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Managing Complaints Against Governors and Trustees

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Managing complaints against Governors and Trustees

Introduction

There are no nationally agreed procedures for dealing with complaints against governors or trustees. This document is intended as a guide to the action to be taken, and represents best practice advice should such complaints arise. It is recommended for adoption by School Governing Bodies and Trust Boards.

Context

Governing/Trust boards are corporate boards and, as such no individual governor or trustee has any special powers, other than the chair (and vice chair in the absence of the chair) who may act in limited circumstances on behalf of the board when a delay would be detrimental to a pupil, parent, employee or the school.¹ The power that lies with boards does so corporately and decision are reached by majority vote of those present, following discussion.

Governors and trustees:

- are required to promote high standards within the school;
- should be aware of and accept the 'Nolan' 7 principles of public life; and
- should adopt and sign a code of conduct (see associated model code).

Occasionally, concerns may be raised about the behaviour, conduct or actions of an individual governors or trustee. This guidance is designed to provide a framework for dealing with such situations and to ensure that there is transparency and individuals are treated fairly.

There must be separate and specific procedures for dealing with general complaints about the school or conduct/decisions of the governing body² and grievance procedures for staff.

¹ Maintained Schools: The School Governance (Roles, Procedures and Allowances) (England) Regulations 2013 Regulation 8.

Academies: where the board allows.

² Maintained Schools: School Complaints Procedures.

Academies: academies complaints procedures



Categories of complaints and who should deal with them

Complaints against governors and trustees can be:

- from other governors or trustees on the governing body/within the trust;
- from members of the public, which includes parents;
- from members of staff, including the headteacher and CEO.

Irrespective of the category of the complaint the responsibility for dealing with the complaint is that of the governing body/trust, and would normally fall to the chair to manage.

Where the complaint is made against the chair:

- it could be passed to the vice chair; or
- by agreement of the board, passed to the chair of another governing body or other independent person to investigate; and
- in the case of a complaint against the chair of a local governing board in a MAT, a trustee.

In determining an appropriate person to deal with the complaint, the board will need to consider the extent to which an internal investigation by one governor/trustee about another generates a conflict of interest or prejudice.

No member of staff, including the headteacher or CEO, should be involved in the investigation of a complaint by a governor/trustee other than as a witness.

Where applicable, the LA or Diocese should be notified where a formal procedure is undertaken in respect of one of their representative governors. Their advice is not binding on the board, but they may offer an independent view and assistance with informal resolution.

Procedure

General principles:

- Resolution should be sought informally wherever possible
- Complaints should be resolved as quickly as possible
- The process of resolving complaints should not interfere with or undermine the work of the board

1. Informal resolution

Wherever possible the complainant should seek to resolve the matter directly with the person they are complaining about through dialogue. The complainant may seek the assistance of a third party to facilitate that conversation should they so wish.

Where this is not appropriate or does not resolve the matter, the complaint must be submitted in writing (including email) to the chair who will be the “investigator”.

- In the case of complaint against the chair, this should be sent to the vice chair
- In the case of a complaint by a member of staff, other than the headteacher or CEO, the complaint should be sent via, or copied to, the headteacher/CEO for information, although they will have no role in dealing with the complaint.

The fact that a complaint has been received, the date of the complaint, and the name of the person complained about, should be reported to the board, but neither the complaint nor any other details should be shared with any other governors/trustees.

Where appropriate and agreed, the board may agree to appoint an independent investigator, although this is not usually necessary at the informal stage.

The investigator should arrange to meet with the complainant to determine the exact nature of the complaint and what resolution is sought. The complainant should be asked to provide evidence, including where applicable the names of any witnesses.

The investigator should then arrange to meet with the governor/trustee to discuss the complaint and seek to resolve the matter.

If appropriate, a further meeting with all parties may be held to resolve the matter. A mediator may be appointed if this is agreed by all parties as a means of resolution.

Meetings should be approached with an open mind; listening carefully and fully exploring all of the issues and evidence. Reference should be made to the code of conduct as appropriate.

Where the matter can be resolved through this informal process, the resolution should be confirmed in writing to both parties and the board informed that the matter is resolved.

