



Department
for Education

Consultation on maintained school governing body constitution: regulation changes

Government response

May 2014

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Introduction

1. The consultation on the proposed changes to the regulation and guidance that govern the constitution of governing bodies in maintained schools lasted nine weeks between 13 January and 14 March 2014. There were 235 responses to the consultation, categorised as follows:

Table 1: Respondent type - totals

Type of Respondent	Responses	
Local Authority	26	11%
Governing Body	21	10%
Governor	59	25%
Chair of Governors	69	29%
School Leader	12	5%
Governor Organisations	7	3%
School Leaders	3	1%
Other	38	16%
Total	235	100%

2. This report provides an overview of the responses to the consultation and summarises the responses to each question. A breakdown to the responses to each question is provided at annex A. A list of respondents is attached at annex B

Overview

3. The consultation proposed:
 - revised eligibility criteria so that all new governors are appointed on the basis of their skills;
 - revoking the School Governance (Constitution) (England) Regulations 2007 (“the Constitution Regulations 2007”) and the School Governance (Federations) (England) Regulations 2007 (“the Federations Regulations 2007”) applies to all maintained schools;
 - replacing the ‘first in last out’ rule for removing surplus governors with discretion for governing bodies to decide which governors stay based on skills; and
 - revised statutory guidance on the constitution regulations providing steers on the size, membership and skills of the governing bodies.

4. The overall purpose of the proposed changes is to:
 - simplify the overall legislative framework by introducing a single consistent approach across all maintained schools; and
 - enable more effective governance by ensuring that the primary consideration in decisions about the constitution and membership of governing bodies is the skills that they require to be effective.

Our aim is that these changes prompt governing bodies to think more explicitly and more regularly about whether their constitution and membership is fit for purpose.

5. The principles underpinning the majority of the proposed changes were subject to an informal consultation with the department’s Advisory Group on Governance (AGOG) in July 2013 prior to the regulations themselves being drafted for formal public consultation. AGOG includes representatives of the Catholic Church, the Church of England, the National Governors’ Association, the head teacher associations, Freedom and Autonomy for Schools National Association (FASNA), Information for School and College Governors, National Coordinators of Governor Services, Ofsted and the School Governors’ One-Stop Shop.

6. Responses to the consultation questions were overall favorable and welcomed. Only one of the eight questions received less than 59% positive response. Although question 5a received only 47% positive responses, the accompanying comments are positive and recognise the value of smaller, more focused governing bodies with each governor making a genuine contribution.

Summary

Question 1

Do you agree that in maintained schools and federations of maintained schools the governing body and other appointing persons should only be able to appoint governors who in their opinion have the skills to contribute to effective governance and the success of the school?

69% of respondents agree with the new skilled-based eligibility criteria for appointing governors. All governing body organisations that responded to this question felt that this was a positive step given the expectations on governing bodies to set strategic direction and create accountability for school performance. A typical comment is “In the changing educational landscape it is essential that governors have the requisite skills”. There were some concerns, mainly the challenges facing governing bodies in recruiting and developing skilled governors. Responses also asked for a model skills audit.

Government’s response

We are proceeding with changes to the Regulations as planned to require that any newly appointed governor has, in the opinion of the person making the appointment, the skills required to contribute to the effective governance and success of the school. This is provided for by amendments to Regulation 8(b), 9(v), Schedule 1 (12) and Schedule 3 (4)(1) and (2) of the School Governance (Constitution) (England) Regulations 2012 (“the Constitution Regulations 2012”) and Regulation 16(1)(b), 17(1)(a)(v) of the School (Federations) (England) Regulations 2012 (“the Federations Regulations 2012”).

The department continues to fund SGOSS (formerly the School Governors’ One-Stop Shop), offering a free service to schools to help them recruit highly skilled new governors from the business world. To increase the number of high calibre volunteers available to schools, the department will launch on 15 May 2014, *‘Inspiring governors’*. This alliance of organisations, such as the CBI and the Education and Employers Taskforce, are committed to celebrating the valuable work of school governors. The main focus will be to promote to employers as well as to schools the benefits of volunteering as a school governor.

