The Reconstitution Process: A Step-by-Step Guide


1. As a full governing body, consider what work you will need to do over the next few years. This will vary from school to school, i.e. do you have a big building project on the horizon?, are you trying to get to Ofsted ‘good’?, are you considering becoming an academy?

2. Consider how many governors you will need to undertake this work and what skillsets you will need on the governing body in order to carry out the work efficiently and thoroughly. Remember to focus on the strategic objectives rather than trying to mould the constitution to fit the governors already in post.

3. Requirements of all maintained schools (see Appendix 1)
The governing body must not be smaller than seven members (please see 3a. below for additional information regarding foundation governors in qualifying foundation schools and voluntary aided schools).

- At least two elected parent governors;
- The headteacher, unless the headteacher resigns as a governor;
- One, and only one, elected staff governor;
- One, and only one local authority governor; and

The governing body may appoint as many additional co-opted governors as they consider necessary. However, the number of co-opted governors who are eligible to be elected or appointed as staff governors must not, when counted with the one staff governor and the headteacher, exceed one-third of the total membership of the governing body.

There is no upper limit but governing bodies should have regard to this statutory guidance in deciding their size.

3a. Foundation and voluntary schools are required to have partnership or foundation governors as follows:

- Foundation and foundation special schools without a foundation must have at least two partnership governors;
- Foundation and foundation special schools that have a foundation but are not a qualifying foundation school must have at least two foundation governors;
 Qualifying foundation schools must have up to two more foundation governors than all other governors;

 Voluntary aided schools must have two more foundation governors than all other governors; and

 Voluntary controlled schools must have at least two foundation governors.

3b. Requirements for community federated governing bodies

 Parent – one and only one from each school in the federation

 Staff – one and only one elected by all those who work at the federated schools

 Local Authority – one and only one

 Headteacher – one post for each headteacher working at the federated schools

 Co-opted – As many as the governing body consider necessary

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

4. Decide each category of governor terms of office, the governing body can decide to vary the term of office for any category of governor (except foundation governors). A governor holds office for a fixed period of four years from the date of election or appointment. The governing body can decide to set a shorter term of office, being not less than one year at the time of approving their constitution. Any variation must be documented in the governing bodies Instrument of Government.

5. Draw up a draft constitution (Instrument of Government) and agree it at a governing body meeting. For Voluntary Aided and Voluntary Controlled Schools, this also needs to be approved by the appropriate Diocesan Authority (See Appendix 2).

6. Forward the approved constitution (Instrument of Government) to the LA (Governor Development Service) so they can agree it and ‘make’ it.

7. Under your new constitution, consider who will remain in post as the LA governor, the two parent governors and the staff governor (other than the head). Foundation schools will also need to decide which partnership governors keep their positions, where the number is reducing. In Voluntary Aided and Voluntary Controlled schools, if there is a reduction in the number of foundation governors, the appointing body will also need to be approached to determine which foundation governors remain in post. This is a good time to openly evaluate the contributions each governor has brought to the current team.

8. Removing additional surplus governors (other than foundation governors) – any surplus in any other category of governor must be resolved by a separate vote of the governing body on each category in which there is a surplus. This vote must be specified as an item on the agenda issued seven days in advance of the meeting. Governors are not permitted to vote on their own category. The Chair has a casting vote if necessary. Governors declared surplus do not cease to hold office until votes are cast on all categories in which there is a surplus.
Surplus foundation governors

If reconstitution results in surplus foundation governors, the appointing body decides who will remain in post.

9. Consider how you will set about identifying and recruiting the co-opted governors to fill any vacancies.

10. Approach potential co-opted governors and ensure they understand what is entailed in accepting the role.

11. Arrange a full governing body meeting at which you elect your new members, new chair and vice-chair. Governors who stay in post continue their current term of office. The newly appointed co-opted governors start a new term of office.

