

Subject: Removal of foundation governors in maintained schools who have been appointed by the St Albans Diocesan Board of Education (DBE)

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POLICY FOR THE REMOVAL OF FOUNDATION GOVERNORS IN MAINTAINED SCHOOLS WHO HAVE BEEN APPOINTED BY THE ST ALBANS DIOCESAN BOARD OF EDUCATION (DBE)

Occasionally problems arise regarding the appointment or re-appointment of governors that prove difficult to rectify at school level and are referred to the Schools Team for support and advice on finding a local resolution. This may also involve seeking the help of the incumbent or relevant Archdeacon for the parish concerned.

Exceptionally there may be circumstances where a foundation governor appointed by the Diocesan Board of Education (DBE) is, during their term of office, causing difficulties locally that cannot be resolved. The DBE may then need to consider removing the foundation governor.

Where foundation governors are appointed directly by the local Parochial Church Council (PCC) or other appointing body, the DBE would hope and expect that other appointing bodies would take a similar approach to that outlined below for DBE appointments.

This policy issued by the St Albans Diocesan Board of Education outlines the arrangements for the potential removal of foundation governors, appointed to Church of England Voluntary Aided (VA) and Voluntary Controlled (VC) schools in the Diocese of St Albans.

In all cases the removal of a governor is a most serious matter and professional advice must be obtained both as to the appropriateness of removal and as to the procedure to be followed.

Key points

- Around 30% of foundation governors for VA and VC schools in the Diocese of St Albans are directly appointed by the Diocesan Board of Education (DBE). Individual foundation governors may only be removed by the body that appointed them; under the power to remove appointed foundation governors in voluntary schools contained in Regulation 20(1) of the School Governance (Constitution) (England) Regulations 2012 (SI 2033 No 348):

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.

- Incumbents are often the ex-officio foundation governors of their local school and can only be removed at the request of the relevant Archdeacon.
- Only the body with the power to appoint can remove an appointed foundation governor (although the Governing Body of a voluntary school may disqualify a governor who fails to attend meetings for 6 months without its consent).
- For Governing Bodies of voluntary or foundation schools, the system of removing appointed Foundation Governors is different to that for removing ex-officio foundation governors, however, any concerns should be raised in the first instance with the Diocesan Director of Education (DDE).
- If it is not possible to resolve the issue at a local level, the decision to remove a DBE-appointed foundation governor will be referred to the DBE, following the process outlined in this policy.

Note: the DBE does not have to give reasons for removal and can simply change its mind about an appointment.

Process for the removal of a foundation governor appointed by the DBE

Where the DBE becomes aware that it needs to reconsider an appointment or decides to remove a Foundation Governor of its own motion, the following process should be followed:

A. Where a Governing Body or other third party has brought concerns to the attention of the DBE

[By way of illustration the following are likely to be the reasons why the removal of a foundation governor is sought:

- *A refusal to uphold the continuance or effectiveness of the religious character of the school*
- *A serious breakdown of relationships for which the individual can reasonably be shown to be primarily responsible, and which is impacting on the effectiveness of the Governing Body*
- *Persistent actions or views that if implemented would lead to a breach of trust on the part of the site trustees of the school*
- *Responsibility for serious damage to the stability of the school through inappropriate action or public statement*
- *Violence on school premises (to persons or property)]*

Stage 1: The DBE will instruct the DDE to consider whether the matter should be considered further by the DBE and will liaise with the Governing Body or other third party to ensure:

- a. attempts have been made to resolve issues internally
- b. there is sufficient evidence to present to the DBE.

Note: where the DDE is concerned about the sufficiency of evidence, they will consult the Chair of the DBE whose decision on whether to move to Stage 2 below is final.

Stage 2: Consideration as to whether to remove an appointed Foundation Governor or not from office mid-term should be referred to a panel of the DBE, with a minimum of 3 members present. (Note: a panel of three people including the Vice Chair will be appointed at the commencement of the triennium, along with a nominated appeals panel to include the Chair of the Board).

Mechanism for a stage 2 review

As removal is a serious matter, a specially convened meeting may be called.

The Foundation Governor concerned will be informed in writing of the issues and the decision to refer the matter of their possible removal to the DBE by the DDE. They will be given the right, within 10 working days, to make written representations to the panel prior to a decision being made.

A meeting of the panel will, within a further 10 working days, be convened to discuss the case. The DDE shall attend for the purpose of advising and the meeting will be minuted.

The DDE will present the reasons for requesting the removal or retention of the Foundation Governor.

The panel will consider any written representation from the Foundation Governor.

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 Board, to convey the decision without giving details of the case.

Simultaneously the DDE will advise the following of the decision: the DBE, the PCC (in those schools where the PCC has nomination rights for foundation candidates), the Chair of Governors, Headteacher, the relevant Archdeacon, and the clerk to governors.

B. Where the DBE is exercising its powers to remove a foundation governor of its own motion

In this case, the DBE will write to the Foundation Governor and confirm that they are removed from office from the date of the letter. No reasons need be given. However, such a removal would result from serious circumstances such as bringing the school into disrepute, failure to uphold the school's Christian character, serious misconduct, or safeguarding. In any decision to remove a foundation governor, the Board will act with appropriate regard to the Nolan principles for public life, and to the House of Bishops' safeguarding guidance.

The DDE will advise:

- the Chair of Governors
- the Headteacher,
- the relevant Archdeacon,
- the clerk to governors

of the removal.

The DBE will then appoint a new foundation governor and the DDE will inform the Chair of Governors, Headteacher, the relevant Archdeacon, and the clerk to governors.

Policy for the removal of ex-officio foundation governors

Process for the removal of an ex-officio foundation governor

The instrument of government for the school will specify the person entitled to request the removal of an ex-officio foundation governor.

If the archdeacon, or other person entitled to request removal, makes a request for removal of the ex-officio foundation governor, it is then for the Governing Body to remove that governor by following the procedure set out in regulation 25 of the Constitutional Regulations:

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.*

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.

1. When the DBE is notified that an ex-officio Foundation Governor is likely to be removed by the governing body, it will delegate to the DDE an examination of the facts. The following steps will be taken by the DDE and or the DDE will satisfy themselves that:
 - a. the governors have made attempts to resolve issues internally
 - b. the governors have sufficient evidence to convince the relevant Archdeacon that removal is appropriate.
2. The relevant archdeacon will consider whether they wish to remove the ex-officio Foundation Governor.
3. The relevant archdeacon informs the clerk to the 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).
4. Simultaneously the relevant archdeacon informs the ex-officio Foundation Governor in writing that he/she has requested the governors to remove them from their post as ex-officio governor, detailing the reasons why.
5. The governing body must follow the requirements of the Regulations and the instrument of government as applicable.
6. If the removal is confirmed, the clerk confirms the decision to the relevant archdeacon (copy to the DBE and DDE).
7. The archdeacon liaises with the DDE to initiate the process to appoint a substitute governor.

Relevant legislation:

[Constitution of governing bodies of maintained schools](#)

[The School Governance \(Roles, Procedures and Allowances\) \(England\) Regulations 2013](#)