

Diocese of Carlisle Board of Education

Policy for the removal of Foundation Governors

1. Introduction: Foundation Governors and Vision



Life in all its fullness

Foundation Governors play a key role in delivering our Diocesan Vision for Education. In keeping with our Vision, we aim for **every** member of the school community to enjoy life in all its fullness. The four elements that run through the Vision should therefore inform and shape the relationship between Foundation Governors and the schools they serve.

Wisdom, Knowledge and Skills

Hope and Aspiration

Community and Living Well Together

Dignity and Respect

Wisdom, Knowledge and Skills

The experience and skills of Foundation Governors can strengthen greatly and add to the collective wisdom of our Governing Bodies. Very often, they are local residents and bring particular insight and understanding about the school's context and individual circumstances.

Hope and Aspiration

As either Christians themselves or as people committed to supporting the distinctive Christian ethos of Church of England schools, Foundation Governors are well placed to encourage a spirit of trust, love, forgiveness and compassion, enabling Headteachers and school staff to build an environment in which hope and aspiration can thrive; in which school staff can feel valued and supported; and in which relationships can flourish.

Community and Living Well Together

If schools are to operate successfully and continue to improve, a positive working relationship between a Headteacher and the local community is vital. When individuals support one another, the whole community benefits. People who are positive and flourishing themselves are likely to contribute more to the community to which they belong and are better able to bring out the best in others. Foundation Governors are often uniquely well positioned to foster church and community involvement in their schools.

Dignity and Respect

As caring members of the local community, Foundation Governors are often able to help ensure that the school is an inclusive setting, providing well for all its members, including the most vulnerable. They are often aware of individual or local contextual need (emotional, social, poverty etc.).

2. Life in all its fullness: Removal as Last Resort

When it works well, the role of Foundation Governor really does facilitate life in all its fullness, both for the Governor himself or herself, who finds the work hugely rewarding, and for the school and local community who appreciate the support they receive.

In keeping with our Vision, we expect relationships in our schools to be built on mutual respect and trust. Disagreements and differences of opinion should be handled compassionately and with a spirit of understanding and forgiveness. However, occasionally there will be times when an individual's role as Foundation Governor becomes untenable and ordinary means of resolving an underlying issue are either not appropriate or have been exhausted. In such cases, removal may ultimately be the only option.

The removal of any 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. Examples of conduct which may justify removal of a governor can be found in Appendix B. The decision to remove a governor could be subject to judicial review.

Any school seeking to remove a governor **must** seek advice to ascertain the appropriateness of the removal and the correct process to be followed **before** taking any formal steps (contact details can be found in Appendix C).

3. Types of Foundation Governors

A. Carlisle Diocesan Board of Education (“DBE”) Appointees:

The majority of Foundation Governors in Church of England Schools in the Diocese of Carlisle are appointed by the DBE (having been nominated by a Parochial Church Council “PCC”).

B. *Ex officio* Foundation Governors:

An *ex officio* Foundation Governor holds their position by virtue of the post they hold (usually the Principal Officiating Minister in the Parish or Mission Community).

C. PCC Appointees:

A small number of schools have Foundation Governors who are appointed a PCC alone.

4. Remit

Although a Governing Body can (in limited circumstances) suspend a Foundation Governor,¹ they **cannot unilaterally remove them**.

Foundation Governors, other than *ex officio* Foundation Governors, can be **removed by the body that appointed them**.²

Ex officio Governors 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).³

This policy outlines the arrangements for the potential removal of:

- A. Foundation Governors appointed by the DBE; and
- B. *Ex officio* Foundation Governors.

Foundation Governors appointed directly by a PCC can only be removed by the PCC that appointed them and, as such, fall outside the remit of this policy. If a PCC requires support in a potential removal, they should contact the DDDE.

Disqualification,⁴ (as opposed to removal) including disqualification by reason of failure to attend meetings without consent, is also outside the remit of this policy.

5. Expectations Prior to Invoking Removal Procedure

1. 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 school’s code of conduct for governors (“Code of Conduct”) 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 Carlisle Diocese Education Team will be happy to assist any school needing support at Stage 1.

2. Stage 2: 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. The DDDE 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).

3. 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 in Section 6 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.

6. The Removal Procedure

A. Removal of Foundation Governors appointed by the DBE

1. Referral for consideration of a removal of a Foundation Governor will be to panel consisting of at least three members of the DBE (the “Panel”). The Panel will usually include the chair of the DBE, unless they are unable to act due to unavailability or a conflict of interest, in which case, the Panel will nominate an alternate chair from amongst their number.
2. The Foundation Governor will be informed in writing of the decision by the DDE to refer the matter of their removal to the Panel. He or she will be informed that they have the right (within 10 working days of the date of the letter) to make written representations to the Panel which they will take into account when making their decision. A model letter can be found at Appendix D.
3. The Panel will convene a meeting to consider the referral as soon as reasonably practicable and, in any event, within 10 working days after the deadline for submission of written representations by the Foundation Governor.
4. The DDE will attend the meeting to advise the Panel.
5. The DDDE will present to the Panel the concerns raised by the school and the measures taken to attempt to resolve the issue.
6. The Panel will consider any written representations submitted by the Foundation Governor.
7. The panel will make their decision and the DDE will, within 5 working days of the meeting, write (on behalf of the DBE) to the Foundation Governor to convey the decision.
8. If the Panel decide to remove the Foundation Governor, the DDE will also, within 5 working days of the meeting, notify (on behalf of the DBE) the clerk to the Governing Body, in writing.⁵ The DDE will also notify the Headteacher, the chair of the nominating PCC and the Archdeacon.
9. The DDDE will support the chair of the nominating PCC to find a replacement Foundation Governor (including providing guidance and encouragement to ensure that the nominating PCC feel confident and well supported in any future nomination they may make).
10. There is no right of appeal.

