



Governors' Committee Responsible:	Full Governing Body
Nominated Lead Member of Staff:	Headteacher
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The School Governance (Constitution) (England) Regulations 2012

Background

The Education Act 2011 received Royal Assent on 15 November 2011. The changes to the constitution of governing bodies set out in the Act are **permissive and no governing body will be forced to change its constitution**. The new regulations will take effect from September 2012.

The School Governance (Constitution) (England) Regulations 2012 amend those of 2007 for governing bodies of maintained schools that decide to change their Instrument of Government from September 2012. The Regulations apply only in relation to maintained schools in England.

If your Governing Body is considering changing the Instrument of Government with effect from September 2012, please contact Governor Support on 01629 535769 if further clarification is needed.

There follows a brief digest of sections of the new regulations while awaiting DfE guidance: (numbering refers to that of the regulations)

Part 1

The School Governance (Constitution) (England) Regulations 2012 come into force on 1st September 2012.

These Regulations apply to a governing body if:

- (a) The governing body are constituted **under an Instrument of Government that takes effect on or after 1st September 2012; or**
- (b) Where the governing body are constituted under an instrument of government that takes effect before that date, the governing body or the local authority decide under the 2007 regulations that the instrument of government should be varied.

The current Constitution Regulations 2007 continue to apply to a governing body constituted under an instrument of government that takes effect BEFORE 1st September 2012.

Part 2

Staff Governors

The 2012 regulations clarify that a staff member is eligible to be elected as a staff governor if they are employed by the governing body or the local authority under a contract of employment to work at the school at the time of the election.

Local Authority Governors

In these regulations “local authority governor” means a person who:

- (a) is nominated by the local authority; and
- (b) is appointed as a governor by the governing body having, in the opinion of the governing body, met any eligibility criteria that they have set.

Foundation Governors

These regulations add that this is a person who, in the opinion of the person who is entitled to appoint the foundation governor, would be capable of achieving the purposes for which they would be appointed as a foundation governor.

Co-opted Governors

In these regulations “co-opted governor” means a 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 government and success of the school.

Part 3

Constitution of governing bodies under the 2012 regulations

The total membership of the governing body must be no fewer than 7 governors.

The governing body must include the following:

- (a) at least two parent governors;
- (b) the head teacher unless the head teacher resigns the office of governor;
- (c) one staff governor (only); and
- (d) one local authority governor (only)

The governing body may in addition appoint such number of co-opted governors as they consider necessary provided that the requirements in respect of governing bodies of foundation and voluntary schools are met.

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, must not exceed one third of the total membership of the governing body.

Additional requirements for foundation and voluntary schools

The governing body of a foundation school or a foundation special school which, in either case, does not have a foundation, must also include at least two (but no more than one quarter of the total) partnership governors.

The governing body of a foundation school or a foundation special school which, in either case, has a foundation but which is not a qualifying foundation school, must also include at least two (but no more than 45 percent of the total) foundation governors.

The governing body of a qualifying foundation school must also include such number of foundation governors as to outnumber all the other governors by up to two.

The governing body of a voluntary aided school must also include such number of foundation Governors as to outnumber all the other governors by two.

The governing body of a voluntary controlled school must also include at least two (but no more than one quarter of the total) foundation governors.

The number to be rounded up or down.

Surplus Governors

Where:

- (a) a maintained school has more governors of a particular category than are provided for by the instrument of government for the school; and
- (b) the excess is not eliminated by the required number of governors resigning.
- (c) such number of that category as is required to eliminate the excess must cease to hold office in accordance with paragraphs (2) and (3).

Governors must cease to hold office on the basis of juniority, 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.

Where governors have held office for an equal length of time, the selection of those who must cease to hold office must be done by drawing lots.

Any procedure set out in the instrument of government for the removal of excess foundation Governors does not apply in the circumstances set out in paragraph (1).

Part 4

Qualifications and disqualifications

A revised Qualifications and Disqualifications List is available in the [Governor Support section](#) of the Surrey website.

Schedule 3

Appointment of partnership governors

No person is eligible to be nominated for appointment, or to be appointed, as a partnership governor unless that person has the skills required to contribute to the effective governance and success of the school.