

### 3. Governing Body Constitution

This chapter provides information relating to how governing bodies are made up, including:

- A. categories of schools;
- B. how governing bodies are made up:
  - types of governor;
  - the Instrument of Government and process;
  - terms of office;
  - reviewing the composition and options;
  - removing excess governors;
  - the composition of governing bodies;
  - qualifications and disqualifications to being a governor;
- C. election and appointment of governors;
- D. resignations and removal of governors, including suspending a governor.

#### Background

1. Each maintained school must have a governing body constituted in accordance with the Education Act 2002, Part 3, Chapter 1, which sets out the framework for the establishment of governing bodies.

2. All school governing bodies are a combination of appointed or elected governors of various types.

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3. The composition of each governing body will depend upon the number and age range of pupils at the school and the category of the school i.e. community, community special, foundation, voluntary aided (VA), voluntary controlled (VC) or maintained nursery (MN). The membership of each governing body will be set out in the Instrument of Government of the particular school, which is produced under section 20 of the Education Act 2002.

4. The Instrument of Government will be made in accordance with The Government of Maintained Schools (Wales) Regulations 2005 and as described later in this Chapter, a governing body can adopt the model from those options which best suits its purpose. The exception to this being secondary schools with 600 or more pupils and primary schools with 100 or more pupils, which have no choice of model.

## The Guiding Principles

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5. The guiding principles prescribe which categories of governor must be represented on the governing body and what the level of representation is for each of the categories. All schools have four compulsory stakeholder groups being parents, teacher, staff and LA representatives. Others vary according to the category of school and may include foundation, community, representative and partnerships governors. Sponsor governors form an optional group.

## A. Categories Of Schools

1. The School Standards and Framework Act 1998 ("the SSF Act"), Part 2, Chapter 1, sets out the framework for the categories of maintained schools. The categories of schools, with a very brief explanation of what they mean for the school, are:

- **Community School** – the school including land is owned, maintained and staffed by the local authority (subject to responsibilities delegated to governing bodies);
- **Foundation School** – the governing body owns the premises, employs the staff and has primary responsibility for admission arrangements. It will receive revenue and capital funding from the LA;
- **Voluntary Aided School** – the school (sometimes via a third party ie the promoter) holds its own premises, employs the staff and deals with admission arrangements. The LA via the school budget share provides revenue funding. The governing body will include foundation governors or in the case of a school with no foundation, partnership governors. These will hold a majority of the places on the governing body;
- **Voluntary Controlled School** – The land and buildings of the school are often owned by a voluntary organisation. However, the LA will employ the staff and have primary responsibility for admission arrangements. In practice many voluntary controlled schools will have a connection to a promoter, in the main a religious body for the purposes of providing a faith education. The governing body will include foundation governors but they will not be in the majority; and
- **Community Special School** – a school provided for children with Additional Educational Needs. The school including land is owned, maintained and staffed by the LA.

For further information on the categories of school please refer to the SSF Act.

2. For further information relating to land and buildings see Chapter 18 headed School Premises and Capital Investment. Where the category of school affects the roles and/or responsibilities of the governing body, this will either be dealt with separately or will be highlighted alongside the relevant chapters in the guide.

## B. How Governing Bodies are made up

### Types of Governor

1. Information relating to the election of governors follows in Part 2C.
2. All governing bodies have four key groups of governors, these are:
  - **Parent Governors** are elected by the parents or appointed by the governing body to represent the interests of parents on the governing body. Please see paragraph 26 for further information.
  - **Teacher Governors** are elected by fellow teaching staff at the school. A teacher governor must stand down as a governor if they cease to be employed as a teacher at the school.
  - **Staff Governors** are elected from and by the non-teaching staff employed to work at the school. For this purpose, 'employed' means employed to work at the school under a contract of employment or a contract for the supply of services. A staff governor must stand down from their term of office if they leave the school.
  - **Local Education Authority (LEA) Governors** are appointed by the LA. LAs can appoint any eligible person as an LEA governor. For example not all LEA governors are councillors, they may include any person who is interested in supporting schools and whose appointment has the support of the authority. A person is disqualified from appointment as an LEA governor if they are eligible to be a staff or teacher governor of the school.
3. In addition to these, **the head teacher** (or acting head teacher) is a member of the governing body unless he or she chooses not to be. There are no provisions for a substitute governor to take the place of a head teacher who decides not to be a governor. A head teacher must stand down from the governing body on leaving the school.
4. Different categories of governing bodies may also include some governors of the following types:
  - **Community Governors** are in three categories:
    - **Community Governors** appointed by the governing body to represent the wider community interests of the school. Community governors can be people who live or work in the community served by the school or, if they do not, who are committed to the good governance and success of the school. In deciding whom to appoint, governors should ensure the governing body reflects a balance of interests.

