



SWANSEA INSTITUTE  
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# CADWYN



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ALL WALES CENTRE *for* GOVERNOR TRAINING AND RESEARCH

## GOVERNORS ARE KEY PARTNERS IN RAISING STANDARDS

*In this article Jane Hutt, A.M., the Minister for Children, Education, Lifelong Learning and Skills discusses with the Centre Manager, Steve Gullick, her views on the challenges schools and their governing bodies will be facing in the next few years.*

Jane Hutt brings a wealth of experience to her position as Minister for Children, Education, Lifelong Learning and Skills. Prior to her election to the National Assembly for Wales she was Director of *Chwarae Teg* and was the Welsh member on the New Opportunities (UK) Fund. Since becoming an Assembly Member she has served as Minister for Health and Social Services (1999-2005) and Minister for Assembly Business (2005-2007). She was also an elected member of the former South Glamorgan County Council, and during this time was the Chair of the governing body of a Cardiff Primary School.

From the outset, the Minister made it clear that she is totally committed to education and schools in Wales. "Education," she pointed out, "is the cornerstone of the 'One Wales' programme of the new coalition government because it impacts on so much - the economy; the community; people's life chances. And it is our schools which lie at the centre of the education service." It is also clear that the Minister has set high targets for education in Wales. "We have to ensure that all children achieve their highest potential no matter where they live in Wales, no matter which school they attend so our aim is that by 2010 no one should leave school without qualifications."

### The Role of Governors

The Minister was equally clear and forthright in her vision for the part governing bodies can play in raising standards. "I believe governors can, and should, be at the forefront of improving school effectiveness. First of all, governors should see themselves as part of a team along with the Head teacher and staff, with the Chair playing a vital role as their leader and spokesperson. Governors should have a strategic view of the school and help set the vision for where they want their school to move. In order to do this, they should be willing to ask questions, use educational data and statistics to assess their school's progress, and support the Head and staff in all they do to improve effectiveness and raise standards. It's also particularly important that governing bodies share good practice with each other so that all schools in Wales benefit from the best ideas.

We in the Welsh Assembly Government believe very much in the importance of cooperation to bring about improvement and to this end we are introducing what we refer to as 'Tri-level reform'. This will involve the Welsh Assembly Government, local authorities and schools working together to



raise standards, and, clearly, governors in helping set the strategic vision for their schools will have an important part to play in this process."

### Training for Governors

It is obvious that Jane Hutt rates highly the part governing bodies can play in school improvement so I asked her of she thought it necessary to introduce compulsory training for governors. "Well," she responded "you can't be a good governor without training, and I'd expect every governor to receive training for their position - and I don't mean induction training only: governors need to update their skills and also their knowledge of legislation regularly if they are to carry out their roles effectively." And what about compulsory training for governors? "No, I don't think training should be compulsory but training should be high quality and easily accessible to all governors - and also enjoyable. If local authorities, who take a lead in training, cooperate so as to ensure they share good ideas and good practice, and provide really good training courses, then, I'm sure governors would value training even



more and attendance at training sessions would improve. I think it's also worth remembering that really high quality training, as well as giving governors the skills needed to help run their school also provides them with a degree of personal development. It is always pleasing to hear of people whose personal or professional development has been enhanced by their being a school governor."

### **Schools, governors and the community**

As we are increasingly becoming aware that schools have the potential to be the focus of their communities we turned to the topic of community focussed schools and the part that governors can play in making this vision of the school as a living part of the community become a reality. Once again, the Minister was in no doubt as to the part which governors can play in achieving this aim. "Governors," she said, "are uniquely placed to be a link between school and community, to act as a two way conduit for the hopes and aspirations of

both. On a more practical level, governors often have interests in organizations within their community which can bring benefits to the school and vice versa - many a choir, town band, netball team or rugby club has realized the advantages of one of their members being on a school governing body and many a school has been equally grateful for having such a governor. It's quite noteworthy that Heads of eco-schools, for instance, have spoken highly of the enthusiastic and knowledgeable support of a governor with particular interest in environmental issues."

### **The Future**

It was clear from our discussion, that the Minister sees many challenges facing our schools, the central one being improved school effectiveness and the continued raising of standards. It was equally clear that she believes that governors can play a key role in helping our schools meet them.