Question 2

Do you agree with our proposal to revoke the 2007 Constitution Regulations and 2007 Federation Regulations and require all governing bodies to constitute under the 2012 Constitution Regulations or 2012 Federation Regulations, as appropriate, by 1 September 2015?

59% of respondents agree to revoking the Constitution and Federation Regulations 2007. Respondents recognise this will remove the current complex regulatory framework and give governing bodies greater freedoms to constitute as they deem fit. Concerns were raised about local authority legal teams meeting the demand of changing and issuing new 'Instruments of Government' by September 2015 and the tight timescale on governing bodies to reconstitute. However, the responses from the National Co-ordinators of Governor Services (NCOGS) and National Governors Association (NGA) concur that the proposed timescale for governing bodies to constitute under the 2012 Regulations is achievable. NCOGS are also clear in their response that these changes will not cause unreasonable administrative burdens on local authority legal teams.

Government's response

We will revoke the Constitution and Federation Regulations 2007. The effect of this is that all governing bodies must constitute according to the relevant 2012 Regulations by 1 September 2015. This is provided for by amendments to regulation 4 of the Constitution Regulations 2012 and to regulation 2 of the Federations Regulations 2012.

Question 3

Do you agree with our proposals to base the process for removing surplus governors in maintained schools and federations of maintained schools on local discretion to identify which existing governors should continue to hold office, on the basis of skills?

61% of respondents, including governors, chair of governors, school leaders and governor organisation, agree that this process should be managed at local level. The proposal to replace the 'last in first out' principle with one that focuses on the skills required was received well. However, there were some concerns that the implementation of this process could cause tension and distress within the school community.

Government's response

The removal of the current 'juniority principal' will enable a greater local discretion to identify which existing governors should continue to hold office, on the basis of skills. We will, therefore, proceed with the changes as proposed. We understand the concerns raised and the guidance will provide further clarity to help governing bodies understand the rationale for this change and factors to be considered in the process of reconstituting. It is for the governing body to determine if it needs to reduce in size when reconstituting. Governing bodies may need to make difficult decisions about their membership but should do so sensitively. This is provided for by amendments to regulation 15 of the Constitution Regulations 2012 and regulation 22A of the Federations Regulations 2012.

Question 4

Do you agree that the staff governor and the head teacher should be taken into account when restricting the number of co-opted governors (and temporary staff governors in new schools intending to federate) who are also eligible to be elected or appointed as staff governors?

63% of respondents agree that staff and the headteacher should be taken into account when restricting the number of co-opted governors. A typical comment is “too many staff governors make the governing body meeting feel like a staff meeting and non-staff governors are overwhelmed by staff contributions to the meeting”.

Government’s response

We are proceeding with the changes as planned, amending the Federations Regulations 2012 to reflect the analogous provision in the Constitution Regulations 2012. The intention behind both provisions is to restrict the number of staff serving as governors to less than one third of the governing body. This is provided for by an amendment to regulation 21 and Schedule 1 of the Federation Regulations 2012.

Question 5a

Do you agree with our guidance on the size and membership of governing bodies?

There were mixed views on this issue. The majority of those who gave a categorical response agree with the guidance. The Church of England's response points out that "the guidance on the size and membership of governing bodies includes the helpful clarification that 'one, and only one' staff governor or local authority governor may be appointed. It makes clear that there is no room for interpretation". Despite only 47% agreeing with the guidance, more positively, the consensus seems to be that respondents agree with the principle of governing bodies being no bigger than they need to be to have all the skills necessary to carry out their functions. However, doubts were raised about the capacity of small governing bodies to deal with HR issues, parental complaints or pupil disciplinary panels.

