

## Guidance on the Removal of Foundation Governors

The majority of foundation governors for Church schools in the Diocese of Gloucester are **nominated** by the Parochial Church Councils (PCC's) and subsequently **appointed** by the Gloucester Diocesan Board of Education (GDBE).

This guidance is applicable to foundation governors appointed by the GDBE in voluntary aided and voluntary controlled schools and in academies where the GDBE is responsible for appointing foundation governors.

Occasionally problems arise regarding the appointment or re-appointment of foundation governors that prove difficult to rectify. If a circumstance arises which the governing board or school cannot rectify themselves, they should contact the Diocesan Director of Education (DDE) who will work in partnership with the Diocesan Education Team to attempt to establish an appropriate informal response and way forward. This response may also involve the help of the relevant Archdeacon for the parish concerned.

There may be exceptional circumstances where a foundation governor appointed by the GDBE, who still has part of their term of office to run, is not performing in their role as would be expected and this may have a negative impact on the effectiveness of local governance.

After contact from the governing board or the school the initial response from the Diocese will be help and advise on strategies to seek to resolve the situation. An officer from the Education Team might speak to the foundation governor concerned about the situation to seek an informal resolution and offer support and guidance if needed. Again, the involvement of the DDE and/or the relevant Archdeacon for the parish concerned might be required. It is hoped that this informal, supportive approach will be successful in securing a resolution for the foundation governor, the governing board and the school.

In rare circumstances, a situation may arise where it may be necessary to consider the removal of an appointed foundation governor during their term of office. This should only be considered where all other options have been considered and attempted.

If the GDBE considers it necessary to request the removal of a foundation governor, the same process documented below will be followed.

Reasons a foundation governor may be removed from office include, but are not limited to:

- Serious or persistent failure to discharge the responsibilities of a foundation governor
- Non-compliance with safeguarding requirements or a safeguarding concern
- A refusal to uphold the continuance or effectiveness of the religious character of the school
- Serious and irretrievable breakdown of relationships
- Serious or persistent actions or views that contradict the underlying objectives of the school or its foundation trust

With high aspiration for excellence, we are passionate for all within our family of schools to experience God's love in a culture of care, dignity and hope.

- Unwillingness to accept and implement regulatory requirements from a published Ofsted or SIAMS report
- Responsibility for serious damage to the stability or reputation of the school and GDBE through inappropriate action or public statement, including via social media
- Serious or persistent breach of policy (either school, GDBE or other relevant policy) or of statutory obligation
- Inappropriate personal conduct, whether public or personal which may adversely affect the school

[The School Governance \(Constitution\) \(England\) Regulations 2012](#) state that foundation governors may be removed from office by the person or persons who appointed them (Reg: 20 & 25).

[The Church of England Academies Model Articles of Association Majority and Minority versions](#) state that a director (or trustee) shall cease to hold office if they are removed by the person or persons who appointed them. The articles do not include provision for the removal of foundation governors from local governing boards in academy trusts, but the GDBE undertakes to invoke the procedure detailed within this guidance should a need arise.

This means that the GDBE has the right to remove any foundation governor that it has appointed in a Church school or academy operating within Church academy articles. In making such a decision the GDBE must of course act fairly, considering the effect that removal might have on the reputation of the individual concerned.

### **Process for the removal of a foundation governor**

1. The GDBE will consider a request to remove a foundation governor from a governing board on receipt of a written request. Minutes of the meeting when this request was discussed and agreed should be submitted alongside the request. The request should be submitted to the DDE and should make clear the breach of conduct and reasons for the request.
2. The DDE will appoint an individual to investigate the allegations which have led to the request for removal of the foundation governor. The DDE may appoint an officer of the Education Team, a GDBE Trustee or other suitable person to undertake the investigation – they will be known as the ‘investigating officer’.
3. If the DDE considers it appropriate to suspend the foundation governor whilst the investigation is conducted, they will seek approval from the Chair of the GDBE.
4. The investigating officer shall undertake an investigation without unreasonable delay and will determine the information they need, and from whom to conduct a fair and robust investigation. The investigation will conclude with a recommendation.
5. A summary of the investigation findings shall be provided to the foundation governor and the representative of the governing board who submitted the removal request.
6. On completion of the investigation, a panel of three trustees of the GDBE shall be convened by the clerk to the GDBE.

