

GOVERNANCE GUIDANCE - FEDERATIONS

Working together to promote collaboration

This Guide is intended to support Church schools across the Diocese of Ely in preparing for the future as they seek to be both successful and sustainable schools. The diocese expects all school leaders and governors to be proactively considering or engaging in some form of partnership working as part of this strategic decision-making. This may be through informal peer support, in a formalised partnership between schools, or as a federation.

The Diocesan Board of Education (DBE) has a clear expectation that the Church school ethos and Christian distinctiveness of each church school will be actively preserved and upheld through any partnership arrangements under consideration. This will particularly apply when a 'mixed' federation with a community school is being considered.

What is a federation?

Federations initially arise from the Education Act 2002 and are subject to subsequent regulations such as the 2007 Regulations and the 2012 regulations (as amended by The School Governance (Constitution and Federations) (England) (Amendment) Regulations 2016).

The founding date of a federation will dictate the regulations which appear in the federation documentation. Any new federations are subject to the 2012 regulations (as amended by The School Governance (Constitution and Federations) (England) (Amendment) Regulations 2016).

A federation is a formal arrangement set out in Government Regulations (2012) where two or more schools come together to share a single governing board.

Each of the schools in the federation retains their separate legal status with regards to: school category; admissions arrangements; budget allocation; performance tables; SIAMS and Ofsted inspections.

There is an increasing number of federations across the diocese consisting of Voluntary Aided (VA), Voluntary Controlled (VC) and mixed federations with community schools.

Support from the Diocese of Ely

- Federation is a governing board decision and not made by the diocese or local authority. However, as the diocese must approve the Instrument of Government (IOG) for the federation, early discussion with the diocese is strongly advised.
- Schools are best placed through their local community, local authority links and knowledge to identify partnership schools. In addition, the diocese can also be key in supporting and brokering partnership where appropriate.
- The diocese's wider regional overview can also support knowledge of what is working well across local authority boundaries. The diocese is also mindful of Church schools who may be at risk of becoming isolated.
- Please do contact the Diocesan Director of Education should your school be considering any soft or hard federation arrangement.

Formal approval from the DBE

- The DBE must formally approve the IOG (governing body proposals) for Church of England schools to become part of a federation.
- The DBE has certain expectations relating to the governance of federations involving Church of England schools and these should be reflected within proposals from the outset.
- It is essential that appropriate governance arrangements are put in place to ensure that the Church of England foundation of the school is protected, especially for VA schools and it is important that these requirements are understood from an early stage.
- The DBE will not consider or approve any IOG, which has not undergone the formal process of federation consultation, as outlined in the School Governance (Constitution) Regulations (2012) 29(2):
 - Where the school has foundation governors, the governing body must not submit the draft to the local authority unless it has been approved by -
 - (a) the foundation governors;
 - (b) the trustees of any foundation relating to the school;
 - (c) in the case of a Church of England school or Roman Catholic Church school, the appropriate diocesan authority; and
 - (d) in the case of any other school designated under section 69(3) of SSFA 1998 as having a religious character, the appropriate religious body.
- If the Local Authority is leading in the consultation process of a federation, then approval of the draft IOG must be sought from the above-mentioned stakeholders before being sent to the DBE for approval.
- In addition, the Diocese of Ely requires notice to be taken of the 2012 federation regulations, which permits the those who appoint foundation governors, to sanction a withdrawal of a church school from the federation.

Key areas for consideration

Before the process begins

- How governors and staff including the school leadership, will operate their responsibilities and accountabilities for a greater number of children across more than one school.
- Practical and statutory issues of staff deployment, new roles and contracts over more than one school, including suitable consultation and TUPE arrangements for change of employer for VA school staff (Education Act 2002). Specific HR guidance should be sought for this.
- How governors will ensure that they uphold and develop the Christian distinctiveness of Church schools particularly if federating with a community school.
- Addressing potential concerns from parents/carers and staff and perceptions about 'losing' an individual headteacher or the identity of the one school.

- Executive headteachers need to understand cultures and issues at varying stages of development and performance for more than one school.
- Who best to partner with needs careful consideration to ensure that all schools in the federation can benefit from the particular strengths and advantages to be found in each school.

Foundation governance - composition of the federated governing body

Foundation governors are governors with special responsibility to secure that the school's religious character is preserved and developed and that (where applicable) the school is conducted in accordance with the school's trust deed. In general, governing bodies will include the incumbent as an ex-officio foundation governor appointment plus a specified number of additional foundation governors in line with and incorporating the Federation Regulations (2012) and amendments (2016).

It is important that schools are in a position to ensure that there are a sufficient number of foundation governors on the federated governing body to preserve the Church of England foundation of the school and ensure that the trusts underpinning the operation of the school as a Church school are upheld. The DBE will therefore only consider proposals to establish a federation which includes the following minimum Foundation governance arrangements according to the various permutations of mixed federation (Table A).

