

GUIDANCE TO GOVERNING BODIES OF VOLUNTARY AIDED SCHOOLS ON THE RECONSTITUTION OF THE GOVERNING BODY

Introduction

New Regulations came into effect on 1 September 2012 for governing bodies who wanted to reconstitute.

The new regulations are The School Governance (Constitution) (England) Regulations 2012 No 1034 available at www.legislation.gov.uk/uksi/2012/1034/made

The Composition of Governing Bodies

The minimum number of governors in a voluntary aided Catholic school is:

- At least two parent governors
- The headteacher unless the headteacher resigns the office of governor according to the regulations
- One staff governor
- One local authority governor
- Sufficient foundation governors to ensure that they are in a majority of two over all other categories of governors combined
- The governing body may appoint such numbers of co-opted governors as they consider necessary

If the headteacher resigns as governor the position cannot be taken by another member of staff as the headteacher may withdraw her/his resignation at any time by giving written notice to the clerk. The staff governor does not have to be a teacher.

The local authority governor is nominated by the local authority but appointed by the governing body having, in the opinion of the governing body, met any eligibility criteria they have set.

There is no limit to co-opted governors but they are governors and if a governing body appoints co-opted governors it will have to have more foundation governors.

Example A:

- 2 parents
- The headteacher
- 1 staff
- 1 LA
- 7 foundation governors

Example B:

- 2 parents
- The headteacher
- 1 staff
- 1 LA
- 2 co-opted governors
- 9 foundation governors

Co-opted Governors

The total number of co-opted governors who are also eligible to be elected as staff governors when counted with the headteacher and staff governor must not exceed one third of the total membership of the governing body.

It is our guidance that schools wishing to have co-opted governors should include the number in the Instrument of Government in order that the correct number of foundation governors may also be included at the same time.

It may be possible for a governing body to appoint a co-opted governor after the Instrument has been drawn up which means that the Instrument will need to be varied which would require the permission of the local authority. It would also have to have additional foundation governors to secure the majority of two. The appointment of a foundation governor will take a lot longer than the appointment of a co-opted governor so in this situation the co-opted governor could not take up post until the foundation governor(s) has/have been appointed.

Partnership Governors

There is also a category of partnership governor. The regulations state that where a school has a religious character the partnership governor is appointed by the governing body to ensure the religious character of the school is preserved and developed. As this is a duty of foundation governors in Catholic schools there is no need for our schools to have partnership governors.

Associate Members

Associate members may also be appointed to serve on committees. As they are not governors they are not included in the Instrument and can be appointed at any time. There is no need for additional foundation governors as associate members cannot vote at full governing body meetings and therefore the majority of foundation governors is maintained.

Reconstituting

Governing bodies do not have to reconstitute. It is only recommended where a governing body wants to reduce the overall number of governors or that there is a need for co-opted governors in a role that cannot be served by associate members.

- The governing body makes a decision to reconstitute
- There must be a separate meeting of foundation governors only who must approve the new Instrument
- The Draft Instrument is sent to Michael Cullinane at the Education Commission and approved or amended
- The Draft Instrument is sent to the local authority to be made

Reviewing

- The governing body may review the Instrument at any time
- The governing body or the local authority may move to vary the Instrument by notifying the other party with the variation and the reasons for it
- If the governing body is recommending the variation it must not notify the local authority without first having the approval of the Education Commission.
- If the local authority has recommended variation the governing body must not agree to it without the approval of the Education Commission

Instrument of Government

The format and wording of the Instrument is exactly the same as it is presently. Only the categories and number of governors change.

SOME FAQs

If the number of governors is reduced on reconstitution is there a formula for deciding who is not reappointed?

Yes. Governors may resign which might solve the issue but if there are no resignations, or still too many governors after resignations, the principle of 'juniority' applies in that the governor whose period of continuous service (whether as a governor of one or more than one category) is the shortest being the first who must cease to hold office. If two or more governors have the exact amount of time served a decision is made by drawing lots.

Can governors be appointed for less than the four years term?

The Instrument of Government may specify a shorter term of office for a particular category of governor but it cannot be less than one year. This cannot be applied to individual governors. It is Diocesan Policy that Foundation governors are appointed for four years so it is fair that other mandatory categories are for the same time. Governors may, however, wish to have the term of office for co-opted governors to be shorter than that of the mandatory categories.

Can an individual governor be forced to resign or be dismissed?

The Regulations are very clear on this. An individual governor may resign at any time by giving written notice to the clerk. Foundation governors may be removed by the Education Commission acting on behalf of the Archbishop if, in the judgement of the Commission, there is good reason to do so. The local authority may remove the governor nominated by it. A co-opted governor may be removed by the governing body using procedures set out in the Regulations. A governing body may remove a parent governor who has been appointed by it using procedures set out in the Regulations but it cannot remove a parent governor who was elected by parents. The Governing body may not remove an elected staff governor or the headteacher. Schedule 4 in the Regulations gives the list of criteria whereby a person disqualifies her/himself from holding the office of governor in the school. A governing body is bound by these criteria.

Can a governor change category?

It is possible in some circumstances but due process must be followed. For example, a parent governor could become a foundation governor if there is a vacancy for a foundation governor and s/he has been appointed through the process used by the Education Commission. Another example, a parent governor who gets a job in the school ceases to be a governor and cannot change to be a staff governor

What happens if in an election for a staff governor or a parent governor there is a dead heat?

The clerk can arrange for lots to be drawn.

This should be made clear at the beginning of the election process.

Can governors job share, for instance if a parent governor cannot make a meeting can another parent stand in?

No. An individual is appointed or elected to the post of governor and only they can serve as governors.