## **APPOINTMENT OF AN INDEPENDENT INVESTIGATOR BY SCHOOL**

## **GOVERNING BODIES FOR SCHOOL STAFF DISCIPLINARY**

## **PROCEEDINGS INVOLVING CHILD PROTECTION ALLEGATIONS**

I am sure that by now many of you will be aware of the independent investigator service established in October 2006 by the Welsh Assembly Government, to investigate child protection allegations against school staff which constitute gross misconduct. This article explains the independent investigation service, how it was established and how it operates within current governing body staff disciplinary/dismissal procedures and child protection procedures.

### **Why have an Independent Investigation?**

The Independent investigation Service (IIS) was established as part of the Welsh Assembly Government's response to recommendations made by the late Children's Commissioner for Wales in his Clywch Inquiry Report. Jane Davidson, the then Minister for Education, Lifelong Learning and Skills discussed issues with key partners who supported and accepted the Assembly Government's proposal to require school governing bodies to have independent investigation for child protection allegations against school staff.

The aim of the IIS is to support and assist school governing bodies in dealing with child protection allegations against members of staff by providing them with a skilled independent investigator, to carry out a thorough investigation and provide a fair and balanced report based on factual evidence for consideration by the staff disciplinary/dismissal committee. This investigation must take place prior to the governing body commencing any disciplinary proceedings, but must not be carried out until after the social services and/or the police conclude their investigation or action including any court proceedings. The requirement for an independent investigation operates within existing agreed local authority structures and processes for safeguarding children and dealing with child protection allegations against school staff.

### **Legislative position on the IIS**

The Staffing of Maintained Schools (Wales) Regulations 2006 include a requirement in regulation 7(3) that an independent investigator must be appointed to investigate child protection allegations that have been made against school staff, before the start of any staff disciplinary hearings relating to those allegations.

The Welsh Assembly Government carried out an open procurement exercise to engage a suitable organisation to set up, manage and run the Independent Investigation Service on its behalf. The contract was awarded to Dream Group Ltd, now known as Servocadream. Their address is the Rear Wing, The Barn, Micheldever Station, Nr Winchester, Hampshire, SO21 3AR. The person to contact to appoint an investigator is Mr Bob Sherwood Tel: 01962 774294. Your LEA will help you to contact Servocadream if you wish.

### **Guidance issued by the Welsh Assembly Government.**

The Welsh Assembly Government has sent three letters to the education sector and colleagues in the health, social services and the Police, clarifying how the service would operate. The letters are dated 9 November 2006, 30 March and 31 August



2007 and copies were sent to all headteachers and chairs of governors. You should ask to see copies of these letters if you have not already seen them.

### **When should an Independent Investigation take place?**

The letters make it clear that an independent investigation is required where the decision is taken by the headteacher on receipt of the allegation (or chair of governors if the allegation is about the headteacher), and following discussion with the chair of governors and the LEA lead child protection officer, that the child protection allegation constitutes gross misconduct, where the outcome of a staff disciplinary / dismissal hearing could be dismissal.

An independent investigation would not be required where, following initial consultation with the LEA lead child protection officer, the headteacher/chair of governors conclude that the allegation is demonstrably false, because the circumstances of the allegation show that beyond any doubt it is not possible for it to be true. Or that the allegation amounts to lesser misconduct which can be dealt with through the school's lesser misconduct procedures.

In both these cases the matter can be dealt with by the school, because the governing body does not need to put in place formal disciplinary proceedings and have a hearing. Examples of these types of allegations are where the member of staff against whom an allegation has been made was not in school at the time or where CCTV footage shows that the allegation did not occur.

### **When is the Independent Investigator appointed?**

Currently, child protection allegations made to the school are usually referred to the statutory authorities ie the Police and social services, for consideration and investigation at a strategy meeting. When the statutory authorities have completed their consideration of the matter, it is referred back to the governing body to complete the disciplinary/dismissal process. It is at this point that schools usually engage the independent investigator, as the investigation must take place prior to the governing body commencing any disciplinary proceedings.

Governing bodies may object to an investigator assigned by the Assembly Government's Independent investigation Service if they have evidence that the person is in one of the categories excluded by regulation or is known to any member of the disciplinary/dismissal committee, the disciplinary/dismissal appeal committee or to the staff member or their union representative, and there is a question of their impartiality. In these circumstances the chair of disciplinary committee would need to present his/her evidence and ask for another investigator to be assigned.

