

# **Report of Investigation into St Olave's Grammar School**

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# 1 Introduction

## 1.1 Background

St Olave's Grammar School is a four form entry Voluntary Aided Church of England selective boys' school, with a Foundation which dates back to 1571. It has a mixed 6<sup>th</sup> Form with a total roll 11 to 18 of 1068 pupils and 135 staff, teaching and support. It is located in Orpington in the London Borough of Bromley but takes children from a very wide catchment area. It is regularly very oversubscribed at both Year 7 and Year 12. For Year 7 in 2018 it received 1300 applications for 128 available places. It has outstanding examination results at both GCSE and A level, achieving its best results to date in 2017, ranking 2<sup>nd</sup> in the Times newspaper table of results. It is graded outstanding by OFSTED.

This investigation arose following a challenge by a group of parents in the summer of 2017 to the school's practice of withdrawing the places of Year 12 pupils who did not achieve a certain level of academic performance at the end of Year 12. They were not allowed to progress into Year 13 and had to leave the school

The parents took legal advice and gave notice of Judicial Review, naming the school and the Local Authority, to mount their challenge. Legal advice obtained by the Local Authority confirmed that the practice was illegal. The school withdrew the policy and agreed to allow all Year 12 pupils to progress to Year 13.

The practice at the school and the potential legal challenge received national media coverage at the end of August 2017. This resulted in a steady build-up in September and October 2017 of letters to the Local Authority and the Diocese of Rochester, raising not only the original issue of withdrawing Year 12 places but associated issues of culture, ethos and practice in a number of areas of the school including governance.

By October 2017 the Chair of Governors had resigned and a new Chair of Governors had been appointed. He liaised closely with the Local Authority (LA) who decided that, as a result of the concerns that had been raised with both the LA and the Diocese, they would set up an independent investigation. Without prejudice, the Head was suspended to allow the investigation to take place. The investigator was a former Secondary Head, Director of Education and Director of Children's Services.

## 1.2 Terms of Reference

The terms of reference (TOR) of the investigation reflected the areas of concern that had been raised with the LA and the Diocese. All interviewees were made aware of the terms of reference which were:

i) To investigate the circumstances of the formation of the two companies: St Olave's Management Services Ltd (no 10857128), St Olave's Management Services (China)

Ltd (no 10857275) and, in particular, investigate whether the formation was contrary to section 11 Education Act 2002 or other relevant legislation.

ii) To investigate whether the School's governance arrangements are operating correctly and effectively. This aspect of the investigation will include consideration of the School's rejection of various proposed local authority governors apparently on the basis that they did not meet the main criterion for the role.

iii) To investigate recent concerns raised with the Local Authority by, inter alia, pupils, parents and staff including: -

- a) Disregard for laws and regulations around students and governance
- b) Reports of threats and intimidation towards staff, students and parents
- c) Interference with Governing Body elections
- d) Governor Terms of Office extended contrary to Regulations
- e) Interference in the structure and management of the independent, charitable Parents Association contrary to its Constitution

iv) To investigate the transition arrangements from Year 12 to 13 and its application;

v) To investigate the School's safeguarding policies and practice to ensure it meets the required standards.

It is acknowledged that there will be some over-lap between point (iii) (questions raised by others) and the other terms of reference.

### **1.3 Methodology**

A total of 132 people were interviewed. These included current and former members of staff, parents and their children, governors and former governors, Local Authority Councillors and officers and former officers, representatives of the Diocese, the Foundation and other organisations external to the school.

The interviews were conducted mainly in person at the school, with some in person at an alternative location if they did not want to go to the school. Some were conducted on the telephone.

Written submissions were received both from interviewees who wanted to submit correspondence and other documentation as evidence to support their interview, and from individuals who wanted to submit written evidence but did not wish to be interviewed.

The interviewees were largely self-selected with a few exceptions who were approached by the investigator, either at the suggestion of one of the interviewees or in order to check on factual accuracy and to triangulate evidence. Wherever possible

more than one account of an event was sought, but this was not always possible to achieve.

It has not been possible to crosscheck all the accounts of events given. The former Head was interviewed towards the end of the process so that he could be given the opportunity to respond to specific references to his actions that interviewees had made, but it was not possible to put all of them to him.

Crosschecking was also done with members of the school's senior leadership team (SLT).

Where conversations were unwitnessed or there was disagreement between witnesses, conclusions have been drawn based on the balance of probability.

Consent of parents, or where the pupils are 18 or over the pupils themselves, has been obtained to use the individual anonymised case studies.

Wherever possible, documentary material has been sought to verify the interviews. Reference has been made to Governing Body minutes going back to 2009, school files, computer records, Local Authority records and minutes, correspondence between interested parties, relevant legislation and guidance, and a large volume of written material submitted in hard copy at the interviews or after electronically.

While being aware of much traffic about St Olave's on social media, the investigator deliberately did not look at any social media sites as they were not considered to be reliable sources of evidence and could not be verified.

No individuals have been named but reference has been made to the posts they held where applicable.

The investigator would like to thank all who contributed to the investigation, and to thank the school for their help and co-operation throughout, especially the Acting Head, the Assistant Head, the Head's PA and the current Chair of Governors.

#### **1.4 Structure of the report**

The investigation has been focused on addressing the questions set out in the TOR and therefore the report is structured primarily on the basis of the TOR. However, as the subject of each of these terms overlap in some cases, the report is structured around the 4 main themes of the TOR in this order:

- Transition arrangements and their application
- Formation of companies (St Olave's Management Services Ltd and St Olave's Management Services (China) Ltd)
- Governance
- Safeguarding

All of which address the third point of the TOR (concerns raised with the LA as listed).

In addition, there are 6 further sections of the report which address key areas of relevance as discovered as part of the investigation which do not as of themselves formally sit within the TOR:

- The role of the Local Authority
- The role of the Diocese
- The role of the Senior Leadership Team
- The view of the Head
- The view of parents supportive of the Head
- The views of pupils

Most sections consist of a narrative of events in chronological order followed by the conclusions arrived at after consideration of the available evidence and then, where appropriate, the resultant recommendations.

## **1.5 Full list of Recommendations**

Listed below are all of the recommendations for action identified as a result of the investigation, in the order in which they appear in the report, under the headings of the section of the report where the detail can be found.

### **Transition**

#### **Year 12 admissions policy**

1. For any future proposed variation in Admissions policy, the school's communication system to contact all parents should be used, to send them the proposal in full and invite their comments.
2. That the Local Authority, for schools for which it handles the statutory consultation on Admissions, reviews the advice it gives to schools to include ensuring the parent body is given directly full details of the proposed changes and then monitors that this is done.
3. That the governors monitor closely the numbers of boys who are not able to progress into the 6th Form based on the current criteria for admission into year 12, and review whether they want a further round of selection at 16 or to be a school that welcomes and aims to keep all the year 7 pupils who want to stay to year 13, with entry requirements that reflect that aim, as their neighbouring girls grammar school does.

#### **Progression from Year 12 to Year 13**



4. That Governors clarify exactly what the policy will be for transition from year 12 to 13 from now on, given that the description of 'counselling out' given in the minutes of September 13th and 20th 2017 Governing Body meetings when it had been agreed to stop the previous policy, did not make it clear what, if anything would replace it.
5. That in the light of the effect on a number of individuals of their poor performance in maths, and in light of the large numbers taking this subject, that governors consider commissioning a review of the maths department and provision, including some external challenge, to identify if it requires improvement.
6. That where it would still be useful to the pupil, the 2017 summer term internal school exam papers should be given back to the pupils and gone through with them.

### **Single subject bar in Years 11 and 13**

7. To restore confidence in the complaints policy and move from a situation where people do not think it is worth complaining because they won't be given a hearing:
  - That the complaints policy and procedures be rewritten in line with good practice;
  - That a positive effort is made to ensure that staff, parents and the wider school community are aware that there is a completely new complaints policy;
  - That complaints should be a standing item on every full Governing Body agenda where the number and nature of formal complaints to the Head and governors, received since the last meeting, are reported;
  - That the new complaints policy and the whistleblowing policy be looked at together to ensure clarity on the appropriate circumstances for the use of each one.
8. That the policy of not allowing entry for individual subjects at A Level if a B grade is not obtained in the Year 13 mocks should stop and, if the school feels that it is in the best interests of the pupil to only sit 2 A Levels, that this should be discussed with the parent and pupil and their views should carry significant weight in the decision making. There should be no assumption by the school that if the school doesn't enter them they will be entered privately.
9. That the Year 11 policy of reviewing whether a pupil should drop an individual subject based on their performance in the year 11 mocks, should be continued, but with more flexibility as to the criteria used. Consideration should be given to the possible effect on whether the pupil can achieve the 64 points required to enter the sixth form as well as whether dropping one

subject will improve performance in others and /or have a beneficial effect on the pupil's wellbeing. As with year 13, the views of the parents and pupil as to what is in the best interests of the pupil should be taken into account and should be a significant consideration.

10. That the Governing Body should inform the two parents who complained to the governors and then the DfE about the Year 13 subject ban, of the findings of the investigation, and apologise to them for the decision. The DfE should be informed of the investigation's disagreement with the DfE position.

### **Formation of Companies (China)**

11. That the two companies, St Olave's Management Services Ltd and St Olave's Management Services (China), are closed and the IPR of St Olave's is transferred to the Foundation.
12. That governors review staff contracts with a view to adding a section that makes clear what staff can and can't do in terms of paid employment in addition to their post at the school.

### **Finance**

13. That in the interests of transparency, the Governing Body considers again publishing the school's accounts.
14. That if there is no governor with suitable financial skills, the Governing Body considers co-opting a qualified accountant onto the Finance Committee.
15. That a review is undertaken of the current and projected financial position alongside spending pressures and priorities, separate from the budget setting, involving the new head when appointed and in consultation with the LA, as to likely future funding trends.
16. That taking into account the outcome of the review, the level of parental contributions is reviewed, involving parents in any decision to change the level of contributions.
17. That further work is done, led by the Chief Executive of the Foundation liaising with the auditors of the school's voluntary funds, to establish the position on related party transactions to ensure that the school is not in breach of the accountancy rules on this.
18. That the LA audit recommendation that the IT contract should be tendered under EU rules be implemented.

### **Governance**

### **Interference in the election of the Chair of Governors**

19. The Governing Body adopts a Code of Conduct for governors which includes governors' conduct during elections to the Governing Body.

#### **The reconstitution of the Governing Body in 2015**

20. That legal advice is sought on the appropriate period of office of the current staff and parent governors following reconstitution in 2015.
21. That the role of the clerk is recognised by the Governing Body as being the authority on process and education law.

#### **Governors' Terms of Office extended contrary to regulations**

22. That the clerk reviews the situation regarding the length served by all the current governors and issues a timetable showing when the period of office for each one is due to be renewed or to cease, using the recommended 2 terms (8 years) as the normal maximum, with the case for any exceptions to go to the full Governing Body, from which the governor under discussion should withdraw for that item.

#### **Rejection of proposed LA Governors**

23. That the LA nominates to the longstanding LA vacancy on the Governing Body taking into account the skills being sought by the Governing Body.

#### **Interference with the Parents Association**

24. That the PA constitution be reviewed with a view to making it clear that the role of the Head as President of the PA is not an operational one.

#### **Other governance issues arising during the course of the investigation**

25. That the clerk undertakes a skills audit of the Governing Body to identify any gaps on the Governing Body which should be filled either by co-option to the full Governing Body or by adding non governors as co-optees on sub committees if specific areas of expertise are required.
26. That the Governing Body commit to a programme of in service training, bought in from the LA or other providers, to ensure that Governors are up to date with matters pertaining to how they should be carrying out their role and specifics related to current educational policies and practices.
27. That the school subscribes on behalf of the governors to membership of the National Governors Association and the governors section of The Key, and arranges for governors to receive their regular email updates on governance related matters.
28. That the governors consider appointing a School Improvement Partner (SIP) as an external critical friend to the Head and to the Governing Body.

29. That all Governors are given a school email address which is made public on the website.
30. That non-confidential minutes of the Governing Body are published on the school's website.
31. That governors review the position of external adviser on the Head's performance management and ensure that the full Governing Body receives a report on targets and to what extent they have been met.
32. That the Governing Body adopts a protocol for governors' visits to school as guidance for the way in which visits are carried out and reported.
33. That the Governing Body introduces a process of annual self-review.

### **Safeguarding**

#### **Pupils**

34. That, if any parents feel that their child's case should have been referred as a safeguarding issue because of the effect on their mental or emotional health and wellbeing, the local authority should provide a contact person with whom they can get in touch to discuss their case.
35. That the Governors consider increasing the amount of time available for pastoral support, both internal and external.
36. That the school acknowledges and apologises to the parents and pupils who were wrongly and illegally not allowed to progress into year 13 for the three years that the 3Bs policy was in place.

#### **Adults**

37. That there should be a shadow structure of posts and their remuneration which is known to all staff.
38. That consideration is given to setting up a small working group to look at formalising in writing the consultation mechanisms for the school, including through management meetings, staff association, unions and staff governors, with a view to staff feeling consulted and part of decision making.
39. That there should be a teacher governor co-opted onto the Governing Body to join the support staff governor so that staff do not feel they have to try to approach individual governors or the Governing Body as a whole to be heard.
40. That the school review its arrangements for HR support and introduce a system of exit interviews.

#### **In addition**

### **The Role of the Local Authority**

41. That the LA responds formally to schools' consultations on admissions arrangements, including the LA's confirmation that the arrangements comply with the Admissions Code of Practice.
42. That the LA ensures that its method for nominating governors happens in a timely manner and takes into account the skills being sought by the Governing Body (see also recommendations relating to Rejection of proposed LA Governors and Other Governance issues).
43. That the LA works with the school to appoint a School Improvement Partner to carry out an annual school performance review of this maintained school which draws on information about the whole life of the school, i.e., not reliant solely on examination results.

See also recommendation 45.

### **The Role of the Diocese**

44. That the Diocese maintains a closer relationship with St Olave's school than has been the case since 2010
45. That the Diocese Director of Education, LA Director of Education and Chief Executive of St Olave's Foundation review the implementation of these recommendations and their impact on the life of the school, after 6 months and 12 months.

### **The Head's response**

46. That the Governing Body and SLT review the performance information presented to the Governing Body to ensure that Governors have a full and accurate picture of all aspects of the life of the school to evaluate the impact of their policies.

### **Parental support for the Head**

47. That every effort is made by all groups of parents to draw a line under the splits revealed at the Annual General Meeting of the PA and to work together as a unified group in the interests of the pupils.
48. That in the interests of restoring harmony in the school community and focusing on the future the organisers of the St Olave's Unofficial website are asked to close it down.

### **Views of pupils**

49. To review the arrangements for student voice such that students' views are routinely fed through to and heard by senior managers and governors of the school, so that one off protest actions are not deemed by the students to be necessary to get their views heard.

## **2 Transition**

### **2.1 Year 12 Admissions policy**

#### **2.1.1 Narrative**

Year 12 is one of the two years, the other being Year 7, when a secondary school may have an Admissions policy. The policy is governed by the Admissions Code and associated regulation and it falls within the scope of the Schools Adjudicator to receive any complaints or objections about either the content or process by which it is drawn up.

The issues raised in the investigation relating to this policy fall into two connected categories. Firstly that it sets the bar at a level higher than other highly selective grammar schools and this prevents children staying on into Year 12 who would have expected, wanted and should be able to do so, and secondly, it was claimed that when governors agreed to the change for those students entering Year 12 in September 2017, which raised the bar from 6 Grade As and 3 grade Bs, to 64 points, the necessary statutory consultation required to make a change in the Admissions policy was not properly carried out.

The Admissions policy inherited by the Head in 2010 was a minimum of 8 B Grades to enter Year 12. During the Head's first year 2010/2011 he proposed to change that to a minimum of 6 Grade As and three grade Bs, with the need to have achieved A\* or A grades in subjects to be followed to Advanced Level or related subjects.

In Feb 2011 the Head of Faculty of one of the major departments wrote to the previous clerk to governors asking him to pass his paper on to all governors who were deciding on the change at their meeting in the Spring Term 2011. The paper opposed the change on the grounds that A Level results in 2010 were the best ever, so the change was unnecessary and would cause pressure and anxiety for students and parents and would result in 10 to 15 % of the Year 7 intake not being able to stay on into the 6th Form.

The Local Authority (LA) Admissions Manager confirms that the governors consulted in 2011 for making the change in 2012 /13. It is not clear whether the Diocese was consulted prior to the public consultation, although the likelihood is that they were not, as they formally complained to the Head and Chair of Governors that they were not consulted in advance, as statutorily required, when the subsequent change was consulted on in 2015 for implementation in September 2017 (see section 7).

At the Governing Body meeting in the spring term of 2011 the change was approved and implemented for the September 2012 intake to Year 12

At the autumn term full governors meeting in November 2015, a discussion paper was presented to Governors explaining that the GCSE grading system was due to

change in the summer of 2017 from the A\* to U grading system, to a numerical 1 to 9 grading system, thus requiring a change to the Admissions policy for the Year 12 entry in September 2017. The paper gave options for change with a recommendation that the new policy should be:

Entry to Year 12 will be on the basis of academic ability and achievement using total points score in the best 9 GCSEs. In reformed subjects, points would be allocated as the number of the grade, except that a new grade 8 or 9 will both count as 8 points. For unreformed subjects A\*=8, A=7 B=6. Grades at C or lower in unreformed subjects, or at 5 or lower in reformed subjects, will not be counted. The usual requirement for Advanced Level courses is the achievement of a minimum of 64 points, to include grade 7s or higher in subjects to be followed at Advanced level (or related subjects) and at least a grade 6 in English and maths

The minutes of the November Governing Body record there was discussion and questions but no dissent recorded. Voting figures were not recorded, which the clerk confirms means no one opposed.

This option was therefore consulted on at the end of the autumn term of 2015 and beginning of the spring term 2016 and approved at the spring term 2016 meeting of the governors for implementation in September 2017 for the Year 12 cohort. It was only after the decision had been made that opposition to the change was voiced, including an on line petition from Year 10 pupils.

On 20th May the Head wrote to all parents about why the change had been made and explaining in detail what the consultation process had been. The letter said: "The draft was properly consulted on for the required statutory period of six weeks in December/January. In a December 2015 newsletter, all parents were informed that the proposed policy was published on the school website and responses were invited as part of the consultation. A paper outlining the arguments accompanied the consultation. The proposals were also included in a Local Authority consultation circular. The consultation was highlighted on the front page of the school website for two months as well as being advertised prominently in the News Shopper newspaper. In response to the consultation only one anonymous response was received."

The 20th May letter also sought to reassure by saying that "Data analysis shows that the vast majority of Olavian boys would, in fact, have met the new criteria. National data confirm that, for boys with Olavian levels of prior data placing them in the top 5% of the ability range, their GCSE results should be mostly A\* with a few As. However it also said "As the school is selective at both Year 7 and Sixth Form, Governors felt that, where there are stronger external students, then they deserve the opportunity for two years at StOGS"



It also responded to allegations that the Head had threatened Year 10 boys who signed the on line petition by saying “may I dispel another rumour that boys have been threatened or given detentions for signing a petition. This is simply not true. As a school we greatly value the views of our students. Indeed we encourage them to express their views, informally and through regular student forums, panels and reviews.”

The 20th May letter did not reassure a significant number of Year 10 parents, 80 of whom put their name to a petition dated 21st May and delivered to the school on 23rd May. It was addressed to the Head and Chair of Governors (CoG) and copied to the Local Authority, the Diocese, the local Member of Parliament, the Secretary of State and the Office of the Schools Adjudicator.

On the consultation, parents said they felt it wasn't adequate and suggested that it didn't meet the requirements of Section 144 of the Admissions Code. They pointed out that the only notice given of the consultation was that it was the ninth and last article in the Head's Newsletter of December 4th 2015 to be found between an invite to the Christmas concert and the weekly news roundup of the activities of clubs and societies. They said that the school sends home to parents every year numerous letters on individual subjects of importance, so why was this hidden away at the bottom of a weekly newsletter?

On the policy itself they said the grade boundaries weren't even known yet, no other top grammar schools in greater London demanded such high grades, in Mental Health Awareness week it was adding more stress for the children who were already guinea pigs for the new system of GCSE grades, and who had already passed one of the hardest entrance exams at 11+ in the country. They felt that for many pupils who had represented their school at sport, in maths challenges, in performing arts , they now feel they only count for as much as their grades and that the school is trying to push them out. The parents asked for a return to the old system, but taking into account the GCSE changes, and a meeting with the parents to discuss it.

On 17th June 2016 the parents wrote to the Chair of Governors complaining that they had not received an acknowledgement or reply from either himself or the Head.

On 18th June the Chair sent a one line reply saying their points had already been answered in the Headmaster's letter of 20th May.

On 20th June the parents wrote again to the Chair of Governors listing nine points in their original letter which they said had not been covered and saying they felt their concerns were either being dismissed or ignored.

On 22nd June the Head emailed the Chair of Governors with a suggested draft response, again referring to 20th May letter and commenting on the nine points raised in the parents letter of 20th June and saying again that all points had been dealt with and on 22nd June the Chair of Governors sent the letter that the Head had

drafted for him to the parents, although he did not include the final paragraph from the draft which had said in terms that neither the Chair of Governors nor the Head would respond to any further communication on it.

On 24th June the Head followed this up with his own letter to all parents going over again the details of the proposed changes and the reasons for them, referring to 'unhelpful emails' from a number of parents including reference to a suggestion that dissatisfied parents might withhold their voluntary financial contributions as 'misguided social bullying' which would "impact on the quality of education ... by reducing staffing and curriculum options and increasing class sizes".

There was no further action from parents and the new admissions criteria into Year 12 were duly introduced in September 2017. Eleven children didn't meet them and so had to leave the school.

### **2.1.2 Conclusions**

While the consultation on changing to 64 points for entry to Year 12 met the legal requirement for consultation, more could and should have been done to ensure that all parents were well aware of the proposed change as it was a significant one. The school has well developed electronic means of communication, including with parents, and could have chosen to consult parents in a more thorough way.

The entry in the newsletter was only 4 lines and gave no detail of the proposed change, nothing about a change to a points system which raised the entry bar and no closing date or guidance on how and to whom to respond, but just a reference to the website. For those who bothered to follow this up on the website, all the relevant information was there, but as the parents wrote in their petition, the fact that there was only one response could have been taken as evidence that nobody did research it on the website, rather than evidence that everyone agreed with the new policy.

However, the issue was raised again when the admissions into Year 13 issue arose in the summer of 2017 and has been raised by a significant number of parents in the evidence to the investigation as they felt they were both connected examples of the Head trying to remove from the school in two successive years any pupil who might endanger the achievement of coming top of the exam League tables.

One Year 10 parent wrote in 2017, in response to the publicity over the Year 12 to 13 progression, that the way the Year 12 changes were handled the previous year, which they felt was underhand and dismissive of any reasonable challenge, should have served as a significant warning for what was going to happen in Year 13, which they characterised as the head taking his personal pursuit of academic excellence beyond what is reasonable and fair in the way he treated students.

### **2.1.3 Recommendations**

For any future proposed variation in Admissions policy, the school's communication system to contact all parents should be used, to send them the proposal in full and invite their comments.

That the Local Authority, for schools for which it handles the statutory consultation on Admissions, reviews the advice it gives to schools to include ensuring the parent body is given directly full details of the proposed changes and then monitors that this is done.

That the governors monitor closely the numbers of boys who are not able to progress into the 6th Form based on the current criteria for admission into Year 12, and review whether they want a further round of selection at 16 or to be a school that welcomes and aims to keep all the Year 7 pupils who want to stay to Year 13, with entry requirements that reflect that aim, as their neighbouring girls' grammar school does.

## **2.2 Progression from Year 12 to Year 13**

### **2.2.1 Narrative**

The policy of looking at results at the end of Year 12 in connection with progressing to Year 13 was agreed by the governors in 2009 on the basis of a paper presented to them by the then Head. However, looking at progress at key points in a pupil's school life, including at the transition point from Year 12 to 13, was not newly introduced in 2009. The school had been doing that for many years. On the recommendation of a school inspector, senior staff from St Olave's visited a school in West London and looked at and then adopted the pupil tracking system that this school used very successfully and the then Deputy Head of St Olave's developed it for use at St Olave's. The significance of 2009 was that with the introduction of AS levels the Head decided to use AS results as part of the tracking and therefore to formalise this by going to the governors for their agreement. The review point was then set at three Cs at AS Level.

The paper that the then Head took to Governors to ask for their approval to introduce this system made it clear that the intention was not to remove pupils from the school but rather to identify where support was needed and that, in the very few instances where leaving the school was felt to be the right outcome, that decision would be made in consultation with the parent and pupil and only if it was considered to be in the best interests of the child.

The paper agreed by Governors used the phrase "advised to leave the school" as opposed to having their place withdrawn, which was the wording in the letters sent by the Head in 2017 informing parents that their child could not return in Year 13. The then Head's paper in 2009 also stated in terms "We are not therefore excluding students or weeding out those who will not get top grades at A2, we are focusing the minds of our students to ensure they work consistently hard through Year 12

knowing there will be an assessment at the end of it based on their AS results. We are putting the lowest possible hurdle which, on the basis of all the information we have, every one of our students should reach comfortably if they work to a reasonable standard”.

Also at that time it was possible to redo Year 12 at the school if the 3Cs criteria were not met, which was an option removed in 2011.

The Head who had introduced the original policy in 2009 wrote to the Archdeacon of Bromley and Chislehurst in September 2017 to confirm that the system he introduced was not intended to be punitive but rather supportive. He further elaborated that there never was any intention to ‘cull’ from Year 12 into Year 13. He was well aware of the law, at the time that he was the Head, both in terms of not being allowed to permanently exclude a child for academic reasons and not being allowed to withdraw a child’s place for academic reasons. He never intended and never did exclude a child or withdraw their place for academic reasons and if ever a child did not meet the 3Cs criteria, the school’s emphasis would be on how they could support the child to improve. If the school’s view was that it would be in the child’s interest to follow a course elsewhere, which happened on one occasion with a boy who transferred to North West Kent College, the decision would rest with the parent, not with the school.

Figures given in response to an FOI request in 2017 showed that for the remainder of the then Head’s time, after the 3Cs policy was introduced, no Year 12 pupil was denied progression into Year 13 as a result of the school applying the criteria and saying they could not return. There was one case recorded for 2010 but this was a boy, who was a managed move for behavioural not academic reasons, with the agreement of his parents and would have met the 3Cs criteria to stay on.

The new Head joined the school in September 2010. At the end of his first year, under the three Cs policy, unlike previously, pupils were not allowed to progress from Year 12 to Year 13 if they did not meet the three Cs criterion at AS Level. The numbers were as follows:

September 2011 10 pupils did not progress to Year 13

September 2012 5 pupils did not progress to Year 13

September 2013 10 pupils did not progress to Year 13

By October 2011 some concerns had already started to be raised. A parent, who had been a parent governor under the previous head, corresponded with a current governor having picked up informally that the Head was not happy with three Cs and would be proposing to change it. The governor wrote in the email exchange “Governors should be aware words like cull, ruthless, brutal are being used about St Olave’s. Is this to be the price for chasing number one status?”

At the staff meeting on 2nd September 2013, the Head announced that it was his intention to increase the threshold for progression from Year 12 into Year 13 to 3 Bs in the AS exams. At the Governing Body meeting in September 2013, the Head made that proposal. In the discussion with governors about whether the policy should be changed to 3Bs, he produced a paper with tables and graphs which showed that, given their GCSE Results, statistically all pupils should be achieving at least a B in all subjects. In speaking to the pupils, the Head went further than that, saying for pupils of their ability a B was a failure and they should be getting A\*s and As. That was also what was said in staff meetings.

One governor said that the head being an accomplished mathematician, the governor had felt at the time that such statistical evidence couldn't be argued with. However there was concern expressed by some governors about the effect that this change would have. A long serving middle manager wrote a paper arguing against the change, which he had hoped to send to governors for the discussion at the Governing Body meeting. The head informally reprimanded him for writing it and didn't circulate it, but the debate was had at the governors meeting.

The arguments put at the meeting and in the paper focussed on whether raising the bar was the right thing to do morally and educationally. Issues raised by governors opposing the change included that the pupils had all reached the required standard to get into Year 12 which was itself a high bar, the disappointment and possible emotional and psychological distress that it would cause for those pupils who had to leave, the difficulties for pupils having to obtain places elsewhere, probably needing to repeat Year 12, that pupils' marks will improve between Year 12 and 13, that pupils could be forced into choosing a subject that they had been going to drop, or having to give up a subject they needed for their chosen degree, just to be allowed to stay on and that the whole approach of putting the performance of the institution as a whole in relation to its league table position above the interests of the individual pupils was not in line with what the ethos of a Christian Voluntary Aided school should be.

However, no one raised the issue of the legality of withdrawing a child's place on academic grounds, whatever the level of the bar.

The new policy was agreed, 13 votes for and 5 against.

In 2009 the 3Cs policy had been written into the Admissions Policy of the school. Admission Policies, both their contents and the process of consultation leading to their agreement, are governed by law and a Code of Practice and fall within the remit of the Schools Adjudicator. Therefore, in September 2013 after obtaining the support of the governors for the change from the 3Cs to 3Bs, the Head thought he needed to apply to the Schools Adjudicator for a variation to the Admissions policy for permission to make the change. He therefore wrote to the Schools Adjudicator and in October 2013 received a response which said that a secondary school can only

have an admissions policy for pupils at two points, which are for entry from Year 6 in their primary school into Year 7 at secondary, and for entry from Year 11 into Year 12. The letter said that it was a matter for the school what it did outside of those two years.

So for those entering Year 12 in September 2014 the 3Bs criteria for going into Year 13 in September 2015 were introduced for the first time. By the inclusion of the word 'normally', into the policy, which was suggested at the governors meeting, the policy did have built into it the possibility of considering a pupil's individual mitigating circumstances and each year from when the 3Bs was first implemented, some pupils were allowed to stay on in spite of not achieving 3 Bs.

In the summer of 2015, fourteen Year 12 pupils did not progress into Year 13 and, in the summer of 2016, it was fifteen. There were some individual parents who came forward from those years to give evidence to the investigation. At the time, although some did try to get the decision changed for their child, when it wasn't, they didn't take it further. In both those years it was done solely on AS grades so the parents and pupils didn't know until those results came out in mid-August what their fate would be, and although some had been pre-warned that they were at risk, to others it was a surprise, and even for the ones who had been warned, it was still a shock. Their main focus was on the practicality of what they were going to do now they found themselves only two or three weeks before the beginning of the autumn term with no place, so their energies were consumed with having an alternative place sorted for September.

For the 2017 cohort there was a difference in the circumstances in which the 3Bs were applied which proved to be significant in terms of what the parents did in response to finding out their child was at risk. By now it was known that AS was being phased out and linear A Levels introduced. There was already no AS exam in some subjects. Therefore to implement the 3B criteria the school had to put something in place of the AS exams where there weren't any. It was decided that this would be the results of internal exams taken at the end of the summer term of Year 12.

Some staff gave evidence that they were not happy with this because many staff did not agree with making children leave anyway, and now it meant the fate of the pupils, in terms of whether they could come back to school or not, rested in the hands of the teachers instead of being the result of a nationally set, standardised and externally marked public exam. If teachers gave a pupil a C, that could seal their fate. The response of some departments and teachers to this situation was an extreme one. Without the knowledge of the Head, they manipulated (the word used by one head of department) the internal exam marking to set the grade boundaries in such a way that the absolute minimum number of students were graded as C. They were aware that if known about, doing this would be regarded as unprofessional

behaviour by teachers in any school. It didn't come to light because they were instructed not to give feedback to students on the papers or to let them see them.

On 7th July 2017, the school knew the results of the internal exams. A strict application of the 3 Bs criteria would have seen 10 pupils being told immediately they could not continue and a further 12 at risk and dependent on their AS results. Of the 10 it was decided only to tell 6 that their places were withdrawn, the other 4, because of individual circumstances, being allowed to continue. Two of those were allowed to continue unconditionally because their marks were reviewed and increased. For the other two, it was made conditional on their remaining subject results at AS.

On 19th July 2017, the penultimate day of term, for those pupils who had either obtained the 3Bs or above, or who could still do so depending on their AS results, the internal exams results were given to them in an envelope. The six who hadn't, and who it had been decided would be told they couldn't return, received a slip of paper in the envelope that told them to go to the Richardson room where they would be seen by a member of SLT. A member of staff said that they witnessed the pupils gathering outside reception, waiting for up to an hour, coming out of the meetings very distressed and with no adult to support them before during or after they had been told they couldn't return. The member of staff claims to have heard one student say that he was so fearful of telling his parents that he could not continue at St Olave's and had to find another school that he might as well kill himself and another on the phone to his parents saying that they just want to be rid of me, they just want me gone, school ends tomorrow and they just want me gone. The school office is situated in close proximity to the Richardson room and has a glass wall. A member of the office staff, who did not witness this specific occurrence, confirmed that students in distress having been told they couldn't come back was typical of what she saw every results day in August.

The SLT members also met the pupils and parents of those at greatest risk from not meeting the criteria once the AS results were known.

So for pupils who either got two Cs, or one C if they were already only doing three subjects, it was already known that they would have to leave because statistically they couldn't achieve 3 Bs even if they got straight As in their remaining subjects at AS. For others it meant that their fate hung on getting all Bs or above in their remaining subjects at AS. So eight weeks instead of three weeks before the beginning of the autumn term there was a group of parents who already knew that their child's place had been withdrawn and another group who knew they were at risk.

It was very near the end of term. Families would be going away on holiday. Parents of pupils who would not be allowed to return were upset and some were angry. Parents of pupils in the at risk group were worried. In order not to lose touch in the

holidays, a group of parents set up a Whatsapp group, which was to prove significant to the way events developed.

Three parents came together and took legal advice and were advised that they had a case for judicial review (JR). Two of the three parents were interviewed as part of the investigation. The one that wasn't subsequently withdrew from being named in the legal action and took the route of applying to a SEND Tribunal to voice her concerns.

On 15th August, their lawyer sent a Judicial Review pre-action letter by email to the Head warning him that action was being contemplated, advising him to consult his solicitors and asking for a response by 17th August that the three boys would be admitted to Year 13, or judicial review proceedings would be issued. The Head was in China, returning the following day but the email was seen by the Director of 6th Form.

On 16th August, the school received the AS results, a day in advance of giving them to the pupils. A total of 35 pupils would have had to leave if the 3 Bs had been strictly applied. This was considered to be too many. The Head, back from China, and the Assistant Head Director of 6th Form went through the results of each pupil who had not achieved 3 Bs and a decision was made to reduce the criteria to two Bs and a C and to allow those obtaining 2 Bs and a C to return but on condition that pupil and parent signed a contract which included accepting that if they did not obtain a B grade in their January 2018 mock exam they would not be entered for the subject at A level.

