

## MIDDLESBROUGH CHILDREN FAMILIES AND LEARNING

### Procedures for the Removal of Authority Governors

#### 1. Background

- 1.1 The School governance (Constitution) (England) Regulating 2003, Regulation 6 states that the governing bodies of all categories of maintained schools have at least one governor appointed by the Local Authority (LA). In some categories of school the Authority governors account for up to one-fifth of governing body membership.
- 1.2 New regulations (Statutory Instrument 1172) changes 'Local Education authority' to 'Local Authority' and Local Authority governors become 'Authority' governors.
- 1.3 Corporate Affairs Committee have delegated responsibility from Middlesbrough Council to consider any representations for appointment or re-appointment of governors.
- 1.4 Governor Development Service on behalf of the Executive Director for Children Families and Learning consults with Corporate Affairs Committee on all matters relating to the appointment and removal of Authority governors.
- 1.5 There is currently no protocol for removing Authority governors and if approved this protocol will be adopted from the Autumn Term 2010 as the approved method for the transparent and equitable removal of Authority governors.

#### 2. Process of Removal

- 2.1 It is anticipated that this procedure will be rarely used, however, it is important that there is a mechanism in place for the removal of Authority governors in order to ensure that difficulties, if they arise, can be dealt with in a consistent way. It is expected that such procedures would be applied, **but not limited** to, any of the following:-
  - Conduct or bias which is clearly not seeking the good of the school,
  - Any conduct which would be a cause for dismissal, had the Authority governor been an employee of Middlesbrough Council,
  - An irretrievable breakdown in relations between Authority governor and the Governing Body,
  - Significant malpractice in matters connected with the role of the governor,
  - For a Chair, or Vice Chair of Governors, fulfilling their leadership role in such a way as to have a significant damaging effect on the proper functioning of the governor body or School,
  - Where there is clear evidence that the governor concerned has infringed either seriously, or persistently, the expectations set out in the Seven Principles of Public Life, or
  - the governor concerned has infringed either seriously, or persistently, the expectations set out in the school's Code of Conduct for governors, or

- that the governor concerned is subsequently in violation of the disqualification criteria stipulated in the Guide to the Law for School Governors or
- the governor concerned has subsequently been the subject of a relevant criminal conviction, or
- the governor concerned has used his or her role as a governor for political gain, or
- the governor concerned has used political influence to promote his/her school as opposed to other schools in the borough for gain, or to the detriment of another school, or
- the governor concerned has used, without integrity, political influence to interfere in school/LA business.

2.2 Local Authorities have the right to remove governors they have appointed, under Regulation 23 of the School Governance (Constitution) (England) Regulations 2001, by giving notice in writing to the clerk to the governing body and also the governor to be removed. As with the appointments of Authority governors, the regulations give no prescriptive procedures for removal, this is a matter for local determination.

2.3 While LA have the right to remove governors they have appointed, this does not give LA an unregulated right to remove their appointees. Authority governors can only be removed for good reason, for example breaches of the code(s) of conduct.

2.4 Before the LA begins a formal process to remove a governor, LA Officers will seek to offer conciliation, if appropriate, to seek to resolve the situation. Where this is not an effective remedy, then an Authority governor may be considered for removal from office. Removal of an Authority governor from office will only be used as a last resort after seeking to resolve any difficulties or disputes in a more constructive manner.

2.5 The Corporate Affairs Committee will determine matters of removal. It is anticipated that requests for removal might come from the following sources:

#### 2.5.1 Directly from the School

The governing body of a school has no powers to remove an Authority governor, but they may make a request for the LA to do so. In these circumstances the LA will expect governors to have acted in accordance with Regulation 15 of the School governance (Procedures) Regulations 2003, which would apply in relation to the suspension of a governor, i.e.