### **The Role of the Independent Investigator**

The independent investigator will not attend any child protection strategy meeting or act as a link officer for the governing body. His/her role is to gather evidence about the allegation, not from a criminal perspective (as that will have been considered by the statutory authorities), but looking at

the wider issues of the behaviour of the member of staff in relation to the allegation. The investigator will interview members of staff, witnesses etc and compile a thorough and balanced report for the staff disciplinary/dismissal committee based on factual evidence.

The independent investigator's report will assist the staff disciplinary/dismissal committee by helping the governors to focus on the allegation and analyse the evidence, ensuring that the decisions reached are robust and based on facts. The investigator's report will not contain any recommendations on action to be taken. The decision on the report's findings is for the staff disciplinary/dismissal committee to take collectively. It is not the role of the investigator or any other individual or body to take this decision.

### **Presentation of the Investigation Report at Staff Disciplinary/Dismissal Hearings**

It is usually the headteacher who would investigate a gross misconduct allegation against a member of staff, present the case, including the findings of their investigation, and question witnesses at any staff disciplinary/dismissal hearing. If an allegation has been made against a headteacher, this role can be carried out by an officer of the LEA.

If asked, the independent investigator will attend the staff disciplinary hearing to present the report and answer any questions about it. With the consent of all parties the independent investigator may be asked to remain in the room when other witnesses are giving evidence in order to clarify issues. The Welsh Assembly Government does not expect the independent investigator on these occasions to question witnesses or present a case for any party at the hearing. If the parties do not agree to the investigator remaining in the room, they should remain outside in case they are called upon to clarify any points.

### **Is there a need to hold a staff disciplinary/dismissal hearing for a child protection allegation where the strategy committee (ie the statutory authorities) have agreed that the allegation is not a child protection matter?**

Since establishing the service a question that has frequently been raised is why the governing body needs to hold a disciplinary hearing and conclude the staff disciplinary process against the member of staff, where a strategy meeting has concluded that there is no action to be taken by social services or the Police, or because there is no prosecution or a prosecution fails.

All allegations that are deemed to be gross misconduct and have evidence to support the allegation, require a staff disciplinary/dismissal hearing. The decision as to whether an allegation constitutes gross misconduct is taken by the headteacher/chair of governors on receipt of the allegation and following discussion with the LEA child protection lead office. It is not the role of the strategy committee to take any decisions about school staff disciplinary matters as it has no statutory responsibility to do so. The independent investigator is therefore appointed because the child protection allegation is regarded to be gross misconduct in the context of governing



body staff disciplinary, and not because the matter has been referred to the statutory authorities, or as a result of any involvement by them.

It follows therefore that the decision of the strategy committee that an allegation is not in their view a child protection matter, or that the statutory authority will not be taking any action, does not mean that the governing body does not need to complete the staff disciplinary process against the member of staff. Nor does this mean that there is no staff disciplinary allegation for the governing body to still address.

The advice in paragraph 5.14 of Assembly Government Circular 45/2004 is that it is not appropriate for the governing body to conclude that because the statutory authorities are of the view that there are no child protection issues, or there is no prosecution or a prosecution fails, consideration of disciplinary action is unnecessary. Governing bodies need to recognise:

- that a higher standard of proof is required for criminal proceedings than for disciplinary proceedings, or
- that disciplinary proceedings may well involve wider issues relating to the allegation than those considered by the statutory authorities, or
- that they have a general duty of care to pupils and others in school that goes beyond the considerations of the strategy committee.

The governing body should therefore be aware of the action carried out by the statutory authorities in relation to any criminal behaviour of the member of staff. However, their role is to consider the wider aspects and behaviour of the member of staff in relation to the allegation; whether that behaviour is consistent with the behaviour policy and ethos for staff in that school; and whether those policies have been breached. The statutory authorities would not be looking at the wider behaviour of the member of staff in relation to the allegation as their focus is on criminal behaviour.

The advice in Circular 45/2004 is clear therefore that where a referral has been made to the statutory authorities, irrespective of the outcome of that referral, the governing body must complete the staff disciplinary process. The strategy committee's decision that there are no child protection issues or that they do not intend to take any action, does not alter or 'downgrade' the initial decision of the headteacher/chair of governors/LEA lead officer that the allegation was considered to be one of gross misconduct.

### **Who owns the Independent Investigation Report and who should receive a copy of it?**

The view of the Assembly Government is that the independent investigation report is the property of the governing body. Section 5.25 of NAW Circular 45/2004 'Staff Disciplinary Procedures in Schools' advises that evidence compiled in an investigation ought to be made available to the parties involved in any disciplinary proceedings. Consequently governing bodies can decide who should receive a copy of the investigation report but it should go to the member of staff against whom the allegation has been made and the person presenting the case against the member of staff. Governing bodies may also consider sending a copy of the report to the

person making the allegation at some time (if they are under compulsory school age the report should also be sent to the parent/guardian).

