In small rural communities where there are insufficient eligible children to establish or maintain a preschool service, the department may provide support for a children's program in that community area through the establishment of a play centre. For enquiries contact Preschool Policy and Programs, Phone: 8226 2794 or email: education.ecsupport@sa.gov.au.

Administration of awards and scholarship

If the council chooses to administer awards and/or scholarships then the discharge of this function by the council is subject to the following conditions:

- the scholarship or award must relate to students, staff and members of the specific school;
- in the event of the council being asked to accept a gift or bequest of real property for the purpose of an award or scholarship, the council must not accept or dispose of the real property unless the Minister has consented to the transaction in writing pursuant to section 42(1) of the Act . In seeking ministerial consent the council will need to show:
 - how the acquisition relates to school purposes;
 - that the council can support the acquisition in the long term;
 - that the council can meet all ongoing maintenance costs.

Real or personal property donated for the purpose of an award or scholarship will not be regarded as property of the Minister and, as such, reinstatement or replacement will be the responsibility of the council.

If for the purpose of administering an award or scholarship it becomes necessary to open a bank account then that account shall carry the name of the particular award or scholarship. This will not be a bank account in the name of the school and therefore the monies in this account are not held for and on behalf of the Minister. The governing council must comply with Part 3 of this instruction with respect to any such account.

Should a governing council no longer wish to administer an award or scholarship, the council may invite the Minister to administer the award or scholarship.

Residential facilities for the accommodation of students

Governing Councils may, with the approval of the Chief Executive, purchase or take a lease or licence and manage, or arrange for the management of, student residential facilities or enter into any other agreement for the establishment, staffing and operation of such facilities.

A governing council managing residential facilities for the accommodation of students must:

- seek and follow the advice of the department;
- establish a subcommittee of which at least one person shall be a member of the council and one member shall be the principal or their nominee, the nominee to be a member of the teaching staff;
- comply with the terms and conditions for the employment of non-teaching staff in accordance with these administrative instructions;
- select house parents and ensure that they hold current working with children checks before they are employed;
- terminate the services of a house parent if they commit a serious breach of any of the terms and conditions of employment, or are found to have engaged in any improper conduct such as to render them unsuitable to be a house parent, taking into account the principles of natural justice and equity;
- clearly define employment conditions, duties and responsibilities of the house parent and insert them in the schedule of the [standard contract of service/employment](#). Both parties must sign the contract as the contractual agreement for employing the house parent;
- be responsible for the overall operations and management of the accommodation facility;
- in negotiation with the department, set the criteria and financial model to determine the level of boarding fees, and to set the level of the fees;
- comply with the terms of the accommodation lease;
- with the principal, who line manages the house parent, ensure the house parent is properly carrying out their duties;
- in consultation with the house parent and students develop house rules and circulate these in writing;
- ensure that students/parents complete forms properly and that the students sign behavioural agreements;
- terminate a boarding arrangement with a student, or a student's parents, taking into account the recommendation of the house parent and taking into account principles of natural justice and equity;
- pay utility costs in accordance with the lease;
- develop and implement contingency plans for absences of house parents;
- ensure that students and parents of students are informed that responsibility for the insurance of student property lies with the student and that the governing council is not responsible for loss or breakage of student property;
- manage the acquisition and disposal of property in accordance with the instructions under the State Procurement Act and these instructions;
- ensure that volunteers are managed in accordance with the requirements specified in these administrative instructions.

Crèche care facilities

A governing council may offer a crèche program that provides short term care to children where the parent is participating in school activities and is immediately accessible. Parents are to remain on the school grounds and be available at all times while children are attending the crèche.

Enquiries can be directed to Preschool Policy and Programs, Phone: 8226 2794 or email: education.ecsupport@sa.gov.au.

Part 6: Volunteer insurance cover

Insurance cover

Nature of the insurance cover

Uniform cover is provided to volunteers on the basis detailed below. The provision of this cover represents government policy, but there is no contractual agreement entered into by the government.

All registered volunteers who act in public sector agencies are covered by SAicorp, the insurance division of the South Australian Government Financing Authority, for bodily injury and death under the following criteria:

- the amount payable will reflect and be equivalent to the benefits that would have been payable to the volunteer under the *Return to Work Act 2014 (SA)*;
- weekly income is paid where a loss of income can be demonstrated, and then only up to the *Return to Work Act* ceiling;
- for long-term incapacities, benefit reductions in line with the *Return to Work Act* rules apply;
- lump sums for death and serious disability are paid on the same basis as the *Return to Work Act* schedule;
- in the event of injury, non-Medicare medical expenses incurred will be payable as set out in the *SAicorp Agency Agreement*;
- the amount of any benefit payable will take account of benefits available to the volunteer under any private health insurance fund and will be less any amounts recovered from that fund;
- no benefit is payable in respect of any gap between payments made by Medicare and actual medical charges incurred.

Volunteers are covered in respect of civil liability as set out in the *Volunteers Protection Act 2001 (SA)*.

More information can be found [here](#).

Volunteer council and parent organisations

A number of organisations provide additional support for governing councils and affiliated committees:

SA Association of State School Organisations <http://www.saasso.asn.au/>

SA Association of School Parents Communities <http://www.saaspc.org.au/>

Supporting documents

- Governing council pages - [Governing councils \(education.sa.gov.au\)](https://www.education.sa.gov.au/governing-councils)
- Governing council sub-committees terms of reference examples - [Working with governing council committees \(education.sa.gov.au\)](https://www.education.sa.gov.au/working-with-governing-council-committees)
- Model contracts for council employees - [Being an employer of governing councils \(education.sa.gov.au\)](https://www.education.sa.gov.au/being-an-employer-of-governing-councils)
- Responding to Abuse and Neglect – Education and Care (RAN – EC) - [Volunteers online course: Responding to Abuse and Neglect – Education and Care](https://www.education.sa.gov.au/volunteers-online-course-responding-to-abuse-and-neglect-education-and-care)
- Department for Education [Volunteer policy \(education.sa.gov.au\)](https://www.education.sa.gov.au/volunteer-policy)

Appendices

1. [Governing council of a school with a school-based preschool model constitution](#)
2. [Governing council of a school without a school-based preschool model constitution](#)
3. [Affiliated committee model constitution](#)
4. [Governing council membership structure](#)
5. [Certificate of service](#)
6. [Dispute mediation process flow chat](#)
7. [Guide to information privacy for governing councils](#)
8. [Governing Council Code of Practice](#)