- **Representative Governor** - In community special schools and foundation special schools, the governing body must appoint as one of the community governors a person (if any) nominated by one or more voluntary organisations designated by the LA. This is not an additional community governor place but one of the specified number. If the school is based in a hospital, the community governor must be nominated by one or more local health boards or the National Health Service (NHS) trust.
- **Additional Community Governor** – a governing body of a maintained primary or nursery school serving an area for which there are one or more community councils, must provide for the governing body to include one additional community governor to be nominated by the community council(s). This position **is in addition** to the other community governor places.

- **Foundation Governors** are appointed by the people or organisations (if any) named in the school’s instrument of government. If the school has a religious character the foundation governors must preserve and develop this, and must also ensure compliance with the trust deed, if there is one.

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They may hold their governorship in an ex-officio capacity if they are the holder of an office specified in the instrument of government, for example a parish priest. The person is disqualified from continuing on leaving the specified post.

If there is more than one body that has the right to appoint foundation governors, the instrument of government will specify as such and the basis on which appointments are made.

- **Substitute Governor.** Where the instrument of government specifies an ex-officio foundation governor and the post holder does not wish or is unable to take up the office of governor, or there is a vacancy in that office, a replacement may be appointed to act in place of the ex-officio governor. This person would be known as a substitute governor.

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- **Partnerships Governors.** If the school has no foundation or equivalent body, foundation governors are replaced by partnership governors appointed by the governing body after a nominations process. They cannot be a parent of a registered pupil at the school, eligible to be a teacher or staff governor, or be a member of, or employed by the LA in connection with its functions as an LA.

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The governing body must ask parents of registered pupils at the school and others in the community it considers appropriate (for example, staff, community organisations and other local bodies) to provide nominations for partnership governors.

- **Sponsor Governors** - are appointed by the governing body. It is at the governing body’s discretion whether they choose to appoint sponsor governors or not. The sponsor(s) can be someone who gives, or has given, substantial assistance to the school, financially

or in kind, or who provides services to the school. Where the school has one or more sponsors, the governing body can appoint up to a maximum of two persons as sponsor governors but the instrument of government must make provision for these places.

- **Non Governor Members** - a governing body can appoint non governor members to attend full governing body meetings or to serve on one or more governing body committees. The definition of a non governor member is wide and pupils, school staff and people who want to contribute specifically on issues related to their area of expertise (for instance, finance) can be appointed as a non governor member.

Non governor members are not governors and they are not recorded in the instrument of government. Non governor members may not vote at governing body meetings but can be given a vote at committee meetings, where the governing body has agreed this when establishing the terms of reference of the committee in question.

- **Associate Pupil Governors** - The School Council (Wales) Regulations 2005 amends The Government of Maintained Schools (Wales) Regulations 2005 to allow for appointment of Associate Pupil Governors to the governing body of all maintained secondary schools.

The head teacher of a school must ensure that the school council has the opportunity to nominate up to two pupils from years 11 to 13 (inclusive) from its membership. These are in addition to the numbers of governors set out in the composition options which follow. The governing body must accept any pupil nominated and appoint him or her as an Associate Pupil Governor, provided the nomination is made in accordance with the Regulations and the pupil is not disqualified from holding office.

- **Independent Members of Staff Disciplinary Committees** - Where a staff disciplinary committee or the staff disciplinary appeal committee is required to meet to hear allegations against a member of staff that involve issues of child protection, the committee must include at least two governors plus an independent person who is not a governor. For further information on this see information relating to staff disciplinary procedures in Chapter 10.

