

## **The Whitby Secondary Partnership**

# **Maintained School Governor Disciplinary Policy**

## **Procedures for Schools**

This document is for maintained school Governing Boards.

<b>Review dates</b>	<b>By Whom</b>	<b>Approval date</b>
January 2020	NYCC and Governors	25 February 2020

**Signed by the Chair**

*Pen Cruz*

## **Introduction**

For many years there has been an inconsistency in the governing body constitution regulations that allowed for all categories of governors to be removed for inappropriate behaviour – with the exception of elected parent and staff governors.

Following lobbying by, amongst others, the National Governors Association, this has now been rectified by the DFE.

For consistent and fair practice, all of the guidance about removal of governors has been brought into one policy document. However, both the Department for Education and North Yorkshire County Council are very clear that removal of a governor is a drastic step and a last resort. We strongly recommend that all effort is made to resolve problems through discussion and training before resorting to the formal steps in this policy. We also remind governing boards that suspension is also an option to consider before removal, and that it is always helpful to discuss options with the Governance Support Team.

Our final advice is that effective and well-informed recruitment and induction of new governors is the best way to prevent problems.

## **“The Constitution of governing bodies of maintained schools” Statutory guidance DFE. August 2017**

Pages 24 and 25.

### **Background.**

The new statutory guidance document pages 24 and 25 has outlined a procedure for the removal of all categories of governors. From 1<sup>st</sup> September 2017 all categories of governors can be removed from office if found to be in breach of the code of conduct. This includes elected governors, both staff and parent.

Regulations 20-24A outline the appropriate bodies that have the power to remove particular categories of governors. This power is not one to be exercised lightly, and only by following due process.

Foundation governors may be removed by the person who appointed them.

Ex-officio foundation governors may be removed by governors at the request of the person named in the instrument of government as the person entitled to make such a request.

Local authority governors may be removed from office by the local authority that nominated them.\*

Co-opted and partnership governors may be removed by the governing body. A partnership governor may also be removed at the request of the nominating body.

Parent and staff governors, either appointed or elected, may be removed by the governing body using procedures outlined in this policy.

## **Grounds for disqualification**

Examples which could give rise to removal are where:

a. **there have been repeated grounds for suspension** (see The School Governance (roles, Procedures and Allowances) 2013.) This includes any action inconsistent with the ethos, or the religious character where appropriate, or has brought or is likely to bring the school or governing body into disrepute.

b. **there has been serious misconduct.** Governing bodies should decide what constitutes serious misconduct based on the facts of the case. Any actions which compromise the Nolan principles, if sufficiently serious, would be considered in scope of this reason for removal.

c. **a governor displays repeated and serious incompetence;** for example where an governor is unwilling or unable, despite all appropriate support, to develop the skills to contribute to effective governance; or where attendance is so irregular that the governor is unable to make any meaningful contribution to the work of the board.

**d. the governor has engaged in conduct aimed at undermining fundamental British values of democracy, the rule of law, individual liberty, mutual respect and tolerance of those with different faiths and beliefs;**

e. the actions of the governor **are significantly detrimental to the effective operation of the governing body, distracting it from its core strategic functions;** and/or the **actions of a governor interferes with the operational efficiency of the school** thereby wasting a significant amount of headteacher and/or senior leadership time.

### **Procedure for removal**

#### **Informal stage**

##### **This stage is applicable to all categories of governor.**

It is advised that every effort be made to avoid potential difficulties later by informing prospective election candidates, or appointees, of the nature of the role.

It is advised that their agreement is secured to a clear set of expectations for behaviour and conduct – as set out in a code of conduct. A code of conduct is expected to detail the circumstances in which the governing body may suspend or remove a governor. Good training, a thorough induction and effective chairing are also vital in helping to prevent situations occurring in the first place. It is advised that induction includes a clear setting out of the expectations of the governor role.

Governing bodies are expected only to exercise the power to remove a in exceptional circumstances where the actions or behaviour of the governor warrants removal rather than suspension. The power should not be used simply to remove dissenting or challenging voices. Good governance involves asking courageous questions and offering appropriate professional challenge. A diverse range of viewpoints contributes to healthy debate and good decision making; and avoids governing boards becoming inappropriately dominated by a single narrow perspective.

The five year disqualification term for removal reflects the expectation that the power to remove a governor will only be used in exceptional and serious circumstances (and such seriousness will depend on the facts of the case).

In view of the above comments it is expected that the chair of the governing body will make every effort to resolve any misunderstandings or difficulties informally in the initial stages. This will involve meeting with the governor and discussing with them the code of conduct and how they can improve their behaviour or contributions to the governing body.

