

Guidance on Federation

What is a Federation?

A federation is when 2 or more schools operate under a single governing body. This single governing body is accountable for all the schools in the federation. In many cases the federation may have a single headteacher and shared staffing although this is not a required part of federation.

While a federation creates a single governing body to govern more than 1 school, maintained schools in federations continue to be individual schools; there is no change to their status – they remain separate, local authority (LA) maintained schools. It is also possible for a school to join an existing federation.

Why Federate?

There are several reasons why schools may wish to consider federation. Benefits can include increased opportunities for staff and pupils, a wider and richer curriculum, stronger governance, improved financial viability, sharing of key resources and enhanced leadership. Federation is often a natural progression from existing collaborative arrangements where schools already share a headteacher.

The Governance of Federations

A federation has a single governing body operating at a strategic level, monitoring, evaluating and holding to account the senior leaders. The new governing body will be constituted under a new Instrument of Government. The Instrument will specify the number and type of governors on the new governing body. The structure for a federated governing body is set out in the [School Governance \(Federations\) \(England\) Regulations 2012](#) (as amended in 2014, 2015, 2016 and 2017).

The federated governing body must include at least 7 members including:

- 2 parent governors – elected or, if a vacancy is not filled by election, appointed by the governing body
- The headteacher of each federated school - unless they have resigned their position as governor
- 1 elected staff governor
- 1 LA governor – nominated by the LA and appointed by the governing body
- An appropriate number of foundation governors – see below
- Co-opted governors (as considered necessary) – appointed by the governing body for their skills

The Diocesan Board of Education (DBE) will have certain expectations relating to the governance of federations involving Church of England schools. Appropriate governance arrangements must be in place to ensure the Church of England foundation of the school is protected.

- a) Federation to include a Voluntary Aided (VA) school – It is expected that the proposal will include the usual VA majority on the federated governing body i.e. that the foundation governors will outnumber the total of all other governors by 2.
- b) Federation does not include a VA school – It is expected that the proposal will include at least 2 foundation governors, but no more than a quarter of the total number of governors.

Aligning Vision

It is essential that the schools considering joining a federation get to know each other sufficiently before proceeding. The visions of the schools must align, with a commonality of purpose and a complimentary ethos. The federation should be in the best interests of all schools, with the governing body united on the future status of the schools in the federation. Areas such as curriculum, school performance, finances, property, staffing and governance should all have been carefully considered.

Leadership and Staffing

Shared leadership and staffing are common features of federations, however it not essential and is possible for schools to retain their own headteacher where the governing bodies agree. In general staff contracts remain unchanged because of federation.

In Voluntary Controlled (VC) schools the employer will continue to be the LA and staff will continue to work under the same arrangements as previously.

In VA and foundation schools the employer changes - from the former governing body to the federated governing body. The existing terms and conditions of employment will transfer across to the new employer under the Transfer of Undertakings (Protection of Employment) Regulations (TUPE). HR advice is required in this context.

There may also be practical considerations in “mixed federation” arrangements regarding who is the employer. You will need specific HR advice in this case. For example:

- Existing staff: Where the two types of schools have different employers, agreements may need to be put in place to govern any shared working arrangements.
- New staff: where you have some existing staff employed by the federated governing body and some employed by the LA, and you wish to take on new staff to work across the federation, you will need to explore whether they should be employed by the federated governing body or the LA and what arrangements will need to be put in place.

Funding and Financial Impact

Financial implications should be carefully considered by governing bodies exploring federation. It is important to understand the financial implications of future funding and budget arrangements. Schools do not lose money by forming a federation, and federated schools usually retain the budget share they would receive if not federated. The LA can advise further on this matter.

Federation does provide the opportunity for a group of schools to identify and implement cost saving measures and benefits in the areas of administration, business development, leadership, staffing, shared senior teaching positions, shared site management and procurement.

Specific considerations for Church of England schools

The DBE must be consulted as part of the federation process and must also approve the Instrument of Government for Church of England Schools to become part of a federation.

As soon as a school or schools are considering federation it is essential to involve and seek further advice from the DBE. This advice will include assisting the governing body in assessing potential partners and helping to ensure careful consideration of the impact of the proposal on the school and the Church of England foundation.

Before moving forward formally with the consultation process the governing bodies of each school are asked to seek an in-principle agreement from the DBE. This includes sharing why the federation is desirable, how long any existing partnership working has been in operation and its impact, and to confirm that all relevant governing bodies have agreed to issue the request to proceed with the process at their respective meetings, as well as any other information relevant to the decision.

The DBE will need to ensure that there are the legally required number of foundation governors on the federated governing body to preserve the Church of England foundation of the schools and to ensure that the trusts underpinning the operation of the school as a church school are upheld. It is important that 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 the future. The proposed size of the federated governing body and the proposed number of governors for each category of governor should be included in the consultation documents and ultimately in the federation's Instrument of Government.