## **The Instrument of Government**

5. The instrument of government sets out how the governing body is constituted and establishes it as a corporate body, it must set out:

- the name of the school;
- the category of school to which the school belongs;
- the name of the governing body of the school;

- the manner in which the governing body is to be constituted, ie
  - the number of governors in each category of governor;
  - where the school has additional community or sponsor governors, who will be responsible for appointing them;
  - the total membership of the governing body;
- the term of office of governors, where it is less than the normal period of four years;
- where the school has foundation governors:
  - who is to be responsible for appointing them;
  - any positions to be held ex-officio;
  - the person who is entitled to remove any ex-officio governors and to appoint a substitute;
- where the school is a community special school, the name of the body responsible for appointing representative governors;
- details of any trust, if applicable;
- where the school is a foundation or voluntary school designated as having religious character a description of the religious ethos of the school; and
- the date when the instrument of government takes effect.

### **Process for Making and Reviewing the Instrument of Government**

6. The processes for the making and varying of instruments of government are outlined in The Government of Maintained Schools (Wales) Regulations 2005. The governing body drafts the instrument and submits it to the LA. The LA must check if the draft instrument complies with the statutory requirements, including the relevant guiding principles for the constitution of governing bodies. If the instrument complies with the legal requirements, the LA will make the instrument. The governing body or the LA can review and change the instrument at any time.

7. Where appropriate, the instrument of government must be approved by any foundation governors, trustees and/or religious body, before it is submitted to the LA.

8. Once the instrument of government has been made, the LA should ensure that the following persons are provided with a copy free of charge. These persons are:

- each member of the governing body;
- the head teacher;
- the trustees of any trust relating to the school; and
- any religious body or diocesan authority connected with the school.

## Terms of Office

9. The term of office of most governors is four years from their date of appointment. The exceptions being:

- governors who are appointed as ex-officio governors ie the head teacher or a governor appointed by virtue of their office;
- parent governors of a community nursery school, where the term of office is two years.
- associate pupil governors, where the term of office is one year; and
- foundation governors, additional governors and additional foundation governors where the term of office is determined by the appointing body/person, up to a maximum of four years.

10. A governor may choose to resign from their term of office at any time. If a governor resigns or if the head teacher chooses to be or not to be a governor, the clerk to the governing body must be informed in writing.

11. Terms of office do not prevent a governor from being elected or appointed for a further term, as long as they meet the qualification requirements for the position or are not disqualified under the Regulations in place at the time.

## Review of the Instrument of Government

12. The governing body should review its own composition at intervals to make sure that it is still suitable for the school. If a school has significantly more or fewer pupils than when the instrument was made, the number of governors may need to be adjusted.

13. If, following a review, the governing body or LA decides that one of the other options available would be more appropriate than the current composition, each must inform the other party of their intention.

F 14. In a foundation or voluntary school the agreement of the foundation  
VA governors, trustees and the diocese, as appropriate, must be sought prior to  
VC any change.

15. The procedure for changing the instrument follows that for making it, if the LA agree to make the change, the number of governors in some or all categories would then need to be adjusted. The new instrument of government should also include the date on which variations are to take effect.

16. The LA cannot be required to vary the instrument of government if it does not consider it appropriate to do so.

### **Removing Excess Governors**

17. Where, on a change of composition, a governing body has more governors of any category than are required by the instrument of government and the excess do not resign, governors of that category will be removed, by order of seniority. For this purpose, the governor(s) to be removed will be determined by order of seniority, with the governor whose current period of office is the shortest being the first to go. Where one or more governors are of equal seniority, the decision will be made by the drawing of lots.

18. Additional community governors are considered to be separate from community governors for the purposes of removing excess governors.

### **The Composition of Governing Bodies**

19. The membership of governing bodies is set out in The Government of Maintained Schools (Wales) Regulations 2005 and will depend upon the category and size of the school. The options for each are as set out on the following pages. Additional community governors, where applicable, are in addition to the number of community governors listed.