Government's response

We are proceeding to publish the guidance as planned. The need for governing bodies to establish committees, including those convened for exclusions or disciplinary matters, does not in itself necessitate a large governing body. Committees of the governing body can be established specifically for these purposes to which new associate members may be appointed and/or the committee may be established as a joint committee with another governing body to enable the committee to include governors from another school.

The purpose of the guidance is to prompt the governing body to consider whether their size and makeup are fit for purpose. They do not prevent governing bodies from adopting larger governing bodies if they wish to do so.

Question 5b

Do you agree with our guidance on the skills governors and governing bodies require?

68% of respondents felt the guidance was clear and found the descriptions of the skills helpful and comprehensive without being too prescriptive. There were strong views that, equally important to the skills listed, was the necessary commitment and the willingness to learn. Respondents welcomed the use of the word 'skills' rather than 'qualifications' but felt that softer skills and an understanding of the school's wider community should also be recognised.

Government's response

We will publish the guidance but have amended it to be more explicit that 'softer skills' or 'attributes' such as capacity to learn are also essential to effective governance. It is for each governing body to determine what skills are required within its membership when making appointments and reviewing governor training needs.

Question 5c

Do you agree with our guidance on conducting governor elections?

76% of respondents agreed that the guidance was helpful and would aid governing bodies in attracting the right candidate for the elected governor position. A typical comment is “We agree that each governor elected to the governing body should be made aware of the nature of the role and the responsibilities. We appreciate that for parent and staff governors who are elected we cannot reject the elected candidate and it is in the school’s best interests for those standing for election (and the electorate) to be able to identify those who would be best able to contribute to the governing body”.

Government’s response

We will publish the guidance but have added further advice on encouraging parents to shadow governing body meetings before nominations; candidates should be given the opportunity to publish a statement of sufficient length to set out their ‘manifestos’ and strengthening the need for governing bodies to set clear expectations of those appointed using codes of conduct.

Question 6

Any other comments

A sample of comment from respondents:

“I am supportive of these proposed changes. I am particularly in favour of governing bodies more actively looking at the skills they need and the skills they have and making changes to ensure they are fit for purpose. The idea of regular review and improvement is beneficial as are the proposals to cope with excess numbers and the spread of skills. I am pleased to see the emphasis on governors informing elections to ensure that they attract governors with the skills that are needed rather than governors who merely want to be there”.

“Generally these changes are welcomed, and it is encouraging to note that feedback to the Education Select Committee and from those national organisations that represent governors and school governance has been taken into account”.

“The overall aim, to ensure that in an increasingly challenging time, governing bodies are sufficiently up skilled and ‘fit for purpose’ must be right. I am concerned however that many of the recommendations, in replacing strong advice and guidance with a ridged ruling, are more likely to have the effect of losing/deterring good people than recruiting them”.

“It is time that initial governing training, i.e. within the first 6 months, became mandatory. Though this should be offered in a variety of ways (on-line being an option for those with busy careers and/or lack of transport to central venues, single parents with child-care issues)”.

Government’s response

A number of responses raised the issue of governor training. The department has been clear that we will not mandate training our focus is on the outcome of effective governance. It is for governing bodies to access the necessary training to give them the skills required to be effective.

Next steps

The Regulations will be laid before Parliament to come into force on 1 September 2014.

The Department will keep under review the changes to the Regulations and will monitor their impact at local level, to ensure that they are working effectively.

Annex A: Consultation responses – percentage breakdown by question

1 Do you agree that in maintained schools and federations of maintained schools the governing body and other appointing persons should only be able to appoint governors who in their opinion have the skills to contribute to effective governance and the success of the school?

Yes	69%
No	21%
Not Sure	11%

2 Do you agree with our proposal to revoke the 2007 Constitution Regulations and 2007 Federation Regulations and require all governing bodies to constitute under the 2012 Constitution Regulations or 2012 Federation Regulations, as appropriate, by 1 September 2015?

Yes	59%
No	28%
Not Sure	14%

3 Do you agree with our proposals to base the process for removing surplus governors in maintained schools and federations of maintained schools on local discretion to identify which existing governors should continue to hold office, on the basis of skills?

