RECONSTITUTING YOUR GOVERNING BODY
Objectives of the session

To:

• become familiar with the regulations regarding mandatory reconstitution
• clarify the process required to achieve this
• consider the role of the GB and their Clerk in this process
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WHY IS THIS NECESSARY?

The government requires all governing bodies to reconstitute by 1st September 2015.
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WHY ARE THEY DOING THIS?
To make certain GBs are no larger than they need to be, to ensure:

• The size & structure allows all members to contribute relevant skills and experience

• GBs are cohesive and dynamic and able to act more decisively
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WHAT IS REQUIRED?
A new Instrument of Government must be agreed and drawn up

WHO HAS RESPONSIBILITY IN THIS PROCESS?
• The Governors
• The Clerk
• Your Diocese (if applicable)
• The LA
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WHAT MUST THE GB DO?

• Discuss & agree required size of GB
• Agree term of office for Parent/Co-opted/Staff governors
• Agree effective date of new Instrument of Government
THE CORE MEMBERSHIP

Community Schools (minimum 7 governors)

Headteacher
Only 1 elected staff governor
Only 1 LA governor
Minimum of 2 elected parent governors

The remaining 2 core membership positions can be made up with either:
additional elected parent governors
coop- opted governors
or a mixture of both categories.

(N.B. The Community Governor category has been removed under the new regulations)

There is no maximum size for the GB, however only parent and co-opted governor positions can be added to increase the membership of a Community School.
**THE CORE MEMBERSHIP**

**Voluntary Controlled Schools (minimum 7 governors)**

- Headteacher
- Only 1 elected staff governor
- Only 1 LA governor
- Minimum of 2 elected parent governors

The remaining 2 core membership positions must be Foundation Governors.

There is no maximum size for the GB, however only Foundation, elected parent and co-opted governor positions can be added to increase the membership of a Voluntary Controlled School. However, Foundation governors cannot make up more than 25% of total membership where the number of governors exceeds the minimum membership of 7.
THE CORE MEMBERSHIP

Voluntary Aided Schools (minimum 12 governors)

Headteacher
Only 1 elected staff governor
Only 1 LA governor
Minimum of 2 elected parent governors

In a Voluntary Aided School there will need to be 2 more Foundation governors than the total membership of all other governor categories. Therefore the minimum number will be 12 governors (5+7). Therefore the remaining 7 core membership positions must be Foundation Governors

There is no maximum size for the GB (subject to Diocesan approval). However, where any additional elected parent or co-opted positions are added, the number of foundation governors must be increased accordingly (as above).
Co-opted Governors

The GB must agree a procedure for co-opting governors

The governing body of a Community School may add as many co-opted governors as it wishes to the core membership.

Voluntary Aided and Controlled Schools will need Diocesan approval for the number of co-opted governors they propose.

N.B. The number of co-opted governors eligible to be elected or appointed as staff governors must not (when counted with HT and 1 elected staff governor) exceed one third of the total membership.
Co-opted Governors

“....any person who is appointed as a governor by the governing body, and who, in the opinion of the governing body, has the skills required to contribute to the effective governance and success of the school”

Part 2 para. 11
TERMS OF OFFICE

A fixed period of four years from the date of election or appointment unless the Instrument of Government specifies a shorter term of office for a particular category
ASSOCIATE MEMBERS

CAN

- be appointed to a committee
- have voting rights for a committee*
- chair a committee if appropriate
- be appointed for a term of 1 – 4 years
- be removed by the GB at any time**
- attend full GB meetings
- be under 18 and/or pupil at the school (but cannot be given voting rights)
- access training if included in the subscription
- receive expenses

*GB needs to be specific regarding areas in which AMs may not vote e.g budget approval/admissions/appointment of govs/pupil discipline/exclusions if desired

**N.B. AMs can be disqualified in the same way as any other governor.
ASSOCIATE MEMBERS

Associate Members cannot:
☒ be appointed if disqualified as a governor
☒ vote at a full GB meeting
☒ be counted in a quorum for a meeting
☒ out number full governors on a committee

They also may not vote on certain decisions as agreed by the GB. These could include:
☒ Admissions
☒ Pupil discipline
☒ Election/appointment of governors
☒ Budget or financial commitments

Associate Members may be excluded from any part of a meeting when the item of business concerns an individual pupil or member of staff Part 4 Para 12(2)/Part 5 Para 25 (2)
Maintained Schools
- Who cannot be a governor?