## Community Schools

Community secondary school with 600 or more pupils (column a)  
 Community secondary school with less than 600 pupils (column a or b)  
 Community primary school with 100 or more pupils (column c or d)  
 Community primary school with fewer than 100 pupils (column c, d, e or f)  
 Community maintained nursery school with 100 or more pupils (column c or d)  
 Community maintained nursery school with fewer than 100 pupils (column c, d, e or f)  
 Community special school (column c, d, e or f)

Category of governor	a	b	c	d	e	f
Parent	6	5	5	4	3	3
LEA	5	4	4	3	2	2
Teacher **	2	2	2	1	1	1
Staff **	1	1	1	1	1	0
Community *** ****	5	4	4	3	2	2
Head teacher *	1	1	1	1	1	1

\*The Head teacher may choose whether or not to be a governor.

\*\* The instrument of government of a maintained nursery school may allow for a single category of staff governor in place of the separate categories of teacher governor and staff governor. There must be at least one staff governor.

\*\*\* For a community special school the LA may designate one (or more than one acting jointly) appropriate voluntary organisation to appoint a representative governor, which will take the place of one of the specified community governors. Where a community special school is established in a hospital, the LA must designate one (or more than one acting jointly) local health board, or the National Health Service Trust with which the school is most closely associated, to appoint such a representative governor.

\*\*\*\* A governing body of a community primary or maintained nursery school serving an area for which there are one or more community councils must provide for the governing body to include one additional community governor place to be nominated by the community council(s).

## Foundation Schools

Foundation secondary school with 600 or more pupils (column a)

Foundation secondary school with fewer than 600 pupils (column a or b)

Foundation primary school with 100 or more pupils (column c or d)

Foundation primary school with fewer than 100 pupils (column c, d, e or f)

Foundation special school (column c, d, e or f)

<b>Category of governor</b>	<b>a</b>	<b>b</b>	<b>c</b>	<b>d</b>	<b>e</b>	<b>f</b>
<b>Parent</b>	7	6	6	5	4	4
<b>LEA</b>	2	2	2	2	2	2
<b>Teacher</b>	2	2	1	1	1	1
<b>Staff</b>	1	1	1	1	1	0
<b>Foundation **</b>	5	4	4	3	2	2
<b>Community ***</b>	3	2	1	1	1	1
<b>Head teacher *</b>	1	1	1	1	1	1

\*The Head teacher may choose whether or not to be a governor.

\*\* Where the school does not have a foundation, the reference to foundation governors should be amended to refer to partnership governors.

\*\*\* A governing body of a foundation primary school serving an area for which there are one or more community councils must provide for the governing body to include one additional community governor place to be nominated by the community council(s).

**Voluntary Controlled (VC) Schools**

VC secondary school with 600 or more pupils (column a)

VC secondary school with fewer than 600 pupils (column a or b)

VC primary school with 100 or more pupils (column c or d)

VC primary school with fewer than 100 pupils (column c, d, e or f)

<b>Category of governor</b>	<b>a</b>	<b>b</b>	<b>c</b>	<b>d</b>	<b>e</b>	<b>f</b>
<b>Parent</b>	6	5	5	4	3	3
<b>LEA</b>	4	3	3	3	2	2
<b>Teacher</b>	2	2	1	1	1	1
<b>Staff</b>	1	1	1	1	1	0
<b>Foundation</b>	5	4	4	3	2	2
<b>Community **</b>	2	2	1	1	1	1
<b>Head teacher *</b>	1	1	1	1	1	1

\*The Head teacher may choose whether or not to be a governor.

\*\* A governing body of a voluntary primary school serving an area for which there are one or more community councils must provide for the governing body to include one additional community governor place to be nominated by the community council(s).

## Voluntary Aided (VA) Schools

VA secondary school with 600 or more pupils (column a)

VA secondary school with fewer than 600 pupils (column a or b)

VA primary school with 100 or more pupils (column c or d)

VA primary school with fewer than 100 pupils (column c, d, e or f)

Category of governor	a	b	c	d	e	f
Parent	3	2	2	1	1	1
LEA	2	1	2	1	1	1
Teacher	2	2	1	1	1	1
Staff	1	1	1	1	1	0
Head teacher *	1	1	1	1	1	1
Foundation ** *** ****	**	**	**	**	**	**

\* The Head teacher may choose whether or not to be a governor.

\*\* The number of foundation governors to be appointed to be such that they outnumber the total number of governors in all the other categories by three for a secondary school governing body and by two for any other school.

\*\*\* For a secondary school governing body established in line with column a, the foundation governors must include at least three governors who at the time of their appointment are parents of registered pupils at the school. For all other options, this number to be at least two.