In this context it is vital that governing bodies understand that as public authorities they should keep in mind their responsibility under the Freedom of Information Act 2000 and the Data Protection Act 1998 relating to access to information. This means that if the report is issued to anyone other than the member of staff or the person presenting the case information may have to be blocked out in order to comply with the Data Protection Act. For example the names of any witnesses, pupils, or members of staff or any personal data, health information should be redacted when the report is made available.

### **Should members of staff, their representatives and the person making the allegation be present at the meeting of the staff disciplinary/dismissal committee when they decide what action to take following receipt of the independent investigators report?**

It has been suggested that the member of staff and/or their union representative and the person making the allegations should attend the meeting of the staff disciplinary/dismissal committee, when they consider the findings of the independent investigation report, and decide on the action to be taken.

The requirement on an employer appears to be that they must inform members of staff of the allegation/issue in writing and invite the member of staff and their representative to a meeting to discuss the allegation before any action is taken by the employer.

Provided this has been done, a meeting of the disciplinary/dismissal committee to consider the findings in the report from the independent investigator, does not constitute this stage in a disciplinary process nor the formal disciplinary hearing to which all parties must be invited. The action for the disciplinary/dismissal committee at this meeting where they consider the report findings is to reach a decision on what action, if any, to take.

### **If an allegation is withdrawn by the person making it, is there a need for an independent investigation?**

If the person making the child protection allegation withdraws it for any reason, and at any point in the process, there is no need to appoint an independent investigator. If this should happen when the independent investigation has already commenced it should be stopped with no report going to the chair of the disciplinary/dismissal committee. It is however up to the governing body to decide whether there are any non child protection staff discipline matters that still need to be considered. These however would not require independent investigation.

If a pupil makes an allegation, it is the pupil who should withdraw it. The governing body should not accept a withdrawal of an allegation being made by another person ie a parent on behalf of the pupil, unless the written or verbal agreement of the child is obtained.



## FROM THE CENTRE MANAGER

You will have already seen that this issue of "Cadwyn" is larger than usual. This has been done to accommodate the article by Cath Pickett of the Welsh Assembly's Schools Management Division 2 on "Appointment of an Independent Investigator by School Governing Bodies for School Staff Disciplinary Proceedings involving Child Protection Allegations." The summaries of laws and guidelines provided by Schools Management Division 2 has proved popular with governors as an accessible introduction to legislation on school governance, and we intend to make these articles a regular feature of "Cadwyn".

We've continued our training programme with governing bodies in Caerphilly C.B.C. and also Blaenau Gwent, while an interesting development has been a session I took with Head teachers in Neath/Port Talbot on the part Heads can play in developing an effective governing body. Research has shown that a Head's role in this area can be crucial.

Last year, the Welsh Assembly Government commissioned the Centre to undertake research into membership of governing bodies across schools in Wales from our black and minority

ethnic communities. As a result of our findings I've been working with black and minority ethnic organisations on involvement of members of those groups in school governance.

Finally, we've completed our research into the role of the governing body Chair and we are now working on the production of national Chair training programmes, but more on that in our next issue.

It simply remains to wish you all a Merry Christmas and a Happy and peaceful New Year.

**Steve Gullick**



## NEWS FROM GOVERNORS WALES

- The re-design of the Governors Wales website **[www.governorswales.org.uk](http://www.governorswales.org.uk)** is now complete -The site now includes a frequently asked question section which is being built upon continually. Any feedback is always welcome.
- The 4th Edition of the handbook for governors of schools in Wales is now available and is currently being distributed to all governors throughout Wales, via LEA Governor Support Offices to whom we are very grateful for this assistance. A copy can also be downloaded from the publication section of the Governors Wales' website. Please note that future updates will be sent out electronically.
- A Governor Guide on Community Focused Schools will be available this term. This publication has been jointly produced with ContinYou Cymru and will be formally launched at the ContinYou Cymru Annual Conference on 27th November 2007 - Transforming Schools, Transforming Communities: the role of Community Focused Schools and out-of-school hours learning. Further information is available from: **[www.continyou.org.uk/what\\_we\\_do/work\\_country/wales](http://www.continyou.org.uk/what_we_do/work_country/wales)**
- Future publications to look out for:- Governor Guide on appointment of Headteachers out in Spring 2008. We would welcome suggestions for future publications and conferences, either telephone: 029 2048 7858 or e-mail: **[contact@governorswales.org.uk](mailto:contact@governorswales.org.uk)**
- Janet Jones, Development Officer for North & Mid Wales left Governors Wales at the end of September. We would like to thank Janet for her work at Governors Wales over the years and wish her well in her now role.