Yes	61%
No	27%
Not Sure	11%

4 Do you agree that the staff governor and the head teacher should be taken into account when restricting the number of co-opted governors (and temporary staff governors in new schools intending to federate) who are also eligible to be elected or appointed as staff governors?

Yes	63%
No	20%
Not Sure	17%

5a Do you agree with our guidance on the size and membership of governing bodies?

Yes	47%
No	36%
Not Sure	17%

5b Do you agree with our guidance on the skills governors and governing bodies require?

Yes	68%
No	17%
Not Sure	16%

5c Do you agree with our guidance on conducting governor elections?

Yes	76%
No	9%
Not Sure	16%

Annex B: List of organisations and individuals that respond to the consultation

There were 235 responses to the consultation. This includes 13 anonymous responses.

- Prosser, Lauren
- Waller, Gale
- Derham, Jo
- Paddington, Alison
- Hargreaves, John (Market Drayton Infant School (Chair of Governors))
- Yakas, Ariana (School - Primary)
- Dyer, Jacqueline (Heathbrook Primary School)
- Hannan, Andrew
- Lewzey, Debbie (Parent Governor)
- Noakes, Sue (Chester Diocesan Board of Education)
- Rees, Nigel (The Gryphon School)
- Attridge, Joss (Newtown Linford Primary School)
- Ferguson, M (Marham Junior School)
- Primrose, Alison (All Saints VA Primary School Bednall)
- Chell, Andrew
- Cox, Nigel (Bhylls Acre Primary School)
- Trood, Jim (Church of England/School Vice Chair)
- Gilbert, Stuart (NAHT)
- Lindlar, Father Christopher
- Moore, Audrey (School Governor)
- Newhofer, Frank
- Cox, Sue (St Patrick's C of E School, Endmoor)
- Dawson, Elizabeth (Chair of Governors of Valley Primary School, Whitehaven, Cumbria)
- Murray, Jane
- Robertson, Diane (Governing Body Our Lady & St Patrick RC School)
- Heap, Paul (Cockermouth School)

- Patton, Jane (Thwaites School)
- Prince, Mike (Staveley CE Primary School)
- Wells, Linda (Claygate Primary School)
- Routledge, Joan (Kirkbampton CE Primary School)
- Graham, Phillip
- Lang, Josephine (Crays Hill Primary School)
- Seed, John (The Lakes School)
- Goldsmith, Hilary (Silver End Primary School)
- Goldhill, Jon (Gillespie Primary School)
- Dutt, Hana (Sheringham Nursery and Children Centre)
- Webb, Andrew
- Clarke, Jane (St Peter's C of E Primary school, Heversham)
- Matthews, Martin
- Bonsey, M
- Smith, Kathryn
- Rosenthal, Robert
- Barker, Gillian (Governing Body, Walthamstow School for Girls)
- Brownrigg, David
- Leader, Amanda
- Atkey, David
- Hibbert, Carle (The Whitby High School)
- Oates, David (Sandgate School, Kendal, Cumbria)
- Butland, Cameron (Grasmere School)
- Malpass, Anne
- Barnett, Julia
- Pearce, Carol
- Beales, Danny
- Truman, Crispin (Stoke Newington School and Sixth Form)
- Hildrey, Ania
- Newman, Linda
- Holt, Joanna (St Michael's School)