Although the parents who received the contract, knew that their child would be allowed back even though they hadn't achieved 3Bs, it was not generally known that a policy decision had been taken to offer this to all the pupils who had missed 3Bs by one grade.

The Head and the Director of 6th Form also discussed the email that had arrived the previous day notifying the Head of the potential JR.

On 17th August, the Head replied to the parents' lawyer saying he had only received the pre action letter at lunchtime today (17th) (presumably he meant hard copy as he was aware of the email and had discussed it with the Director of 6th Form the previous day) . He said "Your demand and accompanying threats for a response by 4.00pm today is entirely unreasonable, arguably absurd" and that he would need to talk to colleagues who wouldn't be there until September when term started.

On August 17<sup>th</sup>, Year 12 were coming in for their AS results and Year 13 for their A level results. A similar arrangement was made as in July to separate out those whose results had been good enough to stay on, who were simply given the results and those who either were to be told they had to leave or were going to be allowed to return on condition they signed the contract. Both these groups were given a slip telling them to see a member of SLT. Every parent interviewed whose child was in



the group who were being told to leave complained about the way the information was communicated on that day. Many parents had driven their children to the school and were sitting in their cars while the child went in to get their results. Consistent descriptions were given of distraught pupils, both boys and girls, crying in the car park, with angry parents who had not been invited in to support their children being given the bad news.

The Head and SLT members involved said that with the number of staff available this was the only system possible to use and that follow up meetings with parents after results day were offered and took place. Both SLT members said that they did their best to give the disappointing news to pupils as sensitively and supportively as possible. They were aware that the process wasn't ideal, although they couldn't themselves observe and so were not aware of the scenes in the car park.

The Director of 6th Form was very aware of the constraints of a large number of pupils coming in that day and what a small number of senior staff had to do. As well as Year 12s, he was concerned that he wasn't able to give enough time to Year 13s who needed help, having just received their A Level results. The Head was on site but played no part in the process. SLT reports that the Head's position had always been that he needed to hold himself back in case any of the parents appealed, but as the 12 to 13 process is not part of the admissions policy, there can be no appeal, other than through complaint to governors.

On 23rd August, the Head writes to the two parents named in the JR. He says they have not been permanently excluded. He advises they go to another school and if they decide not to take that advice and pursue a place at St Olave's they will be offered a course more commensurate with their ability which will be a GNVQ in health and social care. He corrected GNVQ to BTEC by email later in the day.

On 24th August, the parents' lawyer responds with a letter to the Head saying the parents have legal aid and if he does not reply by midday saying they can come back and do A levels they will issue proceedings without further reference to him.

On 25th August, the parents' lawyer issued proceedings for JR and sent all the papers to the school. The policy they were challenging was described in the JR papers as having 3 elements:

1. The non-progression element - which was not being permitted to progress from Year 12 to 13 unless achieving a B grade or above in three of the four AS examinations or internal examinations at the end of Year 12,
2. The subject element - which was a pupil who obtains one Grade C plus 3 grade Bs or above and so qualifies to return, or one grade C and less than three Bs but has been exceptionally allowed to return, will not be permitted to study the subject in which they gained a C at A level,
3. The Public Examination Element - which was any pupil who obtains a C and progresses into Year 13 will not be entered for a public exam at the end of

Year 13 in any subject in which it is considered that the pupil will not achieve a Grade B or above, and pupil and parent have to sign a contract to that effect or the pupil cannot return to Year 13.

The JR papers maintained that the policy was illegal (*ultra vires*) on four counts

1. School Exclusion Guidance “It is unlawful to exclude for a non-disciplinary reason. It would be unlawful to exclude a pupil for a reason such as academic attainment /ability”
2. The School Admission Code Para 2 .12 “A school must not withdraw a place once a child has started at the school unless it was fraudulently obtained”
3. The Education Act 1996 lists the only 8 circumstances when a child can be deleted from an Admissions Register, which does not include academic attainment /ability
4. Education Act 2002 Section 175(2) “duty to safeguard and promote the welfare of the children at the school”

On 29th August, the parents’ lawyer wrote to the Head saying the JR hearing would be on 20th September and saying the Head didn’t seem to have a lawyer they could talk to and advising him again he should get one.

On 29th August, The Guardian published its first article about the 12 to 13 progression issues.

On 4th September, the Head emailed the lawyer to ask if he had received the Head’s 1st September email saying the school would allow pupils back and stop using the policy. He asked whether they would still want to pursue any aspect of the JR or would be prepared to go for a consent order and the lawyer replied the same day saying they would go for a consent order.

5th September was the first day of term.

All pupils who had been told in July and August that they couldn’t come back were now allowed back, although not all came. A summary of the position in terms of numbers of pupils as it developed from the end of July to the 5th September is as follows:

- In total 32 pupils in July 2017 either had failed to meet the 3Bs criteria or were at risk of not meeting them dependent on the AS results.
- 10 of these had failed based on the internal exams, but only 6 were told in July that they couldn’t return.
- Of the other 4 the grades were revisited for 2 and increased from C to B and the other two were placed on the at risk list with an alternative curriculum proposal with double maths serving as two A Levels.

- When the AS results were known in August, of the 24 on the at risk list all 24, plus 5 others not previously flagged up as at risk, had not obtained the required AS results to give them the 3 Bs required to meet the criteria.
- Therefore along with the 6 already having had their place withdrawn, a strict application of the criteria would have resulted in a total of 35 pupils having to leave.
- This was considered to be too many and so a decision was made to reduce the criteria to 2 Bs and a C and to allow those obtaining 2 Bs and a C to return but on condition that pupil and parent signed a contract which included accepting that if they did not obtain a B grade in their January 2018 mock exam they would not be entered for the subject at A level.
- This meant that the result of the August 2017 AS exams combined with the July internal exam results was that of the original 35, 16 in total had their places withdrawn and 19 were offered a conditional return to Year 13 if they signed the contract, of which 6 decided not to sign and not to return.
- Ultimately after the threat of legal action resulted in all Year 12 that had been asked to leave being allowed to return, of the original 35 identified, 16 left and 19 returned to Year 13.

On 7th September, DfE circulated all schools that there is no reason other than disciplinary to remove a student from roll.

On 11th September, there is Staff Association meeting with parents (see section 6). The former Council Education Portfolio Holder says the Head has known for 5 years that the 12 to 13 practice was illegal as he had been told by the Council's legal advisers. A list of questions was drawn up for presentation to the Head and governors at a staff meeting due to be held on 18th September.

On 13th September, there was an additional Governors meeting to discuss what had happened over the summer. A new nominee from the Diocese joined the Governing Body and was proposed as temporary Chair by a Foundation governor but the Head nominated a previous Chair who had preceded the Chair who had just resigned, and the Head's nominee was elected.

Governors expressed concern that they had not been involved in or kept up to date with the events over the previous two weeks. They had received a briefing note from the Head but only that morning. They had discovered they were being taken to Court without having been informed. There was a lack of communication. They were only finding things out from the press. The Head said he had been in constant touch with the then Chair of Governors. The temporary Chair of Governors acknowledged that governors had not been kept informed as they should have been.

It was reported that the previous Chair of Governors had instigated an investigation. Governors asked how this had progressed and were told that once the decision had

been taken to change the policy it had been considered not necessary to have an investigation.

The Head said he agreed to change the policy to save the expense of the JR not because of illegality. He intended to keep the 3Bs but as the policy had changed, appropriate support would be given to the students to make choices that supported their aspirations and wellbeing.

The governors unanimously endorsed the decision to remove the progression criteria from Year 12 to 13.

On 18th September, a consent order was signed by both parties which stopped the JR proceedings.

On 18th September there was a staff meeting which the Head and the interim Chair of Governors attended and answered questions.

On 20th September there was another Governing Body meeting. A governor suggested that it might be prudent to get legal advice on whether the policy would be likely to be considered unlawful. The Head did not agree, noting that it would be unlawful had it been an exclusion, however it was a counselling out process. A governor noted that no student was removed from roll prior to the parents' request.

On 6th November, the DfE writes in response to a letter from a group of former governors who were removed at Reconstitution in 2015, confirming that the practice of preventing pupils progressing from Year 12 to 13 on the basis of their academic performance constitutes an unlawful exclusion and that they have written to all secondary schools reminding them of the rules.

## **2.2.2 Conclusions**

### **2.2.2.1 The legal position**

In the original policy which the previous Head introduced in 2009, the key fact was that this policy talked about advising and counselling parents, so it could be interpreted as being the parent's decision rather than the school's if a child did not continue, thus keeping it within the law. This is further supported by the fact in the implementation of the policy the school did not prevent any child progressing from Year 12 to Year 13 during the period when that Head and that policy were in operation.

Under the Head who took up post in 2010, the interpretation of the policy resulted in a different implementation which meant that, even while the 3Cs were in place, children began to be prevented from progressing from Year 12 to Year 13 for academic reasons. So as soon as the first children were not permitted to return, which was in September 2011 at the end of the Head's first year, the school was acting illegally and continued to do so every year after that up to and including 2017.

The Head's position is that no one told him it was illegal and that the Adjudicator's letter that he received in October 2013 led him to believe it was a matter for the school to decide.

There is no evidence that anyone told or wrote to the Head or anyone at the school that the 12 to 13 progression policy is illegal, so the Head is correct in saying that he was not told that it was.

There is an annual census return to the DfE and the LA where a declaration has to be made that the head has authorised the figures and, in the DfE guidance for completion of the return, is the following sentence "School sixth forms are not permitted to remove students between Years 12 and 13 because of poor AS results". It is unlikely that the Head would have read the guidance as the return is done electronically by one of the administrative staff who had not herself read it so would not have been in a position to advise him, which possibly she could have done had she been aware of it.

However as Head, it was his responsibility to know that it was illegal to withdraw a child's place on academic grounds in the same way as he agreed he did know it is illegal to permanently exclude a child on academic grounds, which is why he didn't use the permanent exclusion procedures.

The Head who introduced the policy in 2009 knew. Having spoken with Heads of other schools in the local area, who the Head says are doing the same as he did, it is evident that they also know the law, that the school cannot write to a parent and tell them that the school is withdrawing the place, they can only advise them that the school thinks that it would be in the interests of the student to study a different course elsewhere. It is then for the parent to decide whether they accept that advice from the school and if they do not, the student has the right to return in Year 13. If they do, they withdraw the child.

The other difference is that those conversations are normally about children who are struggling at the bottom end of the A level grades and who might be better off getting a good grade in a different kind of course such as BTEC rather than low grades at A level.

So, even if other Heads were doing the same thing, it is not a defence and there is evidence that they were staying within the law whereas the Head of St Olave's was not.

It is clear that no one told the Head that what he was doing was illegal. It is less clear why they didn't. The Admissions Code and the off-rolling rules are not obscure pieces of legislation. Even the fact that for 5 years the school was allowed to publish their arrangements for Year 12 into 13 as part of their admission arrangements, when the law is that secondary schools can only have two points of Admission in Years 7 and 12, is surprising, given that they had been through a formal consultation

process, including the LA and the Diocese and neither had picked this up. The LA had run the consultation process and should have picked it up.

Also there had been three independent Admission Appeals panels in 2011 and 2012 for St Olave's parents appealing against their children not being allowed to progress to Year 13. As these were not Year 7 or Year 12, they should not have been in scope, but none of the Chairs or Clerks (Independent, not LA) of the panels queried why they were hearing them, or that withdrawing their place had been illegal.

There is reference to the lawyer representing the parent who won her Appeal, suggesting to the parent beforehand that it was probably illegal to withdraw the place of a Year 12 pupil on academic grounds, but he did not pursue that line of argument at the Appeal Panel, so it was not referred up to the Schools Adjudicator at that point.

The LA governor did however write to the local MP about this and other concerns he had about governance at St Olave's. The MP followed up some of these with the Minister and came back to the LA governor on some of the points he had raised, but does not appear to have responded on the 12 to 13 question. This was unusual as there is evidence that whenever parents or staff or governors had raised a question with the MP that he did pursue it, and if it was a technical /procedural question, usually had an answer from a civil servant. If this particular query had reached the officials in the Department for Education, it is likely that they would have known immediately that it was illegal.

The error in including the 12 to 13 arrangements in the school's Admission policies only came to light in 2013 when the Head wrote to the Schools Adjudicator seeking a variation to change the 3Cs to 3Bs. The Adjudicator wrote as follows:

"As the school does not have a point of entry into Year 13, other than the expectation that Year 12 pupils will continue if they reach the required grade, there is no requirement for you to apply to the School Adjudicator for a variation. Any changes would therefore be for the school to determine".

The Head interpreted this letter as meaning that the Adjudicator had given the go ahead for the implementation of this policy once it had been taken out of the Admissions policy and transferred to the 6th Form rules/handbook and therefore the Head had no reason to believe that it was illegal. An alternative interpretation of the adjudicator's letter is that he wasn't commenting on the proposed policy itself but simply saying that it was up to the school whether to have a policy for Year 12 to 13

It is at best ambiguous and, given the Head had been very clear in the letter what he was proposing to do, the Adjudicator should have reminded the Head that he was not allowed to operate such a policy in a way that the school removes places from children on academic grounds, rather than in effect just saying what you do is nothing to do with the Adjudicator.

### 2.2.2.2 The criteria for “normally”

Beyond the general statement that individual circumstances would be taken into account, there are no written criteria that can be made available to parents against which they can measure their own individual cases. Because the word ‘normally’ was in the policy, many parents remarked that it led them to believe there was the possibility of asking for an exception to be made for their child if they could make a case. In the case of most of the parents interviewed whose child had been affected either directly or indirectly by the policy, they believed that their individual circumstances were such that they found it hard to imagine that the circumstances of all of those allowed to stay were worse than theirs.

Some parents even speculated whether other factors were being taken into account by the school such as being a key member of a sports team or even how much money a family gave to the school. There is no evidence that this was the case and indeed some of those whose places were withdrawn were members of the school teams and were invited to continue to play for the school after they had left which is permissible if the new school doesn’t do the same sports, e.g., rugby.

Some of the cases where the circumstances were considered not significant enough to be outside the norm are set out below as described by their parents. They demonstrate that it was not unreasonable for parents to question on what basis an exception to ‘normally’ was being made.

Having told everyone beforehand that 3Bs was the level needed to be able successfully to complete an A Level programme at St Olave’s, in practice that was an aspiration rather than a requirement, because for each of the three years (2015, 2016 and 2017) that the 3Bs policy was implemented, it was decided as soon as the AS results were known that to implement 3Bs would have resulted in the numbers of pupils leaving being so high, over 10% of the year group, that it could potentially have a destabilising effect on the 6th Form, so in each of the three years de facto the minimum requirement was changed the day after the results to 2 Bs and a C and all pupils who achieved 2 Bs and a C were allowed to return. However the fact that this decision was made and the criteria adjusted based on numbers was not widely known. All each parent knew was that their child had been allowed back and the assumption was that the word ‘normally’ in the policy related to mitigating circumstances that applied to individual children (which it did), not that it included an adjustment each year based solely on numbers. The governors too were not aware of it.

### **PUPIL A**

He was an exceptionally bright boy. He achieved all A\*s and As at GCSE and was aiming for medical school. At the beginning of Year 12 mental health issues requiring medical treatment for depression were triggered by family suicide. The school was informed. They were sympathetic but the boy, in the first meeting after the diagnosis,

with his mother at the school, was immediately told to his face that if he didn't get 3 Bs he would have to leave at end of Year 12. His mother challenged an ill boy being thrown out and said if he had not recovered to do well enough she would like him to repeat the year. The school's response was "If he needs to repeat a year it will not be in this school". In spite of his psychologist and GP contacting school to support the parent's case for leniency, the threat was never lifted of having to leave if he didn't get 3 Bs. He eventually did achieve the grades and was able to stay on but his mother felt strongly that never having the threat lifted was very unhelpful and caused additional stress to an already vulnerable child

## **PUPIL B**

A teacher was being prosecuted for grooming and sexual offences against a pupil. The boy was in Year 12 when the court case was due to be heard. The boy had to give evidence. This was just as the boy's exams started. There was national publicity. He was being shown newspaper coverage as he went into exams. He blanked out in two of them. His parents were concerned he wouldn't get 3 Bs. They asked for a guarantee that he would not be thrown out. They were shocked when they met with a flat refusal from the Head because he didn't want to set a precedent. They pointed out that it was a school employee who had molested their son and the school should have shown greater leniency towards him. They contacted the safeguarding governor, who spoke to the Chair of Governors who had spoken to the Head and confirmed the governors weren't prepared to set a precedent either so no pre-exam exemption was given. However, the student was allowed back into the 6<sup>th</sup> Form, after meeting the criteria in his exam results.

## **PUPIL C**

Was a pupil who had joined St Olave's as member of Year 12 in the academic year 15/16. He had developed a heart condition before transfer called super ventricular tachycardia which meant he had frequent episodes of a racing heartbeat. Originally the attacks were infrequent but they built up to a point where they happened several times a week and sometimes every day. He was in and out of hospital so his Year 12 attendance was poor. It was agreed that he could drop to 3 subjects but he was told he had to get 3 Bs. He did receive support from the 6<sup>th</sup> Form pastoral staff and the person in the office who looked after him after he had had an attack, but his parents feel that the school did not show a duty of care given his condition, and continued to press him on his work and also on his attendance, which his mother feels was an additional pressure on the mental wellbeing of her son and the family. He was seen by the school counsellor but his parents had to organise that by going direct to Bromley.

When he had an attack just as he was about to go into the AS physics exam, he knew that it was not going to be possible to achieve the three B grades. His parents visited the school and met with the Assistant Head. They asked for him to be allowed



to repeat the year as if he continued into Year 13 he would not achieve the grades he is capable of. They felt they met with no sympathy or understanding and were simply repeatedly told it was the policy and he couldn't repeat the year. Behind the scenes the Assistant Head was advocating for him to be allowed to repeat the year but the Head would not agree.

The boy was very stressed by the decision that he would have to leave. His mother was advised by one of the supportive teachers to complain, but she did not feel there was any point as the Head would not change his mind.

The boy has continued to suffer from anxiety which is partly caused by his condition but his parents feel being made to leave has exacerbated it. His mother has also suffered from stress which was made worse by having to deal with his experience at St Olave's. He didn't return for 2016/2017 and went to another school where he continued to have to have time off because of his illness, but who have given him as much time as he needs before he takes his A Levels, which he will do in the summer of 2018.

#### **PUPIL D**

He was an exemplary student for 6 years. He represented the school and beyond in Fives, Rugby, Cricket, Tennis and Football. He was a School Prefect and mentor. He was commended in school reports for attitude and comportment and his Spring Report in Year 12 graded him as B in one subject and A grades for the rest. So not achieving 3 Bs was a shock. After receiving his end of year internal exams results, he was not allowed to discuss them with the subject teachers or to look at the internal exam papers to investigate. Under performance was blamed on the pupil but the school's maths results were down overall even though he had been predicted an A. He didn't return to St Olave's because he and his parents believed that the Head's assertion that the school was committed to the wellbeing of all its students had been proved fallacious by their behaviour over the summer. In September his parents wrote to the school and asked for an explanation of why they had had no fore warning of lower than expected grades but did not receive a response until December, after the parents had sent a further letter and a request for a copy of all their son's school records. After the Head had resigned, they received a response from the lead SLT member which expressed regret, accepted that the previous policy had not been in pupils' best interests and had made no allowance for last minute underperformance and no concession to commitment via sporting endeavour and prefecture and said the school were now seeking to put this right. The reply did not address the parents' request for the school to investigate all the contributing factors [regarding the underperformance], including an assessment of the teaching standards.

#### **PUPIL E**

He was a model student who won awards. In his June report he was graded 2As and 3Bs so not getting 3Bs was a surprise. His father was in the car on results day in August. His son came out saying I've been kicked out. They were both shocked that there was no discussion, no support provided, no concern for mental health impacts. He had been in the school production and the national final of Space Challenge that year but this didn't matter.

He quickly found a place in a private school but when the policy changed wanted to give St Olave's another chance and consider returning. The boy went into school for enrolment day. He met with the Head but there was still no apology. What was said was that you will have to work harder and he was told to turn his phone off in case he was recording the conversation. This was followed by his parents meeting the Head of 6th Form. They wrote after the meeting to governors saying that the attitude and conduct of the Head was shocking. There was no apology for the illegality or for the way that things had been handled. They had no confidence in the Head so the boy did not return.

## **PUPIL F**

A Mathematics mock exam was set in early January 2017, consisting of a Statistics S1 paper, a component of the Mathematics A1 and A-level. On the day of this exam, the boy's father was in a critical condition, following major surgery earlier in the week. The boy was in a very disturbed state of mind, and he got a C in the exam, in spite of a previous IPM average A\*. As a consequence the boy was told he could not continue with Further Maths A-level, a major blow because the boy wished to study Physics at university, and Further Maths A-level is normally a requirement. The school barred him from attending Further Maths classes and withdrew him from the Further Maths A1 examinations. The boy's parents were not informed of the school's action at the time. When the boy's father was informed by the boy, a week later, the father appealed to the school on the grounds of extenuating circumstances. The appeal was rejected.

In the summer the boy obtained B,B,C in Maths, Physics and Economics respectively. As a result, the boy and his parents were informed, on the last day of the summer term, that the boy had failed to meet the school's minimal progression threshold of B,B,B, and he would not be allowed to continue into Year 13. The boy's father appealed, and the Headmaster did relent, allowed the boy to continue into Year 13, but subject to an extremely onerous "contract", which included the requirement that the boy must achieve at least an 80% mark in each of his mock exams in order to be entered by the school for the A-level examinations in summer 2018. His father believed that school's UCAS predictions policy, i.e., using the raw end of Year 12 results, would have restricted his son's university applications. The father's belief, as a maths teacher and professor, was that there were weaknesses in the way maths/further-maths were organised and taught which had contributed to his son's underperformance, and these matters would continue to be an issue if his son

went into Year 13. Hence the boy went to another school for Year 13, where there was an opportunity to continue with Further Maths A level.

His father wrote “the policies adopted are solely aimed at ensuring that only students who will bolster the school’s league table place are allowed to continue their sixth form studies and the educational principles adopted are deplorable and unethical because they put the status of the school above any concern for the benefit of the students.”

## **PUPIL G**

When younger, he had a history of trauma caused by family bereavement resulting in a period of being mute. While in Year 11 He began to shut down again and his parents received a letter warning that he might not make it into Year 12 if he didn’t improve. He was deeply demoralised and inclined to give up. He told his mother he was too stupid to do well but his parents knew this not to be true and encouraged him to prove the predictions wrong, which he did. He got 7A\*/As and 3 Bs at GCSE and so continued into 6th Form.

Unfortunately Year 12 was very difficult for the family with serious illnesses and then bereavement just before the Year 12 exams. He accepted the inevitability of not getting back in. Although his parents encouraged him by reminding him that the school predictions were wrong last time, this time he did not do as well expected and the July internal exam results culminated in a letter saying he could not return to school. The letter also asked to see his parents, however they refused saying they did not wish to be told their son was a failure when he was not. He is a child whose parents are very proud of.

His mother spoke to other parents and then to a lawyer, and found the action of the school to exclude their son was illegal. There was correspondence with the Director of Education of the LA who appeared not to know this. After the legal challenge resulted in the policy being changed his parents did not think it was psychologically safe for their son to come back.

### **2.2.2.3 The restriction on taking a C subject**

An additional complication was the fact that all pupils studied 4 A Levels in Year 12 and took them all to AS Level and then dropped one in Year 13. The AS results didn’t always correlate with the subjects they wanted to do i.e., they achieved 3 Bs but a C in a subject that they wanted to continue with. The most frequent example of that was in maths which is needed for a number of degrees and careers, notably engineering. So by not allowing a pupil to continue with maths, the school was preventing them from applying for the university courses they wanted to do. Two examples were given by parents:

## **PUPIL H**

He started 5 A levels because he did further maths. He wanted to study medicine. He went to pieces in the first maths exam, losing his confidence and affecting his maths result. He got enough Bs to get through but in the wrong subjects because he got A and B in 4 subjects but C in single maths. He saw the Head of Department who said don't worry I know you are able enough to study single maths then two days later parents got a letter saying he couldn't take maths. Without any discussion he was told he had to study economics instead, which doesn't work for medicine. Eventually he was told he could take maths if he and his parents signed the contract. Parents weren't happy and wanted to see what the school's side of the contract was as they weren't happy with the maths teaching. Also the school wouldn't predict for him (or others) the A they needed for UCAS saying they never change their predictions. The school did change their mind at the last minute.

## **PUPIL I**

He was at the end of Year 12 in the summer of 2016. He was never at risk of having to leave because he got ABBC at AS. The issue was that the C was in maths which he needed to do engineering, his chosen degree and career. He was told he couldn't.

His mother suffers from MS and his sister is wheelchair reliant, suffers chronic pain, frequent joint dislocation, anxiety and depression. The family gave the school evidence of pressures and stress he had to cope with that year and the worry he felt about his mother and sister. They submitted evidence of 20 medical appointments and hospital admissions in the two months when he was preparing for and taking his AS exams. The answer was still no.

They asked to see the Head urgently. The Head spoke at length about the status of St Olave's as one of the top 5 grammar schools in the country that it was important to rise above the problems he had and his maths result as a C was disgraceful. Eventually he was allowed to continue to study maths and got an A grade and went on to do Engineering at University but if the school hadn't changed their mind it would have hugely affected his future career potential. His parents feel strongly that their son's case is evidence of how wrong the policy was.

### **2.2.2.4 The validity of internal exams**

A factor in 2017, that was beyond the control of the pupils, was the fact that AS Levels were being phased out so some subjects already didn't have an AS exam in 2017. For these subjects, the school's decision to replace the AS exams with an internal school exam, set at the end of the summer term, was questionable. Internal exams have no standardisation between subjects or from year to year in the same subject and, therefore, are not a reliable basis on which to make decisions about individual children that could be life changing.

The response of some departments to being put in that position shows how far apart the staff and the Head were in terms of the 12 to 13 policy. Parents were rightly

angry that the pupils were not allowed to see the papers and get feedback on areas they needed to improve on when their child's future was at stake. Normal practice with internal exams would be to use them for feedback and review in order to identify strengths and weaknesses and where support should be targeted.

The Head said that he was aware of the drawbacks of using subjective, internally set and marked exams rather than validated external exams and he had intended to use them only once in 2017 and not the following year when there would be no AS at all. However that was not corroborated by SLT Members who said there had been no discussion of internal exams used to give grades for progression being a one off and being phased out the following year.

#### 2.2.2.5 The responsibility of the school for the results

Another consistent feature of the parental interviews was that, while some pupils clearly had been struggling in Year 12 and the school had communicated this to parents and discussed it with them, in other cases the results were a total shock and parents brought as evidence to the investigation their children's reports which were positive and gave no hint that they might not be on track to achieving B.

While this could be explained by the child having an off day, some parents suggested that it also could indicate an issue within the school. An examination of the maths results in 2017 showed that they took a significant drop from the previous year. Larger classes, the employment of a significant number of trainee teachers and turbulence in the management of the maths department may have contributed to the lower performance in maths but, whatever the reason, this is something the school was responsible for but which individual children were penalised for.

The idea that the school might bear some responsibility for the children not achieving grades they needed to progress rather than it being the fault of pupils or parents, was something several parents brought up. It would have been appropriate if the first port of call, given there is performance below the level that would be expected from children given their prior attainment, was to look at the teaching and learning and assessment, i.e., to look at what the school has been doing, rather than to blame the pupils.

#### 2.2.2.6 The communication of the results

Telling pupils they couldn't stay on at the school was never going to be easy to do in a way that wasn't extremely upsetting. Boys who had been there since Year 7 will have a loyalty to the school, as it inspires that, and several parents of the boys being rejected described them as good and proud Olavians, which made the blow even greater.

Those who had only joined the previous September will have been feeling they had made a mistake and wasted a year of their life and will not have taken consolation from being told they should have read the small print and expected it.

There was flexibility over how the outcomes of the July internal exams results could be communicated and it would have been possible to devise a system that ensured that parents could be there to support the children when they were told. It was harder to do that for the AS results because they only came into the school the day before they had to be given to the pupils and it was therefore impossible to know in advance who was staying and who was going, especially as there needed to be discussion on mitigating circumstances.

#### 2.2.2.7 Attitudes in September

In both Governing Body meetings in September 2017, which were reviewing what had happened over the summer, the Head didn't seem totally convinced that what he had done was illegal. The Consent Order hadn't conceded that it was and he pointed out that it had not been tested in a Court of Law. He said the reason he and the Chair of Governors had agreed to withdraw the policy had been a pragmatic decision to prevent what could have been very expensive legal proceedings. A governor asked why, if he was confident there was no illegality, the policy had been changed?

At the second meeting a governor suggested that it might be prudent to get legal advice on whether the policy would be likely to be considered unlawful. The Head did not agree, noting that it would be unlawful had it been exclusion, however it was a "counselling out" process. A governor noted that no student was removed from roll prior to the parents' request. That was not an accurate description of how the policy had been working before the JR threat because it implies that coming off roll was only done when parents supported it and that was definitely not the case.

Some of the pupils who had originally been told to leave but had to be invited back once the consent order had been agreed, did not feel they were made to feel particularly welcome, to the point that some came back for just a few days and then left. A parent who was not one of those directly affected, summed up the feeling of many parents and staff, who were hoping for a different approach:

"There was no acknowledgement that the unlawful policy had created such anguish among students and there was no apology. Instead of being shown sympathy and compassion, the students were treated as if nothing had happened. There was only talk of the story being misrepresented and that it should be dismissed as a few disgruntled parents complaining. The Headmaster has not addressed the Year 13s personally nor has he written directly to affected parents and there has been no opportunity for the students to discuss with anyone in the school how these events have affected them. There has also been no communication at all from the Governing Body."

Not just in the Governing Body meetings, but also in his public statements, the Head was combative rather than conciliatory. When addressing new parents in Induction, or staff, parents and pupils at Prize Giving there was only talk of the story being misrepresented and that it should be dismissed as a few disgruntled parents

complaining and the left wing press who don't like grammar schools. The vehemence of the defensiveness and blame put on the media at the induction meeting with new parents was commented on by a number of people.

The storm clouds gathered during September rather than abated, to the point that staff were speaking out as well as parents, letters were being sent to the Diocese, the LA, the local MP and OFSTED and the agenda was being broadened from the original 12 to 13 progression issue to other wider issues of style, behaviour, legality in other areas and governance.

### **2.2.3 Recommendations**

That Governors clarify exactly what the policy will be for transition from Year 12 to 13 from now on, given that the description of 'counselling out' given in the minutes of September 13th and 20th 2017 Governing Body meetings when it had been agreed to stop the previous policy, did not make it clear what, if anything, would replace it.

That in the light of the effect on a number of individuals of their poor performance in maths, and in light of the large numbers taking this subject, that governors consider commissioning a review of the maths department and provision, including some external challenge to identify if it requires improvement.

That where it would still be useful to the pupil, the 2017 summer term internal school exam papers should be given back to the pupils and gone through with them.

## **2.3 Single Subject Bar in Years 11 and 13**

### **2.3.1 Narrative**

#### **2.3.1.1 Year 13**

The major 'exclusion' issue, specifically referenced in the TOR, was the 12 to 13 progression issue which resulted in pupils being 'excluded' from the school permanently through the withdrawal of their place. There was however an additional 'exclusion' issue which had caused parents to raise a concern with the LA. This was the policy of excluding a pupil from being entered for and taking their A Level exam in an individual subject if they did not achieve a Grade B in their mock exam in Year 13.

This was not agreed, in those words, as a separate policy by governors, but was introduced for the 2016/17 Year 13 on the back of a paragraph in the document Rules and Regulations –Sixth Form Policy. This paragraph states: "Students in Year 12 will normally continue into Year 13. It is required that students will normally have gained at least a B grade at AS Level, or equivalent internal examinations, in the three subjects that they wish to take at A level in order to complete their studies in Year 13". This paragraph is part of the 12 to 13 progression policy, and is presented as such in the document, not listed as a separate policy for Year 13.

It was only applied to three Year 13 pupils in the 2016/17, but the families of two of the three pupils felt that the potential consequences for their children were so great that they took every step possible to complain about the decision not to allow their child to be entered and to get it reversed and, in one case, are still endeavouring to get the DfE to rule that the school was ultra vires in deciding that they would not enter their child for one of her A Level subject examinations. These two cases were also instrumental in exposing weaknesses in the school's Complaints Policy and procedures.

## **PUPIL J**

She was a pupil who missed the BBB criteria for progression into Year 12 by one grade, obtaining ABC in her AS exams. Discretion was exercised in her case. When her father met the Head later on, the Head said it was because she was a hard worker but the girl says the grade boundaries were changed as a number of pupils who got BBC were allowed to stay on. So she did progress to Year 13 in September 2016. She made her university application during the first half of the term and obtained a conditional university place if she achieved AAC in her A Levels.

All through the UCAS process there was no mention of any possibility that she might have to drop a subject. In November 2016 she and her parents were warned by letter that, if she did not achieve a B grade in the mock exam in January 2017, she might not be entered for the A Level exam in the summer. However before the letter was sent the girl on her own was called in for a meeting in the middle of the day and told that she might be withdrawn. She was told she was in the lowest cohort and lucky to be at the school. Having to receive this news on her own severely undermined her self-confidence, adversely affected her motivation and left her feeling the school had a negative view of her. Her parents tried to explain to the school that she needed encouragement but felt that message was not understood.

Her parents insisted on meeting with the Head, which they did at the beginning of January 2017. Another member of SLT was present who confirms the parents' account of the meeting, which included the Head stating that the school's ethos was excellence and that C grades were just not acceptable.

The Head agreed with father's assertion that it was about league tables, as the school was third highest and wanted to be higher. The Head suggested that the parents were at fault as they shouldn't have sent her to St Olave's or should have removed her in the summer if she was struggling, or should have provided a private tutor. The parents said they didn't regard achieving AAC as struggling and were particularly unhappy that they were criticised for not having provided a private tutor as they had suggested that, and against their better judgement, didn't do so because the school had strongly advised them that it was not necessary as the school could help the girl get the grades she needed.



Additionally the girl suffered from dyslexia and her parents felt that the school had not provided her with the resources she needed and had not considered her unique needs or their part in her performance

The parents subsequently made a formal complaint to the Chair of Governors and also contacted Bromley LA, the DfE and the Diocese.