\*\*\*\* A governing body of a voluntary primary school serving an area for which there are one or more community councils must provide for the governing body to include one additional community governor place to be nominated by the community council(s).

## Qualifications and Disqualifications

20. Schedule 5 to The Government of Maintained Schools (Wales) Regulations 2005 covers the qualifications and disqualifications of governors.

21. A governor must be aged 18 or over at the time of their election or appointment (except for associate pupil governors).

22. A person is disqualified from holding or from continuing to hold office as a governor if he or she:

- is able to be detained under the Mental Health Act 1983 during his or her period of office;
- fails to attend the governing body meetings – without the consent of the governing body – for a continuous period of six months, beginning with the date of the first meeting missed (not applicable to ex officio governors). Where a governor has sent an apology for the meeting, the minutes of that meeting must record the governing body's consent or otherwise to the absence – and a copy of the minutes must be sent to the governor;
- is subject to a bankruptcy restriction order or an interim order;
- has had their estate sequestrated and the sequestration order has not been discharged, annulled or rescinded;
- is 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
  - an order made under section 492(2)(b) of the Insolvency Act 1986 (failure to pay under a County Court administration order);
- has been removed from the office of charity trustee or trustee for a charity by the Charity Commissioners or High Court on grounds of any misconduct or mismanagement, or under section 7 of the Law Reform (Miscellaneous Provisions)(Scotland) Act 1990 from participating in the management or control of any body;
- is included in the list of people whose employment is prohibited or restricted under Section 1 of the Protection of Children Act 1999;
- is disqualified from working with children or is the subject of a direction by the Welsh Assembly Government under section 142 of the Education Act 2002;
- disqualified from being the proprietor of an independent school;

- has received a sentence of imprisonment (whether suspended or not) for a period of not less than three months (without the option of a fine) in the five years before becoming a governor or since becoming a governor;
- has received a prison sentence of two-and-a-half years or more in the 20 years before becoming a governor;
- has at any time received a prison sentence of five years or more;
- has been fined for causing a nuisance or disturbance on school premises during the five years prior to or since appointment or election as a governor; or
- refuses a request by the governing body to make an application to the Criminal Records Bureau for a criminal records certificate.

23. The Safeguarding Vulnerable Groups Act 2006 (the SVG Act) will require that all newly appointed and elected governors are registered with the Independent Safeguarding Authority (ISA). Further information on this is available at [www.isa.gov.org.uk](http://www.isa.gov.org.uk).

24. Where a person is disqualified from holding or continuing to hold office under these provisions they must give notice of that fact to the clerk to the governing body.

25. Pupils registered at the school, anybody eligible to be a staff or teacher governor at the school and elected members of the LA in which the school is situated are not able to become community governors. This is because community governors are intended to represent the wider community.

26. Elected members of the LA, LA employees and employees of the governing body of any school maintained by the LA are not eligible to be appointed by the governing body as parent governors unless they are parents of pupils at the school. (Normally parent governors are parents of pupils at the school who are elected by other such parents).

27. A person cannot, at any time:

- hold more than one governorship at the same school, nor
- be a member of more than two governing bodies of maintained schools unless he or she is:
  - a governor appointed to a school causing concern under sections 16, 16A, 18 or 18A of the SSF Act (see *Chapter 24*);
  - a temporary governor; or
  - an ex-officio governor. An ex-officio governor may serve in that capacity on two governing bodies of maintained schools as well as on two other governing bodies as an ordinary (that is, not ex-officio) governor.

