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**Further information**

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**GUIDANCE ON THE ESTABLISHMENT AND GOVERNMENT OF NEW SCHOOLS**

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**PART 1**

**Guidance on the Establishment and Government of New Schools – Executive Summary**

1.1 Introduction

The aim of this document is to explain the provisions in the School Governance (New Schools) England Regulations 2007. The regulations came into force on 25 May 2007. From that date, the New Schools (General) (England) Regulations 2003(SI 1558) will no longer apply to temporary governing bodies.

Additional guidance may be put on DfES GovernorNet in due course (address: http://www.governornet.co.uk).

1.2 Size and make up of temporary governing bodies

The size of the temporary governing body ranges from a minimum of 9 to a maximum of 20. Within this range local education authorities (LEAs) can adopt the temporary governing body model of their choice, provided it complies with the guiding principles for the particular category of the new school. (See parts 3 and 4 for further information)

1.3 The guiding principles

The guiding principles prescribe which categories of governor must be represented on the temporary governing body and what the level of representation is for each of the categories. These are set out in part 4 and examples of constitutional models that comply with these principles are set out in annex A.

1.4 The instrument of government

Each new school must constitute the governing body in accordance with the instrument of government as soon as reasonably practicable after the school's opening date.  This document records the name of the school and the constitution of the governing body.  It is the temporary governing body's responsibility to prepare a draft instrument of government and submit it to the LEA.  (See part 7 and annex B for more detail).  A model instrument of government for each category of maintained school is attached at annex B.

**PART 2**

2. **Arrangements for the constitution of temporary governing bodies -** **Regulations 5 and 6**

2.1 Once proposals for a new school have been approved and the proposals must be implemented, the LEA must set up a temporary governing body for the new school in accordance with regulations 16-21 of the Regulations. LEAs can make arrangements to establish temporary governing bodies in anticipation that the proposals will be approved. This provision will be helpful, for example, where an approval is expected shortly before the proposed implementation date for the new school to open. See parts 3 and 4 about the different categories of temporary governors and the composition of temporary governing bodies.

2.2 Where two or more sets of proposals for the establishment of a new school have been published and a competition is being held, the LEA must not set up the temporary governing body in anticipation of proposals being approved until the result of the competition is known.

2.3 The LEA must consult the proposers where arrangements are being made for the establishment of a new voluntary controlled school. The LEA and the proposers must agree the arrangements where a new voluntary aided or foundation school is being established.

**Termination of arrangements**

2.4 Arrangements for setting up a temporary governing body will be terminated under the following circumstances:

* where the proposals are withdrawn;
* where the proposals are rejected by the LEA or the Adjudicator;
* where the LEA decides not to implement the proposals; or
* where the LEA or the Adjudicator decides that the proposals previously approved should not proceed.

**PART 3**

# Categories of temporary governor – Regulations 7 - 14

## The categories of governors serving on temporary governing bodies are:

* ***Temporary parent governors*** are appointed by the LEA from parents whose children are likely to become registered pupils at the new school or if that is not practicable, a person who has a child under or of compulsory school age. At new voluntary aided or a foundation schools (other than foundation special schools) proposed by proposers, the temporary parent governors will be appointed by the proposers. A person is disqualified from appointment as a temporary parent governor if they are an elected member of the LEA or if they work or are likely to work at the new school for more than 500 hours in any consecutive 12 month period.

Where one or more maintained schools are being discontinued and a substantial number of the pupils from the discontinued school or schools are expected to transfer to the new school the governing bodies of the discontinued schools can appoint some or all of the temporary parent governors of the new school.

* ***Temporary staff governors*** are individuals who work at LEA maintained schools. They should be appointed by the temporary governing body. At new voluntary aided or foundation schools established by proposers, the temporary staff governors must be nominated by the proposers before they can be appointed. At least one temporary staff governor must be a teacher unless no school teacher is willing to serve. Where there are three or more temporary staff governor places, one place should be filled by a non-school teacher unless no such person is willing to serve.

The head teacher or head teacher designate is a member of the temporary governing body by virtue of their office and counts as a member of the staff category.

Where one or more maintained schools are being discontinued and a substantial number of the pupils from the discontinued school or schools are expected to transfer to the new school the governing bodies of the discontinued schools can appoint some or all of the temporary staff governors of the new school.

* ***Temporary LEA governors*** are appointed by the LEA. LEAs can appoint any eligible person but they are encouraged to appoint high calibre governor candidates to new schools that need most support and to appoint candidates irrespective of any political affiliation or preferences.
* ***Temporary community governors*** are appointed by the LEA to represent wider community interests. The definition of temporary community governor is wide and can include people from a business or professional background and minor authority nominees who are committed to the good governance or success of the new school.
* Where a new special school is to be established in a hospital, one temporary community governor place should be allocated for appointment by the LEA from the appropriate body most closely connected with the new school, for example a primary care trust, the National Health Service Trust or NHS foundation trust. Where a new special school is not to be established in a hospital, one temporary community governor place should be filled by a person nominated by the appropriate voluntary organisation concerned with matters for which the school is specially organised.
* ***Temporary foundation governors*** are appointed in accordance with the agreed arrangements set out in the draft instrument of government of new schools which will be voluntary schools or foundation schools which have a foundation. Where the new school will have a religious character, the temporary foundation governors will be appointed for the purposes of securing that the religious character of the new school is established and developed. Where a new school has a trust deed, the temporary foundation governors will ensure that the school operates in accordance with that trust deed.
* ***Temporary partnership governors*** are appointed on temporary governing bodies of foundation or foundation special schools which do not have a foundation. Where such a school is established by the LEA, the temporary partnership governor will be appointed by the LEA. In other cases the proposers will nominate the appointees who will be appointed by the temporary governing body. Nominations for temporary partnership governors must be sought from the community the new school will serve or they should be people who are committed to the success of the school.

***Temporary sponsor governors*** may be appointed by the temporary governing body following nominations by the sponsors of the new school (if any). Sponsors are persons who provide or have provided the new school with considerable support, financial or in kind or provide the new school with substantial services. The sponsor must not be a person entitled to appoint the temporary foundation governors nor connected to such a person. For these purposes, a person is connected to a person entitled to appoint the foundation governors if he is a partner or relative (including a spouse or someone living with that person as if he or she were that person’s spouse) or where either or both persons are a body corporate and one owns at least one-fifth of the share capital of the other’s company or is entitled to exercise or control the exercise of more than one-fifth of the voting power of the other at any company general meeting.

The temporary governing body may appoint up to two temporary sponsor governors in a new primary school or up to four temporary sponsor governors in a secondary school from nominations put forward by the sponsor or sponsors.

3.2 In addition to temporary governors, persons interested in contributing to the work of temporary governing bodies can be appointed as temporary associate members. Associate members are not governors. They can attend meetings of the temporary governing body but they do not have voting rights at these meetings. They can be given voting rights at committee meetings but will not be able to vote on staffing, finance, admissions and discipline matters and on election or appointment of temporary governors.

**Requirement in appointing all temporary governors**

3.3 In appointing members or nominating candidates for membership of the temporary governing body of new schools, the LEA and other appointing or nominating bodies should ensure that the individuals being appointed or nominated have relevant experience which will contribute to the success of the new school.

