

EDUCATION (APPOINTMENT OF GOVERNORS) PANEL

11TH JUNE 2012

CHANGES TO CONSTITUTION OF SCHOOL GOVERNING BODIES FROM SEPTEMBER 2012

REPORT OF THE DIRECTOR OF CHILDREN'S SERVICES

1. **Introduction**

New school governance constitution regulations will come into force on 1st September 2012. This report sets out the arrangements for the constitution of governing bodies of maintained schools (including maintained nursery schools) with effect from that date. The revised regulations allow schools to choose a different constitutional model to that which currently exists. The regulations provide that the minimum size of a governing body shall be seven members.

It is important to note that, unlike in the past when new constitutional models are introduced, this is permissive legislation. This means that Governing Bodies can either choose to remain with their existing constitution or can agree to change to the new constitutional model with effect from 1st September or later. However, it also should be noted that any re-constitution of the Governing Body effected from 1st September or later must comply with the new regulations. This also applies to any decision to change the name of the school, as regulations require that any new instrument of government is made under the new regulations.

2. **School Governance (Constitution) Regulations 2012**

It is important to note that the following changes are optional with effect from 1st September 2012. There is no requirement for any Governing Body to change its constitution unless they wish to do so but if it is decided to make any change to the Governing Body constitution or vary the instrument of government for the school (including any change of name) this must be done in accordance with the new regulations.

Community Schools

- at least two elected parent governors
- the Headteacher (unless the Headteacher chooses not to be a governor)
- one elected staff governor (note that there is no preference for teaching or support staff – all staff are eligible)
- one Local Authority appointed governor (** - see note below)

In addition, to the above the Governing Body may have such number of 'Co-opted Governors' as they consider necessary (note the terminology – these were known as Community Governors from 1999, although they had previously been known as Co-opted governors from 1988-1999).

Unlike the existing regulations co-opted governors can include members of staff but the total number of staff on the Governing Body (including the staff governor place) must not exceed one third of the total membership of the Governing Body.

The minimum size of a Governing Body will be seven.

Voluntary Aided Schools

- at least two elected parent governors
- the Headteacher (unless the Headteacher chooses not to be a governor)
- one elected staff governor (note that there is no preference for teaching or support staff – all staff are eligible)
- one Local Authority appointed governor (** - see note below)

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 may in addition appoint such number of co-opted governors (which have not previously existed in the case of a Voluntary Aided School) as they consider necessary (provided that the condition is met that the Foundation Governors always outnumber the other categories by two).

In effect this means that the minimum size of a Voluntary Aided Governing Body will be twelve members.

Voluntary Controlled Schools

- at least two elected parent governors
- the Headteacher (unless the Headteacher chooses not to be a governor)
- one elected staff governor (note that there is no preference for teaching or support staff – all staff are eligible)
- one Local Authority appointed governor (** - see note below)

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.

In addition, to the above the Governing Body may have such number of 'Co-opted Governors' (note the terminology – these are currently known as Community Governors). Co-opted Governors can include staff but the total number of governors who are staff cannot exceed one-third of the total number of governors.

3. Surplus Governors

Under the new Regulations, if, as a result of changes to the Governing Body composition, there are governors surplus to the new Instrument of Government, those governors would not serve out their term of office.

Decisions on who will remain will be based on length of service with the Governing Body. The governor whose period of continuous service is the shortest will be the first to cease to hold office. If there is equal length of service this must be decided by drawing lots.

4. Local Authority Governor appointments

The main point to note is that the number of Local Authority Governor places will reduce significantly in the case of any school that chooses to re-constitute.

There is a new provision for the Governing Body to stipulate eligibility criteria for Local Authority governors. The Local Authority will nominate candidates and these will then be appointed by the Governing Body. It should be noted that this only applies to Governing

Bodies who re-constitute under the new regulations and not to those Governing Bodies who retain the existing stakeholder model of governance.

5. Issues for consideration

Members are invited to discuss the implications of these changes to Governing Body constitution arrangements with specific emphasis upon the process for Local Authority Governor appointments.

It is notable that, like all Local Authorities, we will inevitably have a situation where two systems of Governing Body constitution will be running concurrently with some schools remaining on the existing stakeholder model of constitution and some schools constituted on the basis of the new regulations.

One aspect of this to consider is how majority and minority parties will be represented where schools only have one Local Authority Governor place.

Another aspect to consider is, where a school has moved to the new constitution arrangements, they now have the option of setting their own criteria for Local Authority Governor appointments. This means that they can effectively reject a candidate nominated by the Local Authority.

Members are asked to consider how this change will impact on the rules and procedures of the Council's appointment system and the operation of the Education (Appointment of Governors) Panel in the future.

Background papers

School Governance (Constitution) (England) Regulations 2003

Consultation on the School Governance (Constitution) (England) Regulations 2012