Copies of the draft consultation documents should be sent to the DBE prior to publishing. Sufficient time should be allowed to ensure the DBE can provide input to the draft consultation documents. No consultation document should be published without DBE agreement. The documents should include details of proposed leadership arrangements and composition of the proposed federated governing body.

The DBE, the foundation governors, the PCC and any other person or body included in the appointment of the foundation governors, as well as the site trustees should be involved as stakeholders in the formal consultation, and as such should receive copies of the final consultation documents.

The federated governing body's Instrument of Government will need to be approved by the DBE prior to the federation coming into being and prior to being submitted to the LA. The LA will 'make' the Instrument of Government, but only after the DBE's consent has been obtained. The DBE's consent to the federation is indicated by the formal approval of the Instrument of Government and of any other additional formal documentation.

The agreed composition of the federated governing body may mean there are more serving foundation governors than places on the new body. If insufficient foundation governors have indicated that they wish to step down, then the governing body and the DBE will need to work together to identify those who are best placed to contribute to the effective governance and success of the federation, as well as preserving the Church of England ethos of the schools. If there are vacancies for foundation governors on the federated governing body new foundation governors will need to be appointed.

The DBE should be notified once the new federation has come into being.

Additional Factors

When schools federate, they remain individual schools. This means a Church of England school will remain a Church of England designated school. The Instrument of Government for the federated governing body must reflect this and must include an appropriately worded ethos statement.

Governors of a VA school need the legal right to ask for Christian commitment in appropriate cases and in practice ask for such commitment at headteacher and deputy headteacher level, as a minimum. They 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, this would likely be viewed as discriminatory and could have legal consequences. In VC and foundation schools, in general Christian commitment cannot be considered, however special considerations apply in the appointment of the headteacher - with governors able to consider their ability and fitness to preserve and develop the religious character of the school.

There is a key question about how the proposed employment arrangements will 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 the future. Specific HR and legal advice are required in this context.

Religious Education should continue to be taught as appropriate for a Church of England School of the relevant status. This may require different syllabuses 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 of England schools will continue to be inspected in the same manner under SIAMS.

The federated governing body would still need to find the usual 10% capital contribution in the case of capital works to a VA school.

The formal process

Below is a brief overview of the process to join a federation, for illustrative purposes only. The Diocesan perspective should be fully reflected within this process. Any federation involving one or more Church of England schools requires the consent of the DBE before obtaining the final agreement of the LA.

1	<p>Governing bodies informally explore federation</p> <ul style="list-style-type: none"> • Consideration of collaborative options available • Informally agree to explore option of federation • DBE notified • DBE and LA advice sought through discussion • Joint working group established with governors from all governing bodies looking at curriculum, school performance, finance, property, staffing and governance • In-Principle Agreement sought from the DBE (see Appendix 1) • Discuss with any site trustees if required • Joint working group drafts a report on the proposal to present to governing body
2	<p>Governing bodies decide whether to proceed to consultation and firm up plans.</p> <ul style="list-style-type: none"> • Individual governing body meetings called to consider a report on the proposal. The proposal must be an agenda item at a meeting for which at least seven days' notice is given • Each governing body to decide whether it wishes to proceed to consultation. The decision is minuted • Draft consultation proposals drawn up by the joint working group • Draft consultation documents are shared with the DBE for input prior to publication • Governing bodies agree joint proposals for federation in line with requirements in the regulations
3	<p>Consultation</p> <ul style="list-style-type: none"> • Joint proposals for federation are published and made available for inspection – consultees specified in regulations • Minimum 6-week consultation period (not including the school holidays) • The DBE receives the published proposal documents as part of the formal consultation.

	<ul style="list-style-type: none"> • Consultation meetings to take place e.g. parents, staff etc • Any necessary TUPE consultation and process is carried out • Proposals are made available for inspection at all reasonable times via the websites
4	<p>Final Consultation and decision</p> <ul style="list-style-type: none"> • Joint governing body meeting to consider responses to consultation • Individual governing bodies meet to consider the individual school's position and make final decision on whether they wish to proceed to federation • Decision shared with the other governing body within 7 days • Notification of decision made in accordance with regulations • Governing bodies seek DBE's final approval of decision to federate, this includes – <ul style="list-style-type: none"> - a formal request for the federation to proceed, confirming all relevant governing bodies' agreement and that of any site trustees, if any - final agreed Instrument of Government - a summary of the consultation outcome • DBE approved Instrument of Government is submitted to the LA • New federation governors are agreed ready for federation 'with effect from' date, with support from DBE and LA • First meeting of new federation governing body

Please note:

This guidance is not intended to provide exhaustive information regarding federation in Church of England Schools. Governing bodies are urged to follow the process outlined in the [School Governance \(Federations\) \(England\) Regulations 2012](#) (as amended in 2014, 2015, 2016 and 2017), [Federations: guidance on the governance processes](#) and the [Constitution of governing bodies of maintained schools: statutory guidance 2014](#).

This document is intended to support discussions of schools considering federation options and to outline minimum diocesan requirements. It is not a substitute for schools doing their own research, seeking advice, and engaging with the diocese and the LA.

