

## Reconstitution Process

An Instrument of Government (IoG) is the legal document for Local Authority (LA) maintained schools that records the constitution of the governing body (GB) and the term of office for each category of governor as well as the name of the school. It can be reviewed or changed at any time by the GB, the correct legal procedure which **MUST** be followed as outlined below and in appendix 1.

The IoG is drawn up in accordance with a set of regulations known as the School Governance (Constitution) Regulations. New regulations were introduced on 1 September 2012 giving greater flexibility to GBs of LA maintained schools over their composition and appointment of governors.

The School Governance (Constitution) (England) Regulations 2012 has recently been amended and the School Governance (Constitution and Federation) (England) (Amendment) Regulations 2014 came into force from 1 September 2014. All LA maintained schools were required to constitute under these regulations by 1 September 2015.

When reviewing an IoG, governing bodies should ensure that they have the skills needed to conduct the governing GBs business effectively. The National Governors' Association (NGA) has developed a skills audit which is structured around the core functions of the governing body, as defined in the Governors' Handbook, is available from the [NGA site](#).

The School Governance (Miscellaneous Amendments) (England) Regulations 2015 enables governing bodies or appointing bodies to set a different length of term of office for individual governors. However, this needs to be detailed on the instrument of government and is only applicable if the governing body has determined to permit appointing bodies to decide the term of office for an individual governor within a particular category.

[http://www.legislation.gov.uk/ukxi/2015/883/pdfs/ukxi\\_20150883\\_en.pdf](http://www.legislation.gov.uk/ukxi/2015/883/pdfs/ukxi_20150883_en.pdf)

For an Academy Trust the composition of its governing body is reflected in its Articles of Association. The LA is not involved in drawing up this document.

## Drawing Up an Instrument of Government

Whenever a GB of a LA school decides to change its composition, the term of office of a category of governor, the name of the school or the school category, a new IoG must be drawn up. IoGs are drawn up using standard formats and once agreed, are sealed by the LA to make them legal documents. The LA has a statutory duty to make sure that it complies with the appropriate regulations.

The Governor Support Team (GST) can advise on any changes to instruments to ensure the suggested amendments comply with the appropriate regulations. In the case of voluntary aided or voluntary controlled schools, there must also be consultation and agreement with the foundation governors, any trustees and the appropriate religious authority before any changes can be made.

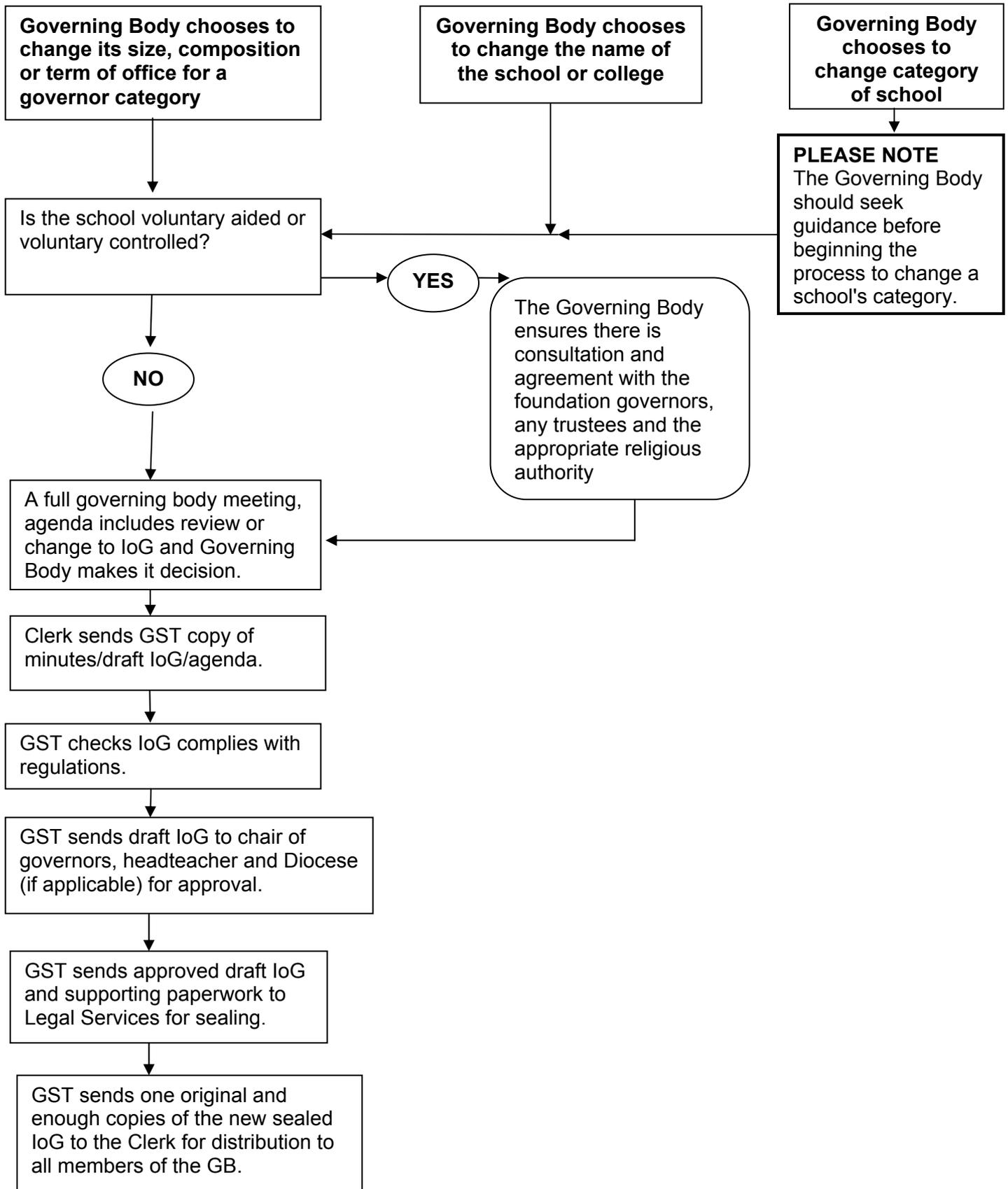
Any review or change to the IoG must be considered by the GB as an agenda item at a full GB meeting. In the case of a suggested change in the name of the school this should be listed as a separate item on the agenda. Any agreed changes/amendments (ie categories and numbers for each category detailed in the minutes) must be recorded in the

