

# Guidance for Governors - Dealing with complaints within the Governing Body



## Introduction

Other than regulations on suspension and removal of governors there are no nationally agreed procedures for dealing with complaints against governors by their peers. Suspension should be a last resort.

This document is intended as a guide to the action to be taken in the event of a complaint being made against a governor and is recommended for adoption by governing bodies (GBs) in West Sussex maintained schools.

The guidance corresponds with NGA Model Code of Practice for School Governors 2010/11 and can be similarly adopted when discussed and understood. It is acknowledged that all governing bodies are autonomous and the recommendations and suggestions that are made apply equally to all members of governing bodies.

## Background

Governing Bodies are corporate bodies and as such, no individual governor has any special powers, except for the Chair of Governors who may act on behalf of the governors in cases of urgency.

The power that lies with governing bodies does so corporately and decisions are reached by a majority of governors present voting following discussion.

Whilst governors are required to act as “critical friends” to the senior managers within the school, they should do so constructively and from a position of trust. Governors are required to promote high standards within the school.

Governors do not bring a mandate from the group that may have selected, or elected, them to the governing body. Although governors are volunteers, they are obliged to follow the principles that underpin the standards of those holding public office. These are appended to the NGA Code of Practice (Appendix 1).

Governing bodies are strongly advised to have adopted such a Code of Conduct to ensure that all governors know the agreed way of working and behaving in order that their work can focus on the key role of school improvement. Any concern regarding a governor’s conduct should be challenged at the earliest opportunity.

Occasionally concerns may arise relating to the behaviour and or actions of an individual governor. This guidance is designed to advise governing bodies what to do in the event of this happening and to ensure that all members of a governing body are treated fairly and equally, irrespective of gender, age, race, disability, religion and belief, sexual orientation or gender reassignment.

## General principles

The underlying principle is to enable governing bodies to function in an effective and co-operative manner. Concerns, therefore, ought to be handled without the need for formal procedures. For example, it would be helpful if the recipient of the initial concern were able to resolve the matter without the need to resort to formal procedures.

## Timescale

All concerns should be dealt with as quickly and efficiently as possible and realistic time limits set for

each action. Governors are volunteers and may not be as available as employees. They should be made aware at which stage the matter is being dealt with by reference to this guidance (e.g. Stage 1 (informal) or Stage 2 (formal)). However, where investigations are complex, new time limits can be set as long as the complainant and the subject of the complaint are kept informed of the reasons for the delay and given new deadlines.

### **Role of the clergy in schools with a religious character.**

In church schools the role of clergy who serve as ex officio governors should be considered before this guidance is adopted. If preferred, members of the clergy can remain outside the stages set out below in order to exercise pastoral care to those affected by any disagreement when it is concluded.

Parties involved in any complaint between governors should be clear from the outset if clergy will be managing the process, or likely to be part of a panel at stage 2 or acting in a pastoral capacity once the process is concluded. Clergy might also wish to remain outside these processes so that they can be available for one of the possible outcomes: mediation.

### **Stage 1: Informal Process**

Where the actions and / or behaviours of a governor are a cause for concern to an individual within the GB, the chair of governors should be approached. Where the concerns relate to the chair, then the vice chair should be approached.

The chair should arrange a meeting with the complainant in order to establish the nature of the complaint and what the complainant is wishing to see as an outcome.

Where possible, the nature of the concern should be recorded in writing to provide a consistent reference point for the chair and the governor who is to be approached. The chair should not share this concern with any other governor (see stage 2).

The chair should then meet the governor who is the subject of the complaint to explain the nature of the complaint against them and seek to resolve the difficulty. If the chair wishes, he or she can seek advice from the LA (or the diocese in the case of church aided schools).

The chair should approach the matter with an open mind, listening carefully, not jumping to conclusions, and exploring all the issues thoroughly.

If, after meeting both the complainant and the governor, the chair feels that the matter cannot be resolved without further action a further meeting should be held with the governor. Steps that can be taken should be outlined by the chair.

For example, the chair might suggest to the governor concerned that he or she may wish to explain any misunderstanding that had occurred, make a verbal or written apology, participate in further training or that some kind of conciliation or mediation may be appropriate. Training and support may be needed for the whole governing body and not just the governor who is the subject of the complaint.

It is very important that governors are open and transparent when dealing with individual governors in order to avoid claims of discrimination, victimisation or harassment. A log of actions taken and reasons for these is advisable.