- Wilkinson, Roger (Duke Of Norfolk CE Controlled Primary School)
- Mellor, Noha
- Parker, Kip
- Hatton, A
- Taylor, Stephen (Fordbridge Community Primary School)
- McCheyne, Janet (Bulphan C of E VC Primary School)
- Wright, Andrew (Windsor Girls' School Governing Body)
- Davies, Ian (St Paul (Cont) primary, Ryhope. Governor)
- Freeman, Paul
- Evans, Andrew
- Wye, Ben
- Jones, Gareth
- Gouldstone, Nicola (School Governor)
- Nicholls, Jane (Special School)
- Marshall, Dean (Mill Hill Primary School)
- Drake, Libby (LA Governor KCC)
- Heffernan, Janet (Sir John Barrow School)
- Farrelly, David (Leighton Primary School)
- Goodwin, Ian
- Watson, Julie
- Alliband, Linda (Oakhill Primary School)
- Bailey, William (School Governor)
- Wootton, Nigel (Simon Langton Grammar School for Boys)
- Dunkerley, Angela
- Hazel, Louise (Babington Community Technology College Co-operative Trust)
- Hooberman, Simon (Hitherfield Primary School and Children's Centre)
- Grace, Celia
- Jenner, Alan
- Griffiths, Tracy (Norbury hall primary school)
- Wootton, Nigel (St Nicholas School, Canterbury)
- Lalanne, Angie (School)

- Mills, Oliver
- Dyer, Karen (Governing Body of Brookfield Community School)
- Krymer, Deirdre (School governor)
- Keetley, Joyce (Warcop C of E Primary Schl Governing Body)
- Newton, Sarah (Lainesmead Primary School Governing Body)
- Wilkins, Richard (The Duke of Norflok CE Primary School)
- Hutchinson, Andrew (Blackburn with Darwen Governors' Forum)
- Burnett, Kay
- Davis, Nicola
- PARKS-SMITH, DAVID
- Wilson, Stephanie (Rosley CE School)
- Clements, Diane (Whitstable and Seasalter Endowed Church of England Aided Junior School)
- WINNIK, ALISON
- Millar, Fiona (William Ellis School)
- Wells, Terry
- Stanton, Fiona
- Hinchliffe, Julie (Wakefield Council)
- Bell, Peter
- Turnbull, Steve (Hungerford Road Primary School)
- Thompson, Joanna (CFS)
- Ireland, Lynn (Chair Governing Body St.Werburgh's Primary School, Birkenhead)
- Bradshaw, Alexander (The Oratory School)
- Khalid, Naureen
- Collins, Caroline (Miles Coverdale Primary School)
- Coole, Alix (Hampstead School)
- Cartwright, David (Independant Consultant)
- Williams, Linda (governor)
- Hitchcock, Andrew (Banks Road Infant and Nursary School)
- Walters, Russell (St Olave's & St Saviour's Schools Foundation)
- Rees, Gareth (Federation of Bodsham and Saltwood C of E Primary Schools)

- Dodge, Andrew
- Fischer, Christine (Catholic Education Service)
- Coles, Martyn (The Haberdashers' Company)
- Tenner, John
- Curran, Michael
- Miller, David
- Ellerby, Anita (Seabrook CEP School)
- Barlow, Mark (Anton Infant School)
- Dibb, Jo (Elizabeth Garrett Anderson School)
- Storey, Darren (The Willows Primary School)
- Stoddart, Fran (Sefton MBC)
- Minton, Alison (Woodlands Junior School)
- Van den Hende, Linda (London Borough of Havering)
- Hicks, Claire (Wollaston School)
- Brown, Tom (St Cuthbert's with St. Matthias Primary School)
- jaeger, anne-celine
- Marbrow, Stephanie (School Governor)
- hipwell, chris (Tillingbourne School Governors)
- Hilson, Christine (Langdon Primary School Governor)
- Burgess, Malcolm (St Peter's Methodist Primary School, Canterbury)
- Walker, Andrew (Primary Academy)
- Walker, Andrew (Buckinghamshire Association of School Governors)
- Ashwell, Miriam (Royal Free Hospital School)
- Newman, Linda
- Strachan, Richard (Darnhall Primary School, Winsford, Cheshire)
- Mylchreest, Fiona (Queensmill School, London)
- Wright, David (Sun Hill Infants School)
- Cherry, Simon (Governing Body, Claygate Primary School)
- Jones, Jonathan (Cheshire West and Chester Council)
- Wilson, Alan (London Borough of Redbridge)
- Thompson, Mike (St Barnabas CE Primary School, Tunbridge Wells)

