



# Complaints Against Governors in VA Church Schools Policy and Procedures

## 1. Introduction:

There are no nationally agreed procedures for dealing with complaints against school governors. This document is intended as a guide and represents best practice advice should such complaints arise. It is drawn from example policies from the Department for Education, local authorities and Church of England dioceses.

School governing bodies are corporate bodies and, as such, no individual governor has any special powers, except for the Chair of Governors (or the 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, a parent, an employee, or the school. All powers and authority that rest with governing bodies do so corporately, and decisions are reached by a majority vote of those present, after discussion.<sup>1</sup>

This is an LDBS policy and procedure for all voluntary-aided Church of England schools within the London Diocese and all affiliated schools. Governors may additionally adopt this as a school policy.

## 2. Expectations of governing bodies:

### The core functions of governing bodies are:

- Ensuring that the vision, ethos and strategic direction of the school are clearly defined;
- Ensuring that the headteacher performs their responsibilities for the educational performance of the school; and
- Ensuring the sound, proper and effective use of the school's financial resources.<sup>2</sup>

In exercising these functions, governors:

- Are required to promote high standards within the school<sup>3</sup>
- Are required to act with integrity, objectivity and honesty and in the best interests of the school, when exercising their functions<sup>4</sup>
- Are required to declare any conflicts of interest and abstain from discussion and voting when a conflict arises<sup>5</sup>
- Must be open about the decisions they make and the actions they take, and be prepared to explain their decisions and actions to interested parties<sup>6</sup>
- Must comply with the Public Sector Equality Duty<sup>7</sup>
- Should be aware of, accept and comply with the Nolan Principles of Public Life
- Should adopt and sign a code of conduct, which should be reviewed annually.

<sup>1</sup> School Governance (Roles, Procedures and Allowances) (England) Regulations 2013, regulation 8

<sup>2</sup> School Governance (Roles, Procedures and Allowances) (England) Regulations 2013, regulation 6(1) <sup>3</sup>

School Governance (Roles, Procedures and Allowances) (England) Regulations 2013, regulation 6(1) <sup>4</sup>

School Governance (Roles, Procedures and Allowances) (England) Regulations 2013, regulation 6(2) <sup>5</sup>

School Governance (Roles, Procedures and Allowances) (England) Regulations 2013, regulation 16

<sup>6</sup> School Governance (Roles, Procedures and Allowances) (England) Regulations 2013, regulation 6(2)

<sup>7</sup> [Public sector equality duty - GOV.UK \(www.gov.uk\)](http://www.gov.uk) and Dept for Education, The Equality Act 2010 and Schools (May 2014)



The Nolan Principles of Public Life are in Appendix 1. Each school will have its own Governors' Code of Conduct.

### 3. Matters covered by this policy:

Occasionally, concerns may be raised about the behavior, conduct or actions of individual governors.

A 'concern' is generally understood as 'an expression of worry or doubt over an issue considered to be important for which reassurances are sought'. Sometimes, concerns that are not properly dealt with become complaints.

A 'complaint' is generally understood as 'an expression or statement of dissatisfaction however made, about actions taken or a lack of action'.<sup>8</sup>

This policy and its procedures are designed to provide a framework for dealing with complaints against governors in LDBS schools. This policy is also designed to ensure that there is transparency and individuals are treated fairly.

The types of complaints that are dealt with under this policy are:

- Complaint about an individual governor or several governors from another member of the governing body
- Complaint about an individual governor, several governors or the entire governing body from a member of the public, including parents
- Complaint about an individual governor, several governors or the entire governing body from a member of the school staff

Each school has separate policies to deal with staff grievances; staff appeals against decisions

relating to capability, discipline or pay; and parents' and carers' complaints about school decisions. Such matters are not dealt with under this policy.

### 4. Responsibility for dealing with the complaint:

Responsibility for dealing with a complaint under this policy rests with the governing body. Complaints would normally fall to the Chair of the governing body to manage.

Where the complaint is made against the Chair:

- It could be passed to the Clerk to governors or the Vice-chair to manage; or
- By agreement of the governing body, it could be passed to the Chair of another school's

governing body or to another independent person to manage.

In determining an appropriate person to manage a complaint, the governing body will need to consider the extent to which an internal investigation by one governor about another generates a conflict of interest or prejudice.

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<sup>8</sup> Definitions of 'concern' and 'complaint' are from Dept for Education, *Best practice guidance for school complaints procedures 2020* (<https://www.gov.uk/government/publications/school-complaints-procedures/best-practice-advice-for-school-complaints-procedures-2019#contents>)



Where the complaint is made against the entire governing body, the Chair should contact the Diocese for advice and assistance as to how to handle the complaint, which may include involving the Local Authority (LA). It is recommended that the Diocese should refer the complaint to an independent governor from a nearby CofE school or another independent party.

No member of staff, including the headteacher, executive headteacher, principal or other executive officer, should be involved in the investigation of a complaint against a governor, other than as a witness.

## 5. Principles of complaint resolution:

It is in everyone's interest that matters are resolved at the earliest possible stage. Many issues can be resolved informally, without the need to follow formal procedures. Governing bodies should take informal concerns seriously and make every effort to resolve the matter as quickly as possible.