**Eligibility to serve as temporary governors**

## 3.4 See Part 5.

**PART 4**

# Composition of temporary governing bodies – Regulations 15-21

## The LEA will determine the size of the temporary governing body of a new school which must comprise at least 9 but no more than 20 temporary governors. Where the new school has been proposed by proposers, it would be good practice for the LEA to consult the proposers before determining the size of the temporary governing body.

## The guiding principles prescribing which categories of governor must be represented on the temporary governing body of each category of school and the level of representation for each category of governor are shown in the tables. Examples of constitutional models are set out in annex A.

## The temporary governing body of a nursery, community or community special school will consist of the following:

|  |  |
| --- | --- |
| temporary parent governors | at least one-third  |
| temporary staff governors | at least 2 but no more than one-third, including the head teacher |
| temporary LEA governors | one-fifth |
| temporary community governors  | one-fifth or more |

## The temporary governing body of a foundation or foundation special school without a foundation will consist of the following:

|  |  |
| --- | --- |
| temporary parent governors | at least one-third  |
| temporary staff governors | at least 2 but no more than one-third, including the head teacher |
| temporary LEA governors | at least one but no more than one-fifth |
| temporary community governors  | at least one-tenth |
| temporary partnership governors | at least 2 but no more than one-quarter |

## The temporary governing body of a foundation or foundation special school which will have a foundation but will not be a qualifying foundation school will consist of the following:

|  |  |
| --- | --- |
| temporary parent governors | at least one-third  |
| temporary staff governors | at least 2 but no more than one-third, including the head teacher |
| temporary LEA governors | at least one but no more than one-fifth |
| temporary community governors  | at least one-tenth |
| temporary foundation governors | at least 2 but no more than 45 percent  |

## The temporary governing body of a qualifying foundation school will consist of the following:

|  |  |
| --- | --- |
| temporary parent governors | at least one  |
| temporary staff governors | at least 2 but no more than one-third, including the head teacher |
| temporary LEA governors | at least one but no more than one-fifth |
| temporary community governors  | at least one-tenth |
| temporary foundation governors | These must outnumber the other governors by up to 2 and must include such number who are eligible for appointment as temporary parent governors that, when counted with the temporary parent governors, comprise at least one third of the total membership of the temporary governing body  |

## The temporary governing body of a voluntary aided school will consist of the following:

|  |  |
| --- | --- |
| temporary parent governors | at least one  |
| temporary staff governors | at least 2 but no more than one-third, including the head teacher |
| temporary LEA governors | At least one but no more than one-tenth |
| temporary foundation | These must outnumber the other governors by 2 and must include such number who are eligible for appointment as temporary parent governors that, when counted with the temporary parent governors, comprise at least one third of the total membership of the temporary governing body  |

## The temporary governing body of a voluntary controlled school will consist of the following:

|  |  |
| --- | --- |
| temporary parent governors | at least one-third  |
| temporary staff governors | at least 2 but no more than one-third, including the head teacher |
| temporary LEA governors | at least one but no more than one-fifth |
| temporary community governors  | at least one-tenth |
| temporary foundation | at least 2 but no more than one-quarter |

## In addition, temporary governing bodies of all categories of school can appoint up to two temporary sponsor governors if the school is to be a primary school or up to four temporary sponsor governors if the school is to be a secondary school. Temporary governing bodies of new qualifying foundation schools and new voluntary aided schools appointing temporary sponsor governors must also appoint an equal number of additional temporary foundation governors to maintain their majority. Temporary sponsor and temporary additional foundation governors are not counted in determining the size of temporary governing bodies.

**PART 5**

# Tenure of office and disqualifications – Regulations 22 - 27

## A temporary governor can resign at any time by giving written notice to the clerk to the temporary governing body. A person will not be disqualified for appointment as a particular category of temporary governor because he is also eligible for appointment in another category.

## A temporary parent governor does not have to resign if they no longer have a child at a maintained school, whereas a temporary staff governor is required to resign when they cease to work at a maintained school.

## A temporary governor must be aged 18 or over at the time of their election or appointment and must not be (or likely to become) a registered pupil at the school. A person is disqualified from being a temporary governor or temporary associate member if they:

* have a mental disorder and are detained under the Mental Health Act 1983;
* already hold a temporary governorship at the same school;
* are the subject of a bankruptcy restrictions order or an interim order or their estate has been sequestrated and the sequestration has not been discharged, annulled or reduced;
* are subject to a disqualification order or disqualification undertaking under the Company Directors Disqualification Act 1986, a disqualification order under Part 2 of the Companies (Northern Ireland) Order 1989, a disqualification undertaking accepted under the Company Directors Disqualification (Northern Ireland) Order 2002, or to an order made under section 429 (2)(b) of the Insolvency Act 1986;
* have been removed from the office of trustee for a charity by the Charity Commissioners or High Court on grounds of any misconduct or mismanagement**,** or under section 34 of the Charities and Trustee Investment (Scotland) Act 2005 from being concerned in the management or control of any body;
* are included in the list of teachers or workers considered by the Secretary of State as unsuitable to work with children or young people;
* are disqualified from working with children or from registering for childminding or providing day care;
* are disqualified from being an independent school proprietor, teacher or employee by the Secretary of State;
* have been sentenced to 3 months or more in prison (without the option of a fine) in the 5 years before becoming a temporary governor or since becoming a temporary governor;
* have received a prison sentence of 2 years or more in the 20 years before becoming a temporary governor;
* have at any time received a prison sentence of 5 years or more;
* have been fined for causing a nuisance or disturbance on school premises during the 5 years prior to or since appointment or election as a temporary governor; and
* refuse to an application being made to the Criminal Records Bureau for a criminal records certificate.

**Removal from office**

## Any temporary governor who was appointed may be removed from office by those who appointed him. A temporary governing body’s decision to remove a temporary governor must be confirmed at a second meeting not less than 14 days after the first meeting and at both meetings the removal of the temporary governor in question must be specified as an item of business on the agenda.

## In the case of the removal by the temporary governing body of a temporary parent governor or temporary partnership governor, or the removal of a temporary sponsor governor or temporary staff governor (other than the head teacher) the person(s) proposing the removal must give their reasons and the temporary governor concerned proposed for removal must be given the opportunity to make a statement.

## Expenses and provision of information in relation to temporary governors

## The LEA has a duty to defray expenses incurred in relation to any temporary governing body (as it would for a permanent governing body) and provide free explanatory and other information needed to support the temporary governing in discharging its functions effectively.

**PART 6**

# General conduct of new schools – Regulations 30-51

## Temporary governing bodies have most of the powers and duties of permanent governing bodies except for some modifications. They have a duty to deal with matters relating to the conduct of the school which are required to be determined both before the opening date and before a permanent governing body is constituted.

## They also have powers to do anything which appears to them necessary and expedient for the purposes or in connection with the conduct of the school. For example, they have power to enter into contracts. These powers will be particularly relevant to temporary governing bodies which have a delegated budget. A temporary governing body which does not have a delegated budget may not exercise these specific powers without the agreement of the local education authority or the proposers, as appropriate.

**Execution of documents by the temporary governing body – Regulation 32**

## The chair has power to make and issue formal documents on behalf of the temporary governing body, although the vice-chair can stand in for him or her where that is not practicable.