Table A Type of school	VA	VC	Community
VA	Foundation Governors outnumber all other governors by two	Foundation Governors outnumber all other governors by two	Foundation Governors outnumber all other governors by two OR 50:50 arrangement including two HTs
VC	Foundation Governors outnumber all other governors by two	At least two Foundation Governors and no more than 25% of the GB	At least two Foundation Governors and no more than 25% of the GB
Community	Foundation Governors outnumber all other governors by two	At least two Foundation Governors and no more than 25% of the GB	N/A

- The proposed size of the federated governing body and the proposed number of governors for each category of governor will need to be stated clearly in the consultation documents and ultimately in the federation's Instrument of Government.
- In addition, where two or more schools federate, as per the Federation Regulations (2012), provision should be made for the headteachers or heads of school to hold ex-officio roles in the federated governing body.
- Should a mixed federation also include an executive headteacher (EHT), as well as individual school headteachers, then the executive headteacher should also be allocated an ex-officio role on the governing body.
- The Diocese of Ely follows the Federation Regulations (2012) model of governance for mixed federations including VA schools, with the expectation of flexibility according to leadership structure and in line with the aforementioned Federation Regulations (2012) (Table B)

Table B	VA mixed	VA/VC	VA+EHT	VA50
Examples of constitution options for federation governing bodies which include a VA school in any combination.	Single GB constitution across two schools – VA / Community minimum	Single GB constitution across two schools – VA / VC minimum	Single constitution across two schools incorporating an EHT	Single constitution across two schools on a 50:50 basis. Flexibility for co-opted skills
FOUNDATION GOVERNORS				
Ex-officio – incumbent of associated church(es)	1	2	1	1
PCC appointed governors	3	2	3	3
Deanery appointed governors	2	2	3	2
EDBE appointed governors	2	2	2	2
Sub-total	8	8	9	8
NON-FOUNDATION				
Executive Headteacher (ex-officio)	0	0	1	1
Head of VA School (ex-officio)	1	1	1	1
Head of VC or Community School (ex-officio)	1	1	1	1
Staff (across both schools)	1	1	1	1
LA	1	1	1	1
Parent (across both schools)	2	2	2	2
Co-opted	0	0	0	1
Sub-total	6	6	7	8
Board Total	14	14	16	16

The Diocese of Ely follows the Federation Regulations (2012) with regard to Foundation Governance of a mixed federation including a VC school (Table C)

Table C	Single GB constitution across two schools – VC / Community Minimum governance structure
Examples of constitution options for federation governing bodies which include VC schools / Community schools	
FOUNDATION GOVERNORS	
Ex-officio – incumbent of VC associated church	1
EDBE appointed governors	2
Sub-total	3
NON-FOUNDATION	
Head of VC School (ex-officio)	1
Head of Community School (ex-officio)	1
Staff (across both schools)	2
LA	1
Parent (across both schools)	2
Co-opted	2
Sub-total	9
Board Total	12

Leadership and staffing

Governors of a Voluntary Aided school need to retain the legal right to ask for Christian commitment in appropriate cases and in practice ask for such commitment at (at least) Headteacher and Deputy headteacher level. In mixed federations including a VA school, the Diocese of Ely would not insist upon formal Christian commitment from an Executive Headteacher, as the Head of School would represent the VA school on the governing body in an ex-officio role.

Governors of a VA school can also have regard, in connection with the termination of the employment of a teacher at the school, to any conduct which is incompatible with the precepts of, or with the upholding of the tenets of, the school. However, if governors of a Community school asked for Christian commitment from a member of staff, including the EHT, this would likely be viewed as discriminatory and could have legal consequences.

There is, therefore, a key question about how the proposed employment arrangements map onto the federated governing body's ability to look for Christian commitment in appropriate cases in Church of England schools. It will be important that the plans for leadership and staffing are clear and that they will enable the Christian foundation of the school to be appropriately safeguarded both at the outset and in future. Specific HR/legal advice will be required on this point.

Wider protection of the Church of England foundation in mixed federations

When schools federate, because the schools remain individual schools, much will remain the same.

For example, in the Church school context:

- The Church of England school will remain a Church of England designated school and will continue as Voluntary Aided / Voluntary Controlled for the purposes of SIAMS. The Instrument of Government for the federated governing body must reflect this and must include an appropriately worded ethos statement.
- Religious Education should continue to be taught as appropriate for a Church of England school of the relevant status. (Note it may be that this requires different syllabi to be taught in different schools in the federation).
- The daily act of Collective Worship must continue to be provided in accordance with the trust deed/Anglican tradition.
- The church school will continue to be inspected in the same manner under both SIAMS and Ofsted frameworks.
- The Head of School for the VA school retains an ex-officio role on the federated governing body alongside any Executive Head.
- The federated governing body would still need to find the usual 10% capital contribution in the case of capital works to a Voluntary Aided school.
- The admissions authority will not change (save that, in the case of a Voluntary Aided the relevant admissions authority will become the federated governing body)
- The ownership of land, site and buildings will not change.

NB - if there are any planned works connected to the proposal to federate which may affect the land used by the Church of England school you should contact the Diocese of Ely's School Buildings Officer to discuss any implications.

Key Recommendations

Ensure that the strategic purpose of federation and subsequent planning are sharply focused on benefits to pupils' education and upholding the Church school ethos.

Ensure all statutory processes, including timescales and governing board composition are followed.

Consult and communicate effectively with the diocese and local authority as well as parents/carers, staff, pupils and the community at the earliest stage. The diocese is very willing to provide further advice and ongoing support during this process.

For further information and support, please contact:

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Please also consult:

The School Governance (Federations) (England) Regulations 2012
(and amendment 2016): <http://www.legislation.gov.uk/uksi/2012/1035/made>