Contact details

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## Appendix 1: A Summary of Maintained School Governing Body Constitution under the 2012 Constitution Regulations

<table>
<thead>
<tr>
<th>School Type</th>
<th>Foundation/trust governors</th>
<th>Partnership governors</th>
<th>Parent governors</th>
<th>Staff governors (including headteacher)</th>
<th>Local authority governors</th>
<th>Co-opted Governors</th>
</tr>
</thead>
<tbody>
<tr>
<td>Community(^1)</td>
<td>N/A</td>
<td>N/A</td>
<td>At least 2</td>
<td>Headteacher + 1</td>
<td>1</td>
<td>As determined by the GB and no more than 1/3 where they are also eligible to be elected as staff governors when counted with the staff governor and headteacher.</td>
</tr>
<tr>
<td>Foundation with no foundation(^2)</td>
<td>N/A</td>
<td>At least 2 but no more than ¼</td>
<td>N/A</td>
<td>Headteacher + 1</td>
<td>1</td>
<td>As determined by the GB and no more than 1/3 where they are also eligible to be elected as staff governors when counted with the staff governor and headteacher.</td>
</tr>
<tr>
<td>Foundation with a foundation that appoints a minority of the GB</td>
<td>At least 2 but no more than 45%</td>
<td>N/A</td>
<td></td>
<td>Headteacher + 1</td>
<td>1</td>
<td>As determined by the GB and no more than 1/3 where they are also eligible to be elected as staff governors when counted with the staff governor and headteacher.</td>
</tr>
<tr>
<td>Qualifying Foundation</td>
<td>Overall control of GB. A majority of up to 2 over all other categories of governor</td>
<td>N/A</td>
<td></td>
<td>Headteacher + 1</td>
<td>1</td>
<td>As determined by the GB and no more than 1/3 where they are also eligible to be elected as staff governors when counted with the staff governor and headteacher.</td>
</tr>
<tr>
<td>Voluntary controlled</td>
<td>At least 2 but no more than ¼</td>
<td>N/A</td>
<td></td>
<td>Headteacher + 1</td>
<td>1</td>
<td>As determined by the GB and no more than 1/3 where they are also eligible to be elected as staff governors when counted with the staff governor and headteacher.</td>
</tr>
<tr>
<td>Voluntary aided</td>
<td>Overall control of GB. Majority of 2 over all other categories of governor</td>
<td>N/A</td>
<td></td>
<td>Headteacher + 1</td>
<td>1</td>
<td>As determined by the GB and no more than 1/3 where they are also eligible to be elected as staff governors when counted with the staff governor and headteacher.</td>
</tr>
</tbody>
</table>

\(^1\) Including community special schools and maintained nursery schools  
\(^2\) Including foundation special schools
Appendix 2: Model Instrument of Government

1. The name of the school is ………………………………………………………………

2. VA, QF, VC, F

The school is a [insert category] school.

Also [If applicable] whether the school has a foundation, and whether the school is a qualifying foundation school.

3. The name of the governing body is "The governing body of………………….." [insert the name of the school as set out in paragraph 1. above].

4. 4. The governing body shall consist of:
   a. X parent governors
   b. One LA governor
   c. One staff governor
   d. One headteacher
   e. (if applicable) X foundation governors [at least two (but no more than 45%)], or
   f. X foundation governors [must outnumber the other governors by two], or
   g. X foundation governors [must outnumber the other governors by up to two], or
   h. X foundation governors [at least two (but no more 1/4)]
   i. [If applicable] X co-opted governors
   j. [If applicable] X partnership governors

5. Total number of governors [………including additional foundation governors where appropriate].

6. [Applicable if the term of office of one or more categories of governor is shorter than four years] The term of office of [category of governor] is [insert period between one and four years].

7. VA, QF, VC, F

Set out the name of any foundation body or person entitled to appoint foundation governors. If this is more than one person set out the basis on which appointments are made.

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3 For paragraph 4, the required number of governors by category are provided at Appendix 1 in this guidance.
8. 
(a) the holder of the following office shall be a foundation governor ex officio: [name of office] 
(b) the foundation body or person named in paragraph 8 shall be entitled to appoint a foundation governor to act in the place of the ex officio foundation governor whose governorship derives from the office named in (a) above, in the event that that ex officio foundation governor is unable or unwilling to act as a foundation governor, or has been removed from office under regulation 21(1) of the Regulations.

9. [Repeat 8(a) and (b) as necessary where there is more than one ex officio foundation governorship].

10. Set out the name of any person entitled to request the removal of any ex officio foundation governor and to appoint any substitute governor.

11. [Where the school has a trust] the fact that a trust exists.

12. [If the school has a religious character] a description of the ethos of the school.

13. This instrument of government comes into effect on […].

14. This instrument was made by order of ……………………….. Local Authority on ………………………..

15. A copy of the instrument must be supplied to every member of the governor body (and the headteacher if not a governor), any trustees and to the appropriate religious body.

Key:

VA - Voluntary Aided
VC - Voluntary Controlled
QF - Qualifying foundation
F - Foundation

All other clauses are mandatory for all schools.