

# Guidance for Catholic Maintained Schools in the Diocese of Arundel & Brighton

## Reconstitution of Governing Bodies of Maintained Schools in England by 1 September 2015

### *Introduction*

The School Governance (Constitution and Federations) (England) (Amendment) Regulations 2014 (“The Amendment Regulations 2014”), due to come into force on 1 September 2014, require that governing bodies of all maintained schools in England must be reconstituted under The School Governance (Constitution) (England) Regulations 2012 (“the 2012 Regulations”) by 1 September 2015.

A handful of governing bodies in the Diocese are already constituted under the 2012 Regulations. Since 1 September 2012, all newly established governing bodies of maintained schools were constituted under the 2012 Regulations. A maintained school established before that date will be constituted under The School Governance (Constitution) (England) Regulations 2007 unless, since that time, it has varied its Instrument of Government so as to reconstitute under the 2012 Regulations.

### *What do the Amendment Regulations 2014 mean for governing bodies?*

All maintained schools in England not constituted under the 2012 Regulations must reconstitute by 1 September 2015. As part of the reconstitution process, governing bodies must review their membership, in light of the requirements in terms of size and composition, contained in the 2012 Regulations. They must also ensure that *they are no bigger than they need to be to have all the skills necessary to carry out their functions* in compliance with the amendments introduced by virtue of the Amendment Regulations 2014.<sup>1</sup> Schools already constituted under the 2012 Regulations, should also carry out a skills audit and review their membership, even if they do not reconstitute.<sup>2</sup>

The 2012 Regulations have been amended so as to require that governors must have, in the opinion of the person appointing them, the skills necessary to contribute to the effective governance and success of the school.

Governing bodies are required to identify any skills gaps which may need to be filled, either by training of existing governors and/or by recruitment of governors with the relevant skills and experience to meet the identified needs of the governing body. In order to fulfil the new requirements for governing bodies to be no bigger than they need to be to have the skills necessary to carry out their functions, and the new emphasis on skills and experience, governing bodies need to carry out ‘skills audits’ to assess the existence and standard of skills and experience across the governing body. Where vacancies arise on a governing body, a key consideration in the appointment and election of all new governors is i) the skills and experience that the governing body needs in order to be effective and ii) how any potential governor can meet those needs.

The CES has therefore produced a skills audit for use by Catholic schools which incorporates the skills, knowledge and experience which is mandatory or desirable for governors of a Catholic school. This has been

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<sup>1</sup> *The constitution of governing bodies of maintained schools: Statutory guidance for governing bodies of maintained schools and local authorities in England* (“Statutory Guidance”), May 2014, paras.4-5.

<sup>2</sup> Statutory Guidance, paras. 7 & 13.

very slightly amended by the Diocese. The CES skills audit is being distributed with this document and will be available on the Diocesan website, together with this Guidance.

As part of the process of reconstitution, maintained schools will need to amend their existing Instrument of Government to reflect the requirements prescribed in the 2012 Regulations. **The recommendation of the CES is that governing bodies wait until after the Amendment Regulations 2014 come into force (i.e. on 1 September 2014) to reconstitute so that the governing body meets the requirements in relation to skills. If any school wants to reconstitute before the Amendment Regulations 2014 come into force, they will need to speak to Simon Parr at the Diocesan Education Service as a different procedure applies.**

The governing body should review its size and governor skill sets to determine the appropriate constitution of the governing body under the 2012 Regulations. Statutory guidance requires governing bodies to review their size/membership regularly to ensure effectiveness. Re-evaluation is particularly important at times when things are not going well at the school e.g. following a poor Diocesan or Ofsted inspection or a recommendation for an external review of the governing body. The governing body must undertake the skills audit as part of the reconstitution process and will need to submit the skills audit for all foundation governors to the Diocese.

Attached is a model Instrument of Government which the governing body should use as a basis to draft the governing body's new constitution under the 2012 Regulations. Once the governing body and foundation governors have settled on the new constitution, the draft should be returned to the Diocese, confirming the approval of the Instrument both by the governing body and foundation governors. This should be done by the chair of governors completing the declaration in the first box on the reverse of the draft instrument. Guidance notes on Model Instruments of Government for Catholic Schools are set out in Appendix A.

