

Subject: Key responsibilities of Foundation Governors in Church of England Schools

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Date: November 2017

For: Headteachers and Chairs of Governors

Reference: GOV 2/17-18

FOUNDATION GOVERNORS IN CHURCH OF ENGLAND SCHOOLS: KEY RESPONSIBILITIES

The three main elements of school governance

The governing body is a corporate body that has responsibility for the governance of the school. All members of the governing body, regardless of what category of governor they fall into, have a duty to undertake these three core elements of governance. The foundation governor has particular importance, however, for these governors also have a remit as representatives of the founding church and of the trustees.

All governors must bear in mind the principles of the Church of England, of the trust deed, and of the ethos statement of the school in relation to all three core elements of governance.

Strategic overview

It is the specific responsibility of the foundation governors to ensure that the foundation of the school is sustained and developed. This has a vital role to play in the creation of the School Development Plan, which should include all aspects of the school, underpinned by the ethos statement.

Whether the governing body is considering the work/life balance of the head teacher, the asset management plan relating to the school buildings, or the setting of targets for assessments or exam results, it is the role of the foundation governor to put all within the context of the Christian foundation of the school.

The foundation governor will also be able to help promote the school's relationship to both the local and diocesan church community, and through this to the local community in a wider sense.

Critical friend

The foundation governor brings an extra perspective to this aspect of school governance.

Accountability

Governors can add the extra dimension of accountability in relation to the foundation of the school, the trust deed and the ethos statement. In practical terms this can have a wide range of applications. One example is in relation to the premises of the school, of which the governing body is effectively steward for future generations.

Foundation governors in the Diocese of St Albans

Foundation governors are one of the categories of governor. The others are parent governors, staff governors, local authority governors, and (in some schools) co-opted governors.

All Church of England schools (including academies) must have foundation governors. In voluntary aided schools, they must outnumber all other categories of governor combined by a majority of two. In voluntary controlled schools, there must be at least two foundation governors but they must not exceed one quarter of the total number of governor places. The composition of the governing body in maintained schools is found in the school's instrument of government. For academies, this information is contained in the academy articles.

There are several types of foundation governor:

- the ex-officio governor – normally the incumbent clergy unless a substitute has been nominated and agreed by the Archdeacon and Diocesan Director of Education
- those appointed directly by the Diocesan Board of Education (in the case of some small schools, nominated by the PCC)
- those appointed directly by the PCC (and/or other church group)
- for some schools, those appointed by local educational trusts.

There are formal application processes to appoint foundation governors, to comply with charity law. The Schools Team can offer advice and guidance in this respect.

So why do we have foundation governors?

It is a requirement of the Trust under which Church of England schools were established. Local churches or patrons undertook to build schools for the education of the children of their local communities, and endowed them with a Church of England foundation.

Foundation governors have special responsibility to ensure that:

- the guiding principles of the founding church are incorporated into all aspects of the governance of the school
- the terms of the trust deed governing the school are adhered to.

Every Church of England school has a trust deed which stipulates the principles and legal conditions under which the institution was established and should be run. It is advisable for schools to have a copy of their trust deed, some of which are held by the Diocese, some by the County Records Office, and some which are no longer traceable locally but are available from the National Archives in Kew. The Diocese can give details of how to access these and of any costs involved. If this document still cannot be located, it is vital that a new trust deed is drawn up, governed by a scheme approved by the Charity Commission.

For the majority of Church of England schools, the trust deed will dictate that the buildings are used for educational purposes only (there are exceptions and anomalies, so it is always best to seek professional advice on this), with a clause specifying use by the local church on particular days or occasions.

There are specific situations and occasions when the trust deed becomes particularly important. These are:

- for Ofsted inspections and SIAMS inspections
- for VA schools in relation to their admissions policy. Conditions stipulated in the trust deed are legally binding and supersede all other legislation in terms of oversubscription criteria priorities
- when considering extended school activities – specifically if the school is proposing to bring third parties onto the school site to deliver extended school services. This relates back to the terms of the trust deed in relation to the use of the school buildings, and any agreement made which breaches the terms of the trust deed would be invalid. *It is essential therefore to consult the Diocese at the earliest opportunity when considering such a move.* There are ways of overcoming issues, but it is best to leave sufficient time in case the Charity Commission has to be consulted
- when reconstituting the governing body
- if considering any form of school reorganisation, including collaboration, federation or amalgamation
- if the school is to be transferred to a new site
- if the school is considering closure

So who are the actual trustees of the school?

Traditionally it was the vicar and churchwardens who were the trustees of the local church school. With changes in local church structures and a reduced number of clergy both nationally and locally, the Charity Commission has increasingly favoured the appointment of the Diocesan Board of Finance (DBF) being both managing and custodian trustee, as this is a permanent and incorporated body, thus ensuring clear continuity.

In a few schools, the Diocese is the custodian trustee but the vicar and church wardens have retained the role of managing trustee; where this is the case they still have to gain the permission of the DBF to disburse funds. Usually however, the DBF both manages funds and acts in the role of custodian; in such cases, schools contact the DBF to request funds.

