

Subject: Members of staff in maintained schools should not be appointed as foundation governors in their own school

From: Belinda Copson, Governance Adviser **Date:** June 2024

For: Chairs of Governors, incumbents and PCC Secretaries in benefices with church schools, headteachers and clerks **Reference:** GOV 3/23-24

Advisory note from the Diocesan Board of Education

MEMBERS OF STAFF IN MAINTAINED SCHOOLS SHOULD NOT BE APPOINTED AS FOUNDATION GOVERNORS IN THEIR OWN SCHOOL

Governing boards of maintained schools must follow the School Governance (Constitution) (England) Regulations 2012. The constitution regulations do not in themselves bar members of staff from being appointed as foundation governors. However, appointing staff as foundation governors in their own school creates various practical governance issues and conflicts of interest:

a) Stakeholder balance

Appointing current staff as foundation governors may in some situations create an imbalance of stakeholders on the governing board and/or exceed the legal maximum of one third of staff.

b) Restrictions on staff governor scope of activity

Staff who are on the governing board can't take part in certain governance tasks. For example, headteacher pay review and performance management, voting on staff pay or appointments, being part of an interview panel, or being Chair/Vice Chair. In some situations, they could not participate in panels for complaints or exclusions. Governor link roles should not be held by staff if there would be an overlap between their governor and staff roles.

If staff are appointed to governor roles additional to the 'staff governor' category, this means that other, non-staff governors always have to carry out those governance tasks that are not open to staff. This may make it difficult to appoint panels, and can create an uneven workload across the governing board.

c) Conflict of interest in relation to SIAMS, RE and Christian ethos

Foundation governors have a responsibility to promote the school's Christian ethos and preserve its Christian character. If staff are appointed as foundation governors, the overlap of roles is a conflict of interest which makes it difficult to provide objective challenge and support.

d) Potential conflicts of interest for recent former members of staff

If a foundation governor was recently a member of staff at the school, conflicts of interest may still arise. For example, it would not be appropriate for a foundation governor to be providing challenge and support over a curriculum area or aspect of finance or premises in which they had recently had direct involvement as a member of staff.

The Diocesan Board of Education therefore advises as follows:

- **Foundation places appointed by the DBE:**

The DBE will not appoint staff as foundation governors in their own school. This is also standard practice in other dioceses.

Where a candidate is a recent former member of staff, there may also be instances where a foundation appointment in the same school would not be appropriate.

- **Foundation places appointed by the Parochial Church Council, local educational trust, or other foundation appointing body:**

The DBE advises that current staff should not be appointed to foundation places in their own school by other appointing bodies. Appointing bodies should also consider carefully whether the appointment of a recent former member of staff as a foundation governor would create any of the conflicts of interest outlined.

In any situation where a current member of staff is already also a serving foundation governor, the Board recommends that the appointment should not continue beyond the current term of office.

Where a governing board and PCC are finding it difficult to recruit foundation governors, school staff should not be appointed to a foundation role as a solution to local recruitment difficulties. Bespoke advice and support for foundation governor recruitment is available from the Schools Team's Governance Adviser.

- **Other ways to involve staff in contributing to governance:**

If a member of staff has particular skills and knowledge to contribute to governance, there are various ways to involve them appropriately.

Governing boards are free, at their discretion, to appoint members of staff as associate members*, or to invite them to be 'in attendance', or to appoint them to available co-opted places. Care should always be taken that the involvement of staff in governance does not create an imbalance of stakeholders, nor exceed the legal maximum of one third staff as governors.

*(*Associate members can be appointed at the governing board's discretion, to bring their skills to committees. They are not deemed governors and do not have a vote on the full governing board.)*