**When a complaint arises to which this policy applies, then the following principles apply:**

- All parties will actively seek opportunities for forgiveness and reconciliation in a manner that reflects the articulated Christian vision and associated values of the school.
- Resolution will be sought informally wherever possible.
- Complaints will be resolved as quickly as possible, ideally within the established time limits for each stage of the procedure.
- The subject of the complaint will have equal rights with the person making the complaint, and clear assurances will be given to both sides to ensure that there will be no victimisation as a result of the complaint.
- Confidentiality will be respected.
- There will be a full, fair and impartial investigation.
- Meetings will be minuted, if possible, by a third party, and all parties will be kept informed of progress.
- The investigation and resolution process will allow for reasonable adjustments which ensure that no one is discriminated against because of their age, sex, race, sexual orientation, gender reassignment, disability, marriage/civil partnership, pregnancy/maternity or religion/belief.
- The process of resolving complaints should not interfere with or undermine the work of the governing body.

## 6. How to make a complaint:

Wherever possible a complainant should seek to resolve the matter directly, through dialogue, with the governor they are complaining about. The complainant may seek the assistance of a third party to facilitate that conversation should they so wish. In all circumstances, the expectation is that a complaint will be made as soon as possible after an incident has arisen, and no later than three months following the incident.

Where direct, dialogue-based resolution between the complainant and governor is not appropriate or fails to resolve the matter, then the complaint must be made in writing to the Chair or Clerk of the governing body. The written complaint should describe the reasons for the complaint, the relevant facts, and how the complainant would like the matter to be resolved.



If the complaint is against the Chair, then the complaint may be made to the Clerk or the Vice-Chair.

If the complaint is against the whole governing body, then the complaint should be made to the Clerk, who will inform the Chair and contact the Diocese.

The recipient of the written complaint is the Investigator, unless the governing body decides to appoint a different Investigator. In the case of complaints against the whole governing body, the Diocese will determine the identity of the Investigator.

In the case of a complaint by a member of staff, other than the headteacher (or other executive officer), the complaint should be sent via, or copied to, the headteacher (or other executive officer) for information, although they will have no role in dealing with the complaint.

## **7. Procedure for resolving complaints:**

### **Stage 1 – Informal process**

Within five school days of receiving the complaint, the Investigator must:

- Acknowledge receipt of the complaint to the complainant, explain that the complaint will be investigated, and arrange a meeting with the complainant to discuss the complaint, receive evidence, and discuss options for resolution.
- Inform the governor against whom the complaint is made of the content of the complaint, explain that it will be investigated, and arrange a meeting to discuss the complaint, receive evidence and seek to resolve the difficulties. The Governors' Code of Conduct should also be discussed at this meeting.

If a complaint is received outside of term time, then the five-day period will commence on the first day when term resumes after the complaint has been received.

In all aspects of this investigation, the Investigator will have an open mind, listen carefully and explore all issues thoroughly. The Investigator will ensure that notes are taken of all meetings.

The Investigator will complete the informal investigation and respond to both parties within ten days with suggestions about how the Investigator proposes to resolve the complaint.

Steps that could be taken to resolve the complaint may include:

- A finding that the complaint was based on a misunderstanding, unfounded, or there is no case to answer.
- An apology
- Mediation or conciliation
- Training (which may be needed for the whole governing body)

If the complainant is not satisfied at the end of this informal stage, then the complainant can use the formal process set out in Stage 2.

### **Stage 2 – Formal process**

The complainant should contact the Investigator in writing and confirm that they wish to proceed to Stage 2. The Investigator must respond in writing within three days and confirm that a formal investigation will be carried out. The Investigator must also advise the governor that a Stage 2. Formal process has been commenced. Both parties should be invited to submit additional evidence and suggest appropriate witnesses for this proc



### **Independent investigator should be considered.**

If the complaint is potentially complex or involves serious matters, the Investigator may wish to seek advice from the Diocese or the LA to determine the most appropriate course of action. For example, it may be appropriate to appoint a new Investigator who is independent from the original process. e.g. a governor from another school, an external consultant, or a Diocesan/LA staff member.

### **Requirements of a full investigation**

In this Formal stage, the Investigator should conduct a full investigation including:

- Reviewing any relevant evidence
- Interviewing any relevant witnesses
- Interviewing the complainant, where further information/clarification is required. This should include establishing the new outcomes that the complainant is seeking.
- Interviewing the governor. Recognising the role is voluntary, the governor should be afforded the opportunity to be accompanied at any interview at this stage. This interview should include a discussion of the outcomes sought by the complainant.

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

### **Final report and recommendations**

The Investigator should compile a report setting out the process followed, the evidence, the conclusion reached, the reasons for the conclusion, and the recommended course of action. Where the Investigator is presented with conflicting evidence, the Investigator will determine which version of events is more likely than not to have occurred, based on the balance of probabilities.

Where the Investigator is an independent person, the Chair or a panel of the governing body will have to receive, accept or reject the conclusions and action any recommendations.