minutes/draft loG along with a note that the GB has agreed to the changes/amendments. A copy of the relevant GB minutes/draft loG/agenda (if amending the name of the school) should be sent to GST who will check to see that it complies with legal requirements, see Annex B. A final draft loG will then be sent to the chair, headteacher and Diocese (if applicable) for final approval. Once approvals have been received the draft loG will then be sent to Legal Services with supporting documentation - who will apply an official seal. There will be two originals produced. One will remain with the LA and the other original will be sent by GST to the school (by recorded delivery) marked for the attention of the clerk, along with enough copies of the new loG for distribution to each member of the GB.

A flow chart outlining the full process is listed in Appendix 1.

### Flow Chart for the process of drawing up a new Instrument of Government

In each of the three circumstances below, a new Instrument of Government (IoG) must be drawn up. The changes often involve other, far more complex procedures that must be completed before the governing body can make the decision that requires a new IoG.



## Annex B: A Summary of Maintained School Governing Body Constitution under the 2012 Constitution Regulations

School Type	Foundation/trust governors	Partnership governors	Parent governors	Staff governors (including headteacher)	Local authority governors	Co-opted Governors
Community <sup>6</sup>	N/A	N/A	At least 2	Headteacher + 1	1	As determined by the GB and no more than 1/3 where they are also eligible to be elected as staff governors when counted with the staff governor and headteacher.
Foundation with no foundation <sup>7</sup>	N/A	At least 2 but no more than ¼				
Foundation with a foundation that appoints a minority of the GB	At least 2 but no more than 45%	N/A				
Qualifying Foundation	Overall control of GB. A majority of up to 2 over all other categories of governor	N/A				
Voluntary controlled	At least 2 but no more than ¼	N/A				
Voluntary aided	Overall control of GB. Majority of 2 over all other categories of governor	N/A				

<sup>6</sup> Including community special schools and maintained nursery schools

<sup>7</sup> Including foundation special schools

# Annex C: Model instrument of government

## Instrument of government

1. The name of the school is.....
2. The school is a *[insert category]* school.  
  
Also *[If applicable]* whether the school has a foundation, and whether the school is a qualifying foundation school. **(VA, VC, QF, F)**
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<sup>8</sup> :
  - a. X parent governors
  - b. One LA governor
  - c. One staff governor
  - d. One headteacher
  - e. (if applicable) X foundation governors *[at least two (but no more than 45%)]* or X partnership governors if the foundation school has no foundation *[at least two (but no more than 1/4)]* **(F)**, or
  - e. X foundation governors *[must outnumber the other governors by up to two]* **(QF)**, or
  - e. X foundation governors *[must outnumber the other governors by two]* **(VA)**, or
  - e. X foundation governors *[at least two (but no more than 1/4)]* **(VC)**
  - f. *[If applicable]* X co-opted governors.
5. Total number of governors *[.....including additional foundation governors where appropriate].*
6. *[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].**
7. *[Applicable if the governing body has determined to permit appointing bodies to decide the term of office for an individual governor within a particular category of governors]* **The term of office for [insert category of governor] shall be between one year and [insert maximum for that category] years as determined by the appointing body at the time of appointment and notified to the clerk.**
8. Set out the name of any foundation body or person entitled to appoint foundation

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<sup>8</sup> For paragraph 4, the required numbers of governors by category are provided at Annex A and B to this guidance

governors. If this is more than one person set out the basis on which appointments are made. **(VA, VC, QF, F)**

9. *[where applicable]* **(VA, VC, QF, F)**

(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 21(1) of the Regulations.

10. *[Repeat 9(a) and (b) as necessary where there is more than one ex officio foundation governorship].* **(VA, VC, QF, F)**

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. **(VA, VC, QF, F)**

12. *[If the school has a religious character]* a description of the ethos of the school. **(VA, VC, QF, F)**

13. This instrument of government comes into effect on [...]

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

A copy of the instrument must be supplied to every member of the governor body (and the headteacher if not a governor), any trustees and to the appropriate religious body.

**Key:**

VA - Voluntary Aided

VC - Voluntary Controlled

QF - Qualifying foundation

F - Foundation

Clauses 1 to 5, 13 and 14 apply to all schools

Clause 6 applies to schools with governor terms of office of shorter than 4 years

Clause 7 applies to schools where a governor's term of office may be decided by an appointing body

Clause 8 applies to schools with foundation governors

Clauses 9 and 10 apply to schools with ex-officio foundation governors

Clause 11 applies to schools with a trust

Clause 12 applies to schools with a religious character