**Curriculum matters – Regulation 33**

## In preparing to discharge his/her functions under Part 6 of the 2002 Act in relation to the curriculum for the school, the head teacher of a new school must consult the temporary governing body and the local education authority.

**School terms, holidays and sessions – Regulation 34**

## In the case of a new school which will be a community, voluntary controlled, community special school or maintained nursery school, the LEA should decide when the dates of the school term and holidays will be. The temporary governing body should decide the times of the school sessions after consultation with the LEA. In the case of a proposed new school which will be a foundation, voluntary aided or foundation special school, the temporary governing body determines both the dates and times of the school terms and holidays and the times of the school sessions.

**Discipline – Regulation 30**

## Temporary governing bodies must prepare, in consultation with the head teacher or head teacher designate, a written statement of general principles on behaviour and discipline. In designing the policy, temporary governing bodies do not need to consult parents of registered pupils at the school.

**Reports and Information**

## All reports and information relating to the discharge of their functions must be provided by the temporary governing body to the LEA as and when required. The head teacher must provide the temporary governing body or the LEA with similar reports and information in connection with the discharge of his or her functions. The LEA must inform the temporary governing body where it requires such reports and information from the head teacher. Where the head teacher prepares any such report, it must be copied to the temporary governing body.

**Consultation on expenditure**

## Where a new school does not have a delegated budget, it would be good practice for the LEA should to consult the temporary governing body and the head teacher on any proposals for expenditure on books, equipment and stationery for the school.

**Appointment of the chair and vice chair of the temporary governing body – Regulation 35**

## The temporary governing body must elect a chair and a vice chair at their first meeting. There are no regulations prescribing the election process as we believe that LEAs and members of temporary governing bodies are best placed to decide how to organise this. Temporary governors who are paid to work or are likely to work at the school, for instance the head teacher and temporary staff governors, cannot be elected as chair or vice chair. A pupil or a person likely to become a pupil at the new school cannot be elected as chair or vice chair. The chair and vice chair can resign at any time by writing to the clerk.

## If the office of chair or vice chair becomes vacant, the governing body must elect a new chair or vice chair at the next meeting. If the chair is absent from a meeting, or if the office of chair is vacant, the vice chair will act as chair for all purposes.

**Delegation of functions to the chair and vice chair in cases of urgency -Regulation 36**

## The chair or vice chair has the power to carry out any function of the temporary governing body if a delay in exercising the function is likely to be seriously detrimental to the interests of the new school, a pupil (or a person likely to become a pupil) at the school or their parents, or a person who works (or likely to work) at the school.

**Removal of chair or vice chair from office - Regulation 37**

## The temporary governing body can remove the chair or vice chair from office. A resolution to remove the chair or vice chair from office must be an agenda item for a governing body meeting and the agenda must be circulated to members of the temporary governing body at least seven days in advance of the meeting. The temporary governor proposing the removal must state his/her reasons for doing so at the meeting. The chair or vice chair must be given the opportunity to make a statement in response before he/she withdraws from the meeting and the temporary governing body votes on the proposal to remove the chair or vice chair from office.

**The clerk to the temporary governing body - Regulation 38**

## The LEA must appoint the first clerk to the temporary governing body of a new school which will be a community, community special, voluntary controlled, maintained nursery as well as that of foundation and foundation special schools proposed by the LEA. At new foundation and foundation special schools established by proposers and at new voluntary aided schools the first clerk will be appointed by the proposers. The first clerk can act as clerk to the school’s permanent governing body until a clerk is appointed.

## The clerk needs to work effectively with the LEA and members of the temporary governing body and is responsible for advising the temporary governing body on constitutional and procedural matters, duties and powers. The clerk is accountable to the temporary governing body. The clerk must not be a temporary governor, a temporary associate member or the head teacher of the new school. However, where the clerk is absent, the temporary governing body can appoint one of their numbers, save the head teacher, to act as clerk for that meeting.

**Functions of the clerk - Regulation 39**

## It is the clerk’s responsibility to:

* Convene meetings of the temporary governing body. We recommend that the first meeting of the temporary governing body should be called by the clerk or in default, by the LEA
* Attend meetings of the temporary governing body and their committees, and ensure minutes are taken
* Maintain minutes and ensure they are made available to interested persons
* Maintain a register of members of the temporary governing body and of temporary associate members and report vacancies to the temporary governing body
* Maintain a register of attendance and report this to the temporary governing body
* Give and receive notices in accordance with relevant regulations
* Advise the temporary governing body on its constitution, statutory duties and powers.

**Removal of the clerk - Regulation 40**

## The temporary governing body can remove their clerk or a clerk to a committee from office by resolution at a meeting of the temporary governing body. If a new school does not have a delegated budget, the local education authority may dismiss the clerk and appoint a substitute, but the authority must consult the temporary governing body before doing so.

**Rights of persons to attend meetings of the temporary governing body - Regulation 41**

## The following persons have a right to attend meetings of the temporary governing body:

* a temporary governor;
* the clerk to that meeting;
* the head teacher or head teacher designate (if he is not a governor). We recommend that where a substantial number of registered pupils from two or more closing schools are expected to transfer to a new school awaiting the appointment of a head teacher, the head teachers of the closing schools; and
* any other persons determined by the temporary governing body.

**Convening a meeting of the temporary governing body – Regulation 42**

## The temporary governing body is best placed to decide how often and for how long they need to meet. However, in order to perform their functions effectively, temporary governing bodies usually need to meet more often than permanent governing bodies because there are many decisions to take before the new school opens and soon afterwards.

## Meetings are convened by the clerk who takes directions from the temporary governing body and the chair. Any three members of the temporary governing body can request a temporary governing body meeting by giving written notice to the clerk that summarises the business to be conducted. The clerk must then convene a meeting as soon as is practicable.

6.20 The clerk must give each temporary governor, temporary associate member and the head teacher (if not a governor) written notice of a meeting, a copy of the agenda and any papers to be considered at the meeting at least seven days before the meeting. If the chair considers that there are matters that demand urgent consideration he/she can determine a shorter period of notice, but the period of notice must be at least seven days if the removal of the chair or the suspension of any temporary governor, or a decision on the name of the proposed school is to be considered

## Proceedings of the temporary governing body – Regulation 43

## 6.21 The quorum for a meeting of the temporary governing body is one-half of the membership of the temporary governing body rounded to the nearest whole number. Decisions are taken by a majority of votes and, where there is a tie, the chair or the person acting as chair has a second or casting vote (except in relation to the election of the chair).

## 6.22 No decision on the name of the proposed school shall have effect unless;

##  (a) the matter in question is specified as an item of business on the agenda for a meeting for which at least seven clear days notice has been given to each temporary governor, the headteacher or headteacher designate and each temporary associate member; and

##  (b) all members of the temporary governing body vote in favour of the name.

## 6.23 Where any temporary governor is unable to attend the meeting at which the name of the proposed school is to be considered, he may vote by proxy where such proxy is a temporary governor or temporary associate member whose appointment is in writing and signed by the temporary governor who is unable to attend.

## 6.24 If a temporary governing body has appointed temporary associate members, they have a right to attend any meeting of the temporary governing body and any committee meeting to which they are members. However, the temporary governing body or its committees may exclude an associate member from any part of their meetings at which the matter under discussion relates to a member of the school’s staff or one of its pupils.

