

Hereford Diocesan Board of Education Guidance on the removal of Foundation Governors in Maintained Voluntary Aided (VA) and Voluntary Controlled (VC) Schools

This guidance issued by Hereford Diocesan Board of Education (DBE) covers the removal of:

- a) all Foundation Governors nominated and appointed to Church of England Voluntary Aided, Voluntary Controlled and Foundation schools in Hereford diocese by the Hereford Diocese Board of Education
- b) all Foundation Governors nominated by the Parochial Church Council (PCC) and appointed by the Hereford Diocese Board of Education to Church of England Voluntary Aided, Voluntary Controlled and Foundation schools in Hereford diocese
- c) Ex officio Foundation Governors who hold their position by the virtue of the post they hold (usually the Principal Officiating Minister in the Parish).

NB: the guidance for removing a member or trustee/director from an Academy Board or Multi Academy Trust Local Academy Board/Local Governing Board **are not included** in this document. Please refer to the separate Hereford DBE guidance document available for academies.

Although a Governing Body can (in limited circumstances) suspend a Foundation Governor, **they cannot unilaterally remove them.**

Note: disqualification (as opposed to removal) including disqualification by reason of failure to attend meetings without consent, is also outside the remit of this policy.

In all cases the removal of a governor is a most serious matter. It is unpleasant and time consuming for all involved and can distract from the business of the Governing Body in supporting the school. As such, it should only ever be considered either as a last resort or in the most serious cases of inappropriate conduct. Professional advice must be obtained both as to the appropriateness of removal and as to the procedure to be followed.

All church schools are advised to consult the Diocesan Director of Education (DDE) **before** taking any formal steps.

Key points:

- All Foundation Governors in Church of England maintained schools in the Hereford Diocese are appointed by the DBE with some having been initially nominated by a PCC. Individuals may be removed by the body that **appointed** them.
- Ex officio Foundation Governors (usually the local Incumbent) can be removed by the Governing Body at the request of the person, identified in the instrument of government, as the person entitled to make such a request (usually an Archdeacon).
- If the DDE cannot resolve the issue, then the removal of the Foundation Governor will be referred to the DBE and will follow the process outlined on page 3. Other appointing bodies are advised to follow a similar process after taking professional advice.

Legislation

Maintained schools are governed by the Education Acts and by the Regulations published under them. Governors of maintained schools may be removed by the body or person who appointed them. Part 4 (Regulations 20-25) of The School Governance (Constitution) (England) Regulations 2012 sets out when a governor can be removed from the governing body. As at August 2021, the latest edition of DfE Statutory Guidance based on these regulations is the [August 2017 edition](#). DBE Senior Staff will seek to ensure the Diocesan Board of Education is informed of any regulation or guidance on the removal from office of appointed governors.

NB. Legally, any decision made by any party to remove a governor could be subject to judicial review. It is essential to take professional advice.

Possible Reasons for Removal

This list is not exhaustive. It is provided to support Governing Bodies and the DBE in determining whether any given issue or conduct is likely to justify removal.

- Refusal to or persistent failure to uphold the religious character of the school.
- A serious breakdown of relationships which can be shown to be impacting on the effectiveness of the Governing Body.
- Responsibility for serious damage to the stability of the school or increased workload to school staff through inappropriate action, use of social media or public statement.
- A serious breach in confidentiality.
- Refusal to accept the corporate decisions of the Governing Body.
- Violence on school premises (to persons or property).
- Any other action likely to bring the school into disrepute.
- Any other action which constitutes a significant breach of the school's Code of Conduct.

Expectations Prior to Invoking Removal Procedure

Stage 1: Chair of Governors attempts to resolve issue

Except in the most serious cases of misconduct, where immediate removal might be appropriate (in which case, Stage 3 should be followed in the first instance) any concerns regarding a Foundation Governor should have first been addressed by the Chair of Governors ("Chair") or, where the Chair of Governors is the subject of the concerns, by another governor ("Nominated Governor").

Usually, the DBE's Governors Code of Conduct as detailed on the Foundation Governors Appointment Form will have been agreed to abide by on appointment and will be the expected standard against which Foundation Governors' actions will be judged. The DBE will expect to see evidence of the steps taken by the Chair or Nominated Governor to attempt to resolve the issue (challenge of behaviour not in line with the Code of Conduct, training and/or support offered and/or undertaken, dispute resolution measures taken etc.) which should be documented. A member of the Hereford Diocese Education Team will be happy to assist any school needing support at Stage 1.

Stage 2: Diocesan Deputy Director of Education (DDDE) attempts to resolve issue

If the Chair or Nominated Governor, notwithstanding measures taken, is unable to resolve the issue, they should refer the matter to the DDDE. They will work with the Chair or Nominated Governor to agree next steps to attempt to resolve the issue (for example DBE representation at meetings or third party involvement).