- a) the proposal to recommend to the LA the removal of a governor will be a specified item of business notified in advance of the meeting;
- b) a member of the governing body will propose recommending the removal of the governor giving reasons for the proposal;
- c) the governor will have an opportunity in the meeting to respond to the proposal;
- d) the governor will withdraw whilst a vote is taken on the proposal.

If the proposal is supported, the Clerk to the Governing Body will notify the Executive Director of Children Families and Learning of the proposal setting out the governing body's reasons for recommending removal.

On receipt of the proposal, it will be submitted to a meeting of the Corporate Affairs Committee.

## 2.5.2 Report to Corporate Affairs

The Governor Development Service making no recommendation to the Committee on the outcome should submit a report to the Corporate Affairs Committee raising the concerns.

## 2.6 Procedures for dealing with requests for removal by the Corporate Affairs Committee

2.6.1 The Committee will consider the grounds for removal set out by The Governor Development Service;

2.6.2 The Clerk to the Committee should convene a meeting of the Committee at a date and time convenient to all parties.

2.6.3 The report and all documentation appended to the report should be copied to the Governor in question in sufficient time for him/her to compile any further representation she/he may wish to make and submit them to the clerk to the Committee for inclusion and consideration by the Committee. It is recommended that the criteria for the selection and appointment of Authority governors be appended to the Governor Support Services report together with a copy of the relevant code(s) of Practice.

2.6.4 No material should be available to the committee, which has not been made available to the Governor in question.

2.6.5 Where the report contains evidence in the form of written statements or notes all such statements or notes should be attributed and signed.

2.6.6 The Governor should be informed of the date and time of the meeting and the procedure to be followed at the meeting. She/he should also be notified that she/he has the right to be accompanied by a friend or legal representative if they so wish.

2.6.7 Subject to the agreement of the Committee, either party may call witnesses. No witness can be compelled to attend.

## 2.7 Order of Proceedings

2.7.1 All persons who are making representation to the Committee should enter and leave the room at the same time.

2.7.2 At the meeting the Clerk of the Chair for this meeting should open the meeting by introducing the persons present and once more explain the procedures that will be followed. Each party should be allowed sufficient time to put their case.

2.7.3 An officer from the Governor Development Service Team will then be invited to speak to his/her report.

2.7.4 The committee and the governor or his/her representatives may then ask questions of the officer.

2.7.5 The governor or his/her representative may then make their representations to the Committee, and be duly questioned by the officer from the Governor Development Service.

2.7.6 Each party will then be permitted to summarise it's case.

- 2.7.7 At the close of the hearing both parties should leave the room together. When the Committee considers its decision, the Clerk and, if applicable, the Committee's legal advisor, will remain to advise on any procedural points.
- 2.7.8 When considering whether to revoke the appointment or not, the Committee will have to decide whether the matters complained of are, on the balance of probability, made out. If the committee finds that the complaint(s) are made out it should then consider whether revocation of the appointment is in the broader interests of the school and the governing body.
- 2.7.9 The clerk will write to both parties within five working days of the decision being made informing them of the decision reached and the reasons for it.
- 2.7.10 Where the proposal to remove is agreed, the governor will be removed with immediate effect from the governing body and the governing body notified.
- 2.7.11 Where the proposal to remove is declined, the Committee will, where appropriate, write to the proposer and the governor concerned, suggesting or advising on a way forward to resolve any remaining difficulties.
- 2.7.12 Members of the Committee are reminded of the need to be aware at all times of any conflict of interest which could give rise to actual bias or the appearance of bias and to notify the clerk accordingly.

## 2.8 Suspension of Authority Governors

A provision exists for the suspension of governors (including Authority Governors) for a fixed period of up to 6 months. This is a matter for the Governing Body to determine rather than the LA. The provisions for this sanction are set out in Regulation 15 of the School governance (Procedures) Regulations 2003. Governors may wish to consider this provision prior to consideration for removal. A governor who has been suspended must be given notice of any meetings and must be sent agendas, reports and papers for any meetings during the suspension.