- Tringham, Joanne (Palace fields primary academy)
- Cameron, Sandy (Cumbria Children Services)
- Aldridge, Gill (Gotham Primary School Governing Body)
- Beaven, Peter (FASNA (Freedom & Autonomy for Schools – National Association))
- Carney, Paul (Rotherham Metropolitan Borough Council)
- Jewitt, Eric (Stockton-on-Tees Borough Council)
- Smith, Maureen (London Borough of Havering)
- Burgess, Tony (The governing body of Chalcot School, at Camden Centre for Learning)
- Blain, Michele (West Berkshire Council)
- Meikle, Leonie (Nottinghamshire County Council)
- Taylor, Felicity (Information for School and College Governors ISCG)
- Knowles, Elizabeth
- Barnard, Pamela (Sandford School)
- Hibbert, Joanne (Fairfield Infant and Nursery School)
- Walker, Paul
- Godden, Melita
- Gouldburn, Derek (Hartlepool Borough Council)
- Pender, George
- Revell, Tim (Elthorne Park High School)
- Byers, Colin
- Tipples, Molly (Governing Body of Maidstone Grammar School)
- Pagliaro, Sue (Yorkshire & Humber Governor Support Group)
- Pattison, Andrea (Fairfield Primary School)
- Kent, Andrew (NCOGS)
- Cullinane, Michael (Roman Catholic Archdiocese of Southwark)
- Quayle, Vince (Governor Services, Oxfordshire County Council)
- Brown, Mike (Ponteland Community High School)
- Clark, John (PHS Governing Body)
- Agnew, Ruth
- Thomson, Carole (Oxfordshire Governors' Association)

- Blackwell, Jan (North Primary School and Nursery)
- Hall, Helen
- Thomas, Claire (Wakefield Metropolitan District Council)
- Devlin, Slaney (St Mary & St Pancras CE Primary School)
- Bowles, Alan (St Barnabas Cof E primary school)
- Weddle, Polly (Teach First)
- Thomson, C
- Armstrong, Enid (London Borough of Camden)
- Kever, John
- McGonigal, Dominic (Governing Body of Larmenier & Sacred Heart RC Primary School)
- Mulholland, Valentine (National Association of Head Teachers (NAHT))
- Mansfield, Melian
- Perry, Aileen (Stoke on Trent City Council)
- Brett-Jones, Jane (Hawley Infants' School)
- Khalid, Naureen
- Lloyd, Jenny (Newtown Primary School)
- Hyde, Adrian
- Ward, Martin (Association of School and College Leaders)
- Coleman, David
- Dore, Martin (SEA)
- Angwin, Alastair (Bridge Education Centre)
- Richards, Colin (Lower Park School Governing Body)
- Lees, Ann (York Diocesan Board of Education)
- Entwistle, Elisa (Gloucestershire County Council)
- Hewson, A J (Eastoft CofE Primary School)
- Foster, Ann (Westminster City Council)
- Ashworth, John (Bolton Council)
- Morales, Stephen (National Association of School Business Management)
- Chadbourn, Janet (Leicester City Council)
- Cook, David (The Bulmershe School Governing Body)

- Barton, Malcolm (Diocese of Bath and Wells)
- Toone, Ian (Voice: the union for education professionals)
- Hoffbrand, Jill (Regent High School)
- Kaur, Rani (National Governors' Association)
- neidich, Lisa (Hackney School Governors' Association (HASGA))
- Parr, Simon (Diocese of Arundel & Brighton)
- Hackman, Dorothea (Netley Primary School Governing Body)
- Saddington, Jackie (Borough of Hammersmith and Fulham)
- Saddington, Jackie (Royal Borough of Kensington and Chelsea.)
- Hackman, Dorothea
- Townsend, James (Church of England)
- Appleyard, Mike (Buckinghamshire County Council)
- Thomson, Louise (ICSA Chartered Secretaries and Administrators)



Department
for Education

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