- The Diocesan Director of Education said they couldn't get involved and advised the parents on how and to whom they should complain.
- The LA Director of Education contacted the Head who incorrectly told her that the pupil had been graded U in her mocks. The parents confirmed by copy of her mock paper that she had been graded a D, not a U but the Director said she could not pursue it further until after the complaints process had been completed.
- The DfE (Ministerial and Public Communications Division) advised the parents to exhaust all stages of the governors' complaints procedure and that then, if not resolved and referred to the DfE, they had a limited role in considering how the complaint was handled and whether the school followed the relevant legislation. They also advised in detail the duty of governing bodies to enter pupils for each prescribed examination for which they were being prepared, subject to three exceptions: educational (but acting reasonably), parental request or they have already been entered for a similar exam.

The parents discovered that the private entry examination centre (through which they would now have to enter their child privately if she was to be able to do the exam) couldn't make the special arrangements to meet her Special Educational Needs. The school allowed her to sit the exam on the school premises where the support could be provided but it was still a private entry for which the parents had to pay.

The Chair's response to the complaint did not reach the parents until several months later due to non-delivery by Royal Mail, as the street number had not been written correctly. During this period they chased several times for an answer from the Chair of Governors but were just repeatedly told it had been sent. This impacted on their ability to take the complaint to the DfE to try to get the decision overturned as the DfE would not consider it until the school's complaints procedure had been completed.

The response repeated much of what had been said in the meeting with the Head, i.e., that all students should be aiming for, and most of them were getting, A\* and A grades with only a few Bs, and that the 6th Form Policy document said you need at least B at AS level to do A level in that subject. It said a concession had been made because of the pupil's SEN to allow her to sit the exam in the school, and because of the support of her teachers to allow her to continue to attend the lessons (from which she was originally told she would be excluded), and revision classes on a

Wednesday afternoon but the school would still not enter her for the exam. That must be done privately.

The parents were not informed of any right of appeal to a governor's panel. In fact, a search of the Governing Body Minutes indicates that governors were never told about the complaint. As well as complaining to the Chair of Governors they had written to one of the parent governors, care of the school, but the parent governor said she had not received their complaint. They were also only informed of the decision to withdraw just before the entry deadline so, even if their complaint had been heard, the deadline would have been missed.

The parents went on to complain formally to the DfE. Their original complaint was misdirected by the DfE internally and they did not receive a final response from the DfE until November 2017. The response concluded that the school had not breached the regulations because it had acted reasonably under the educational exception heading, by taking pressure off the pupil by reducing to 2 A levels.

The parents do not agree with this judgement because she only had to get a C to get a university place so they do not feel it could possibly have been in their daughter's best interests to prevent her from taking a subject. The school had not consulted with the parents or given any opportunity to plan or make a decision about what would be in the girl's best interests or demonstrated that the Governing Body had acted reasonably in coming to the decision, which they were required to do. The only response to their efforts to discuss her best interests and the school's reasons was the Head's focus when they met on a C Grade not being acceptable. Overall the parents felt very frustrated that they had spent so much time writing letters, seeking advice and contacting the school and government bodies and they did not provide much help and their voice was not listened to by the Head and not even heard by the governors.

In the end the girl demonstrated that to have prevented her taking a third subject would have been detrimental and not in her best interests as she passed in all three subjects at grades that enabled her to take up her university place.

## **PUPIL K**

This pupil had achieved the necessary grades at AS to get into Year 13. His AS grades in the summer of 2016 were AABB, after getting 6 A\*s and 5As at GCSE. One of the A grades at AS was economics which was the subject he was later told he would not be entered for. He wanted to study economics at University. He achieved low grades in economics in his Year 13 internal tests culminating in a U in his mock exams in Year 13 and was being predicted a D which resulted in him being told he wouldn't be entered for economics. However his parents said that in Years 11 & 12 the school had severely under predicted, that he had got an A only 6 months before, and that his history was one of performing much better in the exams than in classwork.

His parents contacted the school and wanted to know where the policy was and when governors had agreed that the school could decide that a pupil could not sit a public exam, especially when there had been no fit-for-purpose consultation with parents nor any formal meeting with parents called at the point the sanction was being executed – the sanction was communicated directly to the pupil in a one-to-one meeting with a member of staff. Not being satisfied that there was an explicit policy, they made a formal complaint to the governors by writing to the Chair of Governors in February 2017. They copied the complaint to the LA Director of Education who said they were right to complain to the governors but it was within the school's gift as to what classes their son could attend.

In their complaint to governors they said that the action of the school in not entering him for economics put his university entrance at risk as he would only have 2 A levels. The response from the Chair of Governors was very brief: two lines saying he had discussed it with the Head and was satisfied all procedures were followed and the right decision made, and four lines saying the parent had marked the letter confidential but had copied it to the parent governors so it couldn't be regarded as confidential.

Not being satisfied with the written response from the Chair of Governors, the parents complained formally to the DfE who took a long time to respond, asking for paper work they had already been sent and then needing to secure permission to contact the school.

During this period of waiting, the case was discussed in the confidential section of the Governing Body meeting of 8th March 2017. It was only put on the agenda because, as indicated above, the parents had copied their complaint to the parent governors, one of whom wrote to the Chair and asked for the issue of excluding from exams to be put on the agenda "given the potential implications this policy has in terms of pastoral care and general pupil morale." The letter of complaint from the parent was not put in front of the governors and it is not minuted that it was referred to. The minutes record that governors were told the boy had underperformed in Year 12, had been given a lot of support, his Year 13 test results were poor, he had been disruptive in lessons and there was little chance of him getting a good grade. A governor did ask how then he had achieved A in his AS, an externally marked exam, to which the answer was that he relied on last minute revision which wouldn't work for A level. The parents will not have seen the minutes as they are confidential and they had no opportunity to put any contrary points of view to the governors.

In May 2017 the parents' MP, who the father met while he was canvassing, offered to write to the Head about their case, which he did. The Head wrote a long and detailed response which the father described as 'a hatchet job' focussing on his son's behaviour.

On 4th August the DfE finally wrote and said they didn't feel the school's written responses had adequately addressed the parents' concerns or given sufficient detail for the non-entry to the exam and also recommended changes in the school's complaints procedure. They gave the school 15 days to respond to the parents, a deadline which the school didn't meet, eventually responding on 18th October 2017. The parents were not happy with the response but the DfE wrote to say that they felt it did meet the educational reasons exception for not entering for an exam and advised the parents to raise their outstanding concerns, which included their son being asked to comment on a handwritten note by another pupil identifying members of staff who disagreed with the in-year exclusion policy, with the LA investigation which by then had been set up, which they did.

As with the previous case, the parents weren't prepared for their son to lose his university place, so also went down the route of entering him privately, which created a timetable clash with one of his other subjects so they ended up having to pay for private entry for part of a 2nd subject.

The pupil went on to achieve an A Grade in his economics exam in the summer of 2017 and is now studying economics at university.

Two members of the teaching staff also raised the issue of not allowing Year 13 pupils to enter for exams if they didn't achieve B in the mocks. One wrote a letter in February 2017 to the Chair of Governors, copied to the Head, and which she asked be circulated to all governors. She did not receive a response and when she followed it up by writing to the clerk, he was told by the Chair Governors not to circulate it. A former teacher governor wrote to their MP in April 2017 on the same issue. He passed their letter to the Minister of State for School Standards who replied, along the same lines as the DfE officials to the parents that complained, that a school can only not enter a pupil for a public exam they have been studying for if there is a sound educational reason. The Minister's letter also added that the decision should always be made in consultation with the students and their parents, in a student's best interest.

#### 2.3.1.2 Year 11

Making a pupil drop a GCSE subject in Year 11 was an issue raised in a small number of interviews with parents and staff. No specific policy existed but it had always been the practice to monitor the C grades. Parents of Year 11 pupils at risk would be informed by letter in November that, if performance doesn't improve by the January mocks, consideration would be given to dropping a subject. Some teachers and parents say that letters have been given out to children in class to take home to parents and, in some cases, the subject teacher was not aware that the child was at risk of being withdrawn from their subject after the mocks.

### **PUPIL L**

One parent who received the letter in November 2016 was not in agreement with her son dropping any subjects and insisted on meeting the Head. They had a heated discussion. The parent's view was the school ought to be teaching resilience and the importance of doing your best and that if her son had done his best she would be proud of him even if he got a C. She also objected to her son being called to an official meeting and given a letter, without her prior knowledge and without a parent present, stating his prediction for a particular subject was not good enough and that he would not be allowed to continue the subject to GCSE unless he achieved at least a B in the mock. She was very concerned about the effect such actions were having on the boys' emotional wellbeing.

She said that the Head's response to being proud of her son was 'we wouldn't be'. He was a very able pupil and didn't need to drop a subject to give himself more time in other subjects and the parent felt that the reason it was being suggested was to reduce the risk of any C grades having an adverse effect on the league table position of the school.

She also felt that the Head always blamed the children if their grades were lower than they should be whereas she felt, and gave examples, that there had been issues with staff and the teaching, particularly in maths. She had put in writing and repeated at interview that she found the Head's manner bullying, including saying in the meeting with her that this was St Olave's and he could do what he liked and that if she didn't like it she should take her son out of the school. However she described the conversation as 'robust' and she was very forthright in disagreeing with the Head's position.

The outcome was that her son did not get a C in the mocks as predicted. He got an A and went on to achieve 9A\*s and 2As in his GCSEs at the end of the year, so easily meeting the 64 points needed to continue into Year 12. However his parent decided that he would not return to St Olave's and he went into Year 12 in another Bromley school.

Other parents and staff who raised the issue of Year 11 pupils having to drop a subject raised it more generically as a potential problem once the 64 points system had been introduced, because having one less subject made it that much more difficult to achieve the 64 points, especially with a C grade not counting for any points.

### **2.3.2 Conclusions**

There was no clear and easily understood policy which stated in terms that if pupils did not achieve a B in the January mocks in Year 13 they would not be entered for the exam in that subject. The part of the Rules and Regulations –Sixth Form Policy that the school relied on to claim that there was a policy was the paragraph which states "Students in Year 12 will normally continue into Year 13. It is required that students will normally have gained at least a B grade at AS Level, or equivalent

internal examinations, in the three subjects that they wish to take at A level in order to complete their studies in Year 13". Taken as a whole that clearly refers to progression from Year 12 to 13 and would be read as such by parents and pupils. The B is the bar to getting into Year 13, and therefore it is not surprising that the phrase 'to complete their studies in Year 13' will be understood to mean complete them by getting into Year 13, rather than there being another bar to completing them half way through Year 13.

In neither of the cases where the parents complained to the DfE was the school's original decision not to enter them for a public exam for which they had been studying justified in terms of the allowed exceptions, including the educational one. Neither these two, and most likely no other St Olave's pupils, are going to be performing at such a low level that they are not suited for university entrance and so the argument that it would benefit them to drop one of their three A Level subjects to get better grades in the other two is a spurious one.

Both these pupils had offers of university places, including offers where C as their lowest grade would have been sufficient for them to get in. If they ended up with only 2 subjects the direct result of that would be that they would no longer have those places. It cannot be argued to be in the best interests of the pupil, which is the test that the law says must be applied. For that reason alone the decision was flawed and it is surprising that the DfE accepted this argument from the school as a justifiable educational reason for their decision. In the case of a student struggling with all Ds and Es and in danger of ending up failing everything, then that educational reason of giving them more time to concentrate on two might be a valid, but that is not what the situation was at St Olave's generally or with these two pupils specifically.

The investigator therefore does not agree with the conclusion that the DfE reached about whether the school was justified in refusing to enter them and is of the view that both the complaints should have been upheld. In support of the conclusion that they should not have been refused entrance to the exam can also be cited their actual results at A level and their higher education destinations.

This practice potentially discriminates against pupils from poorer homes who would not be able to afford extra tuition or the fees for entering a pupil privately through another centre.

One of the parents consistently asked the question as to what advantage there was to the school of not entering the pupils knowing they would probably be entered privately. He was never given an answer.

The school's complaints procedure was not fit for purpose. Complaints went to the Chair, who discussed them with the Head and then wrote back to the complainant, using guidance and/or a draft from the Head. There was no separate procedure for dealing with complaints against the Head or Chair. The Chair took the parents of the

pupil to task for copying their complaint to the parent governors, but if they hadn't done so, it would not even have been on the governors' meeting agenda, as indeed the complaint from the other parent wasn't. Even though the governor's insistence on it being on the agenda did at least result in the issue being aired, it still wasn't dealt with properly as a complaint, with an investigation report and a panel of governors, who had not been involved in the investigation, hearing the evidence, including evidence from the complainant. In the other case, governors did not even know that a formal complaint had been made.

Even once the media coverage had happened in August, when formal complaints to the governors were being submitted to the clerk (of which the investigation was made aware of two) the clerk was told by the Chair just to forward them to the Head.

In September, after the Chair resigned, there was a formal complaint from the Chair of the Parents Association sent to the new Chair of Governors that the Head had behaved in a threatening and aggressive way towards her. The parent thought that it was not pursued because she wasn't still a parent, but the new Chair said he had been willing to look into it but found that the procedure did not allow for dealing with complaints against the Head, further demonstrating a complaints process not fit for purpose.

The practice of not entering a Year 11 pupil for GCSE in a subject in which they don't achieve a B in the mocks is subject to the same rules for not entering for a public exam that applies to the A level issue in Year 13. However the difference is that in general terms no one needs the number of GCSEs that children at St Olave's take so prima facie there is no disadvantage of reducing by one and it is much easier to argue for the educational advantage of reducing workload and so improving outcomes in the other subjects. The one disadvantage was that it made it more difficult to achieve the 64 points needed to get into Year 12. The decision should be taken in consultation with parents and the pupil, whose views should be an important consideration because, as has been seen throughout this investigation, and would be true in all schools, children's performance can improve considerably between mid course internal tests and the final exam and teachers' predictions can be wrong.

### **2.3.3 Recommendations**

To restore confidence in the complaints policy and move from a situation where people do not think it is worth complaining because they won't be given a hearing:

- That the complaints policy and procedures be rewritten in line with good practice;
- That a positive effort is made to ensure that staff, parents and the wider school community are aware that there is a completely new complaints policy;
- That complaints should be a standing item on every full Governing Body agenda where the number and nature of formal complaints to the Head and to governors received since the last meeting are reported;

- That the new complaints policy and the whistleblowing policy be looked at together to ensure clarity on the appropriate circumstances for the use of each one.

That the policy of not allowing entry for individual subjects at A Level if a B grade is not obtained in the Year 13 mocks should stop and, if the school feels that it is in the best interests of the pupil to only sit 2 A Levels, that this should be discussed with the parent and pupil and their views should carry significant weight in the decision making. There should be no assumption by the school that if the school doesn't enter them they will be entered privately.

That the Year 11 policy of reviewing whether a pupil should drop an individual subject based on their performance in the Year 11 mocks, should be continued, but with more flexibility as to the criteria used. Consideration should be given to the possible effect on whether the pupil can achieve the 64 points required to enter the sixth form as well as whether dropping one subject will improve performance in others and /or have a beneficial effect on the pupil's wellbeing. As with Year 13, the views of the parents and pupil as to what is in the best interests of the pupil should be taken into account and should be a significant consideration.

That the Governing Body should inform the two parents who complained to the Governing Body and then the DfE about the Year 13 subject ban, of the findings of the investigation, and apologise to them for the decision. The DfE should be informed of the investigation's disagreement with the DfE position.



## **3 Formation of Companies (China)**

### **3.1.1 Narrative**

The first recorded mention of the possibility of licensing or supporting or running a school in China, on the St Olave's model using the St Olave's brand, was 7th June 2016 filed in an unsigned (but not headed Draft) Heads of Terms agreement between St Olave's School, to be signed by the Head on behalf of the school and an education consultancy company specialising in Sino-UK projects. It was an exclusivity agreement whereby the school only worked through this company with a Chinese education group, and no other Chinese partner, and the education consultancy company would not introduce any other (UK) school to the Chinese education group.

At the Governing Body meeting on 8th June 2016 it was reported that the discussions were about the Chinese education group building up to 5 schools in major cities in China providing for between 1000 and 5000 students, paying an annual fee of £15K, of which St Olave's would receive a good percentage of the profits and St Olave's would be providing the brand and the expertise. This project involved working with the Woodard Corporation (who run the Woodard Schools group, mostly independent schools). St Olave's is affiliated to the group. That meeting also discussed developing cultural/educational links with a school in Hunan Province in China. Reference was made to this being done in conjunction with the former Mayor of Bromley.

The other party involved was a Director of a private company, the Orpington Education Group, an organisation established to promote Sino-UK relations. Governors approved both the links with the individual school and investigating the opportunity to establish links with a Chinese school developer.

On 23rd August 2016 the Head meets with the Chief Executive of the Woodard Group. They discuss the Chinese education group's interest both in English schools in China and setting up schools in the UK. The education consultancy company had the contract for coordinating and administering all of the Chinese education group's activities in the UK. It is common when negotiating with Chinese companies to work through an intermediary. Notes suggest that the Chinese education group did not want to work with an individual school but with a significant organisation that runs a group of schools. This was confirmed subsequently by the Chief Executive of Woodard.

On 21st September 2016 the school's Business and Development Manager (BDM) presented a paper to the Governing Body meeting. Points raised by governors included that due diligence needed to be done on all parties and that the school should proceed with caution. Governors agreed to continue to engage and investigate the potential for a partnership with a school provider in China.

On October 19th 2016, the Finance Committee noted that the Woodard proposal seemed to have ground to a halt. Governors asked what's in it for the Woodard Foundation? The Head was not sure but noted that the emphasis had shifted towards the Foundation rather than St Olave's School and that might become a problem.

On November 2016, the BDM wrote a report for the Governing Body suggesting the project involving Woodard, the education consultancy company and the Chinese education group may not be the best route to go down. At half term, the Head with the Director of the Orpington Education Group, and the local Ward Councillor and former Mayor visited China to support the setting up of a student exchange programme with the Chinese school.

There was discussion between the Head and the Director of the Orpington Education Group and her husband after they had returned, which resulted in a proposal to investigate an alternative route into the Chinese market, with the Director and her husband leading on the Chinese end, the Head working up the proposal of what St Olave's had to offer to the Chinese and the BDM investigating UK schools already operating in China.

The Governors formally approved these further investigations.

In January 2017, the Chair of Woodard wrote to the Chair of the Chinese education group saying they had employed solicitors with offices in China to move things forward from a Memorandum of Understanding (MOU) to a formal agreement on four projects:

- bringing Chinese students to Woodard schools in the UK;
- developing schools in partnership with the Chinese education group in China;
- developing schools in partnership with Chinese education group in the UK with access to top universities;
- developing training and support for all the projects.

St Olave's is not named in this letter but there would be a separate agreement on each individual project and St Olave's would have been one of these.

On 17th February 2017, the Head and BDM, with the Director of Orpington Education and her husband, discussed the details of the alternative project to be located at Hangzhou where the local government had land for the project and was keen. A detailed scoping of the structures that would be needed was presented and discussed and recorded in the notes of their meeting.

On 8th March 2017, at a Governing Body meeting, there was a report from the BDM that the Woodard proposal was looking better now but they should drop the middle man, i.e., the education consultancy company and the Head should talk directly to the Chinese education group when they visited the UK in April. They should still

pursue alternative options and the Head had met other potential investors while he had been in China.

On 15th March 2017, the BDM circulates a paper to just three governors, with the first mention of companies. It goes to a governor who is a lawyer and to the Chair and Vice Chair of Governors. In the paper is the statement that there is not an established approach for a maintained school to generate revenue from a commercial operation. So the BDM says in the paper his preferred and proposed model is to set up a completely separate company or companies, licensed by the Governing Body to use the St Olave's brand. He asks whether, on behalf of the Governing Body, they are comfortable with this approach and with any potential conflict of interest for himself and the Head as managers in the school and Directors of the company. He refers to there being a financial incentive for them as individuals for the work that they are going to do.

The three Governors would not have been authorised to give approval on behalf of the Governing Body and none of them did. They all raised a number of issues and each of them emailed separately saying that nothing should be done without taking legal advice.

In May 2017, the Finance Committee discussed both projects. Woodard had organised a meeting with the Chief Executive of the Chinese education group who was very impressed with St Olave's. He had invited the Head and the BDM to visit and Woodard was progressing the legal work.

Meanwhile on the alternative project that the Orpington Education Group Company was working on with the Head, (called here the Orpington Project to distinguish it from the Woodard project) the Regional and Provincial governments in China were interested in backing it. It is noted in the documentation that both Chinese sponsors wanted exclusivity, but both knew about the other and the proposals were both in the same geographical location.

A governor raised the issue of who owned the St Olave's brand. The full Governing Body formally decided to register the brand and to take legal advice before signing any documents, with the governor who is a lawyer assisting in scoping the work for the lawyer to do. The full Governing Body approved reasonable expenses for progressing the Chinese school initiatives, including travel expenses to China. These were paid for by the Foundation out of the money they held back for the school.

In June 2017, at the Governing Body meeting, the Head reported on his half term visit to China. On the 'Orpington Project' he reported that the Chinese government was to provide the site and the building so they did not need another investor.

The BDM reported on the Woodard project that the Chinese partner had visited St Olave's.

The BDM reported that the name of the school still wasn't registered and presented a paper proposing in detail under which headings the name, the crest, the crown and the axe logo should be registered. Governors formally agreed to the registration at a cost of £16,500.

When the question was asked, in May 2017, as to who the brand belonged to i.e., who had the right to licence its use, there was speculation as to whether the school, the Local Authority or the Foundation owned it. It transpired that the intellectual property rights (IPR) had never been registered and so no one owned it. This meant theoretically anyone could open a school and call it St Olave's so it became a priority to go through the formal process of registering the IPR both in the UK and abroad.

The BDM was aware that the registration of the IPR had to be with a legal entity that could own property and as the school wasn't a legal entity and governors did not want the Foundation to be used, BDM concluded that a company needed to be set up to own the IPR.

On 10th July 2017, three companies were registered at Companies House on the same day. The names of the companies were St Olave's Management Services, St Olave's Management Services (China) Ltd and Goddington Management Services Ltd. The registered address of all of them is the home address of the BDM.

All three companies were private limited companies owned by their shareholders. The two shareholders and Directors of St Olave's Management Services Ltd were the Head and the BDM who owned 50% of the shares each. The four shareholders and Directors of St Olave's Management Services (China) were the Head, the BDM, the Director of the Orpington Education Group and her husband, all registered in their individual names. They each own 25%. The articles are the standard Companies House Articles. Neither of these companies has traded.

A third company, Goddington Management Services Ltd, was set up on the same day by the BDM, with him as the sole Director and shareholder, and registered also at his home address. Its purpose was listed as providing other business support service activities not elsewhere classified.

In August 2017, the Head and the BDM visited Shanghai at the invitation of a possible new sponsor company. The Director of Orpington Education had introduced the Head to the company which was the education subsidiary of a different Chinese education group, which was itself part of a large multi-national company and ran private schools around Shanghai. The new sponsor company wanted to set up a bilingual school in the UK, linked to UK universities. The Head made a presentation to them on how to set up a school in the UK. The documentation states that the ultimate aim was to set up a Joint Venture between the sponsor company and St Olave's College, a new bilingual school in the UK. The plan was that the St Olave's governors would receive a payment for licensing the use of the St Olave's name. The sponsor company would set up the company which would be tax

beneficial for them under Chinese law. There would be shareholders but details were not determined.

Following the initial media coverage on 29th August of the 'exclusion' policy, on 5th September there was specific coverage of the IPR and companies issue.

On 20th September 2017 a report was brought to the Governing Body meeting updating on all three possible projects. The Head was still planning to go ahead. Governors were urging caution. It was agreed to get further legal advice. Governors were not asked to approve the setting up of the two companies.

### **3.1.2 Conclusions**

#### **3.1.2.1 Legal Advice**

The BDM's view was that the process for setting up a company is a simple one with which he was very familiar so he did not deem it necessary to get separate legal advice on that. He said he was clear that the legal company that he had consulted, which is known to have particular specialist expertise in intellectual property rights, (henceforth referred to as the specialist legal company) had given such legal advice as was necessary. He makes reference to an email from them in response to his suggestion that the Head and BDM should have the IPR registered with them in their roles rather than as individuals, so that it can be passed down to their successors. The BDM says that the specialist legal company ruled this out and so the only alternative left was to set up a company to receive the IPR.

The Head asked for it to be recorded that they did seek legal advice from the specialist legal company who said the company had to be in the name of individuals not the school. In response to being told that, the specialist legal company confirmed in writing to the investigator that they did not give legal advice on the setting up of the companies. The Head said the BDM was very experienced in setting up companies and he left it up to him how to do it.

The specialist legal company said that the £16, 000 payment they received from St Olave's was for registering the IPR, not for giving legal advice on setting up a company and that they neither told the school they had to set up a company or advised them how to do so. All they did was to respond to a specific suggestion from the BDM by informing him that it would not be possible. They then wrote to the investigator as follows: "At no point within our discussions I mentioned, advised or otherwise that the marks could not be owned by the school and that they had to be owned by named individuals. As per our previous correspondence, there was neither any advice from me as to how to set up a separate company and who the shareholders, directors, etc. of said company needed to be. We did not discuss the option of an individual or various individuals owning the trademarks."

The BDM did not seek any legal advice beyond that from the specialist legal company who are neither education lawyers nor specialist company lawyers. The obvious source of legal advice would have been the school's own lawyers.

In addition, the other UK organisations and schools involved in similar projects included the Woodard Foundation, Dulwich College and Westminster school and none of these is a Local Authority maintained school, which should have indicated that particularly thorough due diligence was required. This comes back to the point of needing to take legal advice at an early stage as St Olave's would have been the first state school to go down this route.

In the light of what the legal position is in terms of the powers of a school or its managers to set up a company, it was a serious error of judgement on the part of the school not to have sought advice from the school's own lawyers.

### 3.1.2.2 Registration of the companies

There is nothing illegal about registering a company at any address. The reasons given by the BDM for using his private address were that it saved the expense of registering with an accountant and it was July and near the end of term so the Business Manager wanted correspondence to come to his home rather than have to come to school to collect it. Neither of these reasons is a strong one, especially given that £16,000 had already been spent so a few hundred more to have a formal business address shouldn't have been an issue.

The reason given by the BDM for setting up on the same day as the two St Olave's companies, his own private company that is also listed as providing educational services is that it was simply a matter of convenience. He had been going to set it up for some time to do private business nothing to do with the school and it was convenient to do it at the same time. He said there was no significance in the fact that the name of the company was the road that is St Olave's address.

The BDM went on record to governors as well as to the investigation that he was very unhappy at the public and semi-public suggestions that the registering of the companies to his address in some way means there was impropriety on his part. He is correct that it does not. It is perhaps understandable that, at the time, he would not have thought this was something unusual or significant or that it would be publicly scrutinised. It is equally understandable that when it was, people remarked on it. The bigger issue was the error in setting up the companies in this way at all rather than the companies' address.

The BDM feels strongly that incorrect inferences have been drawn from the setting up of this third company on the same day. He says that it was his personal company through which he planned to sell services not to St Olave's or China and that he had been planning to set it up for some time and it was pure convenience that led him to register all three on the same day. This company too has not traded.

The investigator concludes that there was no financial impropriety on the part of the BDM

### 3.1.2.3 Why two companies?

The reason stated by the BDM for setting up the first company, St Olave's Management Services Company Ltd, was to become the owner of the IPR, although this is not referred to in the documentation at Companies House, which states its purpose as educational support services.

The second company was the St Olave's Management Services Company (China) Ltd where the Director of the Orpington Education Group Company Ltd and her husband were equal shareholders and Directors with the Head and the BDM.

The then Vice Chair of Governors, who was one of only three governors who were aware of discussions to set up companies, in March 2017 queried why there needed to be two. The first company could have both owned the IPR and, as stated in its registration at Companies House, carried out the kind of work planned to be done in China and the UK.

The reason given by the BDM for needing a second company was 'to protect the school in the event of any difficulties arising because liability to a third party would end with that legal entity and would not involve the school'.

However what was said by the Head seems the more likely explanation. The Head said they were being pressurised by the Chinese to be seen to be doing something and, in response to the investigator referring to a document discussing who should get what proportion of the shares and whether they should pay the Director of the Orpington Education Group Ltd and her husband on a commission basis rather than as shareholders, the Head said that the Director and her husband wanted some clarity and were pushing for a bigger share.

By setting up the second company the BDM and the Head had put the school, which was the intended recipient of the profits, into a formal profit sharing arrangement with two private individuals. However, in practice it was themselves they had put in that position because legally they as individuals were the shareholders. There are a number of references throughout the documentation to the need to do due diligence on all parties with whom the Head was having discussions. The investigator found no evidence of that being done in relation to the St Olave's Management Services Company China (Ltd).

It might have been expected that both the Head and BDM would have reflected on the position this potentially put them and the school in if some of these projects came to fruition as the potential money flowing through this company could have been significant. This leads back to the conclusion that they should not have set up this company in this way without legal advice and due diligence.

They should also have heeded the advice from the Chief Executive of Woodard who had advised the Head not to set up a company using their names as he had knowledge of somewhere where that happened and it resulted in severe difficulties and they had to undo and unscramble it.

#### 3.1.2.4 The Relationship with the Orpington Education Group Company

The Orpington Education Group Company is a private limited company registered with Companies House in 2015 at a private address in Orpington. It has one Director and shareholder and she and her husband were the 50% shareholders in and Directors of the St Olave's Management Services China Ltd Company set up on July 10th 2017. Before that date she and her company had a number of different connections with St Olave's School.

Her company organised a visit to China the purpose of which she said was to promote international links between Bromley and China. The Head and a former Mayor of Bromley went on the visit with her. The Foundation funded the Head. It is not known who funded the other members of the group. The Council says it did not fund the former Mayor.

The Director of the Orpington Education Group and her husband were part of the team working on two of the three China projects that were being considered by the Head (see above). They had no involvement in the Woodard led project.

The Director of the Orpington Education Group, through her company, also organised visits of students from China who paid for accommodation in local homes and had a programme of visits organised for them. This included days in St Olave's where they joined in the classes. The school received a small payment for what the teacher who organised it described as a considerable amount of work.

The Director through her company also ran community language classes for which there was a charge and hired the facilities at St Olave's School on a Saturday morning to do so. The BDM and the premises manager worked out what that would cost the school in terms of extra staffing and suggested a rate to the Head to cover the cost. The Head agreed a lower rate with the Director on the grounds that it might be an opportunity to encourage St Olave's pupils to join the classes and he wanted to encourage the introduction of Mandarin to the school.

In advertising the classes the Director used a photo of St Olave's name board in a way that might appear to be trying to trade on the St Olave's name and make it look as if the classes were part of the school. The Director said that had not been her intent and she had taken the photo down from the website when asked to do so.

In relation to St Olave's Management Services (China), she said that she thought it had been approved by the St Olave's governors and also that she wasn't aware of St. Olave's Management Services Company being set up at the same time.



There is no evidence of any wrong doing in terms of the activities in which the school and the Orpington Education Group collaborated, although there could have been more transparency.

In terms of the China projects, it would have been wiser to have paid the Director and her husband a fee for their services provided and introductions made, rather than give them a 50% share and control in the St Olave's Management Company (China). There was at least a possible conflict of interest because although there in an individual capacity, one of them was running a business related to schools in China and bringing Chinese students to schools in the UK. The aim of the whole China project was to make money for St Olave's and to bring cultural opportunities and diversity for St Olave's students. Why should two individuals who are not part of the school and/or their company gain financially, beyond payment for services rendered, from an undertaking whose stated purpose is to raise money for the school? The documentation suggests that paying a management fee to the Director and her husband rather than a profit sharing arrangement would have been the preferred arrangement as far as the Head and the BDM were concerned, but the implication was that the individuals concerned preferred the shareholding arrangement.

#### 3.1.2.5 What could have been done?

##### Setting up a school company

Section 11(1) of the Education Act 2002 provides governing bodies of maintained schools with the power to form or participate in the formation of companies for certain specified purposes. One of those specified purposes is to provide educational services and advice. A governing body that exercises that power is able to be a member of the company, Under Section 12 of the Education Act 2002. The school company set up under Section 11 would be a legal entity. A maintained school that is not an Academy must seek permission from their LA before exercising this power under Section 11. The LA can only withhold permission in exceptional circumstances.

The Regulations associated with Sections 11 and 12 of the 2002 Act govern the structure and the operation of companies formed by governing bodies of maintained schools using their powers under Section 11. The Regulations refer to the companies to which they apply as "school companies" and set out in detail how a school company must be constituted and operate. These regulations include at least 40% of the Board of Directors to be non-executive, the constitution to set out how any surplus funds generated by the company may be reapplied for the benefit of the company's objects or divided amongst its members, that the Local Authority must act as a supervising authority for the company. Employees of the school or Council are not permitted to be members of the company.

So setting up a school company would have allowed the school to have a legal entity that could own the IPR. The IPR was able to be, and was, registered to St Olave's Management Services Company Ltd whose purpose was registered at Companies House as the provision of educational support services. The same purpose is listed as a legitimate function of a school company so there would not have been a problem about registering the IPR with such a company, which would have been clearly school related and would have avoided all the issues about individual shareholders.

#### The Foundation owning the IPR

The simplest solution of all was that the Foundation could have been the registrant for the IPR. The Foundation was already a legal entity and, as the name St Olave's had existed since the Foundation was set up in 1571, it seems logical and appropriate that the name and the associated marks should be owned by the Foundation, as they are in other schools with ancient Foundations. This would have meant that use of the name and the brand would have been under the control of the Foundation. Therefore one might have expected that the Foundation would be the first port of call when it was discovered in May 2017 that the name and marks had not been registered at all.

However, the Foundation was never asked about what should happen. One of the governors became a member of the Court of the Foundation in 2017 and in June 2017 he raised the issue with the BDM of the need to speak to the Foundation and for them to be consulted. The BDM's response was that nobody representing the Foundation had shown any interest in getting involved to date and the Chief Executive and two members of the Foundation knew about the issue. Elsewhere the BDM has gone on record saying that the reason why the Foundation was not put forward for ownership was because that would have meant sharing any profit made with St Saviours' and St Olave's Girls' School which is the other school in the Foundation.

The investigator concludes that once it was found that the IPRs were not registered, the Foundation should have been formally consulted and that the best option would have been to make the Foundation the registrant. If for any reason the Foundation itself did not want to do that, then the second option would have been to set up a school company to be the registrant.

#### 3.1.2.6 The legality of St. Olave's Management Services Ltd and St. Olave's Management Services (China) Ltd

The companies set up by the BDM on July 10th 2017 do not comply with what a school company has to do under Sections 11 and 12 of the 2002 Education Act so they are not a school company and were not set up pursuant to the powers detailed in Section 11 of the 2002 Education Act.

The question that then needs to be considered is, in what capacity and pursuant to what powers did the Head and the BDM set up the companies? Were they acting in their private capacity or in their capacity as employees of the school?