B. Removal of Ex Officio Foundation Governors

1. Referral for consideration of a removal of an *ex officio* Governor 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").
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 his or her decision, the Entitled Person may seek the advice and guidance of the DDE. He or she may also choose to invite the *ex officio* Governor to make written representations to the Entitled Person.
4. If the Entitled Person decides to request the removal of an *ex officio* Governor, he or she will inform, in writing, the clerk to the Governing Body and the DDE that they are requesting the Governing Body to remove the *ex officio* Governor from office. The Entitled Person will detail the reasons for their request.
5. The clerk to the Governing Body will write to the *ex officio* Governor to inform him or her of:
 - a. the request to remove him or her from office;
 - b. the reasons for the potential removal;
 - c. the date and time of the meeting at which the request will be considered; and
 - d. his or her right to make a statement in response to the request (which will be considered by the Governing Body before any decision is made by them at the meeting).⁶
6. The matter of the *ex officio* Governor's removal from office will be specified as an item on the agenda of the Governing Body meeting at which it will be discussed.⁷
7. At the Governing Body meeting, the reasons for the request to remove the *ex officio* Governor and any statement in response received from the *ex officio* Governor will be considered.⁶
8. If the Governing Body, having considered the reasons for the request to remove the *ex officio* Governor from office and any statement in response, decide to remove the *ex officio* Governor from office, they will convene a second Governing Body meeting not less than fourteen days after the date of the meeting at which the decision to remove the *ex officio* Governor from office was reached. The matter of the *ex officio* Governor's removal from office will be specified as an item on the agenda of the convened meeting.⁷ At this second meeting, the Governing Body will pass a resolution confirming their decision to remove the *ex officio* Governor from office.⁸
9. The *ex officio* 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.
10. The clerk to the Governing Body will inform the *ex officio* Governor, the Entitled Person and the DDE of the outcome of the Governing Body's decision.
11. If the Governing Body resolved to remove the *ex officio* Governor from office, the Archdeacon will liaise with the DDDE to initiate the process to appoint a substitute governor.

Appendix A: References

¹ The School Governance (Roles, Procedures and Allowances) (England) Regulations 2013, Regulation 17

² The School Governance (Constitution) (England) Regulations 2012, Regulation 20

³ The School Governance (Constitution) (England) Regulations 2012, Regulation 21

⁴ For further information about the circumstances in which a governor is disqualified from continuing in office, refer to Schedule 4 of The School Governance (Constitution) (England) Regulations 2012

⁵ The School Governance (Constitution) (England) Regulations 2012, Regulation 20(2)

⁶ The School Governance (Constitution) (England) Regulations 2012, Regulation 25(2) (a)

⁷ The School Governance (Constitution) (England) Regulations 2012, Regulation 25(2) (d)

⁸ The School Governance (Constitution) (England) Regulations 2012, Regulation 25(2) (c)

Appendix B: Examples of behaviour potentially justifying removal from office

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.

1. Refusal to or persistent failure to uphold the religious character of the school.

2. A serious breakdown of relationships which can be shown to be impacting on the effectiveness of the Governing Body.
3. 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.
4. A serious breach in confidentiality.
5. Refusal to accept the corporate decisions of the Governing Body.
6. Violence on school premises (to persons or property).
7. Any other action likely to bring the school into disrepute.
8. Any other action which constitutes a significant breach of the school's Code of Conduct.

Appendix C: Contact details

Morven Anson

Governance Officer

education@carlisle-diocese.org.uk

07423 033934

Vanessa O'Dea

Director of Education (with authority to appoint Foundation Governors on behalf of the DBE)

vanessa.o'dea@carlisle-diocese.org.uk

07584 684306

Charlotte Tudway

Deputy Director of Education (personnel and legal queries)

charlotte.tudway@carlisle-diocese.org.uk

07917993659

Appendix D: Model letter to Foundation Governor



Director of Education
Church House
19-24 Friargate
Penrith
CA11 7XR

[NAME OF FOUNDATION GOVERNOR]
[ADDRESS]

[DATE]

Dear [NAME]

[NAME OF SCHOOL]: FOUNDATION GOVERNOR ROLE

Following a referral to the Diocesan Board of Education (the “DBE”) by [NAME OF SCHOOL] in accordance with Section 6 of our Removal of Foundation Governors Policy (copy attached) a panel of DBE members (the “Panel”) has been convened to consider whether you should be removed from office.

The Panel consists of the following people:

1. [NAME], Chair
2. [NAME]
3. [NAME]

You have the right to present in writing any information you would like the Panel to take into account. Any written representation should be sent to the Chair at [EMAIL ADDRESS] and must be received within 10 working days of the date of this letter, namely [DATE].

Yours sincerely

VANESSA O’DEA
Director of Education
director.education@carlisediocese.org.uk
07584 684306

Approved by the Carlisle Diocese Board of Education

Signed by the Chair of Board of Education: Revd Andrew Towner

Dated: 18 th May 2021

This policy is to be next reviewed in: May 2022
