

Removal of a board member (non-dispute) by the Board¹

1. Introduction

Board members may leave the organisation for various routine reasons:

- End of term of office
- Voluntary resignation
- Change in personal circumstances (e.g., illness)
- Unsuccessful re-election in a membership charity
- Death.

These changes are formally noted in board minutes, and relevant bodies are notified.

Exceptional Cases for Removal

In some exceptional cases, the board may seek to dismiss a board member. Reasons for this might include:

- Lack of engagement in board meetings
- Non-attendance of board meetings
- Breaches of organisation codes and policies
- Non-compliance with a decision of the board
- A complaint or an issue which is damaging to the organisation.

In many of these cases, the board member will decide to resign and a formal removal process will not be necessary. The Charities Regulator, Companies Registration Office (CRO) and the Register of Beneficial Ownership of Companies (RBO), if relevant, will need to be notified of the change.

Notes:

- This policy guide does not cover situations involving disputes, conflicts, or disagreements with a board member or between board members².
- This policy is also only applicable to organisations whose constitution gives the board the power under its articles of association to remove a board member from the board. Nonprofit organisations who do not have this power in their constitution and are a registered company (e.g. CLG) can use Section 146 of the Companies Act 2014, which grants the power to remove a director by an ordinary resolution of the company's shareholders (members) at a general meeting.

2. Policy objective

To set out the process for the removal of a board member from a board for nonprofit organisations. This policy guide outlines the internal processes and best practice steps to be taken. It complements existing legal provisions for board member removal under the Companies Act 2014. If there is any conflict between this guidance document and the organisation's constitution or relevant legislation, the constitution and/or the law will take precedence.

¹ The policy guide uses the term board member but it also covers charity trustees and company directors.

² Carmichael have produced a separate guide on handling disputes and conflicts between board members.

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Before, applying the policy in an actual board member removal situation, the board should consider if it should obtain professional advice on the specific nature of the dispute and application of the procedures in the policy, particularly, if steps 1 (informal resolution) and 2 (mediation) below fail to have the matter resolved.

3. Policy

The [Organisation name] board encourages board members to resolve any issues or concerns that they may have at the earliest opportunity. It is important that as issues do arise, they are dealt with in a fair and timely manner.

While some performance or compliance issues will be resolved by an informal discussion between the board chair/vice chair and the relevant board member parties, others may need to use the formal process and procedure set out in this policy in section 4 below to remove the board member.

4. Procedure

- a. The board chairperson will in the first instance endeavour to have performance or compliance issue resolved informally. If the matter involves the chairperson directly, this responsibility would fall to the vice chairperson³.
- b. If the matter cannot be resolved informally, the chair or vice chair will give at least 7 days advance notice to the person concerned that they will be formally proposing a motion seeking their removal as a board member. This gives an opportunity to the board member to resign from the board and not go through a removal from the board process. If the board member chooses not to resign within the 7 days advance notice period then the remaining steps in the procedure are followed;
- c. The board chair formally puts a motion seeking the removal of a board member on the agenda of a meeting of the board;
- d. The board chair must give 'extended notice' to the board members at least 28 days before the board meeting at which the motion is to be moved;
- e. On receipt of the notice, the company secretary must send a copy of the resolution to the relevant board member;
- f. The relevant board member is entitled to make written representations to their fellow board members and to request that the company secretary communicates these representations to the members of the board. The board member may also speak at the meeting on the motion concerning his or her removal;
- g. The board chair may, if they so wish, make a written representation to the board members in advance of the board meeting;
- h. An ordinary resolution (i.e. '50 per cent plus one' of the votes cast) of the board members at the board meeting suffices.

If the motion to remove is passed, The Charities Regulator, Companies Registration Office and the Register of Beneficial Ownership of Companies, if relevant, will need to be notified of the change of board membership.

The organisation's website will need to be updated and the bank(s) will need be notified if the board member was an authorised signatory for the organisation's bank account(s).

See Appendix 1 for a summary decision flow chart.

³ If Vice Chair is not available or conflicted, the board can appoint another member of the board to manage the removal process.

5. Roles and Responsibilities

Dealing with matters relating to performance or non-compliance by a board member is the responsibility of the board chair. If issue relates to the board chair or vice chair, the board should appoint another member of the board to take responsibility for dealing with the matter. The board chair may also ask the vice chair to deal with the matter on behalf of the board.