If they were acting in their private capacity, individuals, including head teachers, are able to form companies provided that such companies do not conflict with their role as head teacher. Whilst section 11 does not prohibit such actions by private individuals (it merely empowers the Governing Body to act in a particular way), counsel's legal advice commissioned by the LA for the investigator says:

- that there seems to be no basis upon which such a company could exploit the name or other intellectual property rights of the school;
- that such actions are likely to be contrary to express or implied terms of their contracts of employment and possibly their fiduciary duties;
- that the registration of the school's intellectual property rights for the purpose of exploiting them seems to be inconsistent with their obligations as employees;
- that possibly claiming a right to exploit a brand name to which the individual has not entitlement may be contrary to legislation;
- if they were acting in their professional capacity as head teacher and business manager rather than a personal capacity, counsel is unaware of any power similar to section 11 of the 2002 Education Act which empowers such staff to form companies. In the absence of such a power, such actions are likely to be unlawful.

The investigator therefore concludes:

- that the school did not have the legal power to set up the companies in the way they were set up, but could have set up a school company under Section 11 of the Education Act 2002; and
- the individuals had the power of any individual to set up a company but not one which took ownership of and then exploited the name of St Olave's.

### 3.1.2.7 What did the Governors know?

There is no reference in the minutes of any full Governing Body meeting to the governors being asked to approve the setting up of any companies. Several governors remarked that the first they knew about it was when the story broke in the press.

The governor who is a practising lawyer is very clear that, had it been suggested formally at the Governing Body meeting that these trading companies should be set up, he would have insisted on the governors obtaining independent legal advice. Although he can and did ask general questions about how the China project was intended to work and in general terms advised caution, he always made it very clear

that he was not giving legal advice, as his professional code and role as a governor would not allow that.

It is clear from the narrative that all governors knew what the basic proposition was, i.e., that the school needed money and that the St Olave's brand of high academic success and links to Oxbridge and medicine would be attractive to a growing market in China, so the Head and BDM were having discussions either directly or through third parties aiming for business arrangements with Chinese companies to result either in schools being set up in China using the St Olave's brand or schools being set up in the UK doing the same. Both would be fee-paying and the UK schools would be seen as a route to Oxbridge entry for wealthy, bright, Chinese students. Whether the income would derive from licensing the brand for a fee or advising or helping to set up the schools was still an open question.

All governors interviewed were of the view that the Chinese project was only at a preliminary stage and no commitment had been made and that all that they had authorised the Head and the BDM to do was have exploratory discussions and make and receive exploratory visits. The BDM said at interview that there was no business plan as things hadn't progressed that far. In the documentation made available to the investigation there was a detailed curriculum plan which had been costed, correspondence about how the share holdings were to be divided up, and draft Heads of Terms from as early as June 2016. This is probably more detail than governors were aware of but still within the parameters of investigation with no legally binding commitments.

The one key aspect that the full Governing Body never discussed, and which only three governors knew was a possibility, was the setting up of the companies. In June 2017, the BDM wrote a paper entitled 'Proposed structure for developing commercial opportunities on behalf of St Olave's', sent to only three governors: the Chair, Vice Chair and one of the governors who was a lawyer. That paper did propose setting up companies, although not exactly as was done on July 10th. The BDM asked those governors to "confirm on behalf of the School's Governing Body that you are comfortable with the logic of the proposal". There ensued an email correspondence between BDM and the three governors in which the Chair said he didn't feel competent to give a definite opinion but company directors should be answerable to the Governing Body, the lawyer emphasised the need for legal advice, the Vice Chair didn't see why there needed to be two companies.

This shouldn't have been taken as an agreement on behalf of the Governing Body to set the companies up, which in any case no three governors would be in a position to do. There is a process for the Chair to take action and have it endorsed retrospectively by the full Governing Body, but that is only if there is no time to go to a full Governing Body meeting and, in this case, there was a Governing Body meeting in June that the proposal could have gone to but it was not brought to or mentioned at that meeting.

The Head's position, when asked why he permitted the companies to be set up without the approval of the governors, was that it was just a detail and so came within the scope of the authority that governors had already given him. The Head didn't dispute that it hadn't been approved by the full Governing Body. He said he couldn't go back with everything and the BDM was authorised to do the detail. When the investigator suggested it wasn't just a detail and he should have sought governor approval he disagreed and said he could have set up 50 companies and it would be irrelevant because governors were going to decide what to do with them, and the companies hadn't done anything to date. When pressed on why only three governors knew, he repeated that he didn't think that it was an issue that they hadn't got governors specific agreement to set the companies up.

It is surprising that the Head would regard this as a matter of detail when one of his key themes was that he didn't decide anything, it was his governors who took all the decisions. His comment about 50 companies was extreme, but the point he was making was that if the governors didn't agree with what he had done, they could just be shut down however many of them there were because they hadn't traded. However why would you want to do things that way round rather than get approval first? He implied that he was always intending to ask for governor approval retrospectively. It is therefore surprising that he did not seek retrospective approval for the companies at the meeting on 20th September 2017 which was the first meeting after they were set up. There was a report on the China projects on the agenda and the minutes show that it was clearly his intention to continue with the projects, but there was no mention of the companies.

The investigator concludes that the companies should not have been set up without the formal agreement of the full Governing Body, which clearly would not have been given until legal advice had been obtained and proper due diligence had been done, which almost certainly would have meant the companies would not have been set up in the way that they were, if at all.

#### 3.1.2.8 Financial arrangements and individuals

Both the Head and BDM are very clear that the financial driver for the Chinese projects was to raise money for the school and not for the financial gain of individuals.

The BDM, in writing to governors and in evidence to the investigation, strongly refuted any suggestion that it was the intention of either himself or the Head to take any of the profits themselves, and that everything was done solely to raise money for the school, and the investigator concludes that was the key driver for the school's involvement in the China Project.

BDM is aggrieved that due to the media coverage he feels that his motives have been impugned.

The legal position is that the shareholders are individuals with the Head and BDM having the same status as the other two shareholders in the Management Services (China) company to whom the profit would have gone as individuals. So by setting the companies up in this way, to some extent, they laid themselves open to the kind of comments that they have found very hurtful and unjustified because there is nothing apart from the name in the title that links the companies to the institution of the school. Legally, if they left the school, they could remain shareholders and directors, even though both were clear that in practice that would never happen.

There were planned to be some financial incentives /rewards as a result of the projects. In the BDM's performance management review in May 2016, he was to be given a bonus as a percentage share of the profit if the China project was successful. His pay was increased significantly in the same review to a point considerably higher than the other SLT members. The Head did not recall the bonus being given and said the significant salary increase was a retention payment.

In the paper referred to above, sent to the three governors by the BDM with the proposal for the companies, it is made explicit that there would be some form of payment to the Head and BDM for the work they did for the company on the China Projects. The paper said "On the assumption that there is also intended to be a financial incentive for the headmaster and I to put our efforts into this in our own time, it may be possible to structure arrangements which whilst open and transparent are also more financially efficient for us as individuals". Also in the list of points the BDM was asking the three governors to agree, he included "the declaration of interest involving the headmaster and myself" and "avoiding any potential conflicts of interest on the part of the headmaster and myself between our roles in the management of the school and acting as Directors of the company(ies) described above are concerned".

This prompted the Vice Chair of Governors to write "I think the whole Governing Body needs to understand and agree any proposal around additional remuneration for executives of the companies who are also on the school payroll and be satisfied that they are still able to fulfil their normal duties in full".

The Head and the BDM were aware of the possible conflict of interest and the BDM said that a possibility was that they might work for the Chinese sponsors setting it all up.

The investigator concludes that as the companies never traded there is no evidence of distribution of profits and no reason to disbelieve the Head's and BDM's assertion that the money that would have been legally theirs would have gone to the school not to them.

Depending on how and which projects came to fruition and how large scale they became, there were a number of different ways things could have developed in the role of the BDM particularly but also of the Head. A number of opportunities could

have opened up, some involving splitting their time between St Olave's and the projects, or even leaving St Olave's and working solely on the projects. The BDM was right to flag this in his paper in the interests of transparency but it is yet another reason to conclude nothing should have been done until the governors had the opportunity to have an in depth discussion about all of it. The possible implications of where it all could lead might have been regarded as exciting but it might, as the Vice Chair was hinting, cause governors to ask whether the China projects and the companies might be the tail wagging the dog if they became so time consuming that the school they were there to support started to suffer because of the time that the Head and BDM were spending on it, even if theoretically they were being paid to do it in their 'own time'.

Some schools make it clear in staff contracts that they are not allowed to have second jobs or run separate companies, or they have a process for that interest to be declared or, in some cases, they require the member of staff to have approval. Clarity and transparency in this area would avoid speculation.

### **3.1.3 Recommendations**

That the two companies, St Olave's Management Services Ltd and St Olave's Management Services (China), are closed and the IPR of St Olave's is transferred to the Foundation.

That governors review staff contracts with a view to adding a section that makes clear what staff can and can't do in terms of paid employment in addition to their post at the school.

## **3.2 Finance**

There was no specific section in the TOR on finance. It is included here because initially the investigator asked to have an overview look at the school's books to check whether the China projects had impinged on the school's budget.

Subsequently issues and actions in areas that were covered by the TOR frequently related to the school's difficult financial position, but what was being said about that by the Head and the BDM didn't tally with the figures the investigator had seen. The investigator therefore decided to look at the school's finances in more depth and reports in the following section on the financial position of the school and the link with other aspects of the TOR.

### **3.2.1 Narrative**

#### **3.2.1.1 Overview**

The Head joined the school in 2010 and the BDM joined the following September in 2011.

The school being in financial difficulties and needing considerable external funding above its funding via the LA, to provide even the basic educational requirements of a

secondary school, is a theme running throughout this period. To a greater or lesser extent it impinges on virtually every aspect of the TOR of the investigation.

Year on year the BDM presented a budget to governors that showed in figures and stated in words that without a significant contribution from the Foundation (who were contributing £300,000 per annum gross), and from voluntary contributions, (the lion's share of which was the money being paid monthly by parents which since 2013 has been running at between £300,000 to £350,000 pa), the school would have to be setting a deficit budget and was in danger of running out of reserves within a few years.

However, it is clear from looking at the figures that as the years went by the doom and gloom scenario being reiterated was not in fact materialising. Year on year it is clear that the opposite was happening:

- The amount required from the voluntary fund and the Foundation at outturn was far less than the figure that had been put into the budget, to the extent that over the last three years (confirmed by the Chief Executive of the Foundation) the school has not drawn down and spent any of the unallocated money that the Foundation has held for the school to draw down and spend on whatever the Senior Leadership Team deemed to be priorities over those three years apart from, recently, the legal fees for the China project and for the Judicial Review.
- The amount made available every year to the school, from both the Foundation money and the voluntary funds from parents, went up significantly. The Foundation money went up as they sought to distribute the maximum amount available to beneficiaries of the charity. The voluntary funds from parents went up because, responding to the Head's frequent assertions that the school was in a dire financial position, the Parents Association organised the Ensuring Excellence (EEx) campaign to maximize the number of parents paying £50 a month by direct debit to the school fund.
- The decision to increase the numbers in the 6th Form had also considerably assisted the overall financial position, as it had been intended to do.
- The reserves, held by the Foundation and in the school fund's bank account, had been building up considerably year on year to the point that, when the investigation began, together they amounted to nearly £2million in unrestricted reserves.

A summary spreadsheet showing how the school underspent against its original budget each year and how therefore the reserves have built up year on year is attached as an Appendix.

Juxtaposed alongside this are examples of where relatively small amounts of money have been difficult or impossible to secure, for example text books for new courses, money to do safety inspections in the workshop (causing an unacceptable risk



situation, now remedied), and money to mend the Chaplain's sink(now remedied). It is in the DNA of all staff that there is no money, so sometimes people have not even asked. The money for departments that would be used to buy textbooks, equipment etc., has remained the same and not been updated for inflation since 2012/13. All of that could have been easily afforded.

In some areas the sums involved are bigger, for example:

- Spanish and drama were taken out of the curriculum offer on the grounds of non- affordability.
- Support staff have been cut to the bone with resultant increase in workloads, e.g., for HR where there used to be a post holder, the work was added on to the work of the remaining staff and one of the SLT.
- Cheaper trainee teachers have been employed to the point where the positives of employing trainees (of which there many) are in danger of becoming negatives because of critical mass.
- The 6th Form has been expanded substantially, which has had a beneficial effect on income overall, but with little if any increased resources to support that, so classes are very large. This on occasions has been used as an argument for not allowing students with a C to stay in the class because they will take up too much of the teacher's time so they can't afford to let them stay in the lessons or they will be taking resource away from the more able children. As well as that being a dubious moral argument, there was no need for it to be a financial one.
- Admission numbers have been increased in Year 7 which has also increased income but, as with the 6th Form, not with any proportionate corresponding increase in teaching resources.
- The benchmarking exercise required for the governors' Schools Financial Value Standards return showed that teaching staff were required to undertake a significantly higher level of contact time with students at St Olave's than at other schools.
- Natural wastage, i.e., as staff left either not replacing or replacing with cheaper staff.
- A no-spending policy introduced within the school that resulted in almost all requests to the BDM being refused, or staff advised to add them to a list to ask the Parents Association to agree to fund.
- In 2016, around £35K was raised by the Parents Association (PA) from administering and charging for mock tests for boys applying for Year 7. In the PA's view without proper discussion with them, they were told it had to be spent on buying a computer studies teacher, preferably sustainable every year. Their Constitution said they shouldn't be paying for things that statutory funds should provide.

At Premises Committee meetings there were regular references to buckets around the school due to leaking roofs. As well as reserves, the school receives LCVAP money (money only available to Voluntary Aided Schools for capital works, including major maintenance). It cannot rely on receiving that every year but most recently was allocated £250K.

There was and is unspent income hypothecated for individual students. There is money available specifically to be used for supporting disadvantaged pupils. This was held by the Foundation on behalf of the school in a trust called the Headmaster's Fund which was valued in March 2017 at £274K. Most of that is capital and would not be available but accumulated income which could be drawn down is approximately £53K.

A charitable company regularly gave money to the school for disadvantaged children. The Head went to their Board meeting and asked them to increase the amount they gave the school and they then discovered that they should not have been paying it for any pupils who were not from Southwark, with the result that they stopped giving anything at all, but they didn't withdraw the £56K the school already had. The Finance Officer set it up as a Hardship Fund for the Head to use to support disadvantaged pupils who need financial help to support their education.

No money has been spent or given to individual pupils from either of these funds so no children have benefitted when they could have done.

### 3.2.1.2 The budget and the outturn

Apart from 2016/17 when it went only to the full Governing Body, the budget was presented every year to the Finance Committee. The school finance officer had a detailed understanding of all aspects of the budget but it was done by the BDM without the input of the school finance officer.

The budget the BDM produced always showed a potential deficit, not just for the year in question but significantly reaching crisis point by year 3. A school is not allowed to set a deficit budget, so it became a balanced budget by showing a figure each year that would be contributed by the Foundation and the Voluntary Funds to bring it back into balance and the three year projection was used as the basis of appealing for voluntary contributions. However at the end of every financial year the actual expenditure in the outturn report showed that the amount required for balancing the budget from those two sources was significantly less than the amounts entered in the budget papers at the beginning of the year.

A former governor, who is an accountant and was on the Finance Committee, calls this 'pessimistic budgeting' but said that the BDM called it 'cautious budgeting'. In his last year as a governor, he says that outturn between 2011/12 and 2013/14 was a total of £716K better than budget, and that trend continued. He queries the quality of the information being provided to the Governing Body.

Part of that information was a constant message that the school would run out of money because its budget was being cut, and the message continued to be delivered even when, looking back on the predictions, it was clear that they weren't coming true. The figures for 2013/14 were presented to the Finance Committee showing that the reserves would run out by 2016/17. However, two years later, in 2015, the reserves had increased although, in November 2015, the Governing Body minutes refer to governors being told again that reserves would be used up in the next two years.

In October 2016 the BDM was minuted at the Finance Committee as stating that 'this year the reserves will decline'. In fact they increased by £39,758. Two years after the 2015 prediction, the minutes of the 1st February 2017 Finance Committee the BDM was recorded as saying he anticipated that the reserves to cover the deficit would run out in 2020/21.

In May 2017 the BDM was still writing reports to the Finance Committee saying that, without the Foundation and parent money, they would be operating with a deficit of more than £400K.

### 3.2.1.3 The Reserves

Schools are allowed to accrue surpluses into their reserves to some extent and it is not unusual for schools to be saving up for something that they know is unlikely to be funded through any other route. This is usually some form of capital expenditure.

Two unfulfilled capital schemes that the school would like are referred to in the documentation. The first is to have additional Fives Courts, but it is clearly stated that this will be paid for by donation from benefactors involved in what is a very minority sport, rather than from the school funds. The other thing is an all-weather artificial sports facility. However there has been no explicit fundraising campaign targeting that, and there would have been enough accrued money to have paid for one several years ago if that had been the aim. Putting all uncommitted reserves together shows that the school had £1.1 million of spendable reserves in both 2013 and 2014, which is significantly more than the cost of an all-weather facility at the time.

The additional evidence that the money was not being saved to be spent on a specific project is that the parents who were instrumental in raising the money (by increasing the number of parents making significant monthly contributions of £50 a month by direct debit, by doing things in and for the school that saved the school money, e.g., decorating and maintenance, by organising fund raising events) were frequently asking the Head what the money had been or was going to be spent on, and the answer was never in terms of a specific project. They felt they did not get a clear answer.

The references found in the documentation were always very generic, e.g., we couldn't afford to staff the school without it; we don't get enough money from the LA to run the school; we couldn't offer certain subjects without it.

There are rules and guidelines about how much schools should and can have in their reserves. They are premised on the fact that, each year, money is given to a school to spend on those pupils in the school and that on the whole therefore it should be spent every year on those pupils and not carried forward. Because schools do sometimes need to save for things they can't afford in any one year, there is some leeway for them to hold balances but the LA is required by the DfE to set up their own balance control mechanisms. In Bromley, the system is a report to Elected Members each year on maintained schools that have uncommitted balances in excess of 8%, which is in line with the DfE Consistent Financial Reporting Guidelines. Schools are asked to produce an explanation for these balances and outline their plans to reduce them. The complication at St Olave's is that the 8% only applies to the income in the schools main account and reserves are also held in the school fund, which is where the substantial parental contributions went, and by the Foundation on behalf of the school.

The LA had concerns about the level of reserves and what they felt was an 'adversarial position' (a term used by the DCS at the time, in his letter to the Head following their meeting in December 2012) that the school, especially the BDM, was taking in its relationship generally with the finance section of the LA whose job it was to check that the school was compliant with financial processes and regulations.

In February 2013 the LA finance manager wrote to the BDM expressing concern about a number of aspects of the Income and Expenditure report, which included that the reserves carried forward from the last financial year were not showing on the report. She advised that, based on this report, the School Financial Value Standard (SFVS) was not being met.

She wrote again in November 2013 when she received the second quarter monitoring report. The list of issues was much the same as in February, including that the reserves brought forward hadn't been entered on the system and warning that they were likely to go over the recommended limit and this would be reported to Members, so suggesting they consider how they might be reduced and offering software packages on budget planning.

As the LA had predicted, the year end balances did exceed the limit and in May 2014 the LA wrote to the school again to tell them that their uncommitted revenue balance was £837,518 which equated to 18% of their 2014/15 budget share (which didn't include the school fund account where the parental contributions are held).

There was reluctance from the school to fill in the form explaining why their balances were so high. The BDM instead sent a short email saying as they had explained on numerous occasions they were being prudent anticipating government funding cuts

and would be spending on a new science block (but this had not appeared in previous years as committed spending).

The LA responded, insisting that the proper form was completed as it was a requirement, to which the BDM responded that he was aware of their need to tick boxes. The form was finally signed off by governors and returned a month after the original request. It showed that the school was planning to reduce the excess revenue balances by around £674K of planned capital expenditure, bringing the figure below 5%. The LA wrote again in November 2014 saying the budget that had been set for 2014/15 didn't reflect that and showed an increase of £47K in the expected end of year balance, rather than the planned reduction.

The governors then decided that they would stop putting the annual contribution from the Foundation into the school bank account but would keep it in the Foundation bank account but earmarked for the school to be able to draw down whenever it wanted to. In other words, it was as much the school's money as if it had been in the school's bank account. This would appear to have been so that the following year's financial return would exclude the Foundation money as well as the school fund money.

A former Chair of the Finance Committee confirmed that the objective was to show that there was not much money in reserves and the Head said that if it showed too much money it might put off potential donors and the parents from paying their monthly contribution.

The BDM was clearly concerned about this too, as in March 2016 he produced figures to send to a charitable trust from whom he was trying to obtain sponsorship for a grant application for the artificial sports pitch, which said that £1 million in the accounts shown as money in the voluntary fund was "largely a reflection of money paid in by parents for school trips, which will involve associated expenditure in due course. Around £1 million a year passes through the school's accounts each year for these activities." This was incorrect and misleading as the actual figure for School trip expenditure passing through the voluntary fund annually is around £400K.

The Head made the same (inaccurate) point to the investigator, disputing the figure she was giving him for the amount in the reserves and insisting that the investigator must have been including the money being held temporarily that had been paid in by parents and would be spent. She had not been including it.

Two of the governors on the Finance Committee were accountants, one of the parent governors and one of the Foundation governors. They pressed for more openness and transparency, and for the accounts to be published. The parent governor wanted the Foundation funding figures brought together in one place with the LA and voluntary funding figures so that governors could see the total picture in one place. This was implemented briefly but both of these governors were removed at the reconstitution in 2015 before that had happened.

#### 3.2.1.4 The accounts and the auditors

A contemporaneous note written in 2014 by one of the qualified accountants on the Finance Committee said:

“I am a qualified accountant and have worked in finance for 33 years but I have yet to understand the school’s finances properly. The usual presentation given to governors is what I perhaps unfairly dubbed a “cash book”, i.e., money received and paid out. What has been harder to get to is any sort of management accounting numbers for projections for the next 3 years and reserves (accumulated excess of income over expenditure). The BDM has made a start on this and I have proposed a modified approach to him, which is supported by the other two governors who are accountants and which shows in simple form what reserves/surpluses/deficits are and what they are likely to be over the next 3 years. I incorporated EEx numbers provided by the PA, which are higher than the assumptions made by the BDM. Making progress on this front is proving very difficult, but in my view any entity with a £5m turnover needs to have financial planning which can be easily understood by the decision-making body. What I am trying to do, as a good accountant, is to make sure that we have clarity and transparency on the numbers front, but this is not proving easy”

Bromley’s internal audit department audits the school accounts which are the money that the state puts into the school. The last audit was in 2016 finalised on 21.4 2017 and there has been a follow up report during the course of this investigation. There have been some issues raised, mostly relating to forms not being completed on time, and tendering of the IT contract, but the reserves issue has not been highlighted by the auditors because the school fund account, which includes money from parents and money from any other sources than the state, including the Foundation, is separately audited by another firm of auditors and the internal auditors do not have access to the information. The 2016 internal audit had no Category 1 concerns, but the Information Technology Support Contract was given a category 2 and it was stated that it was a requirement to go out to EU tender. On the advice of the BDM, the Governing Body decided no action was necessary so, because of the failure to tender the IT contract in the way legally required, this concern was increased to Category One in the audit conducted while the investigation was in progress.

Neither set of accounts is published. Academies have to publish their accounts. LA schools can, but don’t have to. St Olave’s didn’t but the two accountant governors on the Finance Committee pressed for publication in the interest of transparency and in June 2014 it was resolved by governors that the accounts would be published. However by the November 2014 Governing Body meeting, the BDM reported under matters arising that there was over £800K in the reserves so he hadn’t implemented the governor’s decision as publication could have been detrimental. It was agreed it would be reviewed at the next meeting, where it was reported that other schools

don't publish their accounts. The two accountant governors were removed at reconstitution very soon after that and the issue wasn't discussed again.

Under the 1948 Companies Act hidden reserves are illegal. A question was raised as to whether the accountants who audit the non-LA funds should have signalled in the school fund accounts the amount of money the school had in uncommitted reserves being held by the Foundation in a Foundation account but for the use of the school.

Under the heading Related Party issues, accounting rules stipulate that an organisation must declare to its auditors if they are holding funds in a different account which are contributing to their reserves. It would appear that this didn't happen so the money being held by the Foundation for the school did not show up within the LA audit or the voluntary fund audit. The accountants for the voluntary fund expressed themselves content with that but the Foundation considers that the hidden reserves should be declared.

### 3.2.1.5 Local Authority Funding and the Head's appeals for more resources

The argument that underpinned the need for fund raising and asking the parents for money was that the school did not get enough money via the LA and that looking forward that situation would get considerably worse, and that grammar schools in particular were being penalised.

In 2012 when the Ensuring Excellence (EEx) campaign was launched, the school published figures which purported to show that the LA was about to cut £500K from the St Olave's budget and was encouraging parents to write in to the LA to complain about it.

In November 2012 the then Director of Children's Services (DCS) replied to a letter from a parent, for which the school had provided the figures, that "the figure by which the St Olave's budget stands to be reduced by the LA funding is £40K not £500K ,and was nothing to do with grammar schools, but was due to national adjustments to the formula that had been widely consulted on through the Schools Forum of which St Olave's is a member, so the Head and Chair are entitled to attend." In January 2013 the BDM admits that the correct figure is £40K but says "the position is still pretty desperate".

Throughout his period of headship the Head presented a picture of a school in dire straits financially. As late as the summer of 2017, when writing to parents to thank them for their £50 a month contribution, he was asking them to increase it by £10 a month, saying that was what other grammar schools asked for, naming Queen Elizabeth School for Boys and Wilson's.

Every year he briefed parents on the financial difficulties that the school was facing and explained why he needed them to contribute financially with a monthly donation. This is an extract from the letter he sent to Year 12 parents in 2016 making

reference to what he had said to Year 7 parents in the same year. It is a typical example of what parents were told every year:

“At the Year 12 induction meeting on 7 September 2016 I explained the financial pressures that the school is under and invited parents/carers to make voluntary donations to St Olave’s.

I explained how, over the last five years, £1m has been slashed from an already tight budget as a result of cuts in funding ...

Many of the things that we cherish at St Olave’s are at risk if we cannot raise more money ...

The school budget now depends on voluntary contributions from parents. We are not just talking about smallish items that may be on a departmental ‘wish list’. We are talking about 5 or 6 teachers whose employment depends on your contributions; increasing class sizes and a curriculum which could shrink, losing ‘minority’ subjects and options flexibility.

Currently, contributions from Year 12 parents are the lowest in the school, particularly from parents of new Sixth Formers who have just joined us from other schools ...

By way of comparison, I know of Independent schools whose budgets are 10 times that of St Olave’s but whose prowess does not come anywhere near to ours. Some of you may have previously educated your child privately or considered private education had they not secured a place at St Olave’s. In such cases you would have been paying anything between £15,000 and £40,000 per annum.”

The LA submitted evidence to the investigation to show that over the past 5 to 6 years the St Olave’s funding from the LA has gone up by £278K, not cut by £1million. This isn’t an increase in real terms because of inflation, and also the school has had to fund salary, Employers NI and Employers pension increases from within the budget which amounted to more than 1% each financial year. In real terms it has been a slight reduction over 7 years but not to the extent of making the £1 million figure anything like accurate.

If the school hadn’t taken the action it did to increase the 6th Form and class size numbers, then it would have had to use some of the Foundation or voluntary contributions money, but it did take that action, and therefore could have budgeted taking that into account rather than, in effect, ignoring it and continuing to produce over pessimistic forecasts and continuing to increase reserves and take money from parents that it wasn’t spending.



### 3.2.1.6 The wider implications

#### 3.2.1.7 Governance:

There is a traceable line from 2011, starting with the Head's and the BDM's analysis of the dire position of the school's finances and the gloomy future projections of budget deficits, which then galvanised a group of parents into organising the Ensuring Excellence (EEx) campaign in 2012 and 2013, which raised in excess of half a million pounds. This was followed by the gradual disillusionment with the response of the Head to the parents (which initially at least was shared by the BDM in private emails with the EEx group) and then the deterioration of relationships between the Head and the parent governor (who led the EEx group) when he stood against the incumbent for the position of Chair of Governors and finally his removal as a governor at reconstitution in 2015.

In October 2013, the Head was writing to the parent governor thanking and congratulating him and all the team on their achievements but by June 2014 the parent governor and the LA governor were unhappy about the Head's report to the June Governing Body meeting, which they felt didn't acknowledge the important contribution of the EEx campaign. When the parent governor raised this with the Head, he received a short sharp email in response saying not everything can go to governors, but he would subsume a short paragraph from the parent governor in his Head's report. On the same day the parent governor went to the Chair of Governors who agreed that the EEx report should be reinstated on the agenda.

The following day one of the parents on the EEx team wrote that she had been actively involved in events at the school for 3 years, had secured £7500 of matched funding for Fun Day and the Head didn't even know who she was. She wrote at the time "There is always the feeling that we are an inconvenience, not a group of parents offering to raise thousands of £s in their own time". The parent governor said that the Head was constantly telling parents who were active in fundraising that it was their job to raise the money, not to tell him how it should be spent.

Section 4 (Governance) gives the detail of how things played out in terms of the parent governor and the Governing Body. Much of that was due to the souring of the relationship between the Head and the parent governor and some, but not all, of that was due to their falling out about the EEx, which had only come into existence because of financial predictions that were being made about going into deficit.

#### 3.2.1.8 China

The same connection is the case for the China projects. Section 3.1 illustrates what a great deal of time effort and money was expended on trying to get the China projects off the ground. No other state school had done what St Olave's was trying to do. No other reason for doing it has ever been given than the need to have a permanent and significant income stream in the future because the school couldn't survive without it.

No school would want its head and one of its SLT spending so much time on something that was of no direct benefit to the students, unless there was a compelling reason for doing it and finance was put forward as that compelling reason and accepted as such by the governors

The school finance officer had already raised in writing to the BDM her concern about the time spent by the BDM and the Head on the China project, the need to show it as a cost, and whether it was an appropriate use of public money that was given to run St Olave's. This would be a cost of management time, over and above the £30K already in the budget for the costs of the initial investigative work which included the £16, 500 spent on registering the Intellectual property Rights (IPR). The Vice Chair of Governors had also raised the issue of how much management time the China Project would take up in the future.

The BDM's response was the school needed the money and it was in his and the Head's targets to raise money from external sources.

### **3.2.2 Conclusions**

A sensible initial strategy went too far for too long.

It is understandable that, back in 2011, any school would be concerned about what was going to happen to school funding in the future. There was general talk nationally about budget cuts, austerity, a common funding formula (CFF), changes to 6th Form funding etc., so the strategy to make cuts in curriculum and staffing and to look for other sources of funding was probably prudent.

Bromley was probably not going to be a major loser from the CFF as it historically has not been highly funded because of its relatively low levels of deprivation for a London borough, but initial financial caution would nevertheless have been justified.

The school took action based on those concerns and partly because of those actions, particularly increasing the size of the 6th Form, increasing admission numbers in years 7 and a successful bid to the GLA, all of which increased their income substantially, they have remained within budget every year with only minimal contributions from the extra money available to them from the Foundation and the parents, and that was a positive.

Initially when parents were being asked to increase their donations in 2011/12 there was a genuine cause for concern. The message and the actions however never changed when the strategies put in place started to work and bank balances increased. No one was looking at how at least some of the unbudgeted and unexpected surplus each year could be used to ameliorate some of the cuts and economies that had been made or how the money might be used to improve the provision for children. Every year the surplus was just added to the reserves.

### 3.2.2.1 Why was the strategy not changed?

The investigator has not been able to come to a clear conclusion as to why that was. The only answer forthcoming in the documentation and in the interviews with BDM and the Head was repeating the rhetoric that went out to parents every year that the funding via the LA wasn't sufficient, and was going to get worse. There was not even a suggestion that they were saving for a specific facility to benefit the children that required that sort of money. The message was that they needed parents to keep contributing and even increase their contributions, and they needed to raise even more money from outside sources, hence the China project and the priority in their targets.

Perhaps it was as simple as a fear that parents and charitable foundations would be less likely to give if they knew that the level of reserves was so high, but in which case why not spend them on restoring some of the things listed above that they said they had been forced to do because of lack of money, for example, they could have taken some of the pressure off a loyal and hardworking staff group by looking at contact time, TLRs, permanent contracts, a proper shadow structure, having a Deputy Head, more support staff, increasing departmental budgets etc. Not everything could have been afforded, but at least there could have been some debate and priorities established.

There did not seem to be an awareness of the possible backlash if parents did find out that their money wasn't being spent paying for five teachers, or keeping a minority subject. In any case it is much more difficult for parents to find out exactly what is happening if they are told that they are generally supporting the school's budget rather than raising money for a particular project that they can see come to fruition, which is the more normal use of funds raised from parents' contributions.

### 3.2.2.2 Knowledge and understanding

As has been shown, some of the documentation and some of the material sent to parents seen by the investigator included statements that were incorrect, in some cases bordering on misleading. No firm conclusion can be drawn as to whether there was a lack of understanding of the position, or a belief that financial Armageddon would definitely arrive one day whatever the evidence, so the school had better be prepared for it, or some other reason for the mismatch between rhetoric and reality.

Also no firm conclusion is drawn as to why every year the BDM presented a budget which turned out to have been so inaccurate. He had a very experienced background in finance, although not in the public sector. It may simply be that he budgeted at the top level figures only and did not look at the ledger codes and cost centres which feed into these figures and as a result a lot of income sources were overlooked and the expenditure budgets apart from the salary budgets were not based on any investigation at a ledger code level and could be overstated.

Or it may be that he thought to be able to say that you are spending less than you thought you were going to is a positive because it could mean that the school has been prudent during the year and made some savings, or generated additional income during the year. St. Olave's does benefit from a number of individual and corporate donations every year and it was part of the BDM's role to raise money for the school and it was not always possible to predict the amount or timing of that income.

It was said that the Head was a brilliant mathematician but not that interested in finance. The figures were there for him to see. He would not unreasonably however have taken the view that he employed the BDM to do the details and may just have looked at the words and the conclusions being drawn, rather than interrogating the figures himself. He made several references to his confidence in the experience of the BDM as far as the finances were concerned. However the Head said that he checked the information provided by the BDM and always discussed the figures with him. He was satisfied that the information he sent to parents was correct.

The BDM made the point that it was the Head's decision alone to continue to ask for the high level of parental contributions and in 2017 to be considering a further increase.

Governors also had access to the figures and if they had just looked back over their papers year by year they would have seen what was happening. The BDM did concede at each outturn that it was much more positive than he had put in the budget, but that was always accompanied by a prediction that the next year or years would be worse and there wasn't a robust challenge to that from governors.

