

Academy Governance: Influenced Company Status and Local Authority Associated Persons

An Academy must avoid becoming an 'influenced company'.

That means that an Academy (its Trust, its Governing Body or any of its subsidiaries) must not become subject to the influence of a local authority, as described in section 69 of the Local Government and Housing Act.

The DfE **Model Articles of Association** give the following definition:

Article 1 (n):

“Local Authority Associated Persons” means any person associated with any local authority within the meaning given in section 69 of the Local Government and Housing Act 1989;

Articles 136 to 141 specify that the Academy must avoid becoming an influenced company:

Article 136 states that on any vote, Local Authority Associated Persons may not exercise more than 19.9% of the votes cast, and if they would, the votes of all other members must be factored up to compensate.

Article 137 states that Local Authority Associated Persons must not be allowed to make up more than 20% of the Trust or 20% of the Governing Body.

Article 138 states that a local authority influenced person can only be appointed as governor if the appointment is authorised by the local authority to which they are associated.

Article 139 states that if a Member or Governor who has previously been properly appointed, later becomes a local authority influenced person, they are deemed to have immediately resigned.

Article 140 states that if the number of members or Members or Governors who are also local authority influenced persons exceeds the 20% limit, then the most recently appointed are deemed to have resigned to bring them back within the limit.

Article 141 places a duty on Trust Members to prevent the Academy coming under the influence of a local authority, and again defines this in terms of section 69 of the Local Government and Housing Act 1989.

Section 69 of the Local Government and Housing Act 1989 defines ‘a person associated with a local authority’ as follows (clause 5):

For the purposes of this section, a person is at any time associated with a local authority if—

- a. he is at that time a member of the authority;
- b. he is at that time an officer of the authority;
- c. he is at that time both an employee and either a director, manager, secretary or other similar officer of a company which is under the control of the authority; or
- d. at any time within the preceding four years he has been associated with the authority by virtue of paragraph (a) above.

DfE advice is that ‘an officer of the authority’ means any employee of a local authority.

This applies to any Trust Member or Governor, regardless of how they were appointed / elected.