It is also the responsibility of the chair to ensure that board members are aware of this policy and it is included the Board Governance Handbook;

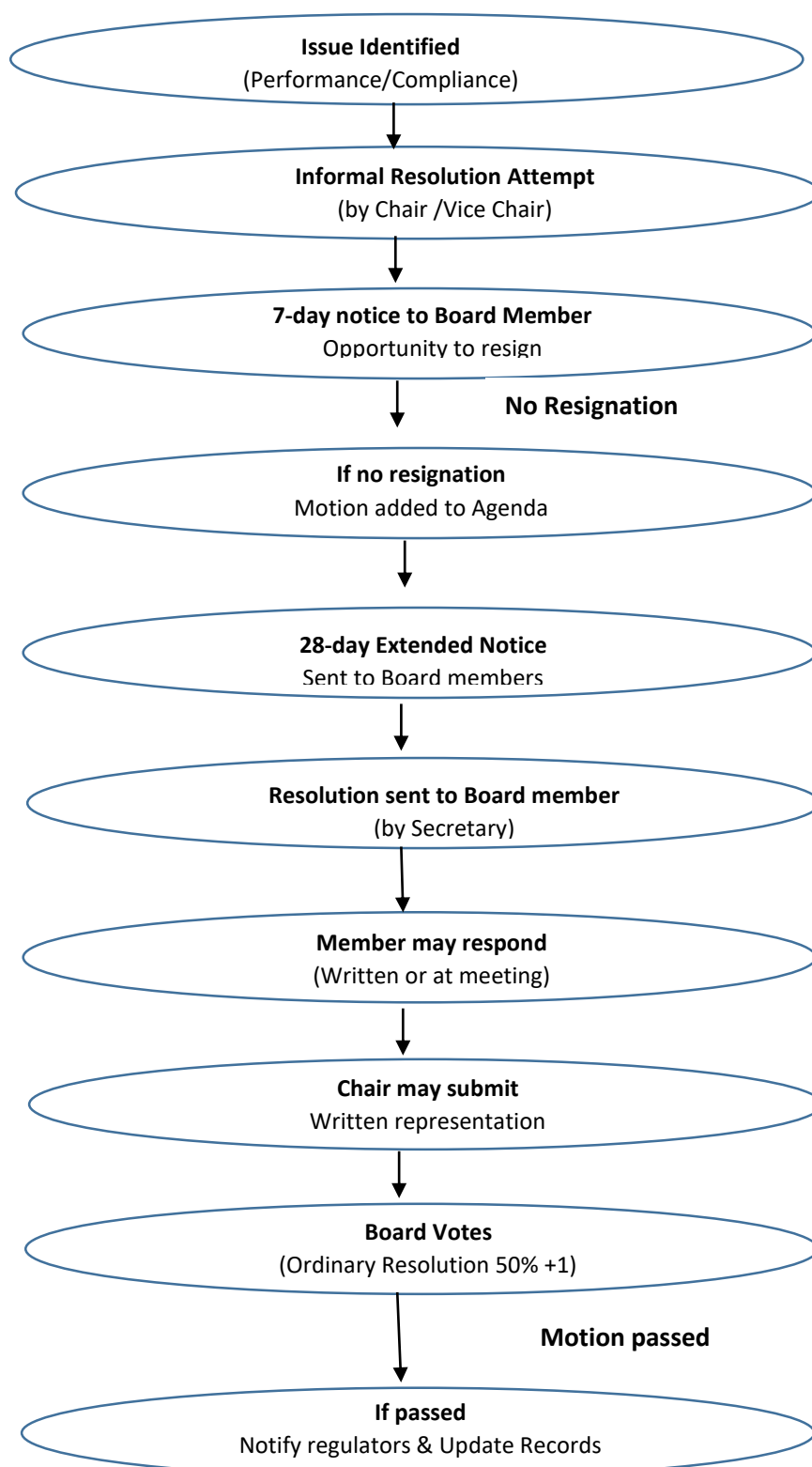
6. Related Documents

- Board Governance Handbook
- Code of conduct policy

Approved by the Board on DD/MM/YY

Policy will be reviewed every three years or earlier if required. The date of the next scheduled review of the policy is DD/MM/Y

Appendix 1: Decision flowchart



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