- the clerk to that governing body
- a pupil at the school
- a Foundation/Authority/Co-opted or Partnership governor who has been disqualified is ineligible to stand in any category of governor at that school for a period of 12 months following disqualification

Someone who:

- is subject to a bankruptcy order or debt relief order
- has had their estate sequestrated and the sequestration order has not been annulled, discharged or reduced
- is disqualified under the Company Directors Disqualification Act 1986/ Insolvency Act 1986
- is listed by the Secretary of State as being unsuitable to work with children (see The School Governance (Constitution) (England) Regulations 2012 para 39)
- has served a prison sentence (see The School Governance (Constitution) (England) Regulations 2012 para 39 for more information)
- has been fined for causing a nuisance or disturbance on any school premises (during the last 5 years)
- refuses a DBS check (where it is a requirement of the GB)
Under the new constitution LA governors will be **nominated** by the Local Authority and **appointed** by the GB

“...having in the opinion of the GB the skills **required to contribute to the effective governance and success of the school and having met any eligibility criteria set by the GB”**

*Part 2 8(b)*
"... is elected.....as a governor by persons who are employed by either the governing body or the local authority under a contract of employment providing for those persons to work at the school and is so employed at the time of the election”
Part 2 paras. 7(a) & (b)
GBs should conduct ‘informed’ parent and staff elections. The following are suggested by the government as information to be given to potential candidates for a parent or staff election:

- The core functions of the GB and the role of the governor, and the induction and other training that will be available to new governors to help them fulfil it
- The expectations they have of governors for example in relation to the term of office, the frequency of meetings, membership of committees and willingness to undertake training
- Any specific skills or experience that would be desirable in a new governor such as willingness to learn or skills that would help the GB improve its effectiveness and address any specific challenges it may be facing
Deciding on the size of your new GB

- What working structure do you need e.g. committee numbers
- Does current size work?
- Do you need more/fewer governors?
- Would the GB be more effective with a different structure?
- Do you have problems recruiting governors?
- Agree term of office for Parent/Co-opted/Staff governors
- Agree effective date of new Instrument
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WHAT MUST THE CLERK DO?

• Minute all discussions and record the GB’s decisions
• Prepare draft Instrument of Government
• Refer decision to diocese for approval where applicable
• Send minutes recording decision to LA with draft Instrument. Where applicable also send copy of Diocesan approval to: governor.reconstitution@westsussex.gov.uk
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WHAT MUST THE DIOCESES DO?
They must approve the new Instrument before it is sent to the Local Authority
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WHAT MUST THE LOCAL AUTHORITY DO?

• The LA must consider whether or not the new Instrument complies with relevant legal requirements

• Legal Services will then sign off the Instrument

• The LA will send a copy of the new Instrument to the clerk for dissemination to governors
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TIMELINE – COMMUNITY SCHOOLS

• Meet to discuss options for composition of GB
• Set a second meeting to agree new composition and model instrument of government
• Set date for reconstitution (minimum 6 weeks in advance)
• Clerk to remit proposed model instrument and minutes to LA
• LA will produce final sealed instrument of government
• Consider recruitment for any vacancies occurring
• Consider arrangements for any surplus membership
• GB to meet following date of reconstitution to appoint co-opted governors
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TIMELINE – VOLUNTARY AIDED/CONTROLLED SCHOOLS

• Meet to discuss options for and agree composition of proposed GB
• Set date for reconstitution
• Clerk to remit proposal to appropriate diocese
• Clerk to remit paperwork to LA
• Consider recruitment for any vacancies occurring
• Consider arrangements for any surplus membership
• Appointment of co-opted governors following date of reconstitution
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Current GB decides on new GB membership number i.e. new IOG

Current GB then decide who will transfer to the new membership by a process of negotiation and possible skills audit
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HOW DO WE FIT EXISTING GOVERNORS INTO THE NEW MEMBERSHIP?

Currently serving governors can move across to the equivalent category in the new membership i.e. Parent, Staff, LA and Foundation governors. They will then see out their current term of office. Governors changing to a new category will begin a new term of office from the date of appointment or election.
Surplus Governors

Where the current GB has more governors in the parent, staff and LA categories than provided for in the new instrument and this cannot be resolved by resignations, the following may be used:

• Skills Audit can be used to decide who to appoint
• ‘Juniority’ rule (where reconstitution occurs prior to 1/9/15)
• A vote of the GB (for each separate category)
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Where a vote to decide on surplus governors is required:

- Vote must be specified as an item on the agenda 7 days in advance of the meeting
- Governors are not permitted to vote on their own category
- The chair will have 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
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Surplus Foundation Governors

Any surplus in the number of foundation governors must be resolved by the person responsible for appointing foundation governors. They will decide on the basis of which governors are best skilled to contribute to the effective governance and success of the school and to secure the purposes for which they were appointed as a foundation governor.
When to fill any vacancies

Where the new IOG would create elected parent governor vacancies, arrangements to fill those vacancies can be made by the current GB prior to the date of reconstitution, with terms of office effective from that date.

Co-opted vacancies cannot be filled until the first meeting of the core membership of the new GB following the date of reconstitution.
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SUMMARY

• All must be completed for 1st Sept 2015
• Agree size of new GB
• Current GB decides on membership arrangements, such as who will move across to the new GB
• Agree effective date of reconstitution
• Agree and submit model instrument
• New GB meets to appoint co-opted governors after date of reconstitution
• Inform LA of all new appointments and elections
USEFUL LINKS

The School Governance (Constitution) (England) Regulations 2012

The School Governance ( Roles, Procedures and Allowances)(England) Regulations 2013

Governors Handbook May 2014