**Minutes and papers - Regulation 44**

## 6.25 The clerk must ensure that minutes are drawn up and are signed by the chair at the next meeting.

## 6.26 The temporary governing body must make available for inspection to any interested person a copy of the agenda, signed minutes and reports or papers considered at the meeting as soon as is reasonably practicable. Information relating to a named person or any other matter that the temporary governing body considers confidential does not have to be made available for inspection.

**Restrictions on persons taking part in meetings and committees of the temporary governing body - Regulation 45**

## 6.27 The general principles are that:

* where there is a conflict between the interests of any person and the interests of the temporary governing body, that person should withdraw from the meeting and should not vote.
* in a situation where the principles of natural justice require a fair hearing and there is any reasonable doubt as to a person’s ability to act impartially, he/she should also withdraw from the meeting and not vote.
* examples of cases where a fair hearing must be given include decisions relating to staff or pupil discipline, or admission of pupils. The restrictions on persons taking part in proceedings do not stop a temporary governing body or its committee from allowing someone who can offer relevant evidence to a case in question from giving that evidence.
* if there is any dispute as to whether a person must withdraw from a meeting under the regulations on governing body procedures, the other temporary governors present at the meeting must decide on this.
* members of the temporary governing body should withdraw from any meeting in which they have a direct or indirect pecuniary interest. The clerk can continue to act as clerk unless his own appointment, pay or disciplinary action against him is under consideration.

## 6.28 Specific provision is made in the regulations in relation to certain issues, namely:

* a person paid to work at the school is not regarded as having a pecuniary interest if his interest is no greater than that of other persons paid to work at the school;
* a person must withdraw and not vote on his own appointment, re-appointment, suspension or removal as a temporary governor or member of a committee, or as clerk, chair or vice chair;
* a person paid to work at the school, other than the head teacher, must withdraw and cannot vote in relation to the pay or performance appraisal of any particular person working at the school. This does not affect general discussions about general policy; and
* the head teacher must withdraw and cannot vote in relation to their own pay or performance appraisal.

**Suspension of temporary governors - Regulation 46**

## 6.29 In certain prescribed circumstances the temporary governing body can decide to suspend a temporary governor for a period up to six months. The temporary governing body can only suspend a temporary governor if one or more of the following grounds apply:

* the temporary governor is paid to work at the school and is the subject of disciplinary proceedings in relation to his employment; or
* the temporary governor is the subject of any court or tribunal proceedings, the outcome of which may be that he is disqualified from continuing to hold office as a temporary governor under Schedule 2 of the School Governance (New Schools) England Regulations 2007; or
* the temporary governor has acted in a way that is inconsistent with the school’s ethos and has brought or is likely to bring the school or the temporary governing body or his office of governor into disrepute; or
* the temporary governor is in breach of his duty of confidence to the school or to the staff or to the pupils.

## 6.30 A temporary governing body can vote to suspend a temporary governor on any of the above grounds, but does not have to do so. We recommend that the temporary governing body should only vote to suspend a temporary governor as a last resort and should first seek to resolve any difficulties or disputes in less radical and more constructive ways.

## 6.31 Any decision to suspend a temporary governor must be specified as an agenda item of a meeting for which at least seven days notice must be given. Before the temporary governing body votes to suspend a temporary governor, the temporary governor proposing the suspension must give their reasons for proposing the suspension.

## 6.32 A temporary governor who is proposed for suspension must be given the opportunity to make a statement in response before he/she withdraws from the meeting.

**Delegation of functions - Regulations 47- 49**

## 6.33 Subject to prescribed restrictions, a temporary governing body can delegate any of its statutory functions to a committee, a temporary governor or to the head teacher. The temporary governing body must review the delegation of functions annually. A temporary governing body will remain accountable for any decisions taken, including those relating to functions delegated to a committee or individual.

## 6.34 The following functions can be delegated to a committee, but cannot be delegated to an individual:

* functions relating to the approval of the first formal budget plan of the financial year;
* functions relating to school discipline policies;
* functions relating to the exclusions of pupils;
* functions relating to admission matters.

6.35 The temporary governing body cannot delegate any functions relating to the constitution of the temporary governing body, the appointment or removal of the chair and vice chair, the appointment of the clerk, the suspension of temporary governors, the delegation of functions and the establishment of committees.

6.36 Any individual or committee to whom a decision has been delegated must report to the temporary governing body in respect of any action taken or decision made.

6.37 The exercise by a temporary governing body of its functions relating to the appointment and dismissal of staff, and staff grievance, capability, conduct, discipline and suspension matters are covered by the School Staffing Regulations 2003.

**Proceedings of committees and meetings of committees of the temporary governing body – Regulations 50 – 51**

* 1. The temporary governing body must determine the constitution, membership and proceedings of any committee. The temporary governing body should also consider the time scale for reviewing the establishment, terms of reference, constitution and membership of any committee. The membership of the committee may include temporary associate members, provided that a majority of members of the committee are temporary governors. The temporary governing body must appoint a chair to a committee and may remove him from office at any time.
	2. Committee meetings are convened by the clerk to the committee who takes directions from the temporary governing body and the chair of that committee.

6.39 The clerk must give each member of the committee and the head teacher or head teacher designate (if not a member of the committee) written notice of a meeting, a copy of the agenda and any papers to be considered at the meeting at least seven days before the meeting. If the chair fo the committee considers that there are matters that demand urgent consideration he/she can determine a shorter period of notice.

6.40 The quorum for any committee meeting and for any vote must not be less than three temporary governors who are members of the committee.

6.41 Every question to be decided at a committee meeting must be determined by a majority of votes of those members of the committee present and voting. If there are an equal number of votes, the chair (or the person acting as chair) has a second (or casting) vote. The committee can only vote if the majority of the committee members present are temporary governors.

6.42 Minutes of committee meetings must be drawn up by the clerk and signed by the chair at the next meeting of the committee. The committee must make available for inspection to any interested person a copy of the agenda, signed minutes and reports or papers considered at the meeting as soon as is reasonably practicable. Information relating to a named person, or any other matter that the temporary governing body considers confidential does not have to be made available for inspection.

**PART 7**

# Transition from temporary governing body to governing body

**Instrument of Government**

## The LEA must ensure that every new school has an instrument of government before its opening date, made in accordance with regulations 29 to 31 of the School Governance (Constitution) (England) Regulations 2007. The instrument of government is the document which records the name of a school, the number and category of governors and other relevant information relating to school. The instrument takes effect from the date it is made for the purpose of making appointments to the permanent governing body, but for other purposes the instrument takes effect from the date stated in it (“the incorporation date”). Model instruments are at annex B.

## Once a temporary governing body has prepared a draft instrument, it must be submitted to the local education authority that will check if it complies with the statutory requirements, including the guiding principles for the constitution of governing bodies of the relevant category of school. Governing bodies and LEAs can review and change the instrument at any time. The same procedures will be followed each time any detail on the instrument is amended.

## The temporary governing body must exercise their functions in such a way that enables the LEA to fulfil its duty to prepare the instrument.

**Incorporation of governing bodies**

## The date of incorporation should be as soon as reasonably practicable after the opening date following elections for parent and staff governors, in most cases before the end of the first term. The LEA should therefore arrange for the appointments and elections of governors to be made before the incorporation date.