Stage 3: DDDE referral to Director of Education (DDE)

Where an issue or misconduct has been referred to the DDDE, who agrees that either (i) it is sufficiently serious to warrant potential immediate removal; or (ii) that all reasonable measures to resolve the issue have been exhausted, the DDDE will refer it to the DDE.

The DDE will confirm that either:

- (i) The issue or misconduct is sufficiently serious to potentially justify immediate removal; or
- (ii) All reasonable measures to resolve the issue have been exhausted.

If the DDE is satisfied that (i) or (ii) is the case, the issue will be referred for consideration as set out below. Where the DDE is not satisfied that there is enough evidence to justify a referral, the DDE may return the issue to either Stage 1 or Stage 2 as appropriate. The DDE will indicate any further action required or evidence needed.

Process for the Removal of a Foundation Governor or Director appointed by the DBE

(Other appointing bodies are advised to follow a similar process after taking professional advice)

1. Consideration to remove an **appointed** Foundation Governor from office mid-term should be referred to the Diocesan Board of Education (DBE) for maintained schools via the Diocesan Director or Deputy Director of Education (DDE or DDDE)
2. As removal is a serious matter a minimum of 3 members from the DBE to include the Chair, should consider the matter as a specially convened panel.
3. The Foundation Governor concerned will be informed in writing of the decision to refer the matter of their removal to the panel. They will be given the right, within 10 working days, to make written representations to them prior to a decision being made.
4. A meeting of the panel will, within 10 working days, be convened to discuss the case. The DDE or DDDE shall attend for the purpose of advising and the meeting will be clerked.
5. The DDE or DDDE will present the reasons for requesting the removal of the Foundation Governor. The panel will consider any written representation from the Foundation Governor.
6. The panel will make their decision, and the DDE will write within 5 working days, to the Foundation Governor concerned and the clerk to the governing body, to convey the decision without giving details of the case.
7. Simultaneously the DDE will advise the following of the decision: all members of the DBE, the Headteacher, if relevant the Parochial Church Council (PCC), the relevant Archdeacon and the relevant Local Authority for record keeping purposes.
8. There is no right to appeal.

Process for the Removal of an *ex officio* Foundation Governor

1. Referral for consideration of a removal of an *ex officio* Foundation Governor for maintained church schools will be to the person named in the school's instrument of government as the person entitled to make a request to do so (the "Entitled Person" – usually the Archdeacon).
2. The DDDE will present to the Entitled Person the concerns raised by the school and the measures taken to attempt to resolve the issue.
3. The Entitled Person will consider whether they wish to request the removal of the *ex officio* Governor. In reaching their decision, the Entitled Person may seek the advice and guidance of the DDE. They may also choose to invite the *ex officio* Foundation Governor to make written representations to the Entitled Person.
4. If the Entitled Person decides to request the removal of an *ex officio* Governor, they will inform the clerk to governors in writing that he/she requests the governors to remove the *ex-officio* Foundation Governor, detailing the reasons why (copy to the Chair of the DBE and the DDE).
5. Simultaneously the Archdeacon informs the *ex-officio* Foundation Governor in writing he/she has requested the governors to remove them from their post as *ex-officio* governor, detailing the reasons why, the date and time of the meeting at which the request will be considered and their right to make a statement in response to the request.
6. The request for removal must be considered at the next full governing body meeting.
7. The request must appear as an item of business on the agenda (to be distributed at least 7 days in advance), usually in the form of a resolution.
8. The clerk gives the reasons for removal at the meeting.
9. The *ex-officio* Foundation Governor must be given the opportunity to give a statement in reply before they withdraw from the meeting
10. A vote must take place to agree (or not) the resolution (request) to remove the *ex-officio* Foundation Governor.
11. The removal must be confirmed by resolution at a second meeting, not less than 14 days after the first.
12. The confirmation must appear as an item of business on the agenda.
13. The *ex officio* Foundation Governor will not be entitled to vote at or contribute to the discussion about their potential removal from office at the Governing Body meeting as they have an interest in the outcome. Having been given an opportunity to present their statement and answer any questions the Governing Body may have, they must withdraw from the meeting at the point at which the potential removal is considered by the Governing Body.
14. The clerk to the Governing Body will inform the *ex officio* Foundation Governor, the Entitled Person and the DDE of the outcome of the Governing Body's decision.
15. If the Governing Body resolved to remove the *ex officio* Foundation Governor from office, the Archdeacon will liaise with the DDDE or DDE to initiate the process to appoint a substitute governor.

Contact Details

Canon Andrew Teale
Diocesan Director of Education

Sian Lines
Deputy Diocesan Director of Education

Toni Enefer
Business and Governance Officer

education@hereford.anglican.org

Policy implemented: October 2021

Policy to be reviewed: September 2022

Policy approved: 9th September 2021