If there are any queries, the Diocese will take these up with the school. The Diocese will then formally approve the draft Instrument. This will be done by the Director of the Diocesan Education Service completing the declaration in the second box on the reverse of the draft instrument and submitting the approved draft instrument to the Local Authority (with a copy sent to the school). Once formally made, the Local Authority will send a copy of the final instrument to the school and the Diocese.

Governing bodies are entitled to reconstitute on any date up to 1 September 2015. It is up to the governing body, in consultation with the Diocese and the Trustees, to determine the most effective and suitable date for reconstitution as part of this process. Where an assessment of your governing body needs will result in a surplus of governors which is not eliminated by the required number of governors resigning, you will need to ensure that the following action is taken:

- a) You must submit to the Diocese the skills audits completed by all foundation governors in order that the Diocese can decide which, if any, foundation governor(s) should be removed and will take the necessary action to remove such foundation governor(s);
- b) In respect of all other categories of governor, that the governing body follow the statutory procedure for removal of surplus governors (as prescribed by Regulation 15 of the 2012 Regulations (as amended by the Amendment Regulations 2014)) by holding a vote in respect of each category in which there are excess governors. Governors must not vote in respect of their own category and no governor ceases to hold office until the votes on all categories are cast.

Once the governing body has submitted and received back the final Instrument of Government made by order of the local authority, the governing body must check the Edubase database to ensure that all the school's details recorded on the Edubase database are correct, and particularly that the school's name appears *exactly* as it does on the Instrument of Government and that the religious designation is correct.

If you have any questions relating to reconstitution, please contact Simon Parr at the Diocesan Education Service ([simon.parr@dabnet.org](mailto:simon.parr@dabnet.org)) or 01293 511130.

## APPENDIX A

### Guidance Notes on the Model Instrument of Government for Catholic Schools in the Diocese

#### **Introduction**

The Diocese has provided for schools (see attached) a model Instrument of Government applicable to your school. This guidance serves to describe the content of the Instrument of Government to assist you to check its content.

#### **Re 1: Name of the School**

The governing body should check that the school's name set out in the draft Instrument of Government is accurate, no longer contains any unnecessary or inappropriate terms and clearly identifies the school as a Catholic school. Please contact the Diocesan Education Service if you have any questions.

#### **Re 2: The 'Ethos Statement'**

The 'ethos statement' is a legal statement about the nature of the school – it is a statement which is legally correct for every Catholic school. The 'ethos statement' for Catholic schools appears after the name of the school in the model Instrument.

#### **Re 3: Category of the School and the nature of its Foundation**

The Instrument contains a statement that the school is voluntary aided, the identity of its Trustees (the schools 'foundation') and the fact that this makes it an exempt charity. Where possible it will include the principal objects set out in the trust deed.

#### **Re 4: Name of Governing Body**

The law requires the Instrument to give the name of the governing body. This is simply "The governing body of ...." followed by the name of the school exactly as set out in paragraph 1 of the Instrument.

#### **Re 5: Composition of Governing Body**

The Instrument must set out the composition of the governing body, to comprise the following:

- (a) such number of foundation governors as to outnumber all the other governors by 2
- (b) 2 parent governors\*;
- (c) the head teacher (unless the head teacher resigns from office as governor in accordance with the provisions of the 2012 Regulations);
- (d) 1 staff governor\*\*;
- (e) 1 LA governor; and
- (f) such number of co-opted governors\* as the governing body considers necessary.

Statutory Guidance requires schools to keep the size of their governing body to a minimum.

\*Where a school requires a larger governing body to maximise their skill-set (which is an area upon which the school will be judged by Ofsted), it is strongly recommend that the additional governors are *co-opted governors* rather than any other category of governor as set out in Models B-E in the table below:

Type of Governor	No of Governors in category				
	Model A	Model B	Model C	Model D	Model E
Foundation	7	8	9	10	11
Parent	2	2	2	2	2
Head teacher	1	1	1	1	1
Staff	1	1	1	1	1
Local Authority	1	1	1	1	1
Co-opted	0	1	2	3	4
<b>TOTAL SIZE OF GB</b>	<b>12</b>	<b>14</b>	<b>16</b>	<b>18</b>	<b>20</b>

**\*\*Appointment of staff as co-opted governors:** It is recommended that the number of staff governors is kept to a minimum to avoid conflicts of interests arising. In any event, the total number of co-opted governors who are also eligible to be elected as staff governors, when counted with staff governors and the head teacher, must not exceed 1/3 of the total membership of the governing body.

