



Bedfordshire
county council

MODEL POLICY

DEALING WITH INTERNAL DIFFICULTIES

A protocol for dealing with internal difficulties which may occasionally occur within a governing body.

Status: Recommended

December 2007

School Governance

Dealing with internal difficulties on the governing body

Background

Governing Bodies are corporate bodies and as such, no individual governor has any special powers, save for the Chair of Governors who may act on behalf of the governors when clearly it would be in the best interests of the governing body to do so. The power that lies with governing bodies does so corporately and decisions are reached by a majority of governors present and voting, after 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 largely volunteers, governors are obliged to follow the Nolan principles that underpin the standards of those holding public office. These are:

- Selflessness
- Integrity
- Objectivity
- Accountability
- Openness
- Honesty
- Leadership

Schools and their governing bodies have a number of responsibilities and duties under legislation relating to equality and diversity. Recent and forthcoming legislation covers gender, age, race, disability, religion or belief, sexual orientation and gender reassignment. The legislation requires schools to avoid discrimination and to promote equality for pupils, staff and others that may use school facilities. One of the ways in which governing bodies may fulfil this requirement is by recruiting people to serve as governors who are representative of local communities. Governing bodies should also consider ways of supporting and developing people from diverse communities to become school governors. Appendix 1 provides guidance on different categories of discrimination.

Most governing bodies operate effectively and run smoothly whilst carrying out their duties. However, occasionally issues develop concerning the behaviour and actions of individual governors. This protocol is designed to advise governing bodies what to do in the event of this happening. In particular, it is designed 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.

Protocol

If the actions and behaviours of a governor are a cause of concern to an individual or group of governors, the chair of governors should be approached and the issue explained to them. A thorough investigation should be carried out (approaching the matter with an open mind, listening carefully to everyone involved, not jumping to conclusions, exploring all the issues carefully as the investigation might uncover that other governors are at fault as well) and appropriate evidence gathered. If, as a result, the chair feels that there is a “case to answer” then he or she should set up a meeting with the governor concerned where the nature of the concern will be fully explained to the governor. The chair should also explore with the governor whether there are any training needs and whether any further support, such as conciliation or mediation may be appropriate. This may be needed for the whole governing body and not just the individual. 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.

Occasionally, it may be appropriate for the chair to have an informal meeting with a governor in order to resolve a difficulty.

The Local Authority is able to provide support to governing bodies when dealing with difficulties. The Area Education Officers will be more than happy to provide advice on the legal framework on equality legislation as well as advice on appropriate procedures (contact 01234 228118)

Suspension of Governors

Should the problem continue or be of a more serious nature then regulations do allow for the matter to be dealt with by the governing body.

In certain circumstances the governing body can vote to suspend a governor for a period of up to six months. This should only happen as a last resort. 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;
- 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 has brought or is 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 pupils.

Removal of Governors

If, following the suspension of a governor, problems with the actions and behaviour relating to an individual governor continue, in some circumstances governors may be removed from office. This is largely dependent upon the category of governor concerned and the basic principle is that a governor may be removed from office by the body that appointed them. 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 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 person who appointed them.

NB - the governing body may not remove any staff governors.

Procedure for Removal by the Governing Body

Reasons for the proposed removal of any community governor, partnership governor, appointed parent governor or sponsor governor must be given by the governor(s) proposing the removal. The governor in question must be given the opportunity to make a statement in response before a vote is taken on a resolution to remove him or her. The governor in question is not eligible to vote in respect of a proposal to remove him/her from office.

In Bedfordshire, LA governors are appointed by Committee Services upon the advice of the political parties.

Whilst written notice of the removal must be given to the clerk of the governing body and to the governor in question, it is recommended that before this stage a senior officer of the LA should always meet with the governor concerned, along with the chair of governors, in order to discuss the situation and to see if a resolution can be achieved prior to the written notices being served.

The governing body may also remove a chair or vice chair from office during the school year if it resolves to do so. The quorum required to do so is one half of the total membership of the governing body, excluding vacancies. Any such resolution must be on the governing body agenda, with at least seven days' notice of the meeting. The governor proposing the resolution must state his or her reasons. The office holder in question must be given an opportunity to speak against the resolution before withdrawing while the governing body votes on the proposal.

NB - in the case of schools in difficulties, a chair appointed by the Secretary of State cannot be removed by the governing body.

Further information and advice is available from the Area Education Officers on 01234 228118.

Appendix 1 Different Categories of Discrimination

Definitions of Discrimination

Under the law there are different categories of discrimination:

- Direct discrimination – this is when a person is treated less favourably than others in comparable circumstances because of a special characteristic such as sex, race or a disability
- Indirect discrimination – this occurs when a provision, criterion or practice is applied equally to all but has a different impact on members of one or more protected groups of which the complainant is one, and is placed at a disadvantage as a result
- Victimisation – treating a person less favourably because they have taken action in respect of discrimination eg by bringing a complaint or giving evidence for a colleague
- Harassment – this is unwanted conduct which violates a person's dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment for them on grounds of one of the relevant equality characteristics eg gender or race

It is recommended that governing bodies access appropriate training opportunities in order to fully understand the implications of the above legal duties.

In their dealings, school governors must be aware that under equality law the onus will be on the governing body to provide clear evidence that they have not acted in a discriminatory way when dealing with individual governors.

Attendance at relevant training, investigating issues thoroughly and with an open mind and acting on findings are all good evidence that a governing body is not discriminating.