The complainant and the governor must be advised of the outcome in writing and provided with a copy of the Investigator's report.

Outcomes that the Investigator may choose to recommend include:

- A finding that the complaint was based on a misunderstanding, unfounded, or there is no case to answer
- An apology
- Mediation or conciliation
- Training (which may be needed for the whole governing body)
- Suspension from the governing body, which requires a vote of governors under the relevant school governance regulations<sup>9</sup>
- Removal from the governing body under the relevant school governance regulations<sup>10</sup>

The last two options should only be exercised in serious circumstances. If the Investigator considers that suspension or removal is an appropriate course of action, the Investigator must seek advice from the Diocese and include this advice in the report. The Diocesan Director of Education may use

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<sup>9</sup> *School Governance (Roles, Procedures and Allowances) (England) Regulations 2013*, reg. 17.

<sup>10</sup> *School Governance (Constitution) (England) Regulations 2012*, reg. 20-25 (as amended) and *School Governance (Roles, Procedures and Allowances) (England) Regulations 2013*, reg. 17.



any of the powers granted to them under the Diocesan Boards of Education Measure 2021 (the Diocesan Measure), including the power to give a direction to the governing body where the Director is satisfied that the governing body is acting in a manner which is not in the interests of the school or of church schools generally<sup>11</sup>.

### **Timeframe**

It is important that the Investigator works as efficiently and quickly as possible to progress the investigation and reach a conclusion. Investigations should be completed and complaints should be concluded within three months of the date when the Stage 2 complaint is lodged.

All records relating to the complaint should be retained for a minimum of six years. If the complaint is from a member of staff, a copy of papers should also be retained in a confidential section of their personnel file in accordance with normal file retention for employees.

### **Stage 3 – Disagreement with the outcome**

Where either party considers that the complaint has not been handled appropriately or is dissatisfied with the outcome from Stage 2, they may direct their appeal to the Clerk of the governing body. This appeal should be in writing and provide a statement of the reasons for the appeal.

The LA, Diocese or other appointing authority (e.g. Deanery or PCC) must be notified where an appeal is commenced under this policy in respect of one of their appointed governors. If the appointing authority offers advice or assistance in response to the notification, this is not binding but should be duly considered by the governing body. The Diocese's Director of Education may also give a binding direction to the governing body in circumstances where the provisions of section 10 of the Diocesan Measure are met.

The governing body must appoint a panel of independent governors to conduct an independent review of the matters raised in the appeal. The Diocese or the LA (as appropriate) should be able to help in finding available independent governors from other schools.

The task of the independent review panel will be to review the investigations in Stages 1 and 2 and provide a response to the original complainant, the governor concerned, and the Chair of the governing body. This will normally be a paper review considering the original investigation reports but may involve speaking to relevant parties where the panel considers this to be necessary. If further interviews are held, these will be minuted and kept confidential.

The review process should address whether the processes carried out and conclusions reached under Stages 1 and 2 were lawful, rational, reasonable, procedurally fair and proportionate.

The panel's report should detail the actions taken to review the investigations of the complaint, and should provide a full explanation of the panel's final decision and the reason(s) for it. Where appropriate, it will include actions that the governing body must take to resolve the complaint.

The panel will ensure that the Clerk distributes their final report to the complainant, governor and appointing authority immediately. The panel's report will also advise the complainant of how to escalate their complaint should they remain dissatisfied.

The outcome of this review will be final and there will be no further appeal process under this policy.

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<sup>11</sup> *Diocesan Boards of Education Measure 2021*, section 10



## 8. Referral to Department for Education

If the complainant believes the governing body did not handle their complaint in accordance with this policy, or acted unlawfully or unreasonably in the exercise of their duties under education law, they can contact the Department for Education after they have completed Stage 3.

The Department for Education will not normally reinvestigate the substance of complaints or overturn any decisions made by a governing body. They will consider whether the governing body has adhered to education legislation and any statutory policies connected with the complaint.

The complainant can refer their complaint to the Department for Education as follows:

Online at: [www.education.gov.uk/contactus](http://www.education.gov.uk/contactus)

By telephone on: 0370 000 2288 In writing to:

Department for Education Piccadilly Gate  
Store Street Manchester M1 2WD

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## Appendix 1 – The Nolan Principles of Public Life:

The Seven Principles of Public Life (also known as the Nolan Principles) apply to anyone who works as a public office-holder. This includes all those who are elected or appointed to public office, nationally and locally, and all people appointed to work in the Civil Service, local government, the police, courts and probation services, non-departmental public bodies (NDPBs), and in the health, education, social and care services. All public office-holders are both servants of the public and stewards of public resources. The principles also apply to all those in other sectors delivering public services.

### 1. **Selflessness**

Holders of public office should act solely in terms of the public interest.

### 2. **Integrity**

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

### 3. **Objectivity**

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

### 4. **Accountability**

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

### 5. **Openness**

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

### 6. **Honesty**

Holders of public office should be truthful.

### 7. **Leadership**

Holders of public office should exhibit these principles in their own behaviour and treat others with respect. They should actively promote and robustly support the principles and challenge poor behaviour wherever it occurs.

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