By definition it is always more difficult to challenge a prediction, other than by analysing past data and looking at trends, but the governors' role is to probe and challenge, and in a skills audit, a school would always look for someone with finance expertise to be a governor on the Finance Committee who would do that. St Olave's had that expertise (more than many other schools) and there is evidence that before the reconstitution that challenge was happening, but in the last three years, less so. Certainly in that latter period of time there is no minuted evidence of governors comparing outturn to budget each year, checking the validity of the predictions and challenging the BDM on what he is putting in front of them. There has been no accountant on the Finance Committee since they were both removed from the Governing Body in 2015.

### **3.2.3 Recommendations**

That in the interests of transparency, the Governing Body considers again publishing the school's accounts.

That if there is no governor with suitable financial skills, the Governing Body considers co-opting a qualified accountant onto the Finance Committee.

That a review is undertaken of the current and projected financial position alongside spending pressures and priorities, separate from the budget setting, involving the new head teacher when appointed and in consultation with the LA, as to likely future funding trends.

That taking into account the outcome of the review, the level of parental contributions is reviewed, involving parents in any decision to change the level of contributions.

That further work is done, led by the Chief Executive of the Foundation liaising with the auditors of the school's voluntary funds, to establish the position on related party transactions to ensure that the school is not in breach of the accountancy rules on this.

That the LA audit recommendation that the IT contract should be tendered under EU rules be implemented.

## 4 Governance

This section looks first at the specific areas of governance named in the Terms of Reference (TOR):

- Interference in the election of the Chair of Governors
- The reconstitution of the Governing Body in 2015
- Governors' Terms of Office extended contrary to Regulations
- Rejection of proposed LA governors
- Interference with the structure and management of the Parents Association.

It then looks at other governance issues arising during the course of the investigation relating to the general clause in the TOR as to whether the school's governance arrangements are operating correctly and effectively and, taking all the areas covered into account, comes to a conclusion on that point.

### 4.1 Interference in the election of the Chair of Governors

#### 4.1.1 Narrative

In September 2014 one of the parent governors stood against the incumbent Chair for the position of Chair of Governors. This usually only occurs on a governing body when there is dissatisfaction with the some aspect of the status quo. In this case it was primarily with a lack of transparency in how some decisions were arrived at, in particular the use of the funds raised by parents, and with some of the policies that the Head was putting forward and a belief that the Chair always supported the Head and did not challenge or approve of others doing so.

The parent governor was nominated by a Foundation Governor who was also Chair of the Finance Committee and a local Councillor.

Two of the teacher governors said that they were called to the Heads office to be told that they should vote for the incumbent Chair. One said the Head described the parent governor as a 'toilet salesman' and compared this unfavourably with the incumbent Chair's qualifications and experience. The other had responded that they thought the parent governor was more visible and active on behalf of the school than the incumbent Chair and so would not be supporting the Head's preferred candidate.

On 4th November 2014, the former Chair of Governors, who the incumbent had followed as Chair, wrote to the governor who was a Councillor who was proposing the parent governor as Chair, referring to their previous telephone conversation and the Headmaster's views, and asking him to reflect and persuade the parent governor to withdraw because he had 'definite vested interests', wouldn't be impartial and the incumbent Chair who had 'immense stature' was not prepared to stand in an election.

On 5th November the governor who was a Councillor replied, saying:

- It wasn't about personalities and he had respect for the incumbent Chair personally.
- That he had reflected, but felt the parent governor had fresh ideas and represented the valid concerns of a good number of governors.
- That an election would mean a useful airing of concerns rather than discontent festering.
- That he wouldn't in any case be comfortable in breaking his word to the parent governor.
- That he didn't understand what the former Chair meant by vested interests unless that was a reference to him being a parent governor, and there was no legal impediment to parents being Chairs of Governors.
- That as governors their prime duty of care was towards the school and the pupils and the interests of parent governors is closely aligned to that
- That it was up to governors to judge his suitability and experience when casting their votes.

On 8th November the Head replied:

- The governor who was a Councillor hadn't replied after the Head had spoken to him last week.
- His loyalty to the parent governor seems to be stronger than his loyalty to the Chair of Governors and the Head.
- The incumbent Chair, who has an OBE, and the Head have led the school through its most successful year ever, following probably the best 4 years in the school's history.
- The incumbent Chair is a distinguished gentleman, with class, with an academic background appropriate to a school of this prestige, author of 7 or 8 acclaimed literary volumes, member of the Order of the British Empire, and JP reflecting the qualities, background, gravitas and experience that ought to accompany the Chairman of Governors of this extraordinary school.
- 2000 visitors turned up for 6th Form Open Evening desperate to get a place at St Olave's because of what it is and what it represents, so why change it?
- He is very saddened that, as someone the Head greatly respected, the governor who was a Councillor has chosen a course of action that now brings his judgement into question.
- A vote for the parent governor is a vote against the Head and a vote of no confidence in the current Chairman, asked him to reconsider and to withdraw his nomination.

On 10th November the governor who was a Councillor replied:

- Apologised for not replying but had assumed the Head and the former Chair were communicating as the points they were raising were the same so he assumed the Head had seen his response to the former Chair.

- Copied his response to the former Chair into the email.
- Said he was saddened that 'offline' conversations had become vitriolic attacks on one candidate amounting to character assassination.
- Can't believe a man of the incumbent Chair's character and calling has endorsed this approach.
- The Head has raised the question of his loyalty but his loyalty is to the school.
- He is concerned that attempts to get him to withdraw his nomination would be to deny fellow governors their democratic right to choose their chair, so asks that there be no more attempts to interfere in the proper conduct of the ballot.
- He has faith in governor colleagues making the right choice and asked whether the Head does.

On 12th November, at the Governing Body meeting, the vote was taken by secret ballot. The Head had originally said it would be by show of hands. The clerk said it must be a secret ballot and obtained advice from the National Governors Association which concurred. The clerk maintains that the Head hovered around governors as they completed their ballot forms and his attitude felt intimidating.

The incumbent Chair was elected 8 votes to 5.

One of the teacher governors said that after the election they had gone to see the Head to ask him to pass their congratulations on to the newly elected Chair, and they hoped things would now settle down on the Governing Body, and that the Head's response was that he would find out which five members of the Governing Body had voted for the parent governor and that they would lose their place as governors. He would have them out.

#### **4.1.2 Conclusions**

At interview the Head:

- Acknowledged the email exchanges with the governor who was a Councillor and thought it perfectly reasonable to make clear in the strongest terms what he thought about the parent governor and therefore to try to persuade the governor who was a Councillor not to go forward with his nomination. He said the parent governor was a social climber and just wanted to be a Councillor whereas he the Head had the interests of the school at heart.
- On the appropriateness or otherwise of challenging a governor's judgement when he is exercising his right to make a nomination, he said it was totally acceptable and he would have left if the parent governor had been appointed.
- When asked whether his involvement in campaigning in the way that he did, trying hard to persuade governors to vote for a candidate and vilifying the other candidate, was acceptable, he said that he thought it was acceptable. He was a governor as well as Head and so thought it acceptable for him to have a strong view about who should be elected as Chair and as he thought



the parent governor totally unsuitable, he had a duty as a governor to make that clear.

- He also thought it acceptable to get teacher governors in and make that clear. There was an expectation that teacher governors would support the Head.
- That he had described the parent governor as a toilet salesman, but he hadn't done so in public but had in private conversations because how could anyone compare that with a learned scholar who had written many books?
- Denied he had made reference to ensuring that the 5 governors who had voted for the parent governor would no longer be governors.

The Head argued strongly that the role he played in the election of the Chair was entirely justified because he is a governor as well as Head and so had a right to do so. The investigator asked the National Governors Association (NGA) for their view. They pointed out that the governing body of a maintained school must include the head teacher unless the head teacher resigns the office of governor in accordance with regulation 19, whereas in academies, the chief executive or principal is not a Trustee by virtue of the fact they are chief executive/principal, but must be appointed by the Members.

They further advised that although the law covers conflicts of interest in relation to all governors, it does not deal with the situation as at St Olave's (which was not named in seeking the NGA view) where the head teacher justifies behaving in a certain way because he is acting in his role as governor rather than as head teacher.

However, in relation to the chief executive or head teacher also being a governor, the NGA have the following view:

In the NGA's opinion the dual role of the head teacher/chief executive in presenting plans, giving advice and providing information to the governing board while at the same time being a member of the governing board creates an inherent conflict of interest. The NGA does not think that the head teacher/chief executive should be a member of the governing board, but should be required to attend governing board meetings.

Their view was that the scenario described anonymously to them further supports their view that the chief executive/ head teacher should not be a member of the governing board as it can be difficult to manage such situations.

The investigator concludes that what a head can do in their role as governor is a grey area and the fact that the Head had a view and expressed it does not in itself constitute undue interference in any legalistic sense just because he was the Head.

The relationship between a Chair and a Head is a key one. Notwithstanding the dual role of Head and governor, as in any organisation, the chief executive is supposed to accept and work with whoever emerges from the governance process for choosing the Chair.

Realistically however it is not a total surprise that a Head would be concerned at the prospect of a Chair being elected who he felt had not supported him and might informally express that view. Ideally one might hope that the Head and the Chair would have agreed that to have a situation where quite often there was a split in the governors on key issues with a significant minority of governors voting against the Head's proposals, was not a satisfactory situation and didn't result in good governance, and would have dealt with that by trying to build bridges and achieve consensus.

The personalities of some of the key people did not lend themselves to that approach, although the investigator believes it would have been the preferred outcome as far as the Chair was concerned and had the parent governor spoken to him directly about his intention to stand, the incumbent Chair may well not have stood for re-election as Chair. He had his arm twisted to take on the role in the first place and was finding it very demanding both in terms of his work commitments and geographical distance from the school. However, if there had been such a conversation and he had declared his intention not to stand against the parent governor, he would have come under great pressure not to step down, to which he probably would have succumbed, partly out of loyalty to the Head and partly because the experience of resisting the Head's wishes could be very uncomfortable.

So accepting that the Head had a right as a governor to have some involvement, would his behaviour have been acceptable in any governor? The conclusion is that there were aspects of it that would not. The personal attacks, both on the candidate and his proposer were not what would be expected in an election for a Chair of Governors. Contrasting a toilet salesman with someone who had been honoured by the queen smacks of snobbishness and, notwithstanding the academic ethos of the school, being a learned scholar is not of itself a criterion for being a good Chair of Governors any more than any particular occupation or trade means you wouldn't be a good Chair of Governors and clearly five governors did think that this particular 'toilet salesman' would be perfectly well qualified for the task.

While recognising the Head's right as head teacher to act as a governor too, he nevertheless was the head and could not divest himself of that while being a governor and that meant that his behaviour could not totally be looked at in the same light as any other governor. The head teacher telling teacher governors who he wants them to vote for, is not the same power relationship as a parent governor telling the teacher governors who they will be supporting.

In any election there is a point where legitimate lobbying spills over into interfering in the proper conduct of the ballot. The governor who was a Councillor was right to point this out to the Head and to tell him to cease.

The TOR ask whether there was interference in the Governing Body elections. In the case of this election, unlike the reconstitution election, the ballot was properly

conducted, at the meeting and in secret, albeit only because of a last minute change of heart by the Head. Notwithstanding the comment made by the clerk, none of the governors said either at the time or to the investigator that they were influenced by the Head during the vote itself, so the conclusion is there was no interference with the part of the election that was the ballot.

There was however a much higher level of involvement in the 'campaign' before the ballot than would normally be expected from a head teacher, with the use of intemperate and disrespectful language in written communications, which was not untypical of the Head's written style but was nevertheless inappropriate, and in contrast to the polite and restrained tone of the governor who was a Councillor. It was also unwise in that it guaranteed that whatever the result it would be difficult to move on in a consensual and cooperative way, in the interests of good governance. It did not however break any rules.

#### **4.1.3 Recommendation**

The Governing Body adopts a Code of Conduct for governors which includes governors' conduct during elections to the Governing Body.

## **4.2 The reconstitution of the Governing Body in 2015**

### **4.2.1 Narrative**

The composition of a governing body in a Voluntary Aided (VA) school with a Foundation is unusual and different from other VA schools. In a VA school the Church nominees have to outnumber the total of all other nominees so that the church can always be guaranteed control of the governors if there are disagreements. In St Olave's the majority of governors are Foundation governors but these are places allocated to the appointing bodies, e.g., the Rochester Diocese Board of Education, the Bishop, Dulwich Estates etc. The Foundation of St Saviours' and St Olave's itself nominates only 2 governors.

Prior to 2015 there were 22 places on the Governing Body of St Olave's, although they were not always all filled.

To be implemented by August 31st 2015, the government legislated to reduce the size of governing bodies. Certain changes were compulsory, others recommended, but for Governors to decide. The three compulsory changes were

- There was to be only one staff governor.
- There was to be a minimum of two parent governors (but there could be more if the governors decided that they wanted more)
- There was to be one LA governor who would no longer be appointed by the LA but would be nominated by the LA and the governors would decide whether to accept them as a governor.

In June 2014, the clerk first circulated information about the need to make the change and the June 18th Governing Body meeting set up a small working group of the Chair and four governors. The clerk attended the first meeting of the working group but was not invited to attend any more. It would appear that it didn't meet again.

The LA had recommended a new draft instrument. This recommended a reduction from 22 to 16 governors comprised of:

- 3 Elected parents
- 1 LA governor
- 1 Elected staff governor
- The Head teacher
- 1 Co-opted governor
- 9 Foundation Governors (nominated by: the Bishop of Rochester 2, The Rochester Diocesan Board 2, The Chapter of Southwark Cathedral 1, St Saviours' and St Olave's Foundation 2, The Chaplain of the Queens Chapel of the Savoy 1, the Dulwich Estate 1)
- Total 16

The 12th November 2014 Governing Body meeting had the item on the agenda. The clerk explained the legislative background and requirements. A governor challenged the process by which an 'inner circle' had put together the paper they were discussing, with no minutes of their meetings. His complaint was that there had been no consultation nor any alternatives presented and they were just being asked to rubber stamp something. The governors therefore agreed that 'the Chairman to circulate a paper and further proposals on the Instrument of Government in advance of the next meeting'.

A different small group now met, without the clerk and with no minutes, but the Head produced a note and action sheet for the group of the Chair and three governors who had met after the November meeting. This was marked confidential and was only circulated to the small group.

On 11th March 2015 the revised Instrument was brought to the Governing Body for approval. There were a number of differences between what was proposed and the recommended LA model for the school. The proposed model was:

- 2 Elected parents
- 1 LA governor
- 1 Elected staff governor
- The Head teacher
- 3 Co-opted governors
- 10 Foundation Governors (nominated by: the Bishop of Rochester 2, The Rochester Diocesan Board 2, The Chapter of Southwark Cathedral 1, St Saviours' and St Olave's Foundation 2, The University of London 1, The Chaplain of the Queens Chapel of the Savoy 1, the Dulwich Estate 1)

Total 18

There was some concern expressed at the meeting about the process of deciding what had been brought to governors for agreement not being an open and transparent one. After discussion the Instrument was adopted by 9 votes to 6 with one abstention.

On 11th March 2015 the Portfolio Holder for Education wrote to one of the parent governors expressing his concerns about the Instrument that had just been agreed.

On 15th June the termly Governing Body meeting was postponed. The reason given was that the LA hadn't yet approved the Instrument. The meeting did not take place at all, so that year there were only two full Governing Body meetings. The clerk informed the Head and Chair that this was contrary to regulations but they were adamant the meeting would not happen until the LA had approved the Instrument. The Head made it clear to the clerk that he didn't want another meeting without having terminated the appointment of some governors.

On 19th June 2015 the Portfolio Holder for Education wrote to the Chair of Governors asking him to consider some changes to what the governors had proposed, the main differences were to have three parent governors not two, to use the co-opted place to have a second staff governor, to have equal terms of office for co-opted governors, and to confirm that a skills audit had been carried out. He commented on divisions in the Governing Body, as a significant number had voted against the Instrument now submitted to the LA. He invited the Chair of Governors to attend the Education PDS (Scrutiny) Committee on 8th July.

On 30th June the Chair of Governors replied saying the points the Portfolio Holder had raised had been given careful consideration at the Governors meeting on 11th March, (which could not be the case as it pre dates the letter), refusing to consider the issues any more, and saying the LA had no right or powers to challenge the decision of the Governing Body, only to check it complies with the law and that he wasn't coming to the PDS meeting. A first draft of this letter, which the Head had drafted as it was on his computer, was longer and even more hostile.

In August 2015 an email ballot was held, against the strong advice of the clerk, who had written a paper for the Governing Body meeting that didn't happen, making clear what the process was, and that was to make a decision by secret ballot at a meeting. The Chair and the Head had the clerk's paper and the Head instructed the clerk not to send anything out about the process without the express permission of the Chair. The Head, backed up by the Chair, insisted absolutely that the process be done over the summer, by email, and that he and the Chair be sent copies of all the voting replies, which was not in accordance with the regulations as it was not done at a meeting nor was it by secret ballot.

The outcome of the voting was the parent governor who had stood for Chair against the Head's candidate, the parent governor who had challenged over process and who regularly challenged in the Finance Committee, and the two teacher governors were voted off, leaving the support staff governor as the one staff representative. The clerk was instructed to write to the LA governor to tell him he was no longer a governor. The governor who had nominated the parent as Chair came off because his constituency of Guys and St Thomas' was deleted. (This reduction was not obligatory but the stated reason for it was to keep the balance of Foundation places correct and because Guys and St Thomas' were part of the Southwark connections of the Foundation, which no longer applied since the school had moved to Bromley.)

In July and August 2015 the Council continued to discuss the proposed instrument internally. Members took legal advice from their own in house lawyers and counsel, debating whether they had the power to take any action, even considering intervention with warning notices followed by removal of the Governing Body and replacing it with an Interim Executive Board if the changes to the Instrument were not made. However the legal advice they received was that they couldn't intervene in this way because they could only intervene if the Instrument that the governors had put forward was ultra vires, and it was not. They didn't have the power not to approve it just because they didn't agree with it. So, on 31st August 2015 the LA approved the new Instrument of Government

## **4.2.2 Conclusion**

### **4.2.2.1 Using reconstitution to remove targeted individuals**

The Head denied that he had orchestrated the reconstitution to bring about this result, but every one of the governors who had been prepared to challenge the head and some of the policies he was introducing were removed by the reconstitution.

It was suggested and widely assumed amongst those interviewed that he had deliberately organised this outcome and that is a view with which the investigator concurs for the following reasons:

1. The evidence from a letter from the Head to the Chair and former Chair dated 17th November 2014, three days after the governors' meeting at which the election for Chair was held, demonstrates incontrovertibly the connection between the election for Chair and how the reconstitution was managed, to ensure that the person who had stood and his supporters were no longer on the governing body.
  - This letter from the Head referred to the meeting as "one of the nastiest, most hurtful meetings I have ever experienced" calling it "something akin to a medieval torture session".
  - The letter goes on to say that they must manage the reconstitution in a such a way as to get the outcome that they want, including:

- ensuring that they have the absolute minimum of parent governors required by law
  - quickly appointing to 2 existing vacancies just until September, 2 people who they can rely on to vote for the instrument and then vote in a way that ensures the right people stay and the right people are removed from the governors by the reconstitution.
  - ensuring these extra temporary governors are in place before the vote at the meeting in March 2015 and can be temporary and step down in September 2015
  - ensuring a different nominee to the Guys and St Thomas' place if it is retained
  - being very careful with whom they share any confidences.
2. The constituency of Guys and St Thomas' was not reinstated as it was considered to be solely Southwark related and so the governor who had proposed the parent governor as Chair was removed, but the Head went on to write to the Warden of the Foundation to ask that this former governor be removed by the Foundation as a member of their Court. In that letter the Head speaks of his pleasure that the reconstitution had removed five governors who were responsible for "an attempted coup to oust our esteemed Chairman" He goes on to say this governor's continued membership of the Court makes it difficult for himself and his Chairman to be present at the Foundation meetings.
  3. One of the teacher governors said at interview and in a written statement that at the time of the election for Chair of Governors in September 2014, only a few months before the plans on reconstitution were being formulated, the Head had told them that he would ensure all those that voted for the parent governor did not remain on the governors. By the summer of 2015 that was a fact.
  4. The confidential memo from the Head to the Chair suggesting he ring round and tell people who to vote for.
  5. The secrecy of the discussions before the March 2015 governors' meeting where the Head is again confidentially sending notes to the Chair about the need to bring about a particular planned outcome that they want.

#### 4.2.2.2 Errors of process

Evidence from the Clerk to Governors and from a current expert in school Governance, leads to the conclusion that there were errors of process in the implementation of the new Instrument but that the Instrument itself was sound and legal.

The errors were:

1. DfE guidance stated that where there was a need to reduce numbers (as was the case for both staff and parent governors) there should be discussion at the meeting to try to agree which governors to keep based on the overall

balance of skills and experience in the Governing Body as a whole that would result. Nowhere in the minutes of the Governing Body meetings is there evidence that such a discussion took place. One of the parent governors wrote at the time to the Chair complaining that it had not taken place.

2. The guidance states that if no consensus was reached then there should be a secret ballot at the meeting.
  - a) The ballot was not secret and was not conducted at a meeting. It was done over the summer holidays by email with a copy of all votes going to the Head and Chair. Taken alongside the allegation that pressure was put on people to vote in a certain way, knowing that the Head was going to know how you voted, might well affect how people voted.
  - b) In the election for Chair earlier in the academic year, it was clear from evidence given to the investigator that at least one person voted differently because it was a secret ballot than he would have done if the Head had been going to know how he voted.
  - c) The clerk raised this formally with the Chair and the response he received was “I do not see any reason for a 'secret' ballot. As you will see the voting papers it will not be secret.” As well as contravening the regulations requiring a secret ballot at the meeting, this is disrespectful to the clerk, as was his comment in an email to all governors, by way of explaining why he and the Head had seen all the ballot papers, “I judged it prudent for the headmaster and myself to provide additional verification rather than leave it exclusively in the hands of the clerk”. It is the clerk’s job to be the independent returning officer administering the ballot, and this is implying he can’t be trusted to do it.
3. The guidance says there should be a skills audit when drawing up the new Instrument to assist in looking at how a full range of skills will be available to the new governing body and also to assist in the discussion that tries to reach a consensus. Although there is some reference to needing a range of skills in the documentation, and how the number of co-optees would make that possible, there was no formal skills audit conducted.
4. By not having a summer term meeting to have that discussion and to conduct the election, the reason given for which was that the LA had not yet ratified the Instrument, the Governing Body did not meet the statutory requirement to have at least three full Governing Body meetings in an academic year. It had been made clear to governors by the clerk that the third meeting was a statutory requirement and should have been convened in the summer term 2015.
5. The parents and staff governors who remained were told that their term of office started afresh for another four years. According to the governance expert this was incorrect. They should have just completed their original term and then new elections should have been held. The clerk felt the guidance was not absolutely clear on this point so when the Head said he had received legal advice to the contrary the clerk did not pursue it.



6. The clerk was instructed by the Chair of Governors, on the written advice of the Head, to write to the LA governor and say he was no longer a governor. According to the governance expert this was incorrect. There had been no reduction in the number of LA governors and where there had been no reduction, the status quo prevailed until the end of their term of office. Given a written instruction from the Chair to remove the LA governor, the clerk had not felt able not to (see section 4.6 below)

The Head said his role was simply to do the research for the reconstitution. It was the Chair who decided to have an email vote. He said he did not believe the clerk had advised a meeting and a secret ballot and asked whether it was in writing. It is. He said he had no recollection of being copied into the actual votes and he would not have thought that was appropriate, and he was only told the outcome.

The investigator concludes that the Head was copied the emails with the individual vote. There was an email instruction to the clerk from the Chair telling him to send a circular email to the governors, excluding those not allowed to vote, inviting them to reply by email giving their vote and it ended by telling the clerk, as he received the votes, to copy them to the Head, himself and the Vice Chair. The investigator has seen an email from the clerk to governors carrying out that instruction and an email vote that was submitted. The investigator concludes also that based on the way that the relationship between the Head and the Chair worked, the Chair is unlikely to have taken that decision, which was against the advice he was getting from the clerk, without reference to the Head.

#### 4.2.2.3 How serious were these errors of process when taken together and could the LA or Diocese have intervened?

They were potentially serious enough for intervention and the LA did try to intervene through the Cabinet Member and the PDS Committee. However, the intervention was focussing on the things the Members disagreed with in the Instrument itself, which were perfectly legal and so the LA had no locus to alter. The irregularities were in the processes.

When his informal advice was ignored, the clerk could have formally instructed the Chair and Head in writing on these procedural matters and if they either took no notice or instructed him to take actions that he knew were against the regulations, he could have formally reported that to the LA and/or the Diocese and asked for their support and intervention.

The clerk reporting such a matter to the LA would have gone to senior officers, rather than Members, who then, in consultation with the Diocesan Director of Education, could have raised the issues formally with the Head and Chair in writing, or attended a meeting in person. If formal written legal advice to the governors on how they must proceed to remain within the law was ignored, there may have been a case for a formal written warning. If that had been ignored it would have been sufficiently

serious to make an IEB a possibility on governance grounds, but if they had been faced with legal advice that they were about to act illegally, the governors would probably have backed down, as they did over having a secret ballot for the election of chair.

However, these procedural matters were not referred by the clerk to the LA or the Diocese, and the Head, and on his advice the Chair of Governors, felt they could ignore the clerk's advice and instruct him to do what they wanted, and the clerk was intimidated by the Head into complying, and so did not feel able to take things further.

### **4.2.3 Recommendations**

That legal advice is sought on the appropriate period of office of the current staff and parent governors following reconstitution in 2015.

That the role of the clerk is recognised by the Governing Body as being the authority on process and education law.

## **4.3 Governors' Terms of Office extended contrary to regulations**

### **4.3.1 Narrative**

In September 2015, amendments to the Constitution Regulations 2012 came into force which allows governing bodies of maintained schools to set different terms of office for different individuals within the same category of governor. Previously it was only possible to have different terms of office for different categories of governors. Governing bodies can amend their Instrument of Government to allow them to establish terms of between one and four years for any category of governor, and they are also able to amend their Instrument to allow the term of office to be set by those appointing the governor at the time.

One of the governors said that he had legitimately been on the Governing Body for 25 years because there had been several reconstitutions and the clock started ticking again after each one. The Head said that he couldn't see anything wrong with someone being on the Governing Body for 20+ years if they were good governors.

It has proved difficult to track back exactly what has happened historically on the St Olave's Governing Body as the original appointment of some of the governors pre-dates the current clerk and there have been changes in the regulations and changes in the appointing body of some individuals. Where someone took up a new appointment, e.g., a former Chair going from Kings College to Queen's Chapel of the Savoy as his appointing body, his four year term started again.

Governors should resign and come off the Board after they have completed 8 years but the Head and the Chair wanted to keep the same people and insisted on their reappointment. When a former Chair was up for reappointment even though his appointing body knew that he had come to the end of his term, being over 8 years,

he had been a trustee at the Dulwich Estates previously and knew people at the organisation, so the Head in conjunction with the Chair, managed to persuade them to reappoint him.

### **4.3.2 Conclusion**

The Head claims that he had nothing to do with Terms of Office and that was only handled by the clerk. It is correct that part of the clerk's role is to ensure that it is known by all when terms of office are about to expire and if the governor has served the maximum term they should be told that, and a new nomination sought from their nominating body.

The Instrument of Government and new regulations are quite clear that two 4 year terms should be the normal maximum, with a further extension only in exceptional circumstances, where there is a particular skill which governors are trying to replace but haven't been able to at the time that the person's term comes to an end. This is in accord with all best practice for charities.

However if the bottom line legal position is that it is not an absolute and exceptions are allowed in certain circumstances, and if the Chair, Head, nominating body and the person themselves all want that person to continue, it is likely that the governors will agree it and it is difficult for the clerk to prevent that happening as they can't simply over rule on the grounds of it being ultra vires.

Given that St Olave's had a number of governors who had been there a very long time, the clerk was asked how assertive he had been in managing the process and ensuring it happened. His response was that he did attempt to do so but did not always succeed. He felt the atmosphere he was working under was not conducive to pushing things further than he did because it was not illegal for people to serve as governors for more than eight years, just poor practice, so if a nominating body made a nomination and the governors accepted it, the clerk had no power to stop it happening.

### **4.3.3 Recommendation**

That the clerk reviews the situation regarding the length served by all the current governors and issues a timetable showing when the period of office for each one is due to be renewed or to cease, using the recommended 2 terms (8 years) as the normal maximum, with the case for any exceptions to go to the full Governing Body, from which the governor under discussion should withdraw for that item.

## **4.4 Rejection of proposed LA governors**

### **4.4.1 Narrative**

An LA governor, like all governors, is not there to be representative of their nominating body, or electorate in the case of staff and parent governors, and does not come to meetings mandated by them. All governors must be their own person,

coming to their own views based on the information they are given and always have to act in the best interests of the school.

The LA governor who was in place when the new head arrived in 2010 was originally a Councillor and joined the Governors in 2003 but by the time of reconstitution was no longer on the Council. He had a long association with the school, having had sons at the school and having served on the Parents Association Committee. After the new Head started in 2010 the LA Governor, along with some other governors, felt there was an over emphasis on achieving the highest position in the exam League tables and they were not in sympathy with the gradual ratcheting up of the entrance requirement for Year 12 and the progression bar between Years 12 and 13 and associated developments. The LA governor prepared thoroughly for Governing Body meetings and could exercise his right to speak on all topics to a point that meetings were sometimes longer than the Head and some of the other governors would have liked them to be.

The change in regulation which came into force on 1<sup>st</sup> September 2015, gave the Governing Body the right to say whether they accepted onto the Governing Body the person nominated by the LA. Before 2015 the LA governor was appointed by the LA onto the Governing Body who had no choice in the matter. Since 2015 the Local Authority Governor is nominated by the LA and is appointed as a governor by the Governing Body having, in the opinion of the Governing Body, the skills required to contribute to the effective governance and success of the school and having met any additional eligibility criteria set by the Governing Body.

There was no change required to the number of LA governors at reconstitution as, unlike some governing bodies where there were two LA governors that had to be reduced to one, St Olave's only had one. The LA had not given any indication that they wished to change their nominee. He was due to come off at the end of this term of office, as he would have completed his 8 year term, so the LA would have been expecting to make another nomination. However this process was accelerated by the decision of the Head and the Chair to terminate the service of the incumbent LA governor from day one of the reconstituted Body on September 1st 2015 .He and the LA had expected him to be allowed to serve out his term of office as provided for in the regulations, so the LA was not prepared with a new nominee. However that alone does not explain the two year period that ensued during which there was no LA representation on the Governing Body.

It took the LA nearly a year before the LA made a nomination. This was a former Education Portfolio Holder. His nomination was first considered in September 2016. He was not appointed as no CV was available. The clerk informed the Council, but nothing was received in time for the November 2016 meeting. At the March 2017 meeting, his CV had still not been received, but it was presented at the June 2017 meeting.

That meeting records concerns of the Head regarding the qualities that the Councillor would bring to the Governing Body, specifically that the Head “had met the Education Portfolio Holder on a number of occasions and expressed some reservations regarding the promises that had been made but which had not been delivered”. The decision was made by the governors not to appoint him, recording in the minutes that he did not appear to have the qualities required for appointment to the Governing Body.

The action was to write to the LA after the minutes had been confirmed at the next meeting, which was in September 2017. The formal letter informing the LA that their nominee had been declined was therefore only sent to them on 25th September 2017, over two years since the vacancy arose and there still wasn't an LA governor.

#### **4.4.2 Conclusions**

In terms of how the process should work for the appointment of LA governors to maintained schools, the Governing Body should do a skills audit and tell the LA what skills would be a good fit and the LA's process for appointment should be such that it can ensure that their nominee meets the needs of the Governing Body and has the required skills.

For the reconstitution, the Governing Body should have matched current governors to the relevant skills and identified any gaps. The Governing Body should have then requested the LA to nominate a person with the identified skills needed. In 2014 Lord Nash, the Schools Minister, sent letters to every Chair of Governors and every Director of Children's Services, highlighting how important identifying relevant skills, and the selection of appropriately skilled potential governors was. If the potential governor, who had been nominated by the LA, is deemed not to be suitable, the Governing Body should feedback why and should clarify what their requirements are, in order for the LA to nominate another, more suitable person.

The LA was justified in asking for more detail on why their nominee had been declined, and that it should be expressed in terms of the skills and experience that the governors were looking for. That question wasn't immediately answerable by governors as no exercise had been done to establish the skills gap they were trying to fill.

The reference to promises made but not delivered, would appear to relate to discussions that the Head and the Portfolio Holder had had about 6th Form expansion in conjunction with Newstead Wood School. This would have involved the LA identifying some capital resource for St Olave's. The proposal came to nothing. The Head's view was he had been promised capital investment for the 6th Form and hadn't received it. The Portfolio Holder's view was that it had been tied to this particular scheme with Newstead Wood which the Head did not want to do and so the capital investment wouldn't be made.

The reason given for not accepting the nominee was not satisfactory and the LA was right to query it. One might have thought it was the Head who was slowing down the process to the point that there was no LA governor for 2 years as behind the scenes he was trying to persuade the LA to nominate another Councillor who was a staunch supporter of the head. However the delay was largely the responsibility of the LA because of the initial year it took to make a nomination and then because of their failure to submit a CV.

This delay and two year gap with no LA governor was potentially significant because this covered the two year period when the 3Bs policy to progress to Year 13 was being implemented and previously the LA governor had been a key link between the school and the LA, which meant that for two years this formal and regular link between the LA and a maintained secondary school was no longer there.

#### **4.4.3 Recommendation**

That the LA nominates to the longstanding LA vacancy on the Governing Body taking into account the skills being sought by the Governing Body.

### **4.5 Interference with the Parents Association**

#### **4.5.1 Narrative**

The Parents Association (PA) at St Olave's was a very active and successful one. Historically, it saw its core role as fundraising to support the school. From the time the Head and then the BDM arrived, a constant theme had been that the school was in a precarious financial position and that projecting forward it was going to get worse and that unless there was a large injection of funds from the parents and the Foundation, the school would not be able to make ends meet. The PA responded to the request for help and in 2013 launched a drive to increase the number of parents contributing by making regular monthly payments to the school's voluntary fund through a campaign called Ensuring Excellence (EEx). It also organised teams of parents to undertake cleaning and maintenance work that otherwise would have incurred a cost.

The person who was Chair of the PA in September 2017 had been part of both of those campaigns to support the school. The PA, including the Chair, had started to query and to ask for more information about what the money it contributed from different sources was spent on, and specifically whether it should be spent on core items such as staffing which would normally be funded from the school's budget. There was also some feeling that the Head did not appropriately thank the PA members who gave up so much of their time to help, e.g., after Spruce Up Saturday, when a group had done a great deal of cleaning maintenance and decorating work in the school, there was no mention in the next Head's newsletter.