All efforts should be made to try to resolve the complaint without the need to resort to formal procedures.

### **Stage 2: Formal Process**

When a complaint cannot be resolved informally, then the matter is dealt through a formal process. There are no nationally agreed procedures for dealing with complaints against governors. When inducted into your governing body any new governor should subscribe to the code of practice and this guidance so that this process can be used in the event of any difficulty.

The Chair may contact the LA / diocese to determine the most appropriate course of action. With advice and guidance from the LA / diocese the chair should initiate a formal investigation. This may involve setting up a complaints panel from within the Governing Body to undertake an investigation. With potentially complex or serious matters the governing body may choose to commission governors from another school, an external consultant or the LA / diocese to undertake an investigation.

The process for the investigation will involve:

- Insistence that all parties treat the matter as confidential
- Establishing the nature of the complaint
- The outcomes expected by the complainant
- Recognition that the office of governor is a voluntary one and affording the governor the courtesy of accompaniment in any interview situation
- Gathering of evidence which may include interviews with third parties
- Conclusions for the chair of the panel to consider
- Discussions regarding the outcomes with the subject of the complaint

Options available to Governing Bodies when dealing with concerns about the conduct of a governor:

1. The complaint was unfounded, a misunderstanding or that there was no case to answer
2. Apology
3. Mediation or conciliation
4. Training
5. Suspension from the governing body (School Governance (Procedures) (England) Regulations 2003)
6. Removal from the governing body (School Governance (Constitution) (England) Regulations 2007)

Please note that staff and parent governors, being elected, cannot be removed and can only resign. It is strongly advised that any potential removal of foundation or LA governors is discussed with the diocese or the LA. Options 5 and 6 should only be exercised in serious circumstances.

### **1: Not upheld**

The chair would notify both parties in person but record the reasons given and any responses made.

### **2: Apology**

In most cases a verbal or written apology would usually suffice.

### **3: Mediation or conciliation**

Where mediation or conciliation is appropriate it could be facilitated by the Chair, or an impartial facilitator e.g. a diocesan or LA officer.

### **4: Training**

It may be acknowledged that training would be helpful in finding a way forward, either for the individual or the governing body as a whole.

### **5: Suspension of Governors**

The governing body should only use suspension after seeking to resolve any difficulties or disputes in more constructive ways, as outlined above.

A governing body can vote to suspend a governor of any category for a period of up to six months. This power must be used 'reasonably and lawfully'.

Suspension of a governor should be considered where the concern continues, or it is of a more serious

nature. Regulations allow for the matter to be dealt with by the governing body.

Any motion to suspend must be specified as an agenda item of a governing body meeting for which at least seven days notice has been given. If stages 1 and 2 have not previously been followed it is recommended that a conversation takes place between the chair and the subject of the complaint.

Governors who have been proposed for suspension must be given the opportunity to make a statement in response before they withdraw from the meeting and a vote is taken.

Governors can only be suspended for one or more of the following reasons:

- they are paid employees at the school and the subject of disciplinary proceedings in relation to their employment;
- they are the subject of a court or tribunal proceedings, the outcome of which may mean disqualification as a governor;
- they have behaved in a way that is inconsistent with the school's ethos or religious character and have brought, or are likely to bring, the school or governing body or their office of governor into disrepute;
- they are in breach of the duty of confidentiality to the school or staff or to the pupil

The procedure to follow at the meeting is covered in Appendix 2.

## **6: Removal of Governors**

If the previous stages have not resolved the concerns, or if the concerns are of an extreme nature, the removal of a governor is the last resort. Where removal of a governor is deemed necessary the LA / Diocese should be consulted to ensure the process and regulations are followed correctly.

Removal of governors is only possible for certain categories of governors. The basic principle is that a governor may be removed from office by the body that appointed him or her. Therefore on the basis that the governing body appoints the following categories of governor, accordingly, the governing body may remove them from office:

- Community governors
- Partnership governors
- Parent governors who have been appointed (it is important to note that parents governors who have been elected may not be removed by the governing body)
- Any sponsor governors (it may also do so at the request of the nominating body).
- LA and Foundation governors may be removed from office by the appointing body, i.e. the LA or the Diocese

See Appendix 3 for details of the procedure governing bodies must follow.

### **Disagreement with the outcome**

The complainant or the governor may disagree with the outcome of the complaint investigation and the proposed remedy.

