



St Mary's Hampton

Church of England Primary School

Flourishing through faith, hope and love

Policy to Handle Complaints against Governors

(Based on LDBS model policy, spring 2022)

Review Frequency: Annual
Next Review: Spring 2025
Agreed: Spring 2024

Signed:
(Headteacher)

Signed:
(Chair of Governors)

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.¹ 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.²

St Mary's Hampton is the operating name for Hampton St Mary Academy Trust. Relevant articles from the Hampton St Mary Academy Trust Articles of Association are cited, along with paragraphs of the Standing Orders.

¹ 2022-23 Standing Orders, paragraph, A8

² 2022-23 Standing Orders, paragraphs C25-32; Articles of Association, articles 105-123

2. Expectations of the Governing Board

The core functions of the governing board are to:

- Ensure the vision, ethos and strategic direction of the school are clearly defined;
- Ensure the headteacher performs their responsibilities for the educational performance of the school; and
- Ensure the sound, proper and effective use of the school's financial resources.³

In exercising these functions, governors:

1. Promote high standards within the school
2. Act with integrity, objectivity and honesty and in the best interests of the school, when exercising their functions
3. Declare any conflicts of interest and abstain from discussion and voting when a conflict arises⁴
4. Are open about the decisions the board makes and the actions taken, and are prepared to explain their decisions and actions to interested parties
5. Comply with the Public Sector Equality Duty
6. Are aware of, accept and comply with the Nolan Principles of Public Life
7. Adopt and sign a code of conduct, which is reviewed annually.

3. Matters covered by this Policy

Occasionally, concerns may be raised about the behaviour, 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'.⁵

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

³ Articles of Association, article 95

⁴ Articles of Association, article 98; Standing Orders E1-5

⁵ Definitions of 'concern' and 'complaint' are from Department for Education, best practice guidance for school complaints procedures 2020

The 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 board. Complaints would normally fall to the Chair of the governing board 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 board, it could be passed to the Chair of another school's governing board or to another independent person to manage.

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

Where the complaint is made against the entire governing board, this should be made to the Clerk, who will inform the Chair and 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. The governing board will 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 board.

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 board. 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 board, 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 board decides to appoint a different Investigator. In the case of complaints against the whole governing board, 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:

7a. 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.

7b. 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 school 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 board) 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 ten school 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 process.

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 board 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, is unfounded, or there is no case to answer
- An apology
- Mediation or conciliation
- Training (which may be needed for the whole governing board)
- Suspension from the governing board, which requires a vote of governors under the relevant school governance regulations
- Removal from the governing board under the relevant school governance regulations and Articles of Association (articles 66 to 68A).

The last two options, suspension and removal, 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^[11] any of the powers granted to them under the Diocesan Boards of Education Measure 2021 (the Diocesan Measure)⁶, including the power to give a direction to the governing board where the Diocesan Director of Education is satisfied that the governing board is acting in a manner which is not in the interests of the school or of church schools generally.

Timeframe

It is important that the Investigator works as efficiently and quickly as possible to progress the investigation and reach a conclusion. An investigation should be completed and the complaint concluded within **thirty school days** 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.

⁶ Diocesan Measure: [Diocesan Boards of Education Measure 2021](#)

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 board. This appeal should be in writing and provide a statement of the reasons for the appeal.

The 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 board. The Diocese's Director of Education may also give a binding direction to the governing board in circumstances where the provisions of section 10 of the Diocesan Measure are met.

The governing board 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 board. 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 board 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.

This stage 3 panel review process should be concluded within **forty school days** of the date when the appeal is lodged.

8. Referral to Education and Skills Funding Agency (ESFA)

If the complainant believes the governing board 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 Education and Skills Funding Agency following the completion of Stage 3.

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

The complainant can refer their complaint to the ESFA as follows:

ESFA
Sanctuary Buildings
Great Smith Street
London SW1P 3BT

Telephone number: 0370 000 2288.