Although fundraising was the highest priority, the PA was also a means of communication between parents. In 2011, at the instigation of a former parent governor, a system of Class parent representatives was set up. They communicated

with all the parents in their class and both disseminated information and collected views.

This meant that from time to time the PA did become either officially or unofficially a vehicle for receiving and communicating the views of parents. The investigator was given written submissions that individual parents had sent in to the Chair of the PA from time to time commenting on changes that were being introduced, for example there was a petition against the dropping of drama from the curriculum in 2014 and 8 letters of disagreement when the admission arrangements for entry into the 6th Form was to be changed to 64 points in 2017. These were all submitted after the consultation had ended. There had been virtually no response during the formal consultation period which parents in their letters to the PA blamed on what they saw as inadequate consultation and communication from the Head about the change, although the consultation met statutory requirements.

During the summer of 2017 the son of the Chair of the PA was one of the pupils who received a letter on 16th July saying he had got C in his history internal exam and so wouldn't be allowed to continue to do A Level history and, as he was still short of one B overall, his progression into Year 13 was jeopardised and dependent on his achieving a B or higher in his AS results. On 18th August results day, her son found out that he hadn't achieved the required B grades but was subsequently sent a letter that said in spite of that, the headmaster has chosen to exercise discretion and allow him to return on condition that he signed a contract, which was attached, and which said that he agreed to attending additional support sessions and working independently in the library and if in any subject he didn't achieve a B in the mocks in January of Year 13, he would not be entered for that subject.

His mother's response was twofold. Firstly, she was embarrassed that her son had been allowed to return when some of his friends were devastated that they had not. She had witnessed the scenes in the car park on 18th August described by a number of parents, where girls and boys were distressed and crying and trying to comfort reach other. She knew the circumstances of some of these children and could not understand why discretion had not been exercised in their favour when it had with her son.

The Head said he had intervened personally so that her son was allowed back. He did not give a reason why he had done so. However the Assistant Head, Director of 6th Form said that when the AS results came out in August 17, if the three Bs criteria had been applied there would have been 34 Year 12s altogether who would not have been allowed to return. The head wished to reduce that number because it was much higher than in previous years at the same stage.

He therefore decided, in discussion with the Assistant Head, Head of 6th Form, to allow back all pupils who had missed by only one grade, i.e., had one C grade. The

Chair of the PA's son's grades were BBC, and this was the reason he was allowed back, not through the intervention of the Head treating him as a special case.

Secondly, all pupils who had missed by one grade were only allowed back if they signed a more stringent contract than the previous year's pupils who had been allowed back without the full grades. This spelt out that they would not be allowed to take the exam in any subject in which they failed to obtain a B in the mocks. This message was to be delivered by the Assistant Head in August, to give it more emphasis as the previous year the three pupils who had not been allowed to continue with a subject had not been forewarned that would be the case. The Chair of the PA did not feel that these conditions were reasonable or acceptable, and made that view clear to the Assistant Head.

So by the time of the PA meeting on September 14th the events of the summer had played out and the Chair of the PA had made clear to the school that she was not happy with what had happened with Year 12 pupils generally not allowed to return, and with her son specifically, even though he had been allowed to return because his return was conditional upon him signing a contract that she had concerns about.

The Head admits that that he did not wish the Chair to continue to be involved as he now saw her as identified with the 'cabal' who opposed him. He called a meeting of the PA Committee on 12th September to which he did not invite her. It was in effect a pre meeting for the 14th September full PA meeting but the Head did not raise the issue of the Chair's eligibility to chair the meeting. The Vice Chair attended this pre meeting and reports that the Head asked for assurances that the meeting would be chaired appropriately and those assurances were given.

There was an exchange of emails, (undated but seemingly sometime around the meeting on 14th) where the Chair suggests to the Head that not inviting her to the pre meeting may just have been an oversight on his part and the Head responds that it was deliberate as it wasn't a PA meeting and he can invite who he likes. He goes on to say he understands her son is not returning to St Olave's, but if he were to return and if she was going to make a positive contribution, she can come to his meeting. He also thanks her for all her support for the school in the past. She responds by thanking him for his thanks and tells him the advice from PTA UK, and that she will remain as Chair and an account signatory until the AGM in November.

The evening of Thursday September 14th was the date of the PA meeting. The Chair of the PA arrived first to set out the room. The Head arrived next. The first part of the conversation between them was unwitnessed. They were joined part way through by the Vice Chair of the PA. The Head asked the Chair whether she was sending her son back to St Olave's. She didn't answer. The Head said to the investigation that he knew that she wasn't because he had contacted another school where her son had already started attending.



The Chair of the PA reports that she contacted the other school at the time who said they would never disclose this sort of information to a third party. The school confirms that her son remained on the roll of St. Olave's until September 25th. She had never withdrawn him and so he was still a pupil on the school roll at the time that the PA meeting took place on 14th.

The Head told her he was invoking Clause 4 of the Constitution of the PA which says "Membership of the Association shall be open to parents and guardians of pupils attending the school, staff employed at the school and other persons subscribing to the objects of the Association as the Committee may at their discretion determine".

In response the Chair referred to Clause 6 which says "The officers and Committee shall be elected at the AGM and shall serve until the commencement of the next AGM" and told the Head that she had taken advice from PTA UK who had said she was entitled to continue up to the AGM even if she didn't any longer have a child in the school.

The Head said to the investigation that the Chair of the PA didn't have that in writing and he didn't see why he should believe her as she had lied about her son, so as President of the PA he decided that clause 4 took precedence over Cause 6 and asked her to leave. The investigator has seen the written communication from PTA UK on giving that advice to the Chair of the PA, who had emailed the Head on September 11th informing him of the advice she had been given.

The Chair, supported by the evidence from the Vice Chair, says the Head came up very close to her, invading her space, but short of touching her physically, and ordered her to leave. Both she and the Vice Chair say they felt intimidated. The Chair said she told him to back away and that he replied that it was his school and he would stand where he liked. The Vice Chair said that the Head said it was his school and he would decide who is allowed to stay. The Chair subsequently made a complaint to the police, who did not take any action as no physical assault had taken place. She also submitted a complaint to the Chair of Governors.

The Head said that the Chair ignored his requests to leave so he had to keep telling her to leave. He absolutely denied approaching too close to her or being intimidating and referred to the unofficial website, You Tube and social media posts which he felt were intimidating towards him. When he reported the incident to the governors in September he said the Chair had walked out.

Eventually the Chair and the Vice Chair did leave and by now other parents were arriving for the meeting and there was quite a commotion outside. The Vice Chair says she tried to persuade the Head that they should all go back in and allow the Committee to decide on the interpretation of the rules, but he said as President it was his decision.

The Chair, and those who felt she should be allowed to Chair the meeting, therefore decided to hold the meeting in the Vice Chair's house, which is opposite the school, and encouraged those arriving to go with them saying that was the legitimate meeting. The Head and SLT members encouraged parents to go into the school where they would hold the meeting. Also some parents had gone straight into the meeting into the library from the chapel, where they had been attending another event and so were unaware of what had gone on or what was happening outside.

Broadly speaking the parent body divided into parents of younger pupils numbering about 30 going into the school to hear the Head and about 40 parents of older pupils going to the meeting in the Vice Chair's house. The meeting in the school mainly consisted of the parents asking the Head questions about the recent events. The notes of the meeting say that the Head blamed "a small number of organised people who are attempting to get rid of the Governors, the Headmaster and members of SLT"

The meeting in the house ended up with a vote of no confidence in the Governing Body and the Head being put to the meeting and voted on. The motion went into some detail, including stating support for the staff and asking for an enquiry. It would appear to have been prepared beforehand but many of the parents at the meeting did not know in advance that this was going to happen and were surprised by it. The vote of no confidence was passed but not progressed (sent to the Council or the Diocese) because it was decided the next day that as it had not been on the agenda and the meeting had been split, that it was not appropriate to do so.

Some parents in one meeting were in communication with parents in the other and at least one person in each meeting was recording it.

The day after the meetings a report of the meeting in the school was written by one of the PA committee, the Interim Secretary, who had chaired the meeting in the school. The report was circulated to parents. The Chair and Vice Chair, who had been at the other meeting, objected, claiming that theirs had been the official meeting. Also the Head as President said that from now on anything going out officially from the PA must be cleared by him. Ultimately it was agreed that no formal minutes of either of the meetings would be circulated.

After the event some parents who observed the scene outside after the Chair had left the library, put their account of what they observed in writing. One said they spoke to the Head on the night suggesting that given so many parents did recognise that the Chair had the right to continue until the AGM, that it would be wise for him to defer to her, to which they said he replied that her participation was not in the interests of the school. Another parent complained to the Chair of Governors about the Head's behaviour towards the Chair saying that he had chastised and humiliated her in front of others when he should have attempted to reconcile.

To complete the narrative, the AGM was finally held after the Head had been suspended, but the rift between the two groups had worsened rather than healed. There were two 'slates' of candidates, one from the long serving PA group and one from the new parents of mainly younger children. The meeting broke up in disarray after a disputed vote by show of hands, and the Acting Head ruled there should be a written ballot. In the event this was not necessary as a number of the candidates stood down and so a new Committee has been elected who say they will prioritise restoring relationships between the different groups of parents, and returning to their core role of supporting the school through fund raising activities and acting as a means of communication between the parents and the school.

#### **4.5.2 Conclusions**

The Head certainly attempted to manage the PA meeting of September 14th by arranging a pre-meeting that excluded the Chair and then telling her on the night that she could not Chair the meeting and had to leave the premises. He said that this was not unconstitutional because he was President of the PA. The Constitution of the PA does not make any reference to the President having the power to intervene in any circumstances.

The Head said he only asked the Chair to leave and at the governors meeting of the 20th September 2017 he was describing what occurred as the Chair walking out, which was not correct, as it implies she was choosing to go, and even on his account to the investigation he was asking her to leave. The Chair's version of events is supported by the many witnesses to how the evening played out and the key point in the Head's evidence is that although he claimed at the time this was about him believing that the Chair was ineligible to Chair the meeting because her son was no longer on the roll of the school, when asked why he did not just let her Chair the meeting, in the interests of avoiding dissension and division amongst the parents, he didn't answer in terms of her ineligibility but said it was because she was one of the 'cabal' and he didn't want her there.

He chose therefore not to believe the Chair of the PA when she said she had checked and she was eligible, but three days before he had already had an email from her telling him that she had checked and what advice she had been given. Also he would have known that the same is true for parent governors who are entitled to complete their term of office even if their child has left the school. He said he didn't believe her because she had lied about her son not being on roll, but in her account she says she just did not respond to the question and that he was still on the roll of St Olave's, which was confirmed to the investigator by the school.

So the conclusion is that the Head did unconstitutionally interfere with the management of the PA but probably as important as the legalistic point on the niceties of the constitution is that tactically from his point of view it was not a wise thing to do as it galvanised support around the Chair who had given loyal service to the school and was now being ordered off the premises. Had there been one

meeting, it is possible that parents wouldn't have felt emboldened to present and vote for a no confidence motion in a meeting where the Head was on the platform.

### **4.5.3 Recommendation**

That the PA constitution be reviewed with a view to making it clear that the role of the Head as President of the PA is not an operational one.

## **4.6 Other Governance issues arising during the investigation**

### **4.6.1 Narrative**

#### 4.6.1.1 Head's performance targets

For several years the Head's performance management meetings which included his targets and pay, were conducted without the involvement of an external adviser which was a statutory requirement. The clerk to governors advised that it was, after which an external adviser was used. No information was taken to the full Governing Body meetings about the outcome of the Head's performance management meetings, conducted by a small group of governors, other than to say that he had met his targets and that his pay had been agreed. In all schools pay decisions would not normally go to the full Governing Body. Targets can do, but don't have to. The clerk reports that discussion about the Head's targets was requested by certain governors, but was declined. The numerical targets of 95 % and 90 % that the school was aiming for were not reflected in the Head's targets.

#### 4.6.1.2 Difficulty of contacting governors

The address of all St Olave's governors was listed as the school. It is not unusual in schools for governors' home addresses not to be publically available and for them to be contactable through the school. However since the use of email has become much more commonplace, many schools now set up a dedicated school email address for governors.

Reference was made by a number of interviewees about the difficulty of contacting governors. Part of that was simply pragmatic. People now use email much more than hard copy letters and so not having an email address to write to made communication more difficult, particularly if you wanted to send something to all governors.

However in a well-managed and governed school, with good communications and opportunities for people's voices to be heard, you would not expect individual members of staff or parents to be wanting or needing to circulate all governors. Staff consultation would normally take place through the management structure of the school, including staff meetings, and where appropriate through the trade unions.

Staff governors, like all governors, are there as individuals not as mandated representatives, but, apart from the confidential section of the agenda, it is legitimate

for them to talk with and listen to staff and take the temperature of staff views on policies etc.

It is not quite so structured for parents but schools normally have some form of Parent Association or Forum, and St Olave's has a well-developed system of parent representatives for every class. Parents can also approach parent governors, who are in the same position as staff governors in that they can pick up feelings in the parental body and feed them into the governors as a whole, while not acting as direct representatives.

Another route into the governors would be via the Clerk, although for the same reasons as above, you wouldn't expect people to be using that generally, but individual governors might on occasion.

In the absence of an email address, some parents googled governors to try to find a work email address. The school does not disclose individual contact details and in all cases enquirers are asked to forward a letter in a sealed envelope addressed to the Chairman or relevant governor c/o St Olave's Grammar School. Once received, the Head's PA has a set of labels and then forwards the correspondence, unopened, to the relevant governor. Letters can also be handed in at Reception and, again, these will be forwarded, unopened, to the addressee. Sometimes more than one letter has been handed in at Reception by the same person, with each envelope addressed to a specific individual which, on occasions, may have included a copy for the Head, but this would have been individually addressed to him. The Head would not automatically have been given a copy of any correspondence addressed to other individuals.

Initially the Head's PA forwarded all correspondence addressed to the Chair of Governors who became Chair in 2013 directly to him, unopened, but was later advised by the Head that the Chair had requested that his correspondence be handed to the Head, again unopened, and they would then meet and discuss the contents prior to Governing Body/Sub Committee meetings. On one occasion only, the Head, by chance, noticed some letters for governors on the PA's desk that she was preparing to send and he subsequently removed these, stating that as he and the Chair would be meeting shortly, he would pass these letters to the Chair himself for circulation to governors. The PA was taken aback and told the Head that she did not agree with his actions but, as Head, he said that he had removed the responsibility from her.

For expediency, there have been a few occasions where the PA has handed unopened correspondence directly to the Chair or a governor if they are due to be in school shortly after the correspondence arrives.

It would appear that the correspondence which was addressed to the Chair but given at the Chair's request to the Head, and probably also correspondence that was given to the Chair, was either dealt with by the Head or discussed between the Head and

the Chair and the response then drafted for the Chair to sign. This is not totally unusual. Where it becomes problematic is if the communication is a formal complaint, where this informal conversation and response would not be an adequate process to be in a complaints policy and especially if the complaint is about the Head himself.

At St Olave's there were a number of occasions when, despite it not being normal practice, parents and teachers were trying to reach the full Governing Body, and in some cases were doing so to ask them to raise something at the governors' meeting, either orally or by circulation of papers that staff or parents had written. In those cases they also sometimes wrote to the clerk to ask for something they had written to be circulated to governors. Two examples of this were a paper discussing the proposed increase of the progression bar to 3Bs written by a senior Faculty Head and a paper from the Chair of the Staff Association on the Year 13 single subject policy. In both those cases the clerk was told not to circulate the papers. Whichever route was used, the decision rested with the Chair but in practice the Chair took the advice of the Head. The Chair speaking to the Head in these circumstances is also not unusual and not problematic if there is confidence that the Chair will look at the issues with a degree of independence and come to their own conclusions, rather than just rubber stamping the Head's view and signing a response written by the head.

Where individuals have sent in an e-mail with a request that this be forwarded to the relevant governor, the e-mail would be sent to the intended recipient only and it would then be up to the Chair or governor to respond themselves or via the school, if preferred. Other individuals may also have been copied in to the original request.

In cases where individuals have been quite insistent on obtaining specific or group governor contact details, the PA contacted the Clerk to the Governors, at the Foundation offices, and he has asked her to pass on his office email address so that they can contact him directly.

#### 4.6.1.3 Non availability of Governing Body minutes

The school said that the minutes of Governing Body meetings were put up in the staff room. It may be that they were not there for very long because not being able to see them was an issue brought up by both staff and parents. The Head said they were there for weeks.

The most transparent and open way of dealing with the Governing Body minutes is to post them on the website. As long as staffing and other confidential matters are kept in the confidential section, in the interest of open government and the Nolan principles, the minutes should be accessible to all who want to read them.

#### 4.6.1.4 Papers for governors being censored /amended

### Link governor report

In March 2012, two link governors for humanities made a visit to the faculty. They wrote a report referring, amongst other things, to a crisis in staffing which they felt there was, having spoken to teachers who were leaving, and four out of the five heads of department in the faculty agreed that was a correct description. The clerk confirms that it was not circulated. The report that the same governors wrote the following year was circulated.

The previous year a former parent governor had written a report in similar vein, with some statistical analysis comparing historical St Olave's figures and national averages. Governors did discuss the issue of why what seemed like a large number of staff were leaving. The Head said the private sector schools were poaching people and no staff were leaving who were fed up, which the governor said he knew was not true.

A higher than normal staff turnover is not uncommon when a new head teacher arrives but there are no detailed figures and no exit interviews at St Olave's, so it is not possible to reach a firm conclusion on whether discontent with the new regime led to a higher turnover than might be expected. Three of the four senior staff who left quite soon after the head arrived gave evidence that it was not directly connected with the change in regime, and the fourth declined to be interviewed. Former staff who put themselves forward for interview or who were named by existing staff and therefore interviewed were staff who had left because of the Head's behaviour towards them and/or the policies he was introducing.

In December 2014 the link governor for support staff wrote a report on his visit. It included a number of concerns that the staff he had spoken to had raised, including SLT communication, low staff morale and lack of visibility of the governors. He cleared the report with the lead SLT member for support staff who did not agree with everything the staff had said, but agreed that the governor should have the right to submit the report and that the issues could be discussed. The report was not circulated by the clerk on the instructions of the Chair and the Head.

### Staff Survey

Reading the staff survey for 2016/17 that went to governors, it was a much more positive document than reading what was originally written for the SLT by the manager responsible for the staff survey.

The head made considerable changes to it without consultation with the author.

### Amending minutes of Governing Body meetings

On a number of occasions, the Head complained about the minutes, saying that they should consist of decisions and actions only and that they were too long and that the head had to rewrite them. They are not the Head's, belonging to the Clerk and the

Chair, but the Head would frequently make significant comments back on them and expect the clerk to change them.

#### 4.6.1.5 Role of and relationships with the Clerk to the Governing Body

The role of a Clerk to Governors is to be the guardian of the processes and procedures. A clerk would be expected to know, or to know where to find out, any information that a governing body might need to know in any circumstances about how to manage its business in such a way that its processes and procedures were always legally compliant. The clerk would also be expected to administer the meetings in such a way as to ensure they ran efficiently and effectively.

A clerk will often be in the position of advising a Chair of Governors, who would not be expected to have the detailed knowledge of process and procedures that the clerk has. For that reason, and because of the clerk's role, the clerk's ruling in these matters should be accepted by the Chair and all other governors, including the Head.

The current clerk took up post as clerk in September 2013. He is the Chief Executive of the Foundation and, as such, clerks the governing bodies of both the Foundation schools, which is of mutual benefit to the school and the Foundation, as he can join up the knowledge he has about how both institutions work and relate to each other.

In terms of the efficiency of the organisation of meetings and papers, and the associated record keeping, administration and communication, the clerk is generally held in high regard and is well respected by the governors. Some long serving governors commented that previous to this clerk, there had been some issues with the quality of the clerking and that the current clerk was by far the best the school had had.

The clerk's perspective was that while he was treated as a valued and knowledgeable professional by the majority of governors that was not the case with the Head. During his time at St Olave's, he had always been wary of the welcome that he has had, feeling it to be conditional on doing what was wanted by the Head. On the occasions, during meetings, when he has made recommendations as to what might be required or an approach, his suggestions have rarely been taken up or considered and usually put down. For example, work he did on better standing orders for the Governing Body, and a Code of Conduct for governors were presented to the Head and Chair and then dropped. He encouraged signing up to the Bromley governor training programme but the Head gave the opposite message, that it was a waste of money and couldn't be afforded, with a result that little or no governor training has taken place.

At the autumn 2014 meeting, where the contested election for Chair took place, the clerk advised that the election should be undertaken by secret ballot at the appropriate point in the meeting and that the Clerk, should oversee the ballot. He was informed by the Head that it would be done by a show of hands, right up until the clerk's arrival for the meeting where the Head backed down.



When the June 2015 Governing Body meeting was postponed and never rearranged, the clerk notified the Head and the Chair of Governors that this was a breach of requirements as it meant that only two Governing Body meetings had been held in that academic year.

When the Governing Body was reconstituted in 2015 there were therefore a number of points of procedure where the clerk's advice or view was not accepted, the most serious being over the conduct of the ballot to reduce the number of staff and parents. The clerk informed the Head and the Chair that this process should be done at the next GB meeting and that it should be done by secret ballot. The Head insisted that the vote take place over the summer holidays, by email and that he, the Chair and Vice-Chair be copied in to responses. The Head made it clear that he did not trust the clerk to undertake the count of the results and, in the clerk's opinion, the Head was using having an electronic vote, into which he was copied, as a way to influence the voting and, on top of that, the Head sent an email around blaming the clerk for it being difficult, due to him being on holiday and moving office, whereas the clerk had supported the Head and the Chair throughout the process regardless of being on holiday.

Believing that government regulations had been breached and that he had been put in a difficult position, as this was part of his job as Chief Executive of the Foundation, the clerk raised the matter formally in his line management appraisal meeting.

There were also issues over the minutes. The clerk had been trained in minute taking for governing bodies where the general advice has always been to ensure that fairly full minutes are taken as it is necessary to demonstrate the support and challenge that governors are providing. The clerk's view was that challenge has always been suppressed, and like others he made the connection with the governors who did challenge, being got rid of through the new Instrument of Government in 2015.

The clerk felt that the Head's way of communicating with him was curt and aggressive on a number of occasions, with inappropriate comments. The investigator saw a number of written communications from the Head to the clerk that supported the clerk's view, and notes the style and tone of them was similar to the way that the Head often wrote to others with whom he disagreed or was dissatisfied. At interview with the Head the investigator made specific reference to two of the more extreme of the Head's letters (which were not to the clerk) and the Head's view was there was nothing wrong with either what he said or the way he said it as he was just being direct.

To what extent the Head's written style was an issue partly depends on the person receiving it and the frequency with which the letters were sent. If it is someone outside the organisation with whom the Head doesn't have an ongoing relationship, it may matter less. The recipient may just have thought him rather rude.

However if an employee receives such a letter it can have a different impact. The clerk was not an employee of the school but was certainly someone to whom the Head felt he could issue instructions and expect them to be complied with. When the outcome of that is that the clerk feels bullied and intimidated to the point that he doesn't do what he should have done, which was not to accept instructions that he knew meant rules and regulations were being broken, then it is a problem.

It is clear from the clerk's evidence that he did not believe the Governing Body of St Olave's was functioning in the way a good governing body should and he was concerned enough about that and the way he felt he was being treated to suggest to his line manager at one point that he should cease being the clerk. That wasn't the outcome and he stayed in post and worked at trying to improve the relationship, and he had a good relationship with the staff and most of the governors. However, because he felt vulnerable, and possibly because he didn't feel confident that anyone could or would do anything about it, he didn't feel able to take the Head on in matters of law or regulation, where he could have gone to the LA and/or the Diocese formally.

While in most matters neither have a strong statutory basis for intervention, if a clerk to governors formally tells them that a governing body is ultra vires, and that is confirmed by their own legal advisers, they would be in a position to write formally to advise the governors of the fact and ask them to correct it. Very few Heads or governing bodies would not take notice of being told they were acting illegally, and if they didn't take notice, it considerably strengthens the case for LA intervention on governance grounds, even if educational standards are not a concern.

Part of the reason for lack of action for so long over the 12 to 13 progression issue, was that those who opposed or had concerns about it were challenging it on grounds of disagreeing with it on moral or educational grounds. Once the letter had been sent saying it was illegal, and what laws it was breaching, it stopped very quickly.

Mainly it isn't realistic to try to correct any errors of process that the clerk was unable to prevent but it isn't too late to take legal advice on the point of whether the terms of office of the staff and parents who were chosen to continue, should be for the rest of their remaining term or whether that term started again in 2015, because if the former, then elections could be held now rather than in 2019.

#### 4.6.1.6 Relationship of Head and Chair of Governors

The Governing Body's role is to set and own the overall strategy for the school, to get right the balance of support and challenge they give to the head teacher in achieving the strategy, and to be accountable for the outcomes for the children in the school that are achieved as a result of that strategy.

The head teacher is the lead professional and will have the expertise to carry out their operational role of running the school and in that sense is the expert, but since the introduction of Local Management of Schools in 1988, the governors, rather than

the LA, are the accountable body, so the governors are expected to question and challenge at a strategic level, not getting involved in the operational detail. Their performance will be judged by OFSTED as part of the leadership and management grade they give to the school.

Within that framework, the relationship between the Head and the Chair is a key one, particularly in respect of the challenge and support balance.

There were three Chairs of Governors while the Head was in post but the third was only for two months prior to the Head's resignation.

The first Chair, who chaired this Head's appointment panel, is a very long serving governor with a business and property background. He also chaired the Premises Committee.

Both the Head and his first Chair felt that they had got that balance right. The majority view of those interviewed was that it wasn't right, with very little challenge from the Chair, and that he tended not to encourage challenge from others. This Chair gave many examples of his support for the head, both the policies he was bringing to governors and for the way he was running the school, but said that he did challenge behind the scenes, for example he expressed his concern about the reductions in staffing levels that the Head introduced. He was supportive of the 12 to 13 progression policy, referencing as the Head did, the two Admission Appeals that the governors had won. He did not think the policy had anything to do with League tables. Governors were showing concern and asking where the children would be placed and felt that going elsewhere was probably best for them. The SLT members who were implementing the policy were very caring. The Head was a "strong chap" but he did not think there was any bullying going on because, if staff were being bullied, they would have told him. It was the job the Head really wanted and he was very successful at it both in improving results and in other areas of school life.

The only exception to his total support for the Head was that on one occasion he wrote confidentially to the Head saying he didn't agree with how the Head had handled the issue of evicting the Scouts from the Scout Hut. He also was prepared in 2011 to meet with a parent who had been a parent governor before the Head came and who was concerned about staff morale and staff turnover.

The second Chair was an Anglican priest working in Central London. He had been a governor since 2009. He took over as Chair in 2013 when the previous Chair wanted to stand down, having done five years as Chair. He had been Vice Chair 2012 to 2013 and had to be persuaded to be Chair. The Head supported him taking over as Chair.

This Chair felt that the situation on the Governing Body when he took over was that the Head was under attack from a group of governors, with the result that the atmosphere in Governing Body meetings could be venomous and spiteful. His

natural inclination, therefore, was to defend the Head. His style was more open to allowing discussion and debate than his predecessor, but his basic position of support rather than challenge was similar. However, as his period of office went on, there was an element in the relationship that made it more difficult for him to challenge. The Head was a strong character. The Chair described him as a powerhouse who didn't like opposition. There were two occasions when he felt he should be assertive and was, which provoked a strong response from the Head, which made the Chair feel uncomfortable and less keen to question and challenge the Head. When he acquiesced and went along with whatever the Head suggested, as he did the rest of the time, possibly subconsciously, this was at least partly out of fear of the reaction that challenge provoked in the Head. The Chair was by nature uncomfortable with conflict and confrontation. The Head constantly reassured him that everything was fine and that he was sorting any problems, so he felt he didn't need to do anything differently. The evidence of OFSTED, SIAMS, and his own trusting nature as a member of the clergy lent weight to that.

It would not be inaccurate therefore to conclude that this Chair was intimidated by the Head.

The Chair felt the burden of the role acutely, having a very demanding full time professional job combined with being the governor who was furthest from the school. When they were in school for formal occasions, or meetings, governors did not mix with parents or staff. As Chair, he did not have a link role with any area of the school in the way that some of the other governors did. So a combination of physical distance and time pressures meant that it was difficult for him to pick up easily on the mood in the school, although he did observe that attendance at the Head's annual garden party in the summer term, to which all staff were invited but attendance was voluntary, seemed to be dropping off year by year.

Therefore when the storm broke in the summer of 2017, it took him completely by surprise. His reaction was that the school should suspend the policy immediately and then review it. The Head advised him that if they stopped the policy altogether the school's position in the league tables would go down.

Having already been concerned at the amount of time the role of Chair was consuming, which would clearly increase at least in the short term following the events of the summer, on September 5th 2017 he resigned both as Chair and as a governor.

#### 4.6.1.7 Head's control of the Governing Body

A range of the governance related issues that came up throughout the investigation are related, as the interviewees perceived it, to the Head wanting to exercise power and control over the Governing Body, to what many felt was an unhealthy degree in terms of good governance.

A member of SLT wrote to the parent governor standing for election when commenting on his draft election address: “Although the Chair must have a close working relationship with the Headmaster and other members of the school leadership team, he/she must also be capable of maintaining a professional distance in that role, and not simply become a ‘mouthpiece’ acting on behalf of the Headmaster (as has unfortunately been the case throughout my time at St Olave’s with both of the incumbents) stifling the very type of independent analysis that a school’s governors are supposed to provide”. One governor summed up his view as “The Head ran the Governing Body. To question was disloyalty”. Another said “I have worked with and served on many Boards and Advisory Committees in the business and private worlds over several decades, the Governing Body of St Olave’s was without doubt the least effective one I have ever encountered”.

There was a contradiction in the Head’s responses because there is some evidence to support his view that he liked the intellectual cut and thrust of being challenged by able colleagues, but there is also evidence which supports the view that he did regard disagreement as disloyalty.

The flip side of this coin is also relevant: did the Governing Body contribute to this by allowing themselves to be unduly influenced by the Head so that their procedures and decisions have not been as robust or as rigorous as they should have been? Governors in most schools now understand that their role is about challenge as well as support, and good governance is getting that balance right. Many of the governors at St Olave’s were experienced and able in their own sphere, but not necessarily up to speed on the changed role and accountabilities of governing bodies meaning they were expected to do more than rubberstamp what the Head brought to them. This situation was exacerbated after the removal of the five governors when the Governing Body was reconstituted.

## **4.6.2 Conclusions**

### **4.6.2.1 Were the school’s governance arrangements operating efficiently and effectively?**

All the additional governance related issues raised during the investigation, as well as the specific areas highlighted in the TOR, contribute to the conclusion that there was poor governance during the period under investigation. The Head exercised far too much control over both individuals and the Governing Body as a group. The Chair and the clerk should be operating with a degree of independence, which at St Olave’s neither of them really had. Roles and relationships were not as they should be. The balance of challenge and support wasn’t there. At times the Governing Body was factionalised and dysfunctional and the Head was contributing to that rather than using his influence to achieve consensus. The Chair who resigned in September 2017, unlike the Head, was by nature someone who preferred working through consensus, not conflict but wasn’t able to assert that approach against the inclination of the Head. With the imbalance of power went a lack of openness and

transparency, for example the difficulty people had in contacting governors, the non-publication of Governing Body minutes on the website, the separation of governors from the rest of the school community.

As early as 2011 a newly appointed governor, who is no longer a governor but is not one of the group who were removed at reconstitution, commented on how surprised he was at the way the Governing Body operated, with no induction, no constitution, no training, no role definitions, no knowledge of the considerable amount of material that existed on good practice in corporate governance in the public sector, which this governor had come from.

Add to that a head who has no real interest in developing those formal systems and structures that underpin good governance, who knows he wants the school to end up as top of the grammar school league tables, who aligns his governors in general terms in support of that aim, and then expects support for whatever he thinks needs to be done to achieve it.

When some of the governors begin to query some of those steps, and even whether perhaps the aim is too extreme and a slight moderation of it would prevent some of the collateral damage that was happening en-route to achieve it, the Head is not willing to compromise and responds negatively to not only what they are saying but to how they are saying it and after one of them puts himself forward as Chair, personal animosity in both directions is added to the mix.

Add to that a clerk who feels bullied into carrying out the wishes and instructions of the Head and Chair even if he knows they are against regulations and a Chair who finds it difficult to challenge the Head.

The result is a divided, and sometimes toxic, Governing Body with a small group of vociferous critics of the Head and a group of quieter supporters of the Head whose numbers included some governors who might have been inclined to query some of the policies and practices but were pushed into the Head's camp (a word the Head used when asking his Chair to deliver on votes) because they were put off by the adversarial, determined and persistent approach of one or two individual governors who made all the running in terms of challenge in the meetings.

The atmosphere changed after the reconstitution and was calmer but also quiescent.

The overarching question on governance in the TOR was to investigate whether the school's governance arrangements are operating correctly and effectively. The answer must be they were not.

#### **4.6.3 Recommendations**

That the clerk undertakes a skills audit of the Governing Body to identify any gaps on the Governing Body which should be filled either by co-option to the full Governing Body or by adding non governors as co-optees on sub committees if specific areas of expertise are required.

That the Governing Body commit to a programme of in service training, from external providers, to ensure that governors are up to date with matters pertaining to how they should be carrying out their role and specifics related to current educational policies and practices.

That the school subscribes on behalf of the governors to membership of the National Governors Association and the governors section of The Key, and arranges for governors to receive their regular email updates on governance related matters.

That the governors consider appointing a School Improvement Partner (SIP) as an external critical friend to the Head and to the Governing Body.

That all governors are given a school email address which is made public on the website.

That non-confidential minutes of the Governing Body are published on the school's website.

That governors review the position of external adviser on the Head's performance management and ensure that the full Governing Body receive a report on targets and to what extent they have been met.

That the Governing Body adopts a protocol for governors' visits to school as guidance for the way in which visits are carried out and reported.

That the Governing Body introduces a process of annual self-review.

## 5 Safeguarding

### 5.1 Pupils

#### 5.1.1 Narrative

The school's written Safeguarding Statement, Safeguarding Whistleblowing Guidance and Safeguarding Policy are all in place, and fit for purpose. They were agreed and last updated by governors in October 2017. The update was only of the named safeguarding leads. The policies were unchanged and so were in place during the period under investigation. There is a school Designated Safeguarding lead, a Deputy Designated Safeguarding lead who is also the Designated E safety Coordinator, a member of SLT responsible for safeguarding and a Named Governor for Safeguarding. Safeguarding is a standing item on the Curriculum / Personnel Committee of the Governing Body. Governors review the safeguarding policy annually.