In the case where these meetings have no effect it is recommended that the Chair meet with the governor and a written warning is given to the governor, outlining the issues and stating how the governing body will expect the governor to change their behaviour in light of the code of conduct. It is recommended that the chair will give clear timescales for improvement.

In the case of the chair's behaviour being regarded as unacceptable the vice-chair or another appropriate governor should appointed to this role.

#### **Formal stage**

Stage one – this applies to all categories of governor

##### **Procedure for removal of governors by the governing body (regulation 25)**

Removal by a governing body of a co-opted governor, partnership governor, ex-officio foundation governor, appointed parent governor or elected parent or staff governor is effected by resolution of the governing body but only if:

- the removal is confirmed by a resolution passed at a second meeting of the governing body not less than 14 days after the first meeting;

- the removal of the governor has been specified as an item on the agenda of both meetings; and
- the following additional conditions are satisfied:
  - Where the governor concerned is an ex-officio foundation governor, or is a partnership governor whose removal has been requested by the nominating body, the additional condition is that the governing body considers the reasons for removal and gives the governor concerned the chance to make a statement in response.
  - Where the governor concerned is a co-opted governor, a partnership governor, elected parent or staff governor, or an appointed parent governor, the governor proposing the removal must at the meeting give reasons for the proposal and the governor concerned must have the chance to make a statement in response.

For LA Governors:

The chair asks the LA to remove the governor from office, explaining the reasons for the request and demonstrating that due process has so far been followed.

Foundation governors including ex-officio foundation governors:

The chair asks the diocese/trust board to remove the governor from office, explaining the reasons for the request and demonstrating that due process has so far been followed.

Co-opted governors

The chair formally writes to the governor explaining that they have been removed from the board and explaining the reasons. They must also explain that the governor is now disqualified from being a governor at any other school for a period of 5 years.

Elected Governors

Appeal Stage – this only applies to elected governors

Governing bodies are expected to provide an appeals procedure to enable any removed governor to test the reasonableness of the governing body's decision to remove them. It is advised that an independent panel conducts the appeal, which could include a governor from another school, and/or a suitable official from the local authority, or a suitable diocesan representative.

The governing body should appoint a panel with 2 independent governors from another school, and one LA officer or diocesan officer where appropriate. The panel should meet within a reasonable period of time, the suggestion is twenty working days. The panel will review the procedure and ensure that the governor subject to removal has had an opportunity to improve their conduct through the process. They should also ensure the governing body has provided clear evidence that the governor has not altered their conduct throughout the process. The panel should invite the governor and a representative of the governing body to attend the meeting and give each person the opportunity to make a statement or answer any questions from the panel.

The panel should then ask both parties to leave and agree a decision. The decision should then be written and sent to both the governor and the representative of the governing body within 5 working days.

### **Conduct of all meetings.**

All meetings should be minuted by a clerk.

The initial meeting should be notified to the all governors, including the governor subject to removal proceedings at least 7 days in advance of the meeting. The removal of the governor should be a clear agenda item. The reasons for the proposed removal of the governor should be sent to the governor concerned with the agenda of the meeting. This written statement should NOT be sent to all of the governing body to enable the governing body to consider the matter at the meeting.

At the meeting, the Chair (or other nominated governor) should outline the reasons for the removal of the governor.

The governor should then be given the opportunity to reply to the case against them.

The governing body should then vote on the proposal. This vote can be a secret ballot and the decision is made under the usual rules of governing bodies so that a simple majority is acceptable.

If the governing body vote to remove the governor they should be informed at the meeting and then in writing within 5 working days.

A second meeting of the governing body must now be held. This cannot be held within 14 days of the first meeting i.e. the meeting must be dated at least 14 days after the initial meeting.

This second meeting must have the confirmation of the removal the governor as an agenda item. This confirmation must be approved by simple majority at the meeting. The governor must then be informed in writing and informed that they can now go to an appeal panel and have their case reviewed. If they wish to do this they must inform the clerk to the governing body within 20 working days.

The Chair (or representative governor) will arrange for a panel hearing at the request of the removed governor. This will be made up of 2 independent governors and one LA senior officer or Diocesan representative as appropriate.

This panel should meet within 20 working days of the request being received.

The clerk will send out any enclosures to the panel members and invite all parties in writing. The clerk will also take notes in the meeting and send out to all parties a copy of the decision made by the panel.

The panel will listen to the representative of the governing body and then the removed governor. They will ask any questions to both parties and then ask both parties to leave whilst they make a decision.

The decision must be sent to both parties within 5 working days.

The panel's role is to ensure the following:

1. The process has been followed correctly, including the informal process.
2. The removed governor has had every opportunity to change their behaviour but has failed to do so.
3. The removed governor has been given the opportunity to defend their position at the informal stage and in the first meeting.
4. The decision taken by the governing body is reasonable and in the interests of improving governance in the school.