

How to amend your Instrument of Government

Procedures for Maintained School
Governing Boards and Governance
Professionals (Clerks)

Revised May 2022

If you have any queries about the procedures, please contact Governor Services on 0330 0249046 or email GovernorServices@oxfordshire.gov.uk

Introduction

Section 20 of the Education Act 2002 requires all maintained schools to have an **instrument of government** which determines the **constitution** of the governing body and other matters relating to the school. Part 5 of the 2012 Constitution Regulations makes provision regarding the contents and form of the instrument and the procedure for making and reviewing it.

All instruments of government must include:

- the name and category of school
- the name of the governing body
- the categories of governor
- the number of governors in each category
- the total number of governors
- the term of office of any category of governor, if less than four years
- the date the instrument of government takes effect.

There are specific additional requirements for certain categories of school, which are highlighted in Annex C (reproduced on p4). Where a school has a foundation, the instrument of government must comply with the foundation's governing documents. In most cases, the foundation refers to the relevant diocese.

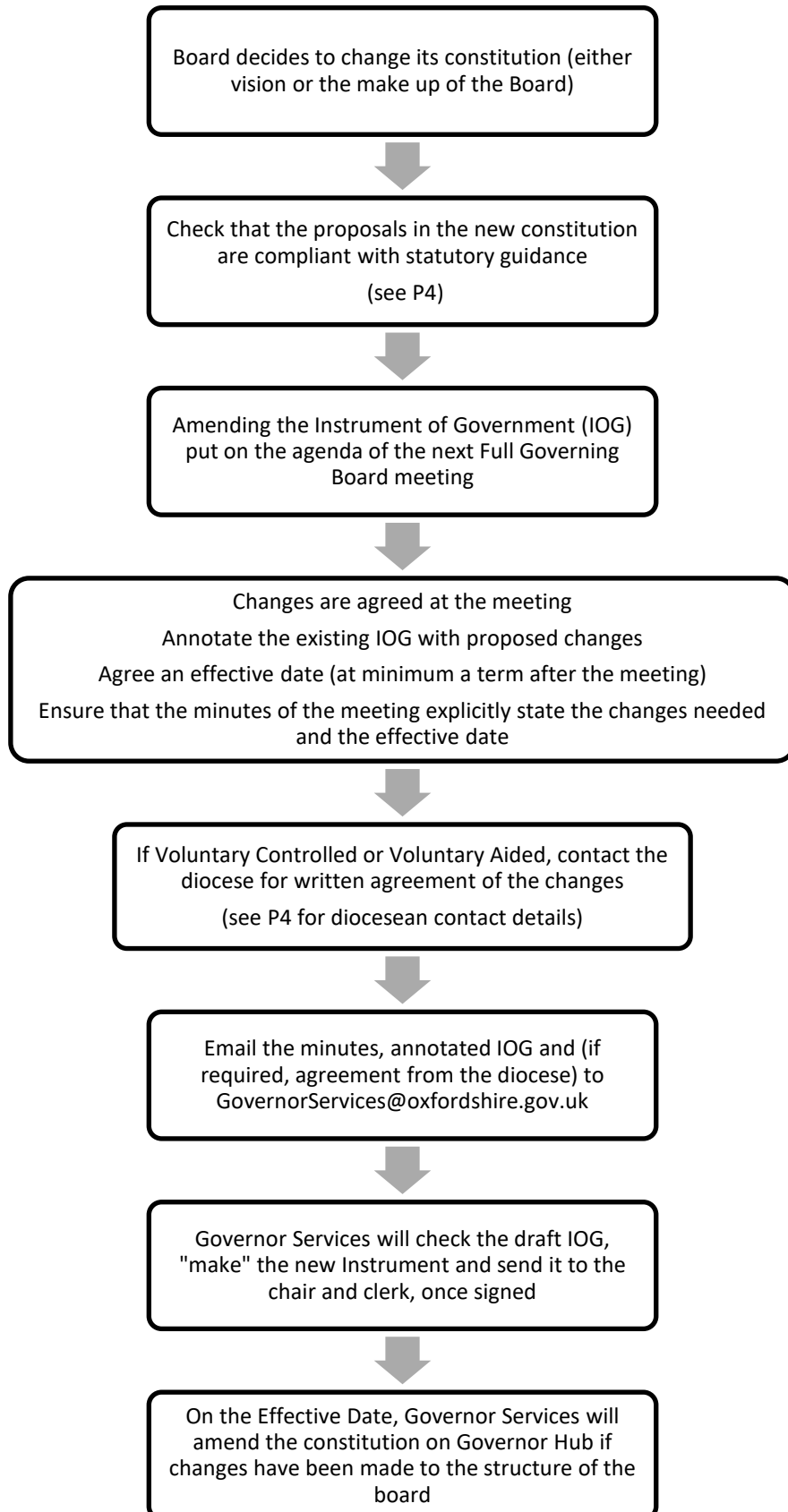
Copies of the instrument of government (regulation 31)

The local authority must supply, free of charge, a copy of the instrument of government, or a consolidated version where there has been a variation, to each member and associate member of the governing body (and the headteacher if they are not a governor) as well as, where relevant, the trustees of any foundation, the appropriate diocesan authority and appropriate religious body.

[The constitution of governing bodies of maintained schools \(publishing.service.gov.uk\)](http://publishing.service.gov.uk)

*Note: Any changes to the instrument of government **must** be agreed in a full governing board meeting and recorded in the minutes of that meeting. Changes **cannot** be agreed by email.*

Making changes to the constitution (instrument of government) of the governing board of a maintained school



Church Schools additional requirements

If the school is a **Church of England school** the Oxford Diocesan Board of Education gives agreement to the new draft Instrument of Government before it is sent to Governor Services. It is a requirement that the Diocese has given agreement first, confirmation of this being emailed from the Diocese to Governor Services and the relevant governing board.

Contact: tracy.makin@oxford.anglican.org
[Oxford Diocesan Board of Education | Governance \(odbe.org.uk\)](http://Oxford Diocesan Board of Education | Governance (odbe.org.uk))

If the school is a **Catholic school**, in the first instance contact the appropriate Catholic Diocese; Archdiocese of Birmingham or Catholic Diocese of Portsmouth. Complete a draft Instrument of Government supplied by the relevant Catholic Diocese.

Archdiocese of Birmingham, Diocesan Education Service contact:
<https://www.bdes.org.uk/governance.html>

Catholic Diocese of Portsmouth contact:
<https://www.portsmouthdiocese.org.uk>

Regulations on the structure of the governing board

Please refer to the table below to ensure that your proposed new structure complies with regulations

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 ¹⁵	N/A	N/A	At least 2	Headteacher + 1	1	As determined by the GB and no more than 1/3 of total membership where they are also eligible to be elected as staff governors when counted with the staff governor and headteacher.
Foundation or foundation special with no foundation ¹⁶	N/A	At least 2 but no more than ¼ of the total				
Foundation or foundation special with a foundation	At least 2 but no more than 45% of the total	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 of total	N/A				
Voluntary aided	Overall control of GB. Majority of 2 over all other categories of governor	N/A				

¹⁵ Including community special schools and maintained nursery schools
¹⁶ Including foundation special schools