The school's designated safeguarding lead is experienced and well qualified and keeps up to date through ongoing training. She has also been the SENDCO for 14 years and 8 years ago took on the Child Protection, now safeguarding, responsibility.

The policy covers in detail the meaning and definitions of all forms of child abuse and neglect, how to deal with allegations against staff and other pupils, the responsibilities of both designated and all staff, the need for safer recruitment process, meeting the training needs of both designated and all staff, appropriate record keeping, how to support children and staff, extremism and radicalisation, forced marriage and Female Genital Mutilation (FGM). It gives detailed instructions on what procedures and processes, including external referral procedures, should be followed in all the different circumstances in which a safeguarding issue may arise.

Day to day and year to year there is evidence that the policy in general as described above was implemented as it should have been. With individual referrals, procedures were followed, children were supported and protected. Both OFSTED and SIAMS commented favourably on the way this was done and the officers in the LA, who worked with the school when appropriate, confirm that their relationship with the safeguarding leads was good and that the school knew, understood, and implemented policies and procedures on safeguarding as required by legislation and guidance.

Notwithstanding the general picture, issues of wellbeing, mental health and emotional abuse have been raised during the investigation in two main respects. Firstly the general point that the constant emphasis on and defining success by A\* and A grades and progressing to Oxbridge to do medicine can have an adverse effect on children who either are not on course for or achieving all A\*s and As and/or



who do not have an ambition to go to Oxbridge and do medicine, but who might for example aspire to do an engineering degree.

This first general point is harder to evidence and quantify than individual cases raised by the parents who came forward, but there is some evidence that the impact went beyond these most badly affected cases. The School Chaplain who has been at the school for only the last two years, reports having seen some 30 plus pupils not in the most extreme category, but who have been concerned enough to seek out a confidential conversation about how they were being affected by what they were constantly being told and gave examples of children who felt failures because they were being predicted A\* AA or AAB, and felt they had let the Head and the school down by not achieving straight A\*s. Additionally some parents made a point of asking to give evidence not because their own child had issues, but because the effect that they or their child had observed on other pupils of what they saw as a disproportionate emphasis on academic results and Oxbridge, even for a grammar school.

Secondly, the effect on some of the individuals pupils who went through the whole process of being at risk of being made to leave at the end of Year 12 and then actually being made to leave when they received their summer results, it is claimed by parents has either caused or exacerbated mental health issues with their child to the point of requiring medical intervention, and in a few cases have been so severe as to include the child being medically diagnosed at risk of suicide.

All schools would have an ambition for their students to do well in exams and in a selective grammar school that overall level of performance would be expected to be higher than in a non-selective school, and in a super selective grammar school, or one of the top grammar schools in the country which is the description the Head regularly used in relation to St Olave's, it would be higher still.

The formal published targets as agreed by the Governing Body were 95% A\* and A at GCSE and 90% A\*, A and B at A Level. Targets can be aspirational and used in a way to provide a positive challenge. When used in this way, there would normally be an understanding that they might not be totally achieved, and that they are whole school targets which don't translate literally as the target for every single pupil and there would not be adverse consequences for pupils or staff if they were not 100% achieved, particularly if there was year on year evidence that the actual level of achievement was being raised by having aspirational targets to aim for.

In St Olave's the evidence is that policies and practices put in place to meet the grades required by the very high institutional targets, went further than being aspirational and resulted in policies and practices that did affect what happened to individual pupils. The most obvious way that manifested itself was that policies appear to be designed to remove or minimise the risk that anyone remaining on roll and entered for exams in Year 13 would get a C in any subject at A level, hence the

3Bs criteria to progress from Year 12 to 13 and the policy of having to achieve a grade B in the January mocks in Year 13 to be allowed to be entered for that subject by the school (see Section 2).

Evidence of the dominating influence that these targets and the emphasis on Oxbridge had on the life, ethos and culture of the school as a whole, was given across the whole range of submissions, both oral and written, to the investigation. Nearly all the examples given were of what was said both publicly and privately by the Head to parents, pupils and staff. These examples ranged from assemblies where he told all pupils that even a B at A Level was not good enough, (one parent referencing this as early as 2010 immediately after the Head joined the school), one to one conversations with a pupil who was told by the Head in front of his parents that he should be ashamed of himself for getting a C and one set of parents who were told by the Head that the exclusion from exam entry of their child who hadn't got the required B was their fault because they shouldn't have sent her to St Olave's.

So as far as the pupils were concerned, especially from Year 11 onwards after the entry criteria for admission to Year 12 was increased to 64 points (see Section 2), there was a constant reminder and pressure of the extremely high levels they were expected to achieve and of the extremely severe consequences they would suffer if they didn't achieve them. Many parents felt that the only pupils talked about and 'fêted' both informally and at the more formal events were the ones going to Oxbridge, and frequently made the point that rather than denigrate or humiliate or criticise pupils who were falling short of the target grades, they would have expected the Head to be encouraging and supporting them to improve.

Many made a distinction between the staff, who on the whole did do that and the Head, who they felt did not, but the power of the message from the Head was what set the overall tone and even resulted in reports of staff in lessons reciting the mantra, "Remember boys and girls, 3Bs or you are out". Staff referred to the fact that subjects that were not able to be taken to degree level at Oxbridge, were treated as second class and in the case of Art, their success in placing pupils on Foundation Art Courses at St Martins School of Art wasn't included in the booklet for prize giving which included the pupils' destinations, which gives a negative message to the students studying them.

Some parents supported this extreme emphasis on Oxbridge and A grades and felt it was what the school was about, was what they wanted for their children and saw no problem that the Head constantly reinforced that message. Also some pupils took all this in their stride. Some thrived on pressure and were under equal pressure from their parents and put pressure on themselves to achieve these levels, especially the ones who were confident that there wasn't much doubt but that they would achieve them.

Others, who were less confident, reacted differently. They were partly stressed by the fear of the consequences if they didn't measure up (not getting into Year 12 or having to leave at the end of it) but equally parents and staff spoke about the effect it had on the child's self-esteem, self-confidence and feeling of self-worth, which was their main concern. They felt as if all the other ways that their children had contributed to the life and success of the school, through sport the arts, volunteering etc. counted for nothing and all that mattered was not getting a C. (Some anonymised examples have been included in Section 2.)

The Head did not feel that he put an overemphasis on results and Oxbridge and medicine, believing that it was appropriate for a top grammar school and that parents knew what they were signing up for and could remove their child if the child was unsuited for what St Olave's expected and that he was transparent about the policies which were the governors' policies not his. He believed that the emphasis on academic results was not to the exclusion of everything else and that being a musician himself his ideal was the all-round 'Renaissance man'.

In terms of the safeguarding policy the section that could be deemed to be relevant is the definition of emotional abuse which says "Emotional abuse is the persistent emotional maltreatment of a child such as to cause severe and persistent adverse effects on the child's emotional development. It may involve conveying to children that they are worthless or, inadequate, or valued only insofar as they meet the needs of another person".

These are similar to the terms in which a number of parents spoke of the experience of their child but none was dealt with as a referral under the safeguarding policy. In the case of parents not raising it formally as a safeguarding issue, there may be a number of possible explanations for that. For non-professionals this is a less obvious and known about aspect of safeguarding and when parents went to an external agency to express their concerns about what had happened to their child, they were being advised by the LA, by the Diocese, by their MPs, by the DfE to go down the route of making a more general complaint to governors about the 12 to 13 or Year 13 processes, rather than a specific complaint in relation to safeguarding.

For the summer of 2017 group of Year 12 parents whose children were initially not allowed to return to Year 13, the legality aspect of the policy was what they were being advised by their legal representative to focus on, rather than the safeguarding aspect, although the effects which fit the definition of emotional abuse do appear in the paper work for the Judicial Review and had it progressed, may well have emerged as a safeguarding issue. Had things not developed in the way they did in the autumn term 2017, with the advent of a new Chair of Governors in September, the setting up of the investigation and the resignation of the Head, some parents may have chosen to pursue the safeguarding route to make a complaint and more than one parent made the point that they were reserving their position as to whether

they would pursue individual action against the school, including on the issue of the damage done to their child's mental health.

As well as no parental referrals claiming emotional abuse, there were no referrals by staff, even though in their interviews a number of staff expressed concerns about the effect on the wellbeing and mental health of the pupils of the policies and the way they were implemented and said they had held those concerns at the time. The way the staff could have raised it as an issue was through the Whistleblowing Child Protection Policy but no one did. The policy includes the statements "No action will be taken against you if the concern proves to be unfounded and was raised in good faith" and "Your employer has a responsibility to protect you from harassment or victimisation".

### **5.1.2 Conclusions**

There was an over emphasis on failure being defined as not achieving A grades, which was not conducive to the self-esteem or wellbeing of pupils who were not achieving or predicted to achieve all A Grades but which did not constitute emotional abuse generally.

Some individual cases may have been deemed to be if parents had specifically referred them as such. Some parents did make a general complaint to OFSTED which included reference to their child's wellbeing and mental health and OFSTED referred a number of these to the LADO (Local Authority Designated Officer) but she ruled that they didn't meet the criteria for referral and investigation

While no member of staff said specifically that they hadn't raised a safeguarding issue under the whistleblowing policy because of fear of the consequences from the Head and governors if they did, that was raised more generally as a reason why staff didn't whistle blow or involve their trade unions more than they did.

### **5.1.3 Recommendations**

That, if any parents feel that their child's case should have been referred as a safeguarding issue because of the effect on their mental or emotional health and wellbeing, the local authority should provide a contact person with whom they can get in touch to discuss their case.

That the governors consider increasing the amount of time available for pastoral support, both internal and external.

That the school acknowledges and apologises to the parents and pupils who were wrongly and illegally not allowed to progress into Year 13 for the three years that the 3Bs policy was in place.

## 5.2 Adults

### 5.2.1 Narrative

The terms of reference specify that allegations have been made and should be investigated of intimidation and threatening of staff. Some people interviewed used the word bullying. All three cover similar behaviour and, in some cases, are used interchangeably.

The first piece of circumstantial evidence that might suggest there was an issue is that during the Head's first year in 2010/11 the Staff Association met and resolved formally that they would ask the Head to agree that no member of staff should have to meet with the Head without being accompanied, to which he agreed. This could be taken as an indication that staff had been to see the Head unaccompanied and were not happy with those meetings. The Head said it was only one or two members of staff. This could have been because of the way they felt they had been spoken to or treated but it may just have been that they felt outnumbered if the Head had one or more of the Senior Leadership Team (SLT) with him. The staff who came forward reporting that they had been intimidated /bullied /threatened were largely not from as early as 2010 /11.

The second piece of circumstantial evidence that has been claimed in support of there being a culture of intimidation from the beginning is the number of staff, particularly teachers, who left at the end of the Head's first year and again at the end of his second year. A parent, who had been involved in the school through her older son for several years before the Head was appointed, was concerned about the number of staff who left at the end of his first year and she wrote a paper for governors suggesting they review the Head's first year and the reasons for the high turnover. She included figures in her paper that put the turnover that year at 15 teachers as opposed to the 5 to 6 that had been the average before that. She made percentage comparisons with national (11%) and regional (13%) turnover figures as compared to St Olave's (22%).

There are no Human Resources (HR) records that allow those figures to be checked. Her report recommended that a system of independent exit interviews, conducted by HR, should be introduced but her report did not get sent to governors, although they did discuss the issue of the numbers of staff leaving. Exit interviews were not introduced and soon after the only HR post was deleted and the responsibility given to the new School Business and Development Manager.

The total number of staff interviewed was 49 of which 41 were teaching staff and 8 support staff. Both groups included former staff who no longer worked at the school. With the exception of the previous SLT members, the former staff who came forward, had left because they were not happy with the way they had been treated themselves, or in a minority of cases it was disagreement with the policies and the way the Head was running the school generally, rather than any issue or incident

they themselves had been involved in. Of the more than 100 existing staff, only two came forward to express support for the Head and regret that he had left. The rest wanted to talk about a range of things that they had experienced or observed in their time at the school, that they had been unhappy with. The majority did not come forward until after he had resigned, some stating explicitly that they were too scared to do so until they were certain he would not be returning

Most, but not all of these accounts related to the Head directly and exclusively. Most, but not all of the accounts contained some reference to the way the Head behaved. This included how he related and spoke to individual staff, to the way he spoke to staff as a group, to the way he spoke to pupils as a group, to the culture and ethos he created in the school. Not all of these concerns were about bullying or intimidation. Some were about professional or educational disagreement with policies and processes and procedures that he introduced. However the connection that many staff made was that the way the Head responded to staff wanting to be consulted, wanting to have a discussion, wanting to be able to put forward alternative views for consideration, was extreme so that very few people were prepared to publicly challenge or even ask questions at staff meetings, because on the few occasions that did happen, the individuals were either put down and felt humiliated in front of their peers, or called into the Head's office or written to afterwards in a way that made it quite clear that it wasn't acceptable to query the Head's judgement. Disagreement was taken as being opposed to the Head and disloyal. This became particularly pronounced in the autumn term 2017 in the way middle managers were spoken to in their meeting, the staff as a whole in the subsequent staff meeting and the parents and staff at the Induction meeting.

Staff spoke of feeling that if they expressed a contrary view, it would affect promotion prospects, or even their job. One of the teacher governors reported in terms that when they tried to canvass the views of staff on a key policy decision that was going to the governors they were told by the Head that their role was to support him and the policy and they wouldn't be considered for promotion if they didn't. A member of staff reported being threatened by the Head that he would go to the governors and get them sacked because they had gone to their union and another told of their union advising them to leave rather than ask the union to take up their case with the Head as they wouldn't win in the end.

A teacher had opposed stopping the Year 13 pupils who didn't get a B in their mocks from doing the exam in that subject and ended up getting a letter from the Head accusing her of undermining him and affronting his personal integrity and demanding an apology.

Some staff did feel able and did ask to see the Head one to one to discuss a concern, but the general staff view was that he was always so sure that he was right, that he never changed his position and so it wasn't worth even trying. One Head of Department (HOD) felt they had been given impossible targets for GCSE of 90% A\*

and A because their subject was a practical one and the fact that the boys excelled at maths and science did not mean they would in their subject, whereas at A Level where those that chose it did have the skills and aptitude, they were achieving that percentage of A Grades. They were supported by the exam moderator, but the Head wouldn't give in and they felt they couldn't argue with him.

One long serving member of staff, who wasn't intimidated, on two occasions wrote papers arguing against both the 64 points policy and the 3Bs policy. They wanted the papers to go to all governors but thinks they only reached the Head who called them in and gave them a dressing down for having the temerity to question the wisdom of his decisions.

Staff spoke of the power the Head had and the way he exercised it such that people did feel intimidated and helpless to resist. They used phrases such as "he thought he was untouchable", "he did things just to show you that he could". An example of the latter was given by a Head of Department who had asked the Head not to bring visitors in to their lesson as there was a mock exam going on with the piece counting for A Level. There was also a sign saying that an exam was underway. The Head walked his whole group of visitors in who then distracted the pupils. They felt it was to prove he could do anything he wanted to do.

He also, with no consultation with the teacher or student, removed a piece of art work sculpture because, entitled Culture Clash, it was about the tension between drive for exam results and importance of creative and emotion based subjects.

Issues about the Head's approach also arose in a number of cases when staff said they were going to apply for other jobs and wanted a reference.

Staff who hadn't had any issues themselves spoke of colleagues who had. One said "He was never unpleasant to me in any way but I want to tell you he was a bully at the top end of bullies". (This related to a colleague in the department who had asked the Head for a reference.)

Staff, both current and former, spoke about the effect on the health of staff of working at St Olave's during the period of this headship. Three staff testified first hand that their health problems, all stress related, were as a direct result of their interactions with the Head.

Some staff felt that women were more vulnerable to bullying by the Head than men. Reports of staff in tears were women. It was said that when young women went and asked to go on a course the Head said he was relieved as he thought they might be pregnant. One teacher said she never expected to be treated fairly or equally by the Head and felt intimidated by him. He talked down to her. She said that a number of women have stepped down.

Some staff also remarked that the Head did not have any idea of the effect he had on people. He could switch from being normal and pleasant to summarily dismissing someone from his presence.

Other comments were that:

“The Head sees himself as higher than anyone else.”

“This was a perfect school for him because no one opposed him. He wins every vote in governors.”

“He doesn’t need to pander to parents like he would in a private school as there are always children to replace the ones that leave and the same is true for staff.”

Staff complained that they were not consulted or even informed in advance of decisions that affected them directly. In most instances these related to the pupils that were to be either excluded from a subject or not allowed to return to school. If they were consulted, and did not think a child should be asked to leave because they thought they had potential to improve their results, their opinion was often over ruled by the Head.

One HoD only found out that a warning letter had gone out to a Year 11 student about being made to drop this HoD's subject, when parents brought it to the parents evening. Other Heads of Department reported only finding out when the Head spoke at a staff meeting that their subjects were at risk of being taken out of the curriculum offer in the same way as Drama and Spanish had been.

Staff that were reporting meetings with the Head where they felt he had crossed a line and was speaking to them inappropriately, talked about feeling intimidated, undermined, bullied, being falsely accused of being unprofessional, being spoken to like a naughty child by its mother, being treated with a lack of respect. They referred to shaking and crying after they had come out of meetings. They referred to the Head’s physical size and him being unable to manage his anger. One teacher reported that they felt bullied in a meeting with the Head, who had two SLT members with him, so she refused to continue in the meeting and left. The two SLT members present independently confirmed the teacher’s account of the meeting.

Five staff interviewed had stepped down from more senior positions but stayed in the school on a reduced salary. Their individual cases differed but not wanting to continue having to work closely with the Head in a management capacity was a significant factor.

Staff felt that if they did not have an Oxbridge degree they were regarded as second class. One understood that as the reason why they were told by the Head that they were unsuitable to continue in the management role they had been in. A female science teacher says that the Head said to her “What I would really like is a young male Oxford graduate as head of chemistry”. As a woman she found that insulting.



From staff reports, confirmed by the current Acting Head, there was no overall published structure of posts in the school with the associated responsibility allowances. Temporary contracts were used extensively for long periods of time both for main scale and promoted posts, with no transparency as to why that was the case for some posts rather than others and why some posts were paid at a different rate to others. One member of staff described it as follows “The Headmaster has a practice generally of making non Oxbridge people feel inferior by advertising their jobs saying he is looking for ‘someone better’ and then when he doesn’t get anyone, expecting them to do the job, often on less money and a temporary contract”. When staff or occasionally their unions queried this, it was often what sparked the disagreements that ended in the situations described above where the member of staff felt they had been badly treated.

Only one member of staff took out a grievance and that was a member of the support staff against the BDM. It was originally about an issue that had come up before the BDM came into post, but it developed into an accusation of bullying and a claim of constructive dismissal, which the school settled just before it was due to be heard at the Employment Tribunal.

Key evidence was submitted by the Clerk to governors, who, while not a direct member of staff, nevertheless of necessity interacted with the Head, even though his main line by job description was to the Chair of Governors. Details of the relationship between the Clerk and the Head and the consequences for the overall governance of the school are set out in detail in section 4.6 but of significance in terms of intimidation of staff is the fact that the clerk in terms states that he was bullied by the Head.

There was little evidence presented of parents themselves being bullied or intimidated. This was for two reasons. The overriding concern of the parents was their child and the effect of what had happened on their child, rather than on themselves, although in some cases they did speak of the effect on the family as a whole.

Secondly, relatively few parents actually had any direct interface with the Head himself, as the face to face delivery of the hard messages about having to leave were left to SLT to deliver. Some parents remarked specifically about the lack of visibility of the Head on results day and others reported they had had to really insist before they obtained a meeting with him.

For those that did, their descriptions of the meetings varied, ranging from both shouting at each other with the parent giving as good as she got, through to one parent saying she had to agree not to speak in order to remain in the meeting. What they had in common with the accounts from staff of their experiences was that, however the meeting went, the Head virtually never changed his mind in the light of what was being said to him.

### **5.2.2 Conclusions**

As with the pupils, some of the evidence received relates to the overall culture in the school as it seemed to be for the staff and parents and some relates to individual staff talking about the way they felt they were treated.

By the nature of allegations of intimidation and bullying, if it happens, it very often occurs in an unwitnessed one to one situation and the Head's position is that he denies totally that he had ever intimidated, threatened or bullied anyone and made a counter accusation that he had been bullied, specifically by the NUT representative. In many cases therefore it was the word of one person against another and in those circumstances it was necessary and appropriate to take into account the volume, totality and consistency of the evidence being presented, not just by those directly affected but by others who had in some cases been present as a third party at a meeting between the Head and the member of staff or had witnessed the effect of a meeting they had not been at, on the member of staff who had. There was also in a few cases written evidence in the form of emails or letters from the Head to the member of staff.

There were also events reported which one might normally associate with a school where there are issues in the relationship between staff and the Head and / or the senior management of the school.

There was the credibility of the witnesses themselves in terms of how they presented their evidence to the investigation and responded to questioning. Intimidation particularly, very much relates to whether a person feels intimidated by another person and it is theoretically possible, a point with which the Head agreed, for a person to feel intimidated when that was not the intent, but the intimidation is real none the less.

However where these were unwitnessed conversations and the Head either does not recall them or says he didn't say what the member of staff claims, they cannot be verified and conclusions can only be drawn on the number of such claims and the balance of probability. The Head claims conspiracy against him which would imply that some of the alleged conversations are false, but several of the staff who gave this evidence have no connection to the group who the Head thinks planned to remove him right from the time of his appointment. The head also claims that staff who gave evidence are not representative and there are many who support him. The numbers interviewed were such that they could not be said to be a small minority and all staff had ample opportunity to come forward and give evidence.

On balance, the allegation that some staff were intimidated by the head and that there wasn't a culture in the school that encouraged open and honest consultation and discussion is found to be correct.

### **5.2.3 Recommendations**

That there should be a shadow structure of posts and their remuneration which is known to all staff.

That consideration is given to setting up a small working group to look at formalising in writing the consultation mechanisms for the school, including through management meetings, staff association, unions and staff governors, with a view to staff feeling consulted and part of decision making.

That there should be a teacher governor co-opted onto the Governing Body to join the support staff governor so that staff do not feel they have to try to approach individual governors or the Governing Body as a whole to be heard.

That the school review its arrangements for HR support and introduce a system of exit interviews.

## 6 The role of the Local Authority

### 6.1.1 Narrative

The first reference to the Local Authority (LA) knowing of the practice of having to perform at a certain level to progress from Year 12 to 13 is in 2011 when the then LA Governor wrote to the then interim Director and Portfolio Holder to tell them about what he believed to be the deliberate delaying tactics of the school in re-admitting a Year 13 pupil who had won his admission Appeal. The Appeal hearing was in November 2011. The mother knew that she had won the appeal as she was present at the hearing. The Head first claimed he had not received the email from the clerk formally telling the school the outcome and then said he would not accept an email and wanted a hard copy letter. The outcome of the delay was that the boy had been in another school for a whole term and so decided to stay there. The Director's response to being told about this was "this is a continuation of St Olave's having prevented students continuing from Year 12 to 13". So the LA was aware of the practice as early as 2011

In 2013 at the political level the LA Governor prepared a paper called 'A Catalogue of Errors?' addressed to the Conservative Group of the Council and the then Portfolio Holder. It is a long list of items that the LA governor has taken issue with: some are about actual issues, e.g., evicting the Scouts from the Scout Hut, appointing a Deputy Head without involving governors or LA; others are concerns about the way the Head relates to governors and the Governing Body. At that time the 12 to 13 progression was still 3Cs so it was just noted that it was being imposed more harshly than before. The admissions to Year 12 were mentioned because it was going up to 6As and 3Bs.

After that the dealings between the school and the Local Authority largely focussed on different issues. The LA was aware of the controversial election for the Chair of Governors in November 2014 (see section 4.1) because the proposer of the parent governor who stood against the incumbent Chair was a Councillor, although not the LA governor. Informal discussions were held between Councillors but there was found to be no locus for the LA to take any action because at the last minute the Head decided to comply with the regulations and have a secret ballot at the governors' meeting and legal advice was that the burden of proof that governors had altered their votes as a result of being threatened by the head was too onerous to make it viable to pursue.

The next substantial issue between the school and the LA was in 2015 when the government passed legislation which required the re-constitution of governing bodies (see Section 4.2). The LA produced a model which they recommended the school to use but the school didn't want to follow that model and ultimately the legal advice to the LA was that they had to approve the model that the school governors had agreed.

The Governing Body's interpretation of the reconstitution resulted in the termination of the term of office of the long serving LA governor and the subsequent failure to appoint the person that the LA nominated to replace him, due to the governors accepting advice from the Head that he was not a suitable candidate, and there followed an extremely long drawn out process over two years during which time there was no LA governor.

The other major issues between the school and the LA concerned possible academy status and expansion. The LA 's policy was to encourage its schools to apply for Academy status and it did so with St Olave's, but issues with the Head and Governors not being prepared to accept the model for Voluntary Aided Schools (see section 7) prevented that from happening and the LA accepted that. On two occasions there were discussions about the possibility of expanding St Olave's numbers. The first was when the then Portfolio Holder put forward the possibility of expanding the 6th Form numbers substantially in conjunction with Newstead Wood and using the John Rigby site. The Head does not recall this proposal.

The second was discussed at a meeting in February 2016 with the Portfolio Holder where the Head raised the possibility of the LA providing capital to allow expansion to 5 Forms of Entry (150 pupils taken into Year 7 age 11 ) on the current site. The Head noted that the Portfolio Holder felt there would be planning issues and would also have to look at the analysis of places that they were going to be doing over the next 6 months.

They also discussed the issue of St Olave's becoming an Academy, with the Portfolio Holder saying there was no pressure on St Olave's to convert.

So in terms of the 12 to 13 progression issue, there is no evidence that the LA was raising it with the school, apart from the LA governor at Governing Body meetings, until it became an issue due to the parents' actions in the summer of 2017.

There is some evidence that the 12 to 13 progression issue was known about and being discussed within the Council, but not in any formal or substantial way.

There is a letter from a parent governor to the then Director of Children's Services on 11th November 2014 after they had met briefly at the Local Authority Governors' Conference the day before the St Olave's governors' meeting at which the election for Chair would be held. This letter specifically refers to the issue of the Head's correspondence with the Councillor who was proposing the parent governor as Chair (see section 4.1) urging him to withdraw his support and questioning his judgement when he refused to do so. The parent governor writes that the Director had invited him "to let us know what is going on and we will help" and the parent governor in his letter refers to "a whole host of issues with this Governing Board" and "that as an LA you need to be informed of many areas of concern. xx(Portfolio Holder) and xx(Director of Education) are aware of some of the issues and have been extremely

helpful in their approach". However he does not specify what any of these issues are, although they could have included the 12 to 13 issue.

There is no record of any reply to this letter and the then DCS says that he does not recall having a conversation with anyone about the 12 to 13 issue and that the notes of his one to one meetings with the Portfolio Holder make no reference to it.

The then Portfolio Holder says that he was aware of the 12 to 13 issue and that there were internal discussions about it but nothing was written down. He recalls talking to the then lead in the legal services department who retired in 2017, who says that he was aware of what the school was doing to the Year 12s but was not sure who had told him or how he knew. He said it was being discussed in relation to other schools as well. He says he knew that it was illegal and would have said so if he had been asked. He thought the issue may have come up at a Council subcommittee about 5 years ago where he said verbally the policy was illegal, but a search of all the Council minutes has not provided any record of this.

The Portfolio Holder also recalled deciding to speak to the Chair of Governors about it rather than the Head as he thought he was more likely to listen. They met informally so there is no record of the meeting. Both recall the meeting but the Chair of Governors does not recall the 12 to 13 issue being raised.

On 25th July 2017 a parent wrote to the Director of Education about her son who, as a result of his internal examination grades, had his place in Year 13 withdrawn by the school. The parent queried whether it was right that the school should be doing this and why there was no appeal or complaint process that she could follow. She did not in terms query the legality of withdrawing the place.

On 26th July 2017 the Director of Education wrote to the Head as a result of receiving that letter from the parent and a phone call from an ex member of staff saying there was disquiet amongst staff about how such decisions are managed. The letter focussed on why there was no appeals process or opportunity to discuss the Year 12 outcomes and no support for the family that finds itself in that position. It did not query either the justification for the policy itself or its legality. So as late as July 2017 the LA officers appear not to be aware that the policy of preventing progression into Year 13 on academic grounds is illegal.

In August 2017, faced with a notice in advance of action for a Judicial Review, the LA decided to seek counsel's opinion about the 12 into 13 policy. This was obtained on August 31st and said that the school's policy was illegal.

On September 11th 2017 the former Portfolio Holder attended a meeting of the Staff Association of St Olave's to which parents had been invited. At that time the LA had not been told formally that the former Portfolio Holder had been rejected by the governors as the new LA governor. The record of the meeting reads as follows:

"XX introduced himself and stated that the legal department of Bromley Council had advised the Headmaster 5 years ago that the results -based exclusion policy was illegal. XX said that he should be able to obtain copies of that legal advice from Bromley Council."

The Head strongly denies that he was ever sent such advice. A thorough search of the Council and school records have not found any evidence that such advice was issued to the Head or anyone else at the school. The then legal lead officer is clear that he did not send such advice and would not have done so in any case, because if the LA had been going to issue such advice it would have come from the Chief Officer, not from legal services.

On 25th September 2017 there was a full Council meeting at which a number of questions on St Olave's were asked. One of those was whether the Council was aware of the policy on withdrawing places to children entering Year 13, before the recent publicity over the policy. The answer given to this question was "A formal letter was sent by the Director of Education to the head teacher asking him to explain his position and also putting across the views of concerned parents and staff. The Local Authority is clear that the policy of the school was wrong and validated its views by seeking Counsel's opinion on the matter"

### **6.1.2 Conclusions**

The part of the LA who would have seen and known the detail of what the school was doing on admissions was the Admissions Team of Children's Services. As the experts on admissions law, they might have been expected to have known that, when the school proposed to add the 12 to 13 policy to the school's admissions policy in 2009, it could not be part of the admissions policy under the Admissions Code because secondary schools could only have admissions policies for Year 7 and Year 12, therefore it was illegal for a child who was on roll in Year 12 to go through an admission process into Year 13. The LA organised the circulation of admissions consultations on behalf of the school. They should also have been looking at the policy and responding to the consultation. At no point did the Admissions Team raise any issues with either the school or internally within the LA.

The LA knew and had known for some years at both officer and Elected Member level that there was a policy which resulted in some Year 12 pupils not being allowed to progress from Year 12 to Year 13 for academic reasons. Such discussions as there had been were political, amongst Elected Members, rather than with officers. After the original comment by the DCS in 2011, his successor cannot recall discussing the issue at all. The Director of Education who took the lead after he left in 2015, was contacted by parents and did raise issues on their behalf with the Head but, before the summer of 2017, they were issues about the pupils who had not been entered for one of their A Levels in Year 13, not the 12 to 13 issue which she was only contacted about in July 2017, when she clearly wasn't aware it was illegal as she was still saying there was nothing the LA could do about it. Only after the action

before JR letter had been received and taking counsel's opinion in August 2017 did the LA change that position once they did know it was illegal.

However, in September 2017 the former Portfolio Holder said at a meeting at the school that he and the then lead education lawyer on the Council, now retired, did know it was illegal and had told the Head that 5 years ago. The lawyer confirmed that he did know but he had not told the school because he would never have direct contact with a school and would go through the officers in Children's Services but no one had asked him.

The former Portfolio Holder had not taken any action because, given the success of the school in terms of results and popularity in terms of oversubscription, he did not think he would be able to command the political support to pursue it.

Therefore the position in relation to the LA on the key issue of the Year 12 to 13 progression is:

- Nobody apart from the lawyer and the former Portfolio Holder knew it was illegal.
- Neither of them took any action based on that knowledge. If they had the practice might well have been stopped earlier.
- The former Portfolio Holder's statement at the staff and parent meeting was unsubstantiated and misled parents and staff about what the Head, the governors and the LA knew.

One of the issues raised with the LA and during the investigation was why the LA did not intervene more generally and earlier and use the 'nuclear option' power of removing governors and putting in an Interim Executive Board to run the school. They did not have the grounds to do so. The school did not meet the criteria for intervention that are about low standards, failure to recruit, parents withdrawing their children, breakdown in discipline, the school being unsafe.

The only aspect of the school's functioning which might have justified intervention was dysfunctional governance to the point of either a breakdown in governance or that the governing body was persistently acting ultra vires. Governance was weak, but there wasn't a break down in governance. On occasions it was ultra vires, but then it would need to have that formally pointed out to it and be given the opportunity to comply. On the potentially serious ultra vires issues, the strongest case would have been the illegality of the 12 to 13 progression arrangements, and had the LA formally taken that up with the governors earlier, the evidence points to the fact that the governors would have complied if presented with clear legal advice that they were acting illegally, as they did when it was the parents' lawyers who were pointing it out, and their own and the LA legal advice concurred.

Such discussion and activity as there was within the Council about what St. Olave's did between year 12 and 13 was largely between Elected Members whose inclination was to discuss matters themselves with the Head or Chair of Governors



rather than through their Chief Officer. Curriculum and organisation matters would more normally be routed through officers to do the liaison with the Head, especially if what was needed was to advise a Head when they are not following due process or breaching the regulations because most heads and governing bodies faced even with informal oral advice, but certainly if faced with formal written advice from the Director of Education or Director of Children's Services, would comply. If they didn't the LA would then be justified in issuing a formal warning notice. In the case of St Olave's, neither the informal discussions, nor the formal written communication happened between senior LA officers and the Head.

So the LA could have intervened in a less extreme way than an Interim Executive Board, by pointing out informally and then formally when the school was not complying with the law and regulations. If the Governing Body then knowingly continued to break the law, that in itself would justify upping the ante and moving towards an IEB, but the conclusion is that the Head and governors faced with formal written legal advice that a policy was illegal, they would have drawn back from it.

### **6.1.3 Recommendations**

That the LA responds formally to schools' consultations on admissions arrangements, including the LA's confirmation that the arrangements comply with the Admissions Code of Practice.

That the LA ensures that its method for nominating governors happens in a timely manner and takes into account the skills being sought by the Governing Body (see also recommendations relating to rejection of proposed LA Governors and other governance issues).

That the LA works with the school to appoint a School Improvement Partner to carry out an annual school performance review of this maintained school which draws on information about the whole life of the school, i.e., not reliant solely on examination results.

That the Diocese Director of Education, LA Director of Education and Chief Executive of St Olave's Foundation review the implementation of these recommendations and their impact on the life of the school, after 6 months and 12 months.