## Appointments and elections of new governors – regulation 54

## The LEA must notify the person who is entitled under the instrument of government to appoint any new governor. The details of the appointee, including name and address, should be notified to the LEA and the Clerk. The head teacher will be a governor from the incorporation date unless he has resigned the position.

## After the school opening date:

* parent governors should be elected by parents with registered pupils at the school. If insufficient or no parents stand for election, the temporary governing body can appoint parent governors from (a) parents of registered pupils at the school or, if that is nor possible (b) parents of children of or under compulsory school age.
* partnership governors should be appointed by the temporary governing body. Partnership governors are persons nominated as such by parents or other members of the community served by the school.
* Staff governors should be elected from and by those working at the school.

**Information for successors**

## Before the incorporation date, it would be good practice for the temporary governing body to prepare and make available to the permanent governing body a brief report of actions taken, including copies of all minutes and papers relating to their proceedings.

**Property, rights and liabilities - Regulation 55**

## On the incorporation date all land, buildings and any other property held by the temporary governing body for the purposes of the new school is automatically transferred to the incorporated governing body. All the temporary governing body’s rights and liabilities in respect of the new school are also passed to the incorporated permanent governing body. The incorporated governing body assumes responsibility for any contracts made by the temporary governing body. This includes, for example, contracts signed under the Private Finance Initiative.

**Rights and liabilities under contract of employment - Regulation 56**

## Responsibility for any contracts of employment made by the temporary governing body also passes to the incorporated governing body, which will be treated as if it had made the contract with the employee. The incorporated governing body becomes legally responsible for any action taken by the temporary governing body. This technical change of “employer” does not of itself give an employee any right to terminate their contract of employment.

**Religious Character of new schools – Regulation 57**

## The relevant regulations relating to the Religious Character of Schools (Designation Procedure) Regulations 1998 have been amended to enable new schools which are intended to have a religious character to be added to the register of schools with a religious character.

**ANNEX A: EXAMPLES OF CONSTITUTIONAL MODELS**

*Please note that this annex gives examples. This is not an exhaustive list; governing bodies are free to adopt alternative models, provided these comply with the guiding principles set out in part 4.*

|  |
| --- |
| **Community Schools and Community Special Schools and Maintained Nursery Schools: examples of constitutional models** |
| **categories of governor and compliance with principles** |
| **Total number of governors** | **Parents** | principle: at least one third | **Staff** | principle: at least 2 and up to and including one third | **LEA**  | principle: one fifth | **Community** | principle:at least one fifth |
| **9** | **3** | (33%) | **2** | (22%) | **2** | (22%) | **2** | (22%) |
| **10** | **4** | (40%) | **2** | (20%) | **2** | (20%) | **2** | (20%) |
| **11** | **4** | (36%) | **2** | (18%) | **2** | (18%) | **3** | (27%) |
| **12** | **4** | (33%) | **3** | (25%) | **2** | (17%) | **3** | (25%) |
| **12** | **4** | (33%) | **3** | (25%) | **2** | (17%) | **3** | (25%) |
| **13** | **5** | (38%) | **2** | (15%) | **3** | (23%) | **3** | (23%) |
| **14** | **5** | (36%) | **3** | (21%) | **3** | (21%) | **3** | (21%) |
| **14** | **5** | (36%) | **2** | (14%) | **3** | (21%) | **4** | (29%) |
| **15** | **5** | (33%) | **3** | (20%) | **3** | (20%) | **4** | (27%) |
| **15** | **6** | (40%) | **3** | (20%) | **3** | (20%) | **3** | (20%) |
| **16** | **6** | (38%) | **2** | (13%) | **3** | (19%) | **5** | (31%) |
| **16** | **6** | (38%) | **3** | (19%) | **3** | (19%) | **4** | (25%) |
| **17** | **6** | (35%) | **4** | (24%) | **3** | (18%) | **4** | (24%) |
| **17** | **6** | (35%) | **3** | (18%) | **3** | (18%) | **5** | (29%) |
| **18** | **6** | (33%) | **4** | (22%) | **4** | (22%) | **4** | (22%) |
| **18** | **7** | (39%) | **3** | (17%) | **4** | (22%) | **4** | (22%) |
| **19** | **7** | (37%) | **4** | (21%) | **4** | (21%) | **4** | (21%) |
| **19** | **7** | (37%) | **3** | (16%) | **4** | (21%) | **5** | (26%) |
| **20** | **7** | (35%) | **3** | (15%) | **4** | (20%) | **6** | (30%) |
| **20** | **7** | (35%) | **4** | (20%) | **4** | (20%) | **5** | (25%) |

**Note: figures have been rounded up or down to the nearest whole number. 0.5 has been rounded up.**

|  |
| --- |
| **Foundation and Foundation Special schools which do not have a foundation: examples of constitutional models** |
| **categories of governor and compliance with guiding principles** |
| **Total number of governors** | **Parents** | at least one third | **Staff** | principle: at least 2 and no more than one third | **LEA**  | principle: up to and including one fifth | **Community**  | principle: at least one tenth | **Partnership**  | principle: at least 2 and no more than one quarter  |
| **9** | **3** | (33%) | **2** | (22%) | **1** | (11%) | **1** | (11%) | **2** | (22%) |
| **10** | **4** | (40%) | **2** | (20%) | **1** | (10%) | **1** | (10%) | **2** | (20%) |
| **11** | **4** | (36%) | **2** | (18%) | **1** | (9%) | **2** | (18%) | **2** | (18%) |
| **12** | **4** | (33%) | **2** | (17%) | **2** | (17%) | **2** | (17%) | **2** | (17%) |
| **13** | **5** | (38%) | **2** | (15%) | **1** | (8%) | **2** | (15%) | **3** | (23%) |
| **13** | **5** | (38%) | **2** | (15%) | **2** | (15%) | **2** | (15%) | **2** | (15%) |
| **14** | **5** | (36%) | **3** | (21%) | **2** | (14%) | **2** | (14%) | **2** | (14%) |
| **14** | **5** | (36%) | **3** | (21%) | **1** | (7%) | **2** | (14%) | **3** | (21%) |
| **15** | **5** | (33%) | **3** | (20%) | **1** | (7%) | **3** | (20%) | **3** | (20%) |
| **15** | **5** | (33%) | **3** | (20%) | **2** | (13%) | **2** | (13%) | **3** | (20%) |
| **16** | **6** | (38%) | **3** | (19%) | **1** | (6%) | **2** | (13%) | **4** | (25%) |
| **16** | **6** | (38%) | **3** | (19%) | **2** | (13%) | **2** | (13%) | **3** | (19%) |
| **17** | **6** | (35%) | **3** | (18%) | **2** | (12%) | **2** | (12%) | **4** | (24%) |
| **17** | **6** | (35%) | **3** | (18%) | **2** | (12%) | **3** | (18%) | **3** | (18%) |
| **18** | **6** | (33%) | **3** | (17%) | **2** | (11%) | **3** | (17%) | **4** | (22%) |
| **18** | **6** | (33%) | **4** | (22%) | **2** | (11%) | **2** | (11%) | **4** | (22%) |
| **19** | **7** | (37%) | **3** | (16%) | **2** | (11%) | **3** | (16%) | **4** | (21%) |
| **19** | **7** | (37%) | **4** | (21%) | **2** | (11%) | **2** | (11%) | **4** | (21%) |
| **20** | **7** | (35%) | **3** | (15%) | **2** | (10%) | **3** | (15%) | **5** | (25%) |
| **20** | **7** | (35%) | **4** | (20%) | **2** | (10%) | **2** | (10%) | **5** | (25%) |