Llywodraethwyr Cymru

Governors Wales

### GOVERNORS HELPLINE

**0845 6020100**

**is the helpline for governors of schools in Wales.**

Operated by Governors Wales the helpline will provide advice on a range of issues to governors in all parts of Wales.



## CONVERSATIONS

*For our "Conversations" article in this issue, editor, Steve Gullick has been speaking to Jane Crook, a staff governor at Penllwyn Primary School, Pontllanfraith in Caerphilly.*

**SG** What is your job at the school, Jane, and how long have you been a staff governor here?

**JC** Well, I've got two jobs at the school - caretaker and classroom assistant. I took the job as caretaker 3 years ago and before that I was a cook at the school, so I've had experience of three different staff jobs. As for staff governor, I was elected in September 2000 when Penllwyn Primary started from the amalgamation of a Junior and Infant School.

**SG** What made you decide to become a staff governor?

**JC** I suppose I've always had an interest in education in general and this school in particular because as well as working here myself my three sons came here. Also, I have a good working relationship with everyone who works here and I think it's very important that everyone who works at a school is able to contribute at every level, including on the governing body.

**SG** How do you get the views of other staff on important issues at the school and how do you report back to them governing body discussions and decisions?

**JC** I'm helped very much by two things. First of all the school, with 134 pupils, is quite small which means it's not difficult for me to get around all the staff. I'm sure that in a bigger school it would probably be necessary to have a more formal way for the staff governor to meet with their colleagues. Secondly, all staff, teaching and non-teaching, attend training days which means that I know there are a certain number of days every year when all the staff will be together and we can discuss things. This is a real help because as so many of the non-teaching staff are part-time it is very difficult to hold a meeting. In fact I don't think there's an occasion when all the staff are in school together at the same time.

I'm also helped by the fact that our Head values communication highly and all staff receive weekly updates on what's happening at the school. This means that if staff have a concern it can be looked at quickly while the issue is still fresh.

**SG** What do you think are the biggest challenges for a staff governor?

**JC** Oh dear! Well, first of all, I think it's essential for a staff governor to be approachable. Fellow members of staff must feel that they can talk to me, and that I'll respect their confidentiality.

I think this must be based on having good working relationships with colleagues and the fact that they know that if they come to me with an issue I'll advise them whether or not their concern is for the Head or the governors and that if it's for the latter, I'll definitely bring it up at a governors' meeting. I believe, that if a staff governor is to have valuable input into governing body meetings then they really should try to keep up to date with what's happening at the school and also in education in generally. I suppose it helps with me being a classroom assistant but it isn't easy.

**SG** And finally, Jane, what advice would you give to someone who had just been elected to staff governor at their school?

**JC** First of all, get to know your school. Of course you are representing the non-teaching staff, but it's very important that you have a good idea of what your school is really like so that you can see exactly how you and your colleagues fit into everything and the part you can play in making the school a success.

Secondly, the role of the staff governor is different from other governors. A teacher governor represents the teachers, a parent governor represents parents; a staff governor represents people who have different jobs - caretakers, secretaries, technicians and so on. I think it's important for a staff governor to get some idea of the different types of jobs that these people do so that you'll have some idea of "where they are coming from" when they come to you with a concern.

Thirdly, do all you can to make sure you are approachable, because if people feel awkward about talking to you about things - well, what's the point of being a governor?

I suppose, this links with the next piece of advice; don't just sit at governors' meetings and say nothing. You've been elected to represent the staff of the school so it's important that you take part in discussions and decision making, and, when necessary, put forward the staff's viewpoint. If you don't, well, once again, what's the point of being a governor?

The last thing I would say is important is keeping up to date and also understanding the role of governors and the latest legislation affecting governance. So, I would strongly advise staff governors to attend training sessions - it's so important to keep up to date and it's so easy to let this slide.

**SG** That seems good advice, but also a lot of things to do. So do you have any misgivings about being a staff governor?

**JC** None at all.

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