2. The formal procedure

Where the matter cannot be resolved informally, the investigator should conduct a full investigation. This should include:

- Reviewing any written evidence
- Interviewing any witnesses
- Interviewing the complainant (where further information/clarification is required following any informal discussion)



- Interviewing the governor/trustee. Recognising the role is voluntary, the governor/trustee should be afforded the opportunity to be accompanied at any interview at this stage.

All interviews at this stage should be minuted and all parties must maintain confidentiality. Meetings should be held in a neutral venue where appropriate.

The investigator should compile a report setting out the process followed, the evidence, and conclusion. The conclusion may be one or more of (but not restricted to):

- The complaint is unfounded
- The complaint is upheld and a formal apology is sent to the complainant
- The individual governor/trustee (and/or board) should receive specific training/mentoring
- The complaint is upheld and detrimental to the reputation of the board, and the individual concerned is invited to resign
- Suspension*
- Removal from the board*

*these options should be considered only in the most serious cases of misconduct. Staff and parent governors, being elected, cannot be removed and can only resign. See Appendix A for procedures.

Where the investigator is an independent person, outside of the board, the chair, or a panel of the board, will have to receive, accept or reject the conclusions and action the recommendation.

The conclusion should be confirmed in writing to the complainant and the governor/trustee.

All records relating to the complaint should be retained, as for other board reports for 6 years. If the complaint was from a member of staff, a copy of papers should also be retained in a confidential section of their personal file in accordance with normal file retention for employees (duration of employment +6 years).

The outcome of the complaint should be recorded in the board minutes:
"RESOLVED: The complaint by xxx against xxx was investigated by xxx, the outcome being xxx"

3. Disagreement with the outcome

Where either party considers that the complaint has not been handled appropriately or is dissatisfied with the outcome, they may provide details of their concerns in writing.



The board should appoint a board member who has no previous involvement, or an independent person to review the matter and provide a conclusion. This will normally be a perp review considering the original investigators report, but may involve speaking to relevant parties where this is considered necessary.

The outcome of the review will be final.



Appendix A: Suspension and removal of governors/trustees

Where a complaint is upheld and was so serious that it is concluded that the person should no longer serve as a governor/trustee, the expectation would be that the person would resign. Should they not do so and their continuation would affect the reputation or work of the board, suspension/removal will need to be considered.

Suspension

Maintained Schools: Can suspend a governor for a fixed period of up to 6 months under s17 of The School Governance (Roles, Procedures and Allowances) Regulations 2013, in the following circumstances:

- that governor who paid to work at the school, is the subject of disciplinary proceedings in relation to his or her employment;
- that the governor is the subject of proceedings in any court or tribunal, the outcome of which may be that the governor is disqualified from continuing to hold office as governor;
- 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 the office of governor into disrepute; or
- that the governor is in breach of the duty of confidentiality to the school or to any member of staff or pupil at the school.

Procedure

Any motion to suspend must be specified as an agenda item for the relevant meeting.

Before a vote is taken on a resolution to suspend a governor:

- the governor proposing the resolution must, at the meeting, state the reasons for doing so
- the governor who is the subject of the resolution must be given the opportunity to make a statement in response before withdrawing from the meeting.

The governor must be notified in writing of the outcome of the vote.

Academies: There are no powers to suspend governors or trustees in academies.

Removal

Maintained Schools: Can remove appointed and elected governors, including the chair and vice-chair under The School Governance (Constitution and Federation) (England) (Amendment) Regulations 2017



The board can remove:

- Community governors
- Partnership governors
- Parent governors (appointed and elected)
- Staff governors
- Any sponsor governors

The LA or Diocese may remove governors they have appointed.

Procedure

Any motion to remove a governor must be specified as an agenda item for the relevant meetings.

Before a vote is taken on a resolution to remove a governor:

- the governor proposing the resolution must, at the meeting, state the reasons for doing so
- the governor who is the subject of the resolution must be given the opportunity to make a statement in response before withdrawing from the meeting

A resolution to remove a governor must not be enacted until it has been confirmed at a second meeting of the governing body held not less than 14 days after the first meeting.

The governor must be notified in writing of the decision.