**Note: figures have been rounded up or down to the nearest whole number. 0.5 has been rounded up.**

|  |
| --- |
| **Foundation and Foundation Special schools which have a foundation but which are not qualifying foundation schools:** **examples of constitutional models** |
|  | **categories of governor and compliance with guiding principles** |
| **Total number of governors** | **Parents** | at least one third | **Staff** | principle: at least 2 and no more than one third | **LEA**  | principle: at least one and no more than one fifth | **Community**  | principle: at least one tenth | **Foundation**  | principle: at least 2 and no more than 45 percent |
| **9** | **3** | (33%) | **2** | (22%) | **1** | (11%) | **1** | (11%) | **2** | (22%) |
| **10** | **4** | (40%) | **2** | (20%) | **1** | (10%) | **1** | (10%) | **2** | (20%) |
| **11** | **4** | (36%) | **2** | (18%) | **1** | (9%) | **2** | (18%) | **2** | (18%) |
| **12** | **4** | (33%) | **2** | (17%) | **2** | (17%) | **2** | (17%) | **2** | (17%) |
| **12** | **4** | (33%) | **2** | (17%) | **1** | (8%) | **2** | (17%) | **3** | (25%) |
| **13** | **5** | (38%) | **3** | (23%) | **1** | (8%) | **2** | (15%) | **2** | (15%) |
| **13** | **6** | (46%) | **2** | (15%) | **1** | (8%) | **2** | (15%) | **2** | (15%) |
| **14** | **5** | (36%) | **2** | (14%) | **1** | (7%) | **2** | (14%) | **4** | (29%) |
| **14** | **5** | (36%) | **4** | (29%) | **1** | (7%) | **2** | (14%) | **2** | (14%) |
| **15** | **5** | (33%) | **2** | (13%) | **3** | (20%) | **2** | (13%) | **3** | (20%) |
| **15** | **6** | (40%) | **3** | (20%) | **2** | (13%) | **2** | (13%) | **2** | (13%) |
| **16** | **6** | (38%) | **2** | (12%) | **1** | (6%) | **2** | (12%) | **5** | (31%) |
| **16** | **6** | (38%) | **3** | (19%) | **2** | (12%) | **3** | (19%) | **2** | (12%) |
| **17** | **6** | (35%) | **2** | (12%) | **1** | (6%) | **2** | (12%) | **6** | (35%) |
| **17** | **8** | (47%) | **2** | (12%) | **3** | (17%) | **2** | (12%) | **2** | (12%) |
| **18** | **6** | (33%) | **2** | (11%) | **3** | (17%) | **3** | (17%) | **4** | (22%) |
| **18** | **6** | (33%) | **4** | (22%) | **1** | (6%) | **3** | (17%) | **4** | (22%) |
| **19** | **7** | (37%) | **5** | (26%) | **1** | (5%) | **2** | (11%) | **4** | (21%) |
| **19** | **7** | (37%) | **3** | (16%) | **3** | (16%) | **4** | (21%) | **2** | (10%) |
| **20** | **9** | (45%) | **2** | (10%) | **2** | (10%) | **2** | (10%) | **5** | (25%) |
| **20** | **7** | (35%) | **2** | (10%) | **1** | (5%) | **2** | (10%) | **8** | (40%) |

**Note: figures have been rounded up or down to the nearest whole number. .5 has been rounded up.**

|  |
| --- |
| **Qualifying foundation schools: examples of constitutional models** |
|  | **categories of governor and compliance with principles** |
| **Total number of governors** | **Parents** | **Foundation: majority of up to 2**  | Foundation governors eligible as parent governors | principle: total number of parents: one-third or more | **Staff** | principle: at least two and no more than one-third | **LEA**  | principle: at least one and no more than one fifth | **Community** | Principle: at least one tenth |
| **11** | **1** | **6** | **3** | **(36%)** | **2** | **(18%)** | **1** | **(9%)** | **1** | **(9%)** |
| **12** | **1** | **7** | **3** | **(33%)** | **2** | **(17%)** | **1** | **(8%)** | **1** | **(9%)** |
| **13** | **2** | **7** | **3** | **(38%)** | **2** | **(15%)** | **1** | **(8%)** | **1** | **(9%)** |
| **13** | **1** | **7** | **4** | **(38%)** | **2** | **(15%)** | **1** | **(8%)** | **2** | **(15%)** |
| **14** | **1** | **8** | **4** | **(36%)** | **2** | **(14%)** | **1** | **(7%)** | **2** | **(14%)** |
| **14** | **2** | **8** | **3** | **(36%)** | **2** | **(14%)** | **1** | **(7%)** | **1** | **(7%)** |
| **15** | **2** | **8** | **3** | **(33%)** | **2** | **(13%)** | **1** | **(7%)** | **2** | **(13%)** |
| **16** | **2** | **9** | **4** | **(38%)** | **2** | **(13%)** | **1** | **(6%)** | **2** | **(13%)** |
| **17** | **1** | **9** | **5** | **(35%)** | **3** | **(18%)** | **2** | **(12%)** | **2** | **(12%)** |
| **18** | **2** | **10** | **4** | **(33%)** | **2** | **(11%)** | **2** | **(11%)** | **2** | **(11%)** |
| **18** | **1** | **10** | **6** | **(39%)** | **2** | **(11%)** | **2** | **(11%)** | **3** | **(17%)** |
| **18** | **1** | **10** | **7** | **(44%)** | **3** | **(17%)** | **2** | **(11%)** | **2** | **(11%)** |
| **19** | **4** | **10** | **3** | **(37%)** | **2** | **(11%)** | **1** | **(5%)** | **2** | **(11%)** |
| **19** | **1** | **10** | **7** | **(42%)** | **5** | **(26%)** | **1** | **(5%)** | **2** | **(11%)** |
| **20** | **2** | **11** | **5** | **(35%)** | **2** | **(10%)** | **1** | **(5%)** | **4** | **(20%)** |
| **20** | **1** | **11** | **9** | **(45%)** | **2** | **(10%)** | **4** | **(20%)** | **2** | **(10%)** |