7. The foundation governor will be given written notice of a meeting to consider the recommendation of the investigating officer. They will be invited to make a written representation to the panel, within ten working days of the panel meeting being held.
8. The panel meeting shall be clerked by the clerk to the GDBE. The investigating officer shall attend to summarise their investigation and recommendation, and respond to questions from the panel. The panel will consider any written representation submitted by the foundation governor.
9. Having considered all available information, the panel will make its decision and inform the foundation governor and governing board, in writing, within ten working days.
10. The foundation governor and governing board both have the right to appeal the decision of the panel. Any appeal must be submitted, in writing, to the clerk to the GDBE within ten working days of receipt of the panel's written decision. The appeal must state clearly the reason for appeal, further information may be submitted but the same information considered at the original panel meeting will not be reconsidered. If a failure of process is alleged, the appellant must indicate where failings are considered to have occurred.
11. On receipt of an appeal, an appeal panel meeting will be convened by the clerk to the GDBE within ten working days. A panel of three GDBE trustees, with no prior knowledge of the request to remove the foundation governor, will meet to consider the appeal. The appeal meeting will be clerked by the clerk to the GDBE.
12. The decision of the appeal panel is final and will be communicated within ten working days to the appellant and other relevant parties.
13. The final outcome of the request to remove the foundation governor will be communicated to the GDBE, PCC, headteacher, relevant Archdeacon and relevant LA governor services (for record-keeping purposes only). If there is a serious conduct or safeguarding breach, then the appropriate disclosures will be made in line with the school's safeguarding procedures.

### **Process for the removal of an ex-officio foundation governor**

The School Governance (Constitution) (England) Regulations 2012 state the governing board 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.

The instrument of government for maintained Church schools should specify the person entitled to request the removal of an ex-officio foundation governor. This is likely to be the relevant Archdeacon of the Archdeaconry in which the relevant parish is situated.

The process set out below also applies to academies and academy trusts where ex-officio foundation governors are in place at trust board or local levels of governance. This process also applies to the removal of substitute ex-officio foundation governors.

If the GDBE considers it necessary to request the removal of an ex-officio foundation governor, the same process documented below will be followed.

The reasons for removing a foundation governor previously in this guidance, are applicable for the reasons an ex-officio foundation governor may be removed from office.

1. The relevant Archdeacon will consider a written request to remove an ex-officio foundation governor from a governing board or the GDBE. Minutes of the meeting when this request was discussed and agreed should be submitted alongside the request. The request should be submitted to the DDE and should make clear the breach of conduct and reasons for the request.
2. The Archdeacon will appoint an individual to investigate the allegations which have led to the request for removal of the ex-officio foundation governor. The Archdeacon may appoint the DDE, the Deputy DDE or an officer of the Education Team, a GDBE trustee or other suitable person to undertake the investigation – they will be known as the ‘investigating officer’.
3. The Archdeacon will make the decision whether it is appropriate to suspend the ex-officio foundation governor whilst the investigation is conducted.
4. The investigating officer shall undertake an investigation without unreasonable delay and will determine the information they need, and from whom to conduct a fair and robust investigation. The investigation will conclude with a recommendation.
5. A summary of the investigation findings shall be provided to the Archdeacon and ex-officio foundation governor and the representative of the governing board who submitted the removal request.
6. On completion of the investigation, the Archdeacon will review the investigation recommendation and decide whether to proceed with removal of the ex-officio foundation governor.
7. If the Archdeacon’s decision is to remove the ex-officio foundation governor, they will write to the clerk to the governing board, with a copy sent to the Chair of the GDBE and the DDE, stating the request for governors to remove the ex-officio foundation governor.
8. The governing board will include the request from the Archdeacon on the agenda of a meeting of the full governing board. Notice of the meeting will be sent to all governors no fewer than seven days in advance of the meeting.
9. The clerk will share the reason for the request to remove the ex-officio foundation governor at the convened meeting of the governing board. the ex-officio foundation governor has the right to attend the meeting and respond to the request for their removal.
10. The governing board will vote on the request to remove the ex-officio foundation governor. The ex-officio foundation governor must not be present for the vote and should leave the meeting in advance of the vote taking place.

11. If the governing board vote in agreement of the removal of the ex-officio foundation governor, then the removal must be confirmed by resolution at a second meeting within 14 days of the first meeting, which the ex-officio foundation governor should not attend. The resolution to remove the ex-officio foundation governor must appear as an agenda item for this meeting.
12. If the removal of the ex-officio foundation governor is confirmed by resolution, the decision is given in writing to the ex-officio foundation governor within five days of the meeting.
13. The decision to remove the ex-officio foundation governor is shared with the Archdeacon, the Chair of the GDBE, and the DDE.