(Federations: the Federation Regulations provide that governing bodies of federations must contain: foundation governors outnumbering all the others by 2; one parent governor for each school; the head teacher of each school; one staff governor and one local authority governor. Once again, where a federation requires a larger governing body, it is strongly recommend that the additional governors are *co-opted governors*.)

***Re 6: Total Number of Governors***

The Instrument must set out the total number of governors.

***Re 7: Appointor of Foundation Governors***

The draft Instrument of Government names the person who is entitled to appoint and remove the foundation governors. In schools within the trusteeship of the Diocese this is the diocesan bishop.

***Re 8: Term of office***

The term of office for foundation governors will be four years. It is possible for the term of office to be shorter for other categories of governor.

***Re 9: The Instrument coming into effect***

The latest date for the Instrument to come into effect is 1 September 2015. The Diocesan Education Service will work with schools and the applicable local authority to set a realistic date for the when the Instrument comes in to effect.

***Re 10: Approval by the Diocese and the date of 'making' the Instrument by the Local Authority***

The Diocese will insert the date approved into the draft Instrument submitted to the Local Authority. It will also complete the second box on the reverse of the draft Instrument to confirm this. The Diocese will send a copy of the draft instrument approved by the Diocese to the school. The Local Authority will insert the date of making in the finalised instrument

***Re 11: Copies of the Instrument***

The Local Authority will send copies of the finalised Instrument to the school and the Diocese. A copy must be sent to every member of the governing body and the head teacher (if not a governor).

**DIOCESE OF ARUNDEL AND BRIGHTON****Local Authority:** [name of applicable LA]**Instrument of Government for VOLUNTARY AIDED SCHOOLS****(Issued under 2012 Regulations)**

1. The name of the school is [*name of School*].
2. The School was founded by and is part of the Catholic Church. The School is to be conducted as a Catholic School in accordance with Canon Law and the teachings of the Catholic Church, and in accordance with the Trust Deed of the Diocese of Arundel and Brighton and in particular:
  - (a) religious education is to be in accordance with the teachings, doctrines, discipline and general and particular norms of the Catholic Church;
  - (b) religious worship is to be in accordance with the rites, practices, discipline and liturgical norms of the Catholic Church;and at all times the school is to serve as a witness to the Catholic faith in Our Lord Jesus Christ.
3. The School is a voluntary aided school in the trusteeship of the Diocese of Arundel and Brighton and is an exempt charity for advancing the Catholic religion in the Diocese in such ways as the Bishop shall direct.
4. The name of the governing body is: The Governing Body of [*name of School*].
5. The governing body shall consist of:
  - (a) X foundation governors;
  - (b) two parent governors;
  - (c) one head teacher;
  - (d) one staff governor;
  - (e) one local authority governor[;
  - (f) Y co-opted governors].
6. Total number of governors: [5+X+Y]
7. Foundation governors shall be appointed and may be removed by the Bishop of the Diocese of Arundel and Brighton (or any other person exercising Ordinary jurisdiction in his name including, where the See is vacant or impeded, the person or persons on whom the governance of the See has devolved).
8. The term of office for all governors is four years.
9. This Instrument of Government comes into effect on [*date*].
10. This Instrument of Government was approved by the Diocese of Arundel and Brighton on [*date*] and made by order of [*name of local authority*] on [*date of making*].
11. A copy of this Instrument of Government must be supplied to the Trustees of the Diocese of Arundel and Brighton in accordance with the school's Trust Deed, to the Director of the Diocesan Education Service and to every member of the governing body (and any head teacher if not a governor).

**RECONSTITUTION OF THE GOVERNING BODY**  
Under the School Governance (Constitution) (England) Regulations 2012

**DECLARATION**

I can confirm that this draft Instrument has been:

- Approved by the Foundation Governors      Date: \_\_\_\_\_

and - Approved by the Governing Body      Date: \_\_\_\_\_

and is hereby submitted for approval by the Bishop and the Trustees

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

Chair of Governors, on behalf of the Governing Body of \_\_\_\_\_

\_\_\_\_\_

**DECLARATION**

I confirm that this draft Instrument has been approved by the Bishop and Trustees of the Diocese of Arundel & Brighton.

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

On behalf of the Bishop and Trustees of The Diocese of Arundel & Brighton