**Note: figures have been rounded up or down to the nearest whole number. .5 has been rounded up**

|  |
| --- |
| **Voluntary-Aided Schools: examples of constitutional models** |
|  | **categories of governor and compliance with principles** |
| **Total number of governors** | **Parents** | **Foundation: majority of 2**  | Parent Foundation Governors | **principle: total number of parents: one-third or more** | **Staff** | principle: up to and including one-third | **LEA**  | principle: up to and including one-tenth |
| **10** | **1** | **6** | 3 | (40%) | **2** | (20%) | **1** | (10%) |
| **12** | **1** | **7** | 3 | (33%) | **3** | (25%) | **1** | (8%) |
| **12** | **2** | **7** | 2 | (33%) | **2** | (17%) | **1** | (8%) |
| **14** | **1** | **8** | 4 | (36%) | **4** | (29%) | **1** | (7%) |
| **14** | **2** | **8** | 3 | (36%) | **3** | (21%) | **1** | (7%) |
| **14** | **3** | **8** | 2 | (36%) | **2** | (14%) | **1** | (7%) |
| **16** | **1** | **9** | 5 | (38%) | **5** | (31%) | **1** | (6%) |
| **16** | **2** | **9** | 4 | (38%) | **4** | (25%) | **1** | (6%) |
| **16** | **3** | **9** | 3 | (38%) | **3** | (19%) | **1** | (6%) |
| **16** | **4** | **9** | 2 | (38%) | **2** | (13%) | **1** | (6%) |
| **18** | **1** | **10** | 5 | (33%) | **6** | (33%) | **1** | (6%) |
| **18** | **2** | **10** | 4 | (33%) | **5** | (28%) | **1** | (6%) |
| **18** | **3** | **10** | 3 | (33%) | **4** | (22%) | **1** | (6%) |
| **18** | **4** | **10** | 2 | (33%) | **3** | (17%) | **1** | (6%) |
| **18** | **5** | **10** | 2 | (39%) | **2** | (11%) | **1** | (6%) |
| **20** | **4** | **11** | 3 | (35%) | **3** | (15%) | **2** | (10%) |
| **20** | **2** | **11** | 5 | (35%) | **5** | (25%) | **2** | (10%) |
| **20** | **2** | **11** | 5 | (35%) | **6** | (30%) | **1** | (5%) |
| **20** | **3** | **11** | 4 | (35%) | **4** | (20%) | **2** | (10%) |
| **20** | **3** | **11** | 4 | (35%) | **5** | (25%) | **1** | (5%) |

**Note: figures have been rounded up or down to the nearest whole number. 0.5 has been rounded up.**

|  |
| --- |
| **Voluntary controlled schools: examples of constitutional models** |
| **categories of governor and compliance with guiding principles** |
| **Total number of governors** | **Parents** | at least one third | **Staff** | principle: at least 2 and no more than one third | **LEA**  | principle: up to and including one fifth | **Community**  | principle: at least one tenth | **Foundation**  | principle: at least 2 and no more than one quarter  |
| **9** | **3** | (33%) | **2** | (22%) | **1** | (11%) | **1** | (11%) | **2** | (22%) |
| **10** | **4** | (40%) | **2** | (20%) | **1** | (10%) | **1** | (10%) | **2** | (20%) |
| **11** | **4** | (36%) | **2** | (18%) | **1** | (9%) | **2** | (18%) | **2** | (18%) |
| **12** | **4** | (33%) | **2** | (17%) | **2** | (17%) | **2** | (17%) | **2** | (17%) |
| **13** | **5** | (38%) | **2** | (15%) | **1** | (8%) | **2** | (15%) | **3** | (23%) |
| **13** | **5** | (38%) | **2** | (15%) | **2** | (15%) | **2** | (15%) | **2** | (15%) |
| **14** | **5** | (36%) | **3** | (21%) | **2** | (14%) | **2** | (14%) | **2** | (14%) |
| **14** | **5** | (36%) | **3** | (21%) | **1** | (7%) | **2** | (14%) | **3** | (21%) |
| **15** | **5** | (33%) | **3** | (20%) | **1** | (7%) | **3** | (20%) | **3** | (20%) |
| **15** | **5** | (33%) | **3** | (20%) | **2** | (13%) | **2** | (13%) | **3** | (20%) |
| **16** | **6** | (38%) | **3** | (19%) | **1** | (6%) | **2** | (13%) | **4** | (25%) |
| **16** | **6** | (38%) | **3** | (19%) | **2** | (13%) | **2** | (13%) | **3** | (19%) |
| **17** | **6** | (35%) | **3** | (18%) | **2** | (12%) | **2** | (12%) | **4** | (24%) |
| **17** | **6** | (35%) | **3** | (18%) | **2** | (12%) | **3** | (18%) | **3** | (18%) |
| **18** | **6** | (33%) | **3** | (17%) | **2** | (11%) | **3** | (17%) | **4** | (22%) |
| **18** | **6** | (33%) | **4** | (22%) | **2** | (11%) | **2** | (11%) | **4** | (22%) |
| **19** | **7** | (37%) | **3** | (16%) | **2** | (11%) | **3** | (16%) | **4** | (21%) |
| **19** | **7** | (37%) | **4** | (21%) | **2** | (11%) | **2** | (11%) | **4** | (21%) |
| **20** | **7** | (35%) | **3** | (15%) | **2** | (10%) | **3** | (15%) | **5** | (25%) |
| **20** | **7** | (35%) | **4** | (20%) | **2** | (10%) | **2** | (10%) | **5** | (25%) |

**Note: figures have been rounded up or down to the nearest whole number. 0.5 has been rounded up.**

**ANNEX B: MODEL INSTRUMENT OF GOVERNMENT**

**INSTRUMENT OF GOVERNMENT: COMMUNITY AND COMMUNITY SPECIAL SCHOOLS**

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

**2.** The school is a community/community special 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.** The governing body shall consist of:

a. X parent governors [*at least one third of the places*];

b. X LEA governors [*one fifth of the places*];

c. X staff governors [*at least two, up to and including one third of the places and including the head teacher)*]

d. X community governors [*at least one fifth of the places] [including any governor referred to in paragraph 6 below]*];

f. [*where applicable*] X sponsor governors [*up to two if the school is a primary school or up to four if a secondary school*].

**5.** Total number of governors [………]

**6.** [*Applicable only to community special schools*] The body/ies entitled to nominate a person for appointment as a community governor under schedule 3 to the Regulations is/are [*Insert here the name of the body designated by the LEA*].

**7.** The sponsor[s] entitled to nominate person[s] for appointment as sponsor governors under schedule 5 of the Regulations is/are *[insert name here].*

**8. [**applicable if the term of office of one or more categories of governor is shorter than four years**:] The term of office of [x category of governor] is *[insert period between one and four years*].**

**9.** This instrument of government comes into effect on [*insert date*]

**10.** This instrument was made by order of ……………………….. Local Education Authority on [insert date].

1. A copy of the instrument must be supplied to every member of the governor body (and the head teacher if not a governor).

\* delete as appropriate

**INSTRUMENT OF GOVERNMENT: FOUNDATION AND FOUNDATION SPECIAL SCHOOLS WHICH DO NOT HAVE A FOUNDATION**

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

**2.** The school is a foundation/foundation special 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.** The governing body shall consist of:

a. X parent governors [*at least one third of the places*];

b. X LEA governors [*up to and including one fifth of the places*];

c. X staff governors [*at least two, up to and including one third of the places and including the head teacher*].

d. X community governors including any governors referred to in paragraph 6 below [*at least one tenth of the places*];

e. X partnership governors *[at least two but no more than one quarter of the places].*

f. [*where applicable*] X sponsor governors [*up to two two if the school is a primary school or up to four if a secondary school*].

**5.** Total number of governors [………]

**6.** [*Applicable only to foundation special schools*] The body/ies entitled to nominate a person for appointment as a community governor under schedule 3 to the Regulations is/are [*Insert here the name(s) of the body designated by the LEA*].