Appendix 1

REQUEST TO THE DBE FOR AN IN-PRINCIPLE AGREEMENT TO PROCEED TO FEDERATION

Your request should include:

- a. Why federation is being considered
- b. How long any collaboration, formal or not, has been in operation and how positive its impact has been, leading to the decision to seek federation.
- c. A copy of all relevant governing body resolutions and in particular the resolution to seek diocesan advice before considering publishing proposals for federation
- d. Any other information you think relevant to the decision
- e. The request is to be signed by the headteacher(s) and chair of governors
- f. All requests should conclude that the schools are seeking the DBE's in-principle agreement for the federation process to commence

Appendix 2

Some key differences between school types

	Community schools	Church schools (most common types)	
		VA	VC
Foundation governors - governors with special responsibility to secure that the school's religious character is preserved and developed and that the school is conducted in accordance with its trust deed.	N/A	In the majority on the GB. Foundation governors must outnumber all other governors by two. Generally one of their number will include the Incumbent (ex officio) and others will be appointed by the Diocesan Board of Education on the recommendation of the Parochial Church Council.	In the minority on the GB. Must be at least two Foundation governors. Foundation governors must make up no more than 25% of the governing body. Generally one of their number will include the Incumbent (ex officio) and others will be appointed by the Diocesan Board of Education on the recommendation of the Parochial Church Council.
Employer of staff	Employed by LA, funded from the delegated budget. Staff are appointed and dismissed by GB (working to LA appointing policies).	Employed by GB, funded from the delegated budget. Staff are appointed and dismissed by the GB. Christian commitment should be taken into account in the appointment of the headteacher and may be taken into account for other members of staff where appropriate. Foundation governors should be involved in headteacher appointment and their performance management.	Employed by LA, funded from the delegated budget. Staff are appointed and dismissed by GB (working to LA appointing policies). In general Christian commitment cannot be taken into account. Special considerations apply in the appointment of the headteacher - with their ability and fitness to preserve and develop the religious character of the school being taken into account - and in the appointment of reserved teachers (who must be able to teach denominational RE where required). Foundation governors should be involved in headteacher appointment and their performance management.
Admissions Authority All these schools are bound by general admissions law as it operates within the maintained sector, including the Admissions Code. Academies are bound by virtue of the wording in their Funding Agreements. The LA co-ordinates the application process in all cases.	LA is admissions authority. LA decides on admissions policy and makes decisions on who will be offered places in line with that policy. LA arranges appeals.	GB is admissions authority. GB decides on admissions policy (having considered Diocesan guidance) and makes decisions on who will be offered places in line with that policy. Some schools have foundation places allocated by reference to faith-based oversubscription criteria. Consultation with the Diocese is required before changes are made to existing policy. GB makes arrangements for appeals.	LA is admissions authority. LA decides on admissions policy and makes decisions on who will be offered places in line with that policy. LA arranges appeals. Faith-based oversubscription criteria are rare.
Site and Buildings ownership	Owned by LA	Owned by site trustees (except for the playing fields). The site trustees hold the land for specific purposes as specified in their trust deed and have a responsibility to ensure that the activities on the site comply with the requirements of the trust deed. The site trustees will frequently be the York Diocesan Board of Finance or the vicar and church wardens. Playing fields and any structures thereon are usually owned by the LA.	Owned by site trustees (except for the playing fields). The site trustees hold the land for specific purposes as specified in their trust deed and have a responsibility to ensure that the activities on the site comply with the requirements of the trust deed. The site trustees will frequently be the York Diocesan Board of Finance or the vicar and church wardens. Playing fields and any structures thereon are usually owned by the LA.
Capital Funding	From LA.	90% from government/LA and 10% from GB statutory contribution. NB GBs cannot use their devolved capital formula to meet the statutory 10% contribution.	Funding comes from LA.
Ethos	No faith based ethos statement.	Instrument of Government will include faith based ethos statement.	Instrument of Government will include faith based ethos statement.
RE In each case parents (or sixth formers) have certain withdrawal rights.	In accordance with locally agreed syllabus.	Denominational RE. This will be the Diocesan syllabus where one exists.	In accordance with locally agreed syllabus. In certain circumstances denominational RE may need to be provided.
Collective worship In each case parents (or sixth formers) have certain withdrawal rights.	Daily act is required. Must be wholly or mainly of a broadly Christian character.	Daily act is required. Must be in accordance with trust deed/Anglican tradition.	Daily act is required. Must be in accordance with trust deed/Anglican tradition.
Inspection	Ofsted	Ofsted & SIAMS (separate inspections) SIAMS covers Christian Character, Collective Worship, and leadership of the school as a Church school. Schools have a subject inspection for RE. Frequency of inspection will generally depend on the outcome of the previous inspection.	Ofsted & SIAMS (separate inspections) SIAMS covers Christian Character, Collective Worship, and leadership of the school as a Church school. Wider contribution of RE is looked at within these areas as appropriate. Frequency of inspection will generally depend on the outcome of the previous inspection.