Some schools may also have local trusts related to the proceeds of the sale of school houses held in trust by the DBF.

If you are unsure about how trusteeship works for your school, the Schools Team can advise.

Summary:

Responsibilities of Church School Governors

- A commitment to the distinctive ethos of the school and its mission and role as a member of the diocesan family
- An interest in and commitment to the school's Religious Education
- An awareness of and commitment to the school's provision for the daily act of collective worship
- Foundation governors should encourage the school to develop in a way that is consistent with its Church of England foundation, taking into account the needs and circumstances of pupils and their diverse backgrounds.

Appendix

Differences between Categories of Church Schools

	Voluntary Aided Schools	Voluntary Controlled Schools	Foundation Schools
Buildings	Owned by trustees. The Trust Deed determines the basis on which the school is run. New building and repairs are the responsibility of the governors (supported by grant from DfE of 90% of approved expenditure). Playing fields are provided by the LA.	Owned by trustees. The Trust Deed determines how the school shall be run where the law does not make this clear. All replacement, repairs and other building Costs fall on the LA. Playing fields are provided by the LA.	Owned by trustees. The Trust Deed determines the basis on which the school shall be run where the law is silent. Playing fields owned by governors. All building works funded from LA.
Staff (a) Teaching	Employed by the governors, paid by the LA. Governors may seek evidence of Christian commitment from applicants for teaching posts.	Appointed by the governors, employed and paid by the LA. Governors are bound by LA appointing policies. Governors may seek evidence of Christian commitment from applicants for teaching posts.	Employed by the governors, paid by the LA. Governors will be able to select teachers within the LA policy. Governors are bound by LA appointing policies. Governors may seek evidence of Christian commitment from applicants for teaching posts.
Staff (b) Support	Employed either by governors or contractors. If employed by governors, they are paid by LA.	Employed either by LA or contractors. LA employees usually appointed by governors.	Employed either by governors or contractors. If employed by governors, they are paid by LA.
Worship	Distinctively Christian; reflects the Anglican tradition and can include worship in the parish church.	Distinctively Christian; reflects the Anglican tradition and can include worship in the parish church.	Distinctively Christian; reflects Anglican tradition and can include worship in the parish church.

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	Voluntary Aided Schools	Voluntary Controlled Schools	Foundation Schools
RE	Governors determine a syllabus that reflects the Anglican tradition. They may make use of the diocesan syllabus where this exists.	The school must follow the LA syllabus unless the parents request a denominational one. The foundation governors have rights in the appointment of staff (called reserved teachers) to teach denominational RE.	The school must follow the LA syllabus unless the parents request a denominational one. The foundation governors have rights in the appointment of staff (called reserved teachers) to teach denominational RE.
Membership of the Governing body	Church (foundation) governors have an absolute majority over all other governors. Parish priest is usually an <i>ex officio</i> member of the governing body. All governors combine to elect the Chair and Vice Chair.	Church (foundation) governors are in a minority. The parish priest is usually an <i>ex officio</i> member of the governing body. All governors combine to elect the Chair and Vice Chair.	Church (foundation) governors are in a minority. The parish priest is usually an <i>ex officio</i> member of the governing body. All governors combine to elect the Chair.
Funding	90% capital funding direct from DfE. Governors must raise remaining 10%.	LA LMS formula. (<i>LMS: Local Management of Schools</i>)	LA LMS formula. (<i>LMS: Local Management of Schools</i>)
Admissions	Governors determine the policy and make the decisions in accordance with the requirements of the Admissions Code. They must consult the LA and all other admission authorities in the area if there are radical changes proposed.	The LA is responsible for admissions, but must consult the governing body each year.	Governors determine the policy and make the decisions in accordance with the requirements of the Admissions Code. They must consult the LA and all other admission authorities in the area each year.
Advice	LA Director of Children's Services has certain rights to attend governor meetings to give advice. Diocesan Directors of Education have parallel rights.	LA Director of Children's Services has certain rights to attend governor meetings to give advice. Governors may give similar rights to the Diocesan Director of Education.	LA Director of Children's Services has certain rights to attend governor meetings to give advice. Governors may give similar rights to the Diocesan Director of Education.

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	Voluntary Aided Schools	Voluntary Controlled Schools	Foundation Schools
Inspection	OFSTED inspectors scrutinise school's self-evaluation. SIAMS (Section 48) Inspectors inspect Church School Distinctiveness, including leadership, RE, worship, spiritual and moral development and school ethos.	OFSTED inspectors scrutinise school's self-evaluation. SIAMS (Section 48) Inspectors inspect Church School Distinctiveness, including leadership, worship, spiritual and moral development and school ethos.	OFSTED inspectors scrutinise school's self-evaluation. SIAMS (Section 48) Inspectors inspect Church School Distinctiveness, including leadership, RE, worship, spiritual and moral development and school ethos.