**7.** The sponsor[s] entitled to nominate person[s] for appointment as sponsor governors under schedule 5 of the Regulations is/are *[insert name here].*

**8.** If the school will have a religious character, a description of the ethos of the school.

**9.[**applicable if the term of office of one or more categories of governor is shorter than four years**:] The term of office of [x category of governor] is *[insert period between one and four years*].**

1. This instrument of government comes into effect on [….]
2. This instrument was made by order of ……………………….. Local Education Authority on ………………………
3. A copy of the instrument must be supplied to every member of the governor body (and the head teacher if not a governor), and to the appropriate Diocesan Authority or religious body.

\* delete as appropriate

**INSTRUMENT OF GOVERNMENT: FOUNDATION AND FOUNDATION SPECIAL SCHOOLS WHICH HAVE A FOUNDATION BUT WHICH ARE NOT QUALIFYING FOUNDATION SCHOOLS**

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

**2.** The school is a foundation/foundation special school which has a foundation but is not 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.** The governing body shall consist of:

a. X parent governors [*at least one third of the places*];

b. X LEA governors [*up to and including one fifth of the places*];

c. X staff governors [*at least two, up to and including one third of the places and including the head teacher*].

d. X community governors including any governors referred to in paragraph 6 below [*at least one tenth of the places*];

e. X foundation governors *[at least two but no more than 45 per cent of the places].*

f. [*where applicable*] X sponsor governors [*up to two if the school is a primary school or up to four if a secondary school*].

**5.** Total number of governors [………].

**6.** [*Applicable only to foundation special schools*] The body/ies entitled to nominate a person for appointment as a community governor under schedule 3 to the Regulations is/are [*Insert here the name of the body designated by the LEA*].

**7.** The sponsor[s] entitled to nominate person[s] for appointment as sponsor governors under schedule 5 of the Regulations is/are *[insert name here].*

**8.** *[Where the school is to have foundation governors]* 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.

9. *[where applicable]*

1. the holder of the following office shall be a foundation governor ex-officio:

*[name of office]*

1. 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 28 (2) of the Regulations.

*[Repeat 9(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.

1. *[If the school will have a religious character]* a description of the ethos of the school.
2. **[**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*].**
3. This instrument of government comes into effect on [insert date]
4. This instrument was made by order of ……………………….. Local Education Authority on ………………………
5. A copy of the instrument must be supplied to every member of the governor body (and the head teacher if not a governor), any trustees and to the appropriate Diocesan Authority or religious body.

\*delete as appropriate

**INSTRUMENT OF GOVERNMENT: QUALIFYING FOUNDATION SCHOOLS**

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

**2.** 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.** The governing body shall consist of:

a. X parent governors [*at least one of the places*];

b. X LEA governors [*up to and including one fifth of the places*];

c. X staff governors [*at least two, up to and including one third of the places and including the head teacher*].

d. X community governors including any governors referred to in paragraph 6 below [*at least one tenth of the places*];

e. X foundation governors *[sufficient number as to out number all the other governors listed in sub-paragraphs a to d by up to two]* of whom X [*sufficient number that, when counted with the parent governors they comprise at least 1/3 of the places* ] shall, at the time of their appointment, be eligible for election or appointment as parent governors*.*

f. [*where applicable*] X sponsor governors [*up to two if the school is a primary school or up to four if a secondary school*].

**5.** Total number of governors [………].

**6.** [*Applicable only to foundation special schools*] The body/ies entitled to nominate a person for appointment as a community governor under schedule 3 to the Regulations is/are [*Insert here the name of the body designated by the LEA*].

**7.** The sponsor[s] entitled to nominate person[s] for appointment as sponsor governors under schedule 5 of the Regulations is/are *[insert name here].*

**8.** *[Where the school is to have foundation governors]* 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.

9. *[where applicable]*

1. the holder of the following office shall be a foundation governor ex-officio:

*[name of office]*

1. 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 28 (2) of the Regulations.

*[Repeat 9(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.

1. *[If the school will have a religious character]* a description of the ethos of the school.
2. **[**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*].**
3. This instrument of government comes into effect on [insert date]
4. This instrument was made by order of ……………………….. Local Education Authority on ………………………
5. A copy of the instrument must be supplied to every member of the governor body (and the head teacher if not a governor), any trustees and to the appropriate Diocesan Authority or religious body.

**INSTRUMENT OF GOVERNMENT: VOLUNTARY AIDED SCHOOLS**

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

**2.** The school is a voluntary aided 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.** The governing body shall consist of:

a. X parent governors [*at least one third of the places*];

b. X LEA governors [*up to and including one tenth of the places*];

c. X staff governors [*at least two, up to and including one third of the places and including the head teacher];*

d. X foundation governors [*must outnumber the other governors by two]* of whom X [*sufficient that, when counted with the parent governors they comprise at least 1/3 of the places* ] shall, at the time of their appointment, be eligible for election or appointment as parent governors*;*

e. [*where applicable*] X sponsor governors [*up to two if the school is a primary school or up to four if a secondary school*] and x foundation governors to preserve the foundation majority.

**5.** Total number of governors [………*including sponsor governors and additional foundation governors*]

**6.** The sponsor[s] entitled to nominate person[s] for appointment as sponsor governors under schedule 5 of the Regulations is/are *[insert name here].*

**7.** 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.

**8.** *[where applicable]*

1. the holder of the following office shall be a foundation governor ex-officio:

*[name of office]*

1. 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 24(2) of the Regulations.

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

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

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

1. Where a school has a religious character, a description of the ethos of the school.
2. **[**applicable if the term of office of one or more categories of governor is shorter than four years**:] The term of office of [x category of governor] is *[insert period between one and four years*].**
3. This instrument of government comes into effect on [….]
4. This instrument was made by order of ……………………….. Local Education Authority on ………………………
5. A copy of the instrument must be supplied to every member of the governor body (and the head teacher if not a governor), any trustees and to the appropriate Diocesan Authority or religious body.

\* delete as appropriate

**INSTRUMENT OF GOVERNMENT: VOLUNTARY CONTROLLED SCHOOLS**

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

**2.** The school is a voluntary controlled 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.** The governing body shall consist of:

a. X parent governors [*at least one third of the places*];

b. X LEA governors [*up to and including one fifth of the places*];

c. X staff governors [*at least two, up to and including one third of the places and including the head teacher*

d. X community governors [*at least one tenth of the places*];

e. X foundation governors *[at least two but no more than one quarter of the places].*

f. [*where applicable*] X sponsor governors [*up to two if the school is a primary school or up to four if a secondary school* ].

**5.** Total number of governors [………]

**6.** The sponsor[s] entitled to nominate person[s] for appointment as sponsor governors under schedule 5 of the Regulations is/are *[insert name here].*

**7.** 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.

**8**. *[where applicable]*

(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 24(2) of the Regulations.

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

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

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

**11.** Where a school has a religious character, a description of the ethos of the school.

1. **[**applicable if the term of office of one or more categories of governor is shorter than four years**:] The term of office of [x category of governor] is *[insert period between one and four years*].**
2. This instrument of government comes into effect on [….]

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

**15.** A copy of the instrument must be supplied to every member of the governor body (and the head teacher if not a governor), any trustees and to the appropriate Diocesan Authority or religious body.

\* delete as appropriate