## C. Election and Appointment of Governors

### Elections

1. Wherever possible, places for parent, teacher and staff governors must be filled by election. The organisation of the elections will be the responsibility of the “appropriate authority”, see paragraphs 2 and 3.
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S 2. For community, community special, VC and nursery schools, the LA is the appropriate authority, though it can delegate this function to the head teacher.
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VA 3. For foundation, foundation special and VA schools, the governing body is the appropriate authority, although it may delegate some of the work to the head teacher. The governing body may also agree with the LA for it to make the arrangements, in these circumstances the LA can delegate the function to the head teacher.
4. The appropriate authority will need to decide:
  - when and where the election will be held;
  - how nominations should be made;
  - what voting method will be used; and
  - whether there should be a returning or presiding officer (an official in charge of the voting process).
5. The appropriate authority may also set qualifying dates for candidates to stand for election. No requirement can be imposed as to the minimum number of votes that need to be cast for parent, teacher or staff governor elections.
6. Parents, teaching and non-teaching staff, the LA and the governing body (as appropriate) should be told the result of the election. The ballot papers should be kept for a while in case the election is challenged.
7. The governing body should make sure that the clerk tells the LA of any governor changes. The LA needs these details to help them discharge their statutory duty to provide information and training for all governors of maintained schools in their area.
8. Parent, teacher and staff governors may stand for re-election once their term of office has come to an end, as long as they still meet the requirements to do so.
9. Teacher and staff governors must stand down from their term of office if their employment at the school ends.

10. Election procedures should be reviewed from time to time. If the LA conduct elections, and the head teacher or governing body become aware of problems which have arisen during elections, they should tell the LA so that the LA can consider whether any changes are needed.

### Parent Governor Elections

11. All parents of registered pupils at a school must be informed about any parent governor vacancy, the need for an election, their right to stand for election and to vote for the candidate of their choice. In this context, a parent is someone who is a natural parent or an individual who has assumed parental responsibility or has care of a child or young person, this would not include a LA where a child was in its care. (For a full definition of parent see the Education Act 1996: Section 576 and the NAfW circular No: 13/2007 entitled "Parents" and "Parental Responsibility" for Schools.)

12. Parents should be invited to put themselves forward for election as a parent governor. It cannot be insisted that the person is nominated and seconded by other parents nor is it a requirement that the parents supply a personal nomination statement.

13. If the number of parents standing for election is equal to or less than the number of places available, those parents will automatically become governors.

14. Where more nominations are received than there are vacancies an election must be held by secret ballot. Parent governor ballots may be either by post or by 'pupil post'. If 'pupil post' is used, care should be taken to ensure that the returning envelope does not identify the voter.

15. In some circumstances a child may have more than two 'parents' who have the right to stand as governors, or to vote. The school's admissions register will include a list of parents of pupils at the school. A parent only has one vote, no matter how many children he or she has at the school.

16. Schools must make every effort to fill parent governor vacancies by means of elections, but there are three situations where it might not be possible for parent governors to be elected. These are:

- there are fewer parents standing for election than there are places to be filled;
- at a school where at least half the pupils are boarders, the LA decide it would not be practical to hold an election; or
- at a school established in a hospital, the LA decide it would not be practical to hold an election.

NS 17. In such circumstances the governing body must **appoint** a parent of a registered pupil at the school, or, where that is not possible a parent of a child of compulsory school age, or in the case of a maintained nursery school, a

child under compulsory school age. please note that different considerations apply in relation to community special schools. Further details can be found in Schedule 1 to The Government of Maintained Schools (Wales) Regulations 2005.

18. The minimum number of governors that must be present at a governors meeting held to **appoint** a parent governor is one-half (rounded up to a whole number) of current governors, excluding any associate governors, vacancies or suspensions. The governing body must not appoint an elected member or an employee of the LA, or an employee of any school in the LA area as a parent governor unless that person is a parent of a pupil at that school.

19. Parent governors do not have to stand down if their child leaves the school during the period of their term of office, though they may do so if they wish. They may stand for re-election at the end of their term of office if they still have a child on the school roll.

20. Members of staff can vote in parent governor elections if they are parents. They can also be governors at other schools. Their employment status will not affect their qualification for governorships in these categories at another school.

### **Teacher Governor Elections**

21. Anybody who is employed as a teacher under a contract of employment or a contract for services at the school, must be offered a chance to stand for election as a teacher governor at the school, and to vote for the candidate of his or her choice. Elections must be held by secret ballot.

### **Staff Governor Elections**

22. Anybody who is employed to work at the school (other than as a teacher) under a contract of employment or a contract for services must be offered a chance to stand for election as a staff governor at the school, and to vote for a candidate of his or her choice. Elections must be held by secret ballot.

