

Policy for the Removal of Foundation Governors

Document Overview

Purpose	The overall purpose of this policy is to identify the correct procedure for governing boards to follow if the need to remove a Foundation Governor arises
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Introduction

Occasionally, there may be circumstances where a Foundation Governor appointed by, or with the consent of, Coventry Diocesan Board of Education (CDBE) is causing difficulties locally, which cannot be resolved at school level.

This guidance outlines arrangements for the potential removal of Foundation Governors, appointed to Church of England Voluntary Aided (VA), Voluntary Controlled (VC) schools and to local governing bodies in a Multi-Academy Trust (MAT) in which CDBE is named as a corporate member.

The removal of a Foundation Governor is a serious matter and professional advice must be obtained to ensure the appropriateness of removal and that the correct procedures are followed. Church schools should consult the Diocesan Director of Education (DDE), through the DBE Governance Officer, **before** taking any formal steps.

Legislative Framework

The appropriate legislation dealing with the appointment, conduct and removal of school governors is the [School Governance \(Constitution\) \(England\) Regulations 2012](#). This legislation applies to maintained VA and VC schools.

If the CDBE is a corporate member of a MAT the local governing bodies of that MAT must be constituted in accordance with the Articles of Association. These require the MAT to seek CDBE consent to appoint Foundation Governors. The required constitution of local governing bodies is detailed in Articles 101a and 101b. CDBE uses a common process to appoint Foundation Governors to VA/VC maintained schools and to provide consent for appointment to MAT local governing bodies.

CDBE expects each academy to have an Ex-officio Foundation Governor position for the parish priest. In some circumstances CDBE may agree to appoint a Substitute Ex-officio Foundation Governor. This appointment is made by the DDE in discussion with the appropriate Archdeacon. The CDBE Governance Officer will assist with the administration of this process.

CDBE expects all church schools with Foundation Governors appointed by, or with the consent of the DBE, to manage removal of Foundation Governors in accordance with the regulations.

Regulation 20(1) and 20(2) read as follows:

Removal of foundation governors

- 20.**—(1) Any foundation governor other than an ex officio foundation governor may be removed from office by the person who appointed the foundation governor.
(2) The person referred to in paragraph (1) must give written notice of the removal from office to the clerk to the governing body and to the foundation governor who is being removed.

Removal of ex officio foundation governors

- 21.**—(1) The governing body may, in accordance with the procedure set out in regulation 25, remove any ex officio foundation governor at the request of the person named in the instrument of government as the person entitled to make such a request.

(2) A person requesting the removal of an ex officio foundation governor must give written reasons for the request to the clerk to the governing body and the governor in question.

CDBE Procedure for Raising Concerns About the Conduct of Foundation Governors

1. Concerns about governor conduct should be referred to the CDBE's Governance Officer. The governing body should have already carried out an investigation, in accordance with the CDBE Code of Conduct and should provide this information to the CDBE's Governance Officer. If the Chair feels that it is necessary, the governor may be suspended from meetings until the CDBE investigation process is completed.
2. The CDBE will only remove a Foundation Governor if there is evidence that:
 - 2.1. the code of conduct has been broken
 - 2.2. the Nolan Principles of public life have not been observed
 - 2.3. there is an event leading to a legal bar to governance.
3. The CDBE Governance Officer will gather information and refer requests of substance to an investigation panel of 3 DBE members, not including the Chair. The panel will review the evidence and invite the governor in question to respond.
4. If the panel decides that removal is appropriate the CDBE Governance Officer will write to the governor setting out the reasons for removal. The governor has the right to appeal within 10 days of receipt of the letter.
5. Appeals will be heard by a further panel convened by the Chair of the DBE and two other DBE members not included in the investigation panel. The appeal panel's decision is final.
6. If the panel decides to remove the governor, the Governance Officer will write to the governor to remove them from office and ask the PCC of the parish to begin the search for a new governor.
7. The Governance Officer will write to the Chair of Governors and Governance Professional with the outcome of the DBE investigation.

CDBE Procedure for raising concerns about the conduct of Ex-officio and Substitute Ex-officio Foundation Governors

1. If there are concerns about the conduct of an Ex-officio or Substitute Ex-officio Foundation Governor these should be referred without delay to the Director of Education.
2. The Director of Education will speak to the appropriate Archdeacon for the parish and together they will investigate the concerns.
3. If the concerns cannot be resolved, the DDE and Archdeacon may choose to remove the governor and appoint a replacement.

Further to a request made by the DDE and Archdeacon for the removal of an Ex-officio Foundation Governor the following procedure from the [School Governance \(Constitution\) \(England\) Regulations 2012](#) should be followed:

Removal of ex officio foundation governors

21.—(1) *The governing body may, in accordance with the procedure set out in regulation 25, remove any ex officio foundation governor at the request of the person named in the instrument of government as the person entitled to make such a request.*

(2) A person requesting the removal of an ex officio foundation governor must give written reasons for the request to the clerk to the governing body and the governor in question.

Procedure for removal of governors by the governing body

25.—(1) *This regulation applies in relation to the removal of a governor from office in accordance with regulations 21(1), 23 or 24.*

(2) A resolution to remove a governor from office which is passed at a meeting of the governing body will not have effect unless—

- (a) in relation to the removal of a governor under regulation 21(1) and 23(2), the governing body has considered the reasons for removal and the governor whom it is proposed to remove has been given an opportunity to make a statement in response;*
- (b) in relation to the removal of a governor ("P") who is a co-opted governor or partnership governor under regulation 23(1) or a parent governor under regulation 24, the governor proposing P's removal has at that meeting given reasons for doing so and P has been given an opportunity to make a statement in response;*
- (c) it is confirmed by a resolution passed at a second meeting of the governing body held not less than fourteen days after the first meeting; and*
- (d) the matter of the governor's removal from office is specified as an item on the agenda for each of those meetings.*