If a complainant or the subject of the complaint does not feel their complaint has been appropriately handled, the Chair of Governors may also ask the LA or diocese to review whether the decision was reasonably made.

For this reason all documentation related to the process should be retained as part two minutes of the GB business.

Any advice provided by the LA in these instances is not binding upon the Governing Body, but it may enable an independent view to be obtained upon the complaint handling.



## Appendix 1

### **National Governors' Association's Code of Practice for School Governors 2010/11**

**The National Governors' Association** has for a number of years recommended that governing bodies adopt a code of practice which sets out the purpose of the governing body and describes the appropriate relationship between individual governors, the whole governing body and the leadership team of the school. NGA has included a specimen code of practice in our annual publication 'Welcome to Governance', and we know that many governing bodies do already have a code of practice or code of conduct and indeed ours has been based on a number of codes already in use. However there are also many governing bodies which do not yet have a code of practice and the NGA wants to help spread this good practice.

We offer the following code as a starting point built on the best practice from around the country, and would like to thank all who have contributed to its development. Each governing body may want to tailor this recommended code to their own situation. We recommend that such a code should be thoroughly discussed so that the whole governing body has ownership of it. Once it has been adopted, the governors should be asked to review it and sign it on an annual basis, ideally at the first meeting in the autumn term. This is not meant to be a recruiting document for prospective governors; and contact us if you are developing such material.

#### **NGA's Code of Practice for School Governors 2010**

This code sets out the expectations on and commitment required from governors in order for the governing body to properly carry out its work within the school and the community. It can be amended to include specific reference to the aims and ethos of the particular school.

#### **The purpose of the governing body**

The governing body is the school's accountable body. It is responsible for the conduct of the school and for promoting high standards. The governing body aims to ensure that children are attending a successful school which provides them with a good education and supports their well-being. Over the past decade the responsibilities of governing bodies have grown; and the 'Every Child Matters' agenda has meant that schools are now accountable for children's health and well-being in the community and for a wide range of extended services provision out of school hours.

#### **The governing body:**

- Sets the strategic direction of the school by:
  - o Setting the values, aims and objectives for the school
  - o Agreeing the policy framework for achieving those aims and objectives
  - o Setting statutory targets
  - o Agreeing the school improvement strategy which includes approving the budget and agreeing the staffing structure
- Challenges and supports the school by monitoring, reviewing and evaluating:
  - o The implementation and effectiveness of the policy framework
  - o Progress towards targets
  - o The implementation and effectiveness of the school improvement strategy
  - o The budget and the staffing structure
- Ensures accountability by:
  - o signing off the Self Evaluation Form

- o responding to School Improvement Partner and Ofsted reports when necessary
  - o holding the headteacher to account for the performance of the school
  - o ensuring parents and pupils are involved, consulted and informed as appropriate
  - o making available information to the community
- Appoints and performance manages the headteacher who will deliver the aims (through the day to day management of the school, implementation of the agreed policy framework and school improvement strategy, and delivery of the curriculum) and report appropriately to the governing body.

For governing bodies to carry out their role effectively, governors must be:

- Prepared and equipped to take their responsibilities seriously;
- Acknowledged as the accountable body by the lead professionals;
- Supported by the appropriate authorities in that task; and
- Willing and able to monitor and review their own performance.

### **The role of a governor**

In law the governing body is a corporate body, which means:

- no governor can act on her/his own without proper authority from the full governing body;
- all governors carry equal responsibility for decisions made, and
- although appointed through different routes (i.e. parents, staff, Local Authority Community, Foundation), the overriding concern of all governors has to be the welfare of the school as a whole.

### **General**

- We understand the purpose of the governing body and the role of the headteacher as set out above
- We are aware of and accept the Nolan seven principles of public life: see appendix
- We accept that we have no legal authority to act individually, except when the governing body has given us delegated authority to do so, and therefore we will only speak on behalf of the governing body when we have been specifically authorised to do so.
- We have a duty to act fairly and without prejudice, and in so far as we have responsibility for staff, we will fulfil all that is expected of a good employer.
- We will encourage open government and will act appropriately.
- We accept collective responsibility for all decisions made by the governing body or its delegated agents. This means that we will not speak against majority decisions outside the governing body meeting.
- We will consider carefully how our decisions may affect the community and other schools.
- We will always be mindful of our responsibility to maintain and develop the ethos and reputation of our school. Our actions within the school and the local community will reflect this.
- In making or responding to criticism or complaints affecting the school we will follow the procedures established by the governing body.