## **D. Resignation and Removal of Governors**

1. Any governor may resign at any time. A governor must give written notice of his or her resignation to the clerk.
2. The power to remove governors must be used reasonably and lawfully.
3. Elected parent, teacher or staff governors cannot be removed during their term of office unless they become disqualified under the regulations listed earlier in this Chapter or, in the case of a teacher or staff governor, they cease to be employed to work at the school.
4. Any LEA, foundation or representative governor may be removed from office by the person or body responsible for their appointment. That person must give notice in writing to the clerk to the governing body and to the governor to be removed.
5. An ex officio governor may be removed by the person named in the Instrument of Government. That person must give notice in writing to the clerk and to the governor to be removed.
6. Additional community or sponsor governors may be removed by the person or body that nominated them. Again, that person must give notice in writing to the clerk and to the governor to be removed.
7. The governing body may remove a community governor, an appointed parent governor, a partnership governor or an associate pupil governor by:
  - passing a resolution of the governing body at a meeting held on seven days notice;
  - placing the 'removal of the governor' as a specific item on the agenda for the meeting;
  - ensuring that at least half the members of the governing body (rounded up to a whole number) are present at the meeting;
  - ensuring that at the meeting, the governor or governors proposing the removal of the governor states the reasons for the proposal, and the governor whom it is proposed to remove is given an opportunity to make a statement in reply; or
  - giving written notice to the governor of the reasons for his or her removal. This should be done after the resolution has been passed.

### **Notifying the Clerk of Resignations and Removals**

8. If a governor resigns or is removed from office, or if the head teacher chooses to be or not to be a governor, the clerk to the governing body must be informed in writing.

## Suspension of Governors

9. In certain prescribed circumstances as outlined below, the governing body can decide to suspend a governor for a period of up to six months if:

- the governor is paid to work at the school and is the subject of disciplinary proceedings in relation to his or her employment;
- the governor is the subject of any court or tribunal proceedings, the outcome of which may be that he or she is disqualified from continuing to hold office as a governor under Schedule 5 of The Government of Maintained Schools (Wales) Regulations 2005;
- the governor has acted in a way that is inconsistent with the school's ethos or religious character and has brought, or is likely to bring, the school, the governing body or his or her office of governor into disrepute; or
- the governor is in breach of his or her duty of confidentiality to the school, the staff or to the pupils.

10. A governing body can vote to suspend a governor on any of the above grounds but does not have to do so. The governing body should only use suspension as a last resort and after seeking to resolve any difficulties or disputes in a more constructive manner.

11. Subject to the regulations, a governing body may decide to suspend a governor for a further fixed period or periods.

12. Any motion to suspend must be specified as an agenda item of a meeting for which at least seven days' notice must be given. Before the governing body votes to suspend a governor, the governor proposing the suspension must give their reasons for doing so. The governor who is proposed for suspension must be given the opportunity to make a statement in response before withdrawing from the meeting in accordance with Schedule 7, paragraph 2(2) of The Government of Maintained Schools (Wales) Regulations 2005. A vote should then take place.

13. A governor who has been suspended must be given notice of any meetings and must be sent agendas, reports and papers for any meetings during his or her suspension.

14. A governor who has been suspended cannot be disqualified from holding office for failure to attend meetings.

## The Law

The Education Act 1996: Section 576

The Education Act 2002: Sections 19, 20, 21 and 23

The Government of Maintained Schools (Wales) Regulations 2005

The Staffing of Maintained Schools (Wales) Regulations 2006

The Staffing of Maintained Schools (Miscellaneous Amendments)(Wales) Regulations 2007

The School Council (Wales) Regulations 2005

## Guidance

“Parents” and “Parental Responsibility” Guidance for Schools NAFW Circular 13/2007

If the governing body wants to check whether a prospective or existing governor has been disqualified under the provisions listed above, some sources of information are:

- **Criminal Record Bureau and Independent Safeguarding Authority:** contact your LA;
- **Bankruptcy:**
  - The Insolvency Service Website [www.insolvency.gov.uk](http://www.insolvency.gov.uk)
  - Plymouth Land Registry (Plumer House, Tailyour Road, Plymouth, Devon PL6 5HY) offers a postal search service for a fee [www1.landregistry.gov.uk](http://www1.landregistry.gov.uk);
- **Company directorships:**

The Companies House disqualified directors register [www.companieshouse.gov.uk](http://www.companieshouse.gov.uk).