### **Commitment**

- We acknowledge that accepting office as a governor involves the commitment of significant amounts of time and energy.
- We will each involve ourselves actively in the work of the governing body, and accept our fair share of responsibilities, including service on committees or working groups.
- We will make full efforts to attend all meetings and where we cannot attend explain in advance in full why we are unable to.
- We will get to know the school well and respond to opportunities to involve ourselves in school activities.
- Our visits to school will be arranged in advance with the staff and undertaken within the framework established by the governing body and agreed with the headteacher.
- We will consider seriously our individual and collective needs for training and development, and will undertake relevant training

- We are committed to actively supporting and challenging the headteacher.

### **Relationships**

- We will strive to work as a team in which constructive working relationships are actively promoted.
- We will express views openly, courteously and respectfully in all our communications with other governors.
- We will support the chair in their role of ensuring appropriate conduct both at meetings and at all times.
- We are prepared to answer queries from other governors in relation to delegated functions and take into account any concerns expressed, and we will acknowledge the time, effort and skills that have been committed to the delegated function by those involved.
- We will seek to develop effective working relationships with the headteacher, staff and parents, the local authority and other relevant agencies and the community.

### **Confidentiality**

- We will observe complete confidentiality when matters are deemed confidential or where they concern specific members of staff or pupils, both inside or outside school
- We will exercise the greatest prudence at all times when discussions regarding school business arise outside a governing body meeting.
- We will not reveal the details of any governing body vote.

### **Conflicts of interest**

- We will record any pecuniary or other business interest that we have in connection with the governing body's business in the Register of Business Interests.
- We will declare any pecuniary interest - or a personal interest which could be perceived as a conflict of interest - in a matter under discussion at a meeting and offer to leave the meeting for the appropriate length of time.

### **Breach of this code of practice**

- If we believe this code has been breached, we will raise this issue with the Chair and the Chair will investigate; the governing body should only use suspension as a last resort after seeking to resolve any difficulties or disputes in more constructive ways;
- We understand that any allegation of a material breach of this code of practice by any governor shall be raised at a meeting of the governing body, and, if agreed to be substantiated by a majority of governors, shall be minuted and can lead to consideration of suspension of the governing body.
- We are aware of the provisions of regulation 15(1) of the School Governance (Procedures) (England) Regulations 2003, as amended, which pertain to the grounds for suspension as a school governor and of Schedule 6 to the School Governance (Constitution) (England) Regulations 2007 relating to the disqualifications from the role of school governor (held as a separate document)

The Governing Body of Vale School adopted this code of practice on 22nd January 2014. Governors will sign the Code at the first governing body meeting of each school year.

**Undertaking:**

As a member of the Governing Body I will always have the well-being of the children and the reputation of the school at heart; I will do all I can to be an ambassador for the school, publicly supporting its aims, values and ethos; I will never say or do anything publicly that would embarrass the school, the Governing Body, the Headteacher or staff.

Signed .....

Printed name.....

Date: .....

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**Appendix: The Seven Principles of Public Life**

*(originally published by the Nolan Committee: The Committee on Standards in Public Life was established by the then Prime Minister in October 1994, under the Chairmanship of Lord Nolan, to consider standards of conduct in various areas of public life, and to make recommendations).*

**Selflessness**

Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

**Integrity**

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

**Objectivity**

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

**Accountability**

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

**Openness**

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

**Honesty**

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

**Leadership**

Holders of public office should promote and support these principles by leadership and example.

## **Appendix 2**

### **Guidance on Suspension of a Governor**

#### **Prior to the Meeting**

Suspension of a governor must be an item on the agenda for the full governing body meeting.

#### **At the Meeting**

The governor is not allowed to bring a representative to the meeting.

Before a vote is taken on a resolution to suspend a governor, the governor proposing the resolution shall at the meeting state his or her reasons for doing so.

The governor who is the subject of the resolution shall be given the opportunity to make a statement in response before withdrawing from the meeting. A vote will be required by secret ballot and the governor allowed back in the room to witness the count. A resolution is passed by the governing body.

If the majority vote is that the governing body agree to the suspension then the governor is asked to leave the meeting. If the vote is against the suspension of the governor, normal proceedings will continue.

#### **Non – attendance at the meeting**

If the governor that is the subject of suspension fails to turn up at the meeting at which suspension is an item on the agenda, the suspension cannot proceed. A further meeting would need to be arranged (giving full notice) with the item on the agenda again. The governor would need to be informed in writing of the importance of his/her attendance at this second meeting to allow him/her to make a statement. However if he/she is not able to attend he/she can send a statement to the Chair, which the governors will consider at the meeting before making a decision.

The governing body can at this meeting make the decision to suspend the governor. This needs to be recorded in the minutes and the governor informed in writing.

## School Governance (Procedures) (England) Regulations 2003

### Suspension of governors 15. –

(1) Subject to paragraphs (2), (3) and (4), the governing body may by resolution suspend a governor for all or any meetings of the governing body, or of a committee, for a fixed period of up to 6 months on one or more of the following grounds -

- (a) that the governor, being a person paid to work at the school, is the subject of disciplinary proceedings in relation to his employment;
- (b) that the governor is the subject of proceedings in any court or tribunal, the outcome of which may be that he is disqualified from continuing to hold office as a governor under Schedule 6 to the Constitution Regulations;
- (c) that the governor has acted in a way that is inconsistent with the ethos or with the religious character of the school and has brought or is likely to bring the school or the governing body or his office into disrepute;
- (d) that the governor is in breach of his duty of confidentiality to the school or to any member of staff or to any pupil at the school.

(2) A resolution to suspend a governor from office shall not have effect unless the matter is specified as an item of business on the agenda for the meeting of which notice has been given in accordance with regulation 11(4).

(3) Before a vote is taken on a resolution to suspend a governor, the governor proposing the resolution shall at the meeting state his reasons for doing so, and the governor who is the subject of the resolution shall be given the opportunity to make a statement in response before withdrawing from the meeting in accordance with paragraph 2(2) of the Schedule.

(4) Nothing in this regulation shall be read as affecting the right of a governor who has been suspended to receive notices of, and agendas and reports or other papers, for meetings of the governing body during the period of his suspension.

(5) A governor shall not be disqualified from continuing to hold office under paragraph 5 of Schedule 6 to the Constitution Regulations for failure to attend any meeting of the governing body while suspended under this regulation.

## Appendix 3

### School Governance (Constitution) (England) Regulations 2007

#### Removal of LA and foundation governors

**24.**—(1) Any LEA governor or foundation governor may be removed from office by the person who appointed him, who must give written notice thereof to the clerk to the governing body and to the governor so removed.

(2) A person proposing the removal of an ex officio foundation governor must inform the clerk to the governing body and the governor in question in writing of the reasons why he is proposing his removal.

(3) The governing body may, in accordance with the procedure set out in regulation 27, 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.

#### Removal of community governors, partnership governors and sponsor governors

**25.**—(1) Any community governor, partnership governor or sponsor governor may be removed from office by the governing body in accordance with the procedure set out in regulation 27.

(2) A nominating body proposing the removal of such a governor must inform the clerk to the governing body and the governor in question in writing of the reasons why it is proposing his removal.

(3) The governing body may, in accordance with the procedure set out in regulation 27, remove any community governor appointed in accordance with Schedule 3, or any sponsor governor at the request of the nominating body.

(4) In this Part, “nominating body” means any person from whom nominations were sought for the purpose of appointing, and who nominated, the governor in question.

#### Removal of appointed parent governors

**26.** Any parent governor appointed by the governing body under paragraphs 9 to 11 of Schedule 1 may be removed by the governing body in accordance with the procedure set out in regulation 27.

#### Procedure for removal of governors by the governing body

**27.**—(1) This regulation applies in relation to the removal of a governor from office in accordance with regulation 24(3), 25 or 26.

(2) A resolution to remove a governor from office which is passed at a meeting of the governing body will not have effect unless—

(a) in relation to the removal of a governor under regulation 24(3) and 25(3), before the governing body resolve to remove the governor from office, the clerk to the governing body gives the reasons for removal provided by the person referred to in regulation 24(3) or by the nominating body (as appropriate) and the governor whom it is proposed to remove is given an opportunity to make a statement in response;

(b) in relation to the removal of a community governor, a partnership governor or a sponsor governor under regulation 25(1) or a parent governor under regulation 26, before the governing body resolve to remove the governor from office, the governor or governors proposing his removal at that meeting state their reasons for doing so and the governor who it is proposed to remove is given an opportunity to make a statement in response;

(c) it is confirmed by a resolution passed at a second meeting of the governing body held not less than fourteen days after the first meeting; and 17 (d) the matter of the governor’s removal from office is specified as an item of business on the agenda for each of those meetings.