## 7 The Role of the Diocese of Rochester

### 7.1.1 Narrative

St Olave's is a Church of England Voluntary Aided (VA) school coming under the Rochester Diocesan Board of Education (RDBE). The governance arrangements are different than for a standard VA school because the school also has a Foundation (see section 4). The Diocese therefore cannot command a majority on the Governing Body.

Relationships between the Head and the Diocese were not good. The Head mostly did not try to hide the fact that the Christian nature of the school was not a priority for him either personally or professionally. He made that clear in a number of ways, ranging from telling the Chaplain to amend her assemblies as they were too Christian to telling the former Diocesan Board Education Director on a number of occasions that St Olave's was not a Church of England school with a Christian ethos because the ethos was one of academic excellence.

Notwithstanding this, the school received an outstanding grade from the SIAMS inspection report in May 2017, which is an inspection of the religious aspects of the school. The inspection was well managed with visible signs of being a church school put up just for the occasion, including the placing of the altar cross, normally kept in the Chapel not the school, in the Head's office for the duration of the inspection and removing it as soon as the inspector left. The Chaplain, who was concerned about the overall ethos, the extent of the pressure on children and the bullying of staff, was not permitted to be alone with the SIAMS inspector and did not feel able to speak freely to them in the presence of the Head.

The Head's overarching imperative was academic results. When others pointed out that the lengths he was going to in pursuit of those results could be taking him and the school down a path that could be said to be at odds with the Christian values of a church school, this was not something that caused him concern and was always justified in terms of what you had to do to be one of the top 5 grammar schools in the country.

But many interviewees in this investigation, including those from the Diocese, were very aware of the potential contradiction between being a Church school, and the "unchristian" behaviour that many felt was the outcome of the policies that the Head recommended to governors and that the governors approved and that the Head implemented.

A major source of tension and disagreement between the Head and governors and the RDBE surfaced quite soon after the Head came to the school in 2010. Most Bromley secondary schools were by then already Academies, and they now all are apart from St Olave's. Bromley Local Authority supported the policy of schools

becoming academies and supported St Olave's in seeking academy status, which the Governing Body resolved to do. There are two models for academies, the secular model and the model for church schools and the latter allows the Dioceses to retain the same level of representation in the governance arrangements as they have in a Voluntary Aided school. This was unacceptable to the Head and Governing Body and not to use the non-secular model was unacceptable to the Diocese.

The argument went up to the highest political level in the DfE with the Diocese being questioned as to why they were blocking academisation. Ultimately the school remained a VA school within the LA because the Head was not prepared to accept the Diocesan model and was supported in that by the Governors. The relationship between the Diocese and the school after this was at arm's length on both sides, the Head and Governing Body not wanting any interference in how they ran the school and the Diocese giving advice but knowing that it wouldn't be taken.

The Diocese however had ways of finding out about the practices in the school that are the subject of this investigation. There was a School Chaplain who was in a unique position being on the staff of the school but with accountability to the Diocese as well as to the head teacher. In her role as Chaplain she could be and was spoken to in confidence by both staff and pupils. She estimates some 35 to 40 pupils, mainly Years 11, 12 and 13 spoke to her of their concerns about not making the cut academically at St Olave's, either by not meeting the 64 points for Admission to the 6th Form, or not meeting the 3 Bs to progress from Year 12 to 13.

Pupils spoke to her about not knowing how they could face their parents and friends, of being a failure and of letting down the Head. Likewise she estimates that about a dozen staff have been to see her during that period who felt threatened and didn't know what to do and she was concerned for them. She specifically referenced an incident in a staff briefing when she felt that the Head inappropriately made a verbal attack on a teacher including reference to her religious beliefs which left the teacher shaking and the Chaplain very concerned for her welfare. This corroborates the account that the teacher in question gave to the investigation.

Although they did not have a majority on the governors, there are governors appointed by the Diocese who were able to keep them informed, although the evidence presented to the investigation suggests that those governors, while being aware of the policies because they had agreed them, may not have been totally in touch with what was going on in the school, in terms of how the staff were feeling both about the policies themselves and the general climate of fear that a number of people have made reference to, particularly after the reconstitution in July 2015 when there were no longer any teacher governors. Governors were not encouraged to mix with staff or parents, who both described how governors were kept separate in pre event refreshments, processing into the event as a group and not mixing with staff or parents.

Symptomatic of the lack of communication by the school with the Diocese was that in December 2016 the Diocese only found out once the public consultation went out, that the school was proposing to change its Admission policy. This is contrary to the law which stipulates that a VA school must consult with the Diocese in advance of publication of its Admission policy. The then Diocesan Education Director requested that the proposed admissions policy be taken down from the website to allow for that consultation to happen, and he pointed out that pre public consultation with the Diocese is a statutory requirement. He was given the response from the Chair of Governors that the public consultation had begun and so would continue.

### **7.1.2 Conclusions**

The Diocese could have reported the fact that the school did not consult first with the Diocese before it went out to public consultation on its Admissions Policy, in the form of a complaint to the Adjudicator who could have forced the school to comply with the statutory requirement. The Diocese did discuss doing this, but decided against it.

Both the former Diocesan Director and the current Interim Diocesan Education Director are clear the Diocese did know about the practice of not allowing Year 12 to progress to Year 13, not least because a number of parents wrote to them about it, and the former Diocesan Director says he expressed those concerns in a meeting with the Head in 2017 at which the Archdeacon (who subsequently became the Chair of Governors in September 2017) was present, although the Archdeacon does not specifically recall that item at the meeting. The former Diocesan Education Director says he spoke to the Head in terms of the policy being morally and ethically wrong and potentially the unrest it was causing being damaging for the school. He says the Diocese were not aware it was illegal and did not discuss it in terms of its legality or otherwise. The Head did not accept their arguments and said the overriding factor as far as he was concerned was achieving academic excellence.

The former Diocesan Director of Education reports that he also had conversations with the LA Director of Education sharing concerns not just about the 12 to 13 issue, but about governance generally, about the Head taking executive action beyond what the remit of a head to do so should be, and what he felt was the general dysfunctionality of the way the governors operated.

The Diocese had very few powers it could exercise in relation to St Olave's, because it didn't command a majority on the Governing Body. It therefore had to work largely through influence, and that was not easy given that the Head did not care to involve the Diocese where he did not have to. However when it found itself in a position where the school had not followed the regulations in consulting the Diocese first, when it wanted to change the Admissions Policy into the 6th Form, by making the bar higher for St Olave's boys wanting to stay on, the Diocese was divided but in the end decided not to pursue it through the Schools Adjudicator. Like the LA they stopped short of formal challenge even when that was an option open to them, largely because of the fact that St Olave's was to all intents and purposes an

extremely successful school and they weren't prepared to challenge it when they should have done.

### **7.1.3 Recommendations**

That the Diocese maintains a closer relationship with St Olave's school than has been the case since 2010.

That the Diocese Director of Education, LA Director of Education and Chief Executive of St Olave's Foundation review the implementation of these recommendations and their impact on the life of the school, after 6 months and 12 months.

## 8 The Role of the Senior Leadership Team

### 8.1.1 Narrative

There were originally four posts in the Senior Leadership team (SLT) but when the Deputy Head left, they were not replaced so for most of the period of the investigation there were three core SLT posts in addition to the Head. These were two Assistant Heads and a Business and Development Manager. In terms of the implementation of the policy that led to the legal action, and the associated policies, the two posts that were in the forefront were the Assistant Heads. This was particularly the case because the Head's style was to leave them to front the interaction with parents and students, only seeing the parent himself either if the parent insisted or if the lead Assistant Head asked him to, in cases where they felt the pupil should be made an exception but had not managed to persuade the Head.

Both post holders understood that there had to be cabinet responsibility both in their dealings with staff and parents. One of the Assistant Heads said that professionally as a member of SLT, he was required to support and implement the policies that have now come under scrutiny as the Head specified regularly that these policies had been agreed by the Governing Body and it was his corporate responsibility to implement them.

The other Assistant Head also focused on the importance the Head attached to corporate responsibility, and said he faced annual results day in August with a sense of dread at having to enact decisions and witness and absorb the understandable upset, frustration and often anger of the pupils and parents affected, often pupils and parents he had worked with closely and supportively over a period of time and in whose eyes he knew he would irrevocably become the uncaring face of the school. He nevertheless described his working relationship with the Head as characterised by kindness, fairness and mutual respect.

The emphasis on corporate responsibility meant that the SLT were closely identified with those policies and the negative outcomes of them and that could have an adverse effect on their relationships with the people they were working with. For example the middle leaders meeting in September 2017 at which the Head, with SLT present, ended up attacking staff and questioning their loyalty which several of those present felt was done in an inappropriate way.

After the Year 12 to 13 policy had changed, there was a new Chair Governors, the head had left and one of the Assistant Heads was Acting Head, so they were no longer constrained and, working with the new Chair of Governors, they began to create a very different feel in the school and the Acting Head has been instrumental in driving through in a short time some key policy changes. Some parents thought that the SLT members, who administered the system on the Head's behalf, had not been sympathetic or understanding of what the children were going through. The

SLT members say that is not the case and they are pleased and relieved that they will not have to do it again, as the policy has now been stopped.

The two Assistant Heads felt confident that they could talk freely in SLT meetings and to the Head, sharing their own views and those of others, including parents and students, and did this on a regular basis. They were able to challenge decisions and give their professional judgement, but the Head usually decided to move ahead with these decisions despite their arguments. An example of this was the dropping of A Levels from three to two in Year 13 if a B grade wasn't achieved in the mocks, and changing the progression criteria from 3Cs to 3Bs, when the Head said in an SLT meeting in response to one of the Assistant Heads putting arguments against the policy, 'You are not thinking like someone who works in a grammar school like ours should'. He felt it was a very personal comment directed at him and made it clear that this topic was no longer up for debate.

The one area where there is evidence that their intervention did change some of the Head's decisions was with students who did not meet the progression criteria and on a number of occasions the Head allowed students to move into Y13 despite them not achieving the required grades following their intervention. There were still however a number of cases where the Head would not change his mind, in spite of their representations. The difficult task they then had was to deliver that news to parents without revealing that they didn't agree with what they were implementing. Sometimes parents felt they absolutely did believe in what they were doing, and were very critical of what they saw as lack of sympathy and harshness. Other parents said they realised they were just the messengers for the Head and that the decision was his.

Only one of the three felt that the head had tried to bully him, but that was when he first started at the school and he made it clear he would not tolerate it and it did not happen anymore. He was privately critical of the head in writing to the parent governor who stood for election as Chair, who he assisted by critiquing for him his proposed presentation for the election. He had worked closely with him and other parents on the money raising EEx campaign and had been critical of the Head's attitude and responses to it. In September 2013 the Head did not support this SLT member's recommendation for continuing the part time employment of the member of the support staff who had been crucial in supporting the money raising. In reporting that to the parent governor, he said the Head didn't appreciate the efforts the parent governor and the parents put in because he had no idea of what was involved because he does very little himself and gets others to do things for him. In other emails to the parent governor and two other parents he referred to the Head as intransigent, arrogant and controlling and, although he wasn't bullied, he did think the Head's behaviour was bullying as he wrote to the parent governor "I have absolutely no doubt that the points to which he refers are his own rather than the Chair of Governors and are symptomatic of bullying tactics which he is inclined to resort to get his own way".

### **8.1.2 Conclusion**

SLT Members were able to express their views freely to the Head. On matters of major policy no example was found of where their intervention resulted in a change of policy but they did bring about changes in decisions about whether individual students could continue into Year 13. Corporate responsibility exists in all school leadership teams, not just at St Olave's, so SLT members were in the same position as in any other school, which is if they disagree with school policy to the extent that they feel they can't lead on implementing it without revealing those disagreements, their position becomes difficult and they would usually look for another post elsewhere. That choice remained open to the SLT at St Olave's, although understandably, many staff, not just SLT did not want to leave the school to which there is a strong sense of loyalty and where the opportunities to obtain a post in a similar school would be restricted.

Four members of SLT did leave during this period; some very shortly after the Head arrived. Three of the four have been interviewed. One didn't want to be involved. None of those interviewed left because of the Head or his policies. One was promoted to headship, one had already been appointed to a senior post in another school, and one retired.

The third member of the SLT during the period under investigation has now also left. The two Assistant Heads remain, one as Acting Head, and are working hard and, on the whole, succeeding in restoring their relationships with staff previously damaged by what staff saw as their identification with the policies and practices of the Head.



## 9 The Head's response

### 9.1.1 Narrative

The Head's responses on specific events (made after he left the school in the autumn term of 2017) have been included in the previous sections. His overall position to which he frequently referred when answering specific questions is summarised as:

1. That St Olave's is a highly selective grammar school, one of the top 3 in the country, therefore everything that happened in terms of the 12 to 13 pupils being told to leave and the Year 13 and Year 11 pupils not being allowed to continue with a subject should have been expected and was justified
2. That he made no decisions on policy. All policies were governors' policies. He only advised and implemented
3. That he didn't bully or intimidate anyone. He was just direct in the way he spoke to people. He was bullied by the former teacher governor and current union rep.
4. It was a witch hunt .There was a 'gang of thugs' focussed around the parent governor who stood as Chair and the other governors who were voted off, who had Guardian related links with hostile parents at his previous school, and had a personal vendetta against him from before he started, and that was what was behind everything that had happened and had been said to the investigator.
5. That he now accepts that the 12 to 13 policy was illegal. That he would not knowingly have done anything illegal. That many agencies knew what the policy was and no one ever told him it was illegal and many other schools do it, including Bromley schools.

### 9.1.2 Conclusion

#### 9.1.2.1 On "what you would expect in a highly selective grammar school"

The Head's detailed references to how being a top grammar school justified the policies and their implementation, included agreeing that there should be a balance between the interests of the children and the interests of the school, but in answering the question, what about the welfare of the children, and in answer to other questions, he was clear the priority was the school and it performing as a top grammar school should, rather than the child.

He presented the statistical model (that had been presented to governors) which showed all St Olave's pupils should be able to get 3 Bs in Year 12. When it was suggested that statistical models can't be applied to individuals and there will always be some achieving less than 3 Bs, because of individual circumstances, the Head's view was that most of them were lazy and hadn't worked and aren't suited to a school

like St Olave's, so the parents shouldn't have sent them in the first place. He agreed he had told parents it was their fault, because he believed it was.

While the Head's view about it being right to prioritise exam results and the League table position of the school was clearly a genuinely held belief, and as he pointed out he didn't invent League Tables, it should not have been taken to the extreme that it was in terms of endeavouring to be a school where no one got a C grade because statistically they shouldn't have and it was not acceptable if they looked as if they were going to get a C, to say that they either shouldn't have been there in the first place or hadn't worked hard enough and so should leave.

At no point is there any evidence that the Head thought the school might bear some responsibility for what he clearly regarded as the underperformance of very able children or any reference to what school improvement measures might be put in place. Both an analysis of the maths results, and the evidence given by the teacher who was Head of the maths department in 2016/17, show that the maths results dipped that year and for many of the parents interviewed, the issue had been their child's maths teaching and /or maths results. In a school that specialises in maths to the extent that St Olave's does, with extremely high numbers of 6<sup>th</sup> Form pupils doing the A level maths courses, any poor performance in that department will have a significant impact and in effect for the pupils who were told to leave when they only missed the criteria because they got a C in maths rather than a B, it would not be overstating it to say that the school was responsible rather than the pupil.

The school had admitted these children in the first place, either at Year 7 (where the school wrote the tests) or at Year 12 and should have felt a responsibility for supporting and nurturing these children (which the Head said they did take seriously) so that they achieved to the best of their ability as related to them as individuals, in their real context, even if that did not fit the statistical model, which would only be as good as the data put into it, so would not have allowed for the fact that for example some of the tests may have given a false positive result, and GCSE was not always a totally accurate predictor of A Level performance. The Head was aware of that, but his response would be that if that meant the child shouldn't have been there in the first place, then it was acceptable that they left. Legalities aside, it should not have been an argument for them leaving after one year in the sixth form, or from preventing them in Year 13 taking a subject just because they might have got a C.

The parents seen who were not in the Year 12 to 13 cohort in the summer of 2017, but had experienced the bar in previous years, reported that in many cases their children ended up achieving above a C at A level and in some cases got an A in the subject they got C in at the end of Year 12. This isn't particularly surprising as you would expect uplift in performance in the second year of a two year course

#### 9.1.2.2 On the issue of who made the decisions

The overwhelming body of evidence is that the Head was the controlling force in the Governing Body and that while technically he was only advising the Chair, in practice he exercised a controlling influence over the Chair to an extent that militated against a healthy challenge and support relationship between the governors and the Head that is found in schools with good governance

#### 9.1.2.3 On bullying and intimidation.

He said he had received anonymous hate mail since September 2017 and there was an unpleasant video on you tube. Clearly hate mail in any circumstances is not acceptable.

The other claims he made about being bullied were that the NUT representative bullied him (he didn't give specific examples other than meeting with the Chair of the Staff Association to discuss getting rid of him). He made reference to bullying students being the children of the gang of thugs and that their bullying parents go round to the homes of other parents.

The Head would have been under a lot of stress from the potential court case and the ensuing press coverage, and the St Olave's Unofficial website were throughout the autumn term commenting on events in a way that was highly critical of him, which cannot have been very pleasant for him and any hate mail or threats are to be condemned.

Bullying is partly about whether a victim feels they are being bullied, as well as about whether there is intent to bully on the part of the perpetrator, so is sometimes a difficult area for a third party to judge. However a bully exerts power over their victim and not only is there no evidence at all that the NUT representative either tried to or did bully the Head, unless she had some potentially damaging information about him which would have given her some kind of hold over him (which she didn't) there is no way she would have been in a position to bully him.

On the contrary, as seen in section 5, she and other staff claim that they were bullied and intimidated by the Head. There is substance in those claims, as in some cases there is evidence that they changed their behaviour as a result of being bullied or intimidated. The head did not see it as bullying and intimidation but rather as assertive leadership by someone who is convinced of the rightness of his own opinions and feels he has an entitlement to tell people what to do in a manner that doesn't expect them to argue back. However for the individuals who came forward, bullying is what it was.

#### 9.1.2.4 On the witch hunt and conspiracy theory.

The Head's previous post was Head of Fortismere School in Haringey. There was a group of parents of children at the school who had special educational needs, who opposed the reductions he made to the provision for children with special educational needs in the school.

The Head maintained that as soon as he had been appointed there was contact between individuals in this group and individuals at St Olave's. He named the Haringey person who he believed had led this, who is a Guardian journalist.

The Haringey parents had got together and taken legal advice and when the Head left in 2010, they were in the process of going to Judicial Review on behalf of their children who were not receiving the support through their statements that Haringey had put into the school to meet their needs.

The person named by the Head has said that neither he, nor to his knowledge any of the group of parents who were taking legal action against the Head, had any contact with the people at St Olave's, and that he did not initiate the August 29th article in the Guardian. They were pleased that he was leaving Fortismere and thought St Olave's a more suitable school for him as their perception was that he was concerned with academic high fliers, had wanted to make Fortismere more selective and did not think it worth putting resources into Special Educational Needs, but they didn't make any attempt to contact St Olave's. This was confirmed by another member of the parent group.

At St Olave's the Head named the parent governor who stood for Chair, the other 4 governors removed at reconstitution, the NUT representative, a former parent governor from the previous head's time and the Chair of the PA as the 'gang of thugs' who were conducting the witch hunt. He also implicated the new Chair of Governors who he said was one of them and part of it, and was surprised the investigator hadn't worked that out.

While it is true that apart from the current Chair of Governors, who had had very little involvement with the school before September 2017, all of those named would have cause to be pleased when the Head left but that does not mean that there was a conspiracy from the beginning to remove him or that the issues the former governors, parents and staff were raising were therefore just a smokescreen to achieve that.

What comes through from the totality of the evidence is a genuine disagreement by a substantial number of governors, by a substantial but quiescent number of staff, by at first parents whose children were directly affected but then by many parents whose children hadn't been directly affected, with what they saw as an over emphasis on the school's League table position, which drove the ethos and culture generally and all the policies specifically to a point that they were not right morally and educationally and were damaging to some individual children.

It did not begin in 2010 as a movement to get rid of the Head. In 2017 it was a movement in the first instance to get the outcome that a group of parents wanted for their own children and also to get a policy change so that other families in the future wouldn't have to go through the same thing. Had there been any sign that that could

have been achieved with the Head still in place that could well have been the outcome.

There is now no option but to accept that the policy approved by the Governing Body was illegal, but there was an initial reluctance to do so. It is correct that no one told the Head it was illegal, but he should have known, It can't be known how many schools were doing the same thing and if they were, they will have stopped now, but the indications are that where pupils were not progressing from Year 12 to 13, it was not as a result of the school writing to them and withdrawing their place.

#### **9.1.2.5 Conclusion**

The head's perception of the situation is very different from that of most other people who have given evidence to the investigation. He does not think he has done anything wrong under any of the sections of the Terms of Reference. He does not think he is responsible for the illegality of Year 12 to 13 policy because he was implementing the policy of the Governing Body and no one told him it was illegal and other schools do it and anyway governors make all decisions. He does not think his manner is intimidatory or bullying. He believes there was a witch hunt and conspiracy against him.

The investigator concludes he should have known what he was doing was illegal without being told, most other heads don't write letters withdrawing children's places as they know it is illegal. He had a duty of care and a responsibility for every individual child and their wellbeing and safety which could not be subordinated to exam result targets for the school, His manner both in person and in writing has been intimidatory and on occasion bullying, and there is no evidence of an organised conspiracy against him arising from parental opposition at his previous school in Haringey.

#### **9.1.3 Recommendation**

That the Governing Body and SLT review the performance information presented to the Governing Body to ensure that Governors have a full and accurate picture of all aspects of the life of the school to evaluate the impact of their policies.

## 10 Parental support for the Head

### 10.1.1 Narrative

Out of the total of 30 parents who asked to speak to the investigator, 9 wanted to express their support for the Head and a further 9 wrote to the LA in support.

They were mainly parents of younger children at St Olave's and wanted to say that they regretted the resignation and departure of the Head.

Unlike the other parents, their comments were not mainly about their own child but were more general, about the school and about the Head. They supported selective education and grammar schools. A common theme in the reasons they gave for their support of the Head was that parents knew what they were getting when they applied to St Olave's, which was academic excellence and that was what the school delivered under the Head's leadership.

A number felt that parents of children who had been made to leave should not complain because they knew what they had signed up for at the school and if their child didn't make the grade, they should make way for someone from outside who could, and that teachers didn't have the time to spend with those who couldn't keep up. The Head's wife, writing under her maiden name, submitted a letter making those points.

This group of parents did not think putting pressure on the children was harmful.

Some wanted to write about one or both of the PA meetings (see section 4.5) saying that at the first one the Head had given a satisfactory explanation about the events of the summer as far as they were concerned and they condemned the other group of parents who had held the meeting offsite, which they felt had taken the PA outside its non-political constitution. At the second, which was the PA AGM, after the Head resigned and left, they felt that the group who had met offsite behaved badly and tried to prevent the Head's supporters being elected to official posts within the PA.

They were critical of the unofficial St Olave's website. One called it a hate site and several felt aggrieved that it could name people and there was no right of reply.

They were concerned there had been a breach of security when all the Year 7 pupils were emailed by older pupils criticising the Head and also objected to leaflets being given out outside the school.

One parent claimed she and her daughter had been intimidated as a result of their support for the Head. The Head said he had received hate mail and threats and one of the Assistant Heads submitted to the investigation a threatening letter he had been sent. The email address that it came from was the same as the one that the email to all the Year 7s came from, which the police had tried but failed to trace.

### **10.1.2 Conclusion**

Whether for or against the Head, every parent interviewed supported grammar schools and selective education, making it unlikely that the driver for the parents who took legal action was to campaign against Grammar Schools as the Head had suggested it was.

The two PA meetings referred to have not been helpful for the school or the parent body. The responsibility for the first one being split into two meetings, with both claiming to be the legitimate PA meeting, rests with the Head. In spite of him saying at the 20th September Governing Body meeting that the Chair had walked out of the meeting, witnesses confirm, and the Head now agrees, that he kept on asking her to leave. This exacerbated the polarisation into two groups of parents, one pro and one anti and both groups blamed the other for the chaos and disorder at the second meeting. It is particularly concerning that the parents were largely split by ethnicity.

Both groups now recognise that healing needs to take place and parents need to put the divisions behind them and come together in the interests of their children, who will eventually pick up on splits in the parent body if they continue for long enough.

While the unofficial St Olave's website was a key means of communication for parents when information wasn't getting through to them, there is now a new regime of openness and transparency and channels where views can be expressed and information obtained, so it should no longer be necessary. All the time it is there, it will remain a symbol of the divisions and tensions of the last 9 months.

### **10.1.3 Recommendations**

That every effort is made by all groups of parents to draw a line under the splits revealed at the Annual General Meeting of the PA and to work together as a unified group in the interests of the pupils.

That in the interests of restoring harmony in the school community and focusing on the future, the organisers of the St Olave's unofficial website are asked to close it down.

## 11 The views of pupils

### 11.1.1 Narrative

Pupils at St Olave's were used to expressing their views and there was a system of class and year representatives that fed into the School Council. From time to time groups of students used blogs or 'petitions' to lobby on particular issues, although they were always aware that if they antagonised the Head and the senior management by doing that, there could be consequences.

When drama was cut out of the curriculum offer in 2014 a student organised a "Save Drama at St Olave's Group" and had gathered 300 signatures on a petition when the Head found him collecting them and was at first very angry and threatened to take it away from him, but the boy stood his ground and persisted in asking reasons why. The Head said it was because the school had had three quarter of a million pounds cut in its budget. The boy persisted and asked why the pupils hadn't been told about it and said what they wanted was a discussion.

After a number of exchanges, including the Head saying the boy should have obtained permission for the petition and the boy saying it wouldn't have been granted, the Head did not take the petition away and agreed at some point to have a discussion with the pupils. The boy made a contemporaneous note of the conversation, which was made available to the investigation.

The Head's response to this example of pupils organising against a school policy decision, reading between the lines, seemed to be to quite admire the boy's articulate presentation of the case and willingness to stand his ground and argue back. This was in contrast to his response in 2017 to the student website set up over the Year 12 to 13 issue, which he said was run by parents and he threatened to involve the police. He also claimed that a student survey of Year 13s' views about this issue specifically and the broader situation in the school was not genuine. Three Year 13 students gave evidence that parents were not involved and that the website the pupils set up was not connected to the St Olave's Unofficial Website. Pupils were also discussing boycotting assemblies but did not as it was made clear there would be serious consequences if they did.

Some former pupils wrote describing their experiences at the school including one man from the time before the 3Bs policy, who went as a post grad to Cambridge on a scholarship, became an inventor, set up multiple companies and is a millionaire but would have not been allowed into Year 13 under the current arrangements.

Some pupils and some parents said that the pupils did not respect the Head, citing the cheering in Assembly when the news of his departure was announced, but it would not be possible to conclude, from the small number of pupils interviewed, what the overall view of pupils was. A former School Captain thought that the Head had



not got the measure of St Olave's boys, talked down to them and often mispronounced their names because he hadn't made a point of learning the pronunciation from form tutors as his predecessor did.

Not surprisingly the strongest student response to the events of the summer of 2017 was from Year 13, who were the cohort in the spotlight. They organised an anonymous survey of about 50 Year 13 pupils and used the unedited comments of individuals, some of which expressed very strong opinions and it is necessary to bear in mind that anonymity can mean that people can say things for which they are not accountable and that should be taken into account in using it as evidence of the feeling in Year 13. However, even allowing for some exaggeration in the way things have been expressed, taken as a whole it would be reasonable to conclude that there were concerns about pastoral care and wellbeing, about not being heard, about their best not being good enough if it wasn't a top grade that resulted, and a feeling they are a statistic and don't matter as people.

The covering letter to the Head which they sent with the survey said they were angered by the Head's assembly when they returned in September when he attacked and blamed the media coverage as unfair. This supports the view that a significant factor for the Head was how he responded, with pupils, parents, staff and governors, in those first few weeks in September, attacking the media, the parents who went to court, and the former governors.

The Head's letter to parents in September 2017 sought to reassure them by committing to review the pastoral arrangements and set out in some detail what the school provided. The pupils also did a response to this, welcoming it in principle, but comments included that the referral route to the counsellor through staff was off putting, reference to Christian values in the Assembly programme was recent, disingenuous and box ticking (but they have the utmost respect for the Chaplain), that the UCAS support system is very good but is not what they mean by pastoral care, that a façade was created for the SIAMS inspection so it doesn't give a true picture, and that it's not appropriate to include first aid and fire escape routes as examples of measures taken to ensure wellbeing in a school, as even prisons have to have those.

### **11.1.2 Conclusion**

It is not surprising that once the 12 to 13 issue became public in August 2017, the St Olave's pupils would want to find a way to express an opinion. Apart from the threat to go to the police over their website, the pupils as a group do not appear to have been intimidated by the Head specifically or the ethos more generally, in getting together and expressing their opinions, albeit in the case of the Year 13 student survey they took refuge in anonymity.

The overwhelming culture of the pupils was to be proud of their school. One of the parents of a pupil who was asked to leave said of her son that he had always been a

proud Olavian, which made his rejection by the school he loved even more painful. The pride and loyalty continued even after pupils had left as there was a thriving Old Olavians group. The events of 2017 did cause some disillusionment among some pupils, especially the older ones, about what they thought of the school, but the underlying culture of support and of appreciation for what their teachers do for them is strong enough for the discontent expressed about the events of last year not to have a long term effect on the positive attitude of the pupils to their school. What they were unhappy about was very much focussed around the Head and the ethos he had created for Years 12 and 13 and, during the investigation, they observed that the ethos is changing already.

### **11.1.3 Recommendation**

To review the arrangements for student voice such that students' views are routinely fed through to and heard by senior managers and governors of the school, so that one off protest actions are not deemed by the students to be necessary to get their views heard.

## 12 A concluding comment

One final comment that embraces all aspects of the terms of reference is that two key factors in a school that could have been positives were taken to extremes and became negatives:

### 12.1.1.1 Strong Leadership

The ability to be a strong leader is one of the things that governors look for in appointing a head. Decisive, assertive, confident, of strong character are words that have a positive connotation in respect of what parents and staff, as well as Governors, would be looking for in a Head.

Where this crosses into negative territory, and becomes more than just a matter of management style, is when key stakeholders feel at best there is no point in expressing a contrary view because they will not be heard and at worst feel intimidated or bullied.

The former head was not always sensitive to the effect he had on people, both in his oral and written communications. He did not see his behaviour as in any way bullying or intimidation and was genuinely surprised that others should be deeming it so. However some people did, especially staff who were the ones most directly affected.

### 12.1.1.2 High academic performance

High academic performance is a legitimate aim for most schools. No school can afford to ignore League tables. For selective schools high academic performance is rightly an expectation. More challenging is to excel with value added and progress measures. An emphasis on the importance of scholarship is also a worthy goal as is maximising the opportunity for pupils to have access to Oxbridge and Russell Group universities.

Where all of the above crosses a line into negative territory is when they are presented in such a way as it appears to be that they are the only things that really matter to the exclusion of all else. That didn't happen at St Olave's by not providing any of the broader extracurricular, non-exam focussed activities because outside of lessons, there was a rich provision of sporting, cultural and international events activities and opportunities which were enriching of themselves and also provided the kind of broader life experiences and skills which would assist students in their Oxbridge interviews.

However when the chips were down, as many parents observed, all of those counted for nothing because, regardless of how much and how well the pupils had participated in the non-academic side of the school, the school was prepared to reject pupils half way through their A level courses when, unless they had the

income to afford certain kinds of independent providers, they would almost certainly have to repeat their Year 12.

Negative territory becomes harmful territory when it impacts adversely on the self-esteem, self-confidence and sense of self-worth of some of the pupils. It isn't a defence to say it was only minority of the pupils. A school has the responsibility to do its best by all of the pupils. Occasionally a school is justified in acting in a way that doesn't serve the interests of an individual child if it is done to protect the interests of the majority, for example if a pupil is excluded for endangering the safety of other pupils. There was no such justification in this case. Not withdrawing the places of pupils at the end of Year 12 would not have impacted on the exam results of the other pupils. The effect was on the results of the school as an institution. It was putting the institution above the pupils when in fact the institution is the pupils. Parents of the pupils affected were right to say their children were being treated as collateral damage. It should not have happened.

## Appendix

	2010/11		2011/12		2012/13		2013/14		2014/15		2015/16		2016/17	
	Original Budget	Actual	Original Budget	Actual	Original Budget	Actual	Original Budget	Actual	Original Budget	Actual	Original Budget	Actual	Original Budget	Actual
<b>Public Funds</b>														
<b>Income</b>														
Government Funding	4808580	4853914	4782671	4796545	4722192	4796440	4764483	4791608	4656116	4665157	4870001	4884186	5009915	5036966
Donations & Voluntary fund Note 1	83382	176686	106234	122506	60500	208132	153080	133084	269000	60029	495340	189570	325000	69123
Other Income	70750	206952	35000	217419	84000	180733	95000	199117	51000	364029	140000	227221	120000	310690
<b>Total Revenue Income</b>	<b>4962712</b>	<b>5237552</b>	<b>4923905</b>	<b>5136470</b>	<b>4866692</b>	<b>5185126</b>	<b>5012563</b>	<b>5123809</b>	<b>4976116</b>	<b>5089214</b>	<b>5505341</b>	<b>5300977</b>	<b>5454915</b>	<b>5416778</b>
Capital Income	0	458058	0	29385	23998	74240	144341	187051	622000	651757	289000	274095	110000	131339
<b>Total Income</b>	<b>4962712</b>	<b>5695610</b>	<b>4923905</b>	<b>5165856</b>	<b>4890690</b>	<b>5259366</b>	<b>5156904</b>	<b>5310859</b>	<b>5598116</b>	<b>5740971</b>	<b>5794341</b>	<b>5575072</b>	<b>5564915</b>	<b>5548117</b>
<b>Expenditure</b>														
Revenue Expenditure	4961768	5197688	4988383	4981605	4866517	4905090	5072978	4849970	4976069	5475858	5505341	5290933	5453788	5377020
Capital Expenditure Note 4, 5 & 6	0	1000002	0	333914	58533	66357	230000	211656	622000	669569	289000	274095	110000	131339
<b>Total Expenditure</b>	<b>4961768</b>	<b>6197690</b>	<b>4988383</b>	<b>5315519</b>	<b>4925050</b>	<b>4971447</b>	<b>5302978</b>	<b>5061626</b>	<b>5598069</b>	<b>6145427</b>	<b>5794341</b>	<b>5565027</b>	<b>5563788</b>	<b>5508359</b>
<b>In Year Surplus/(deficit) Note 2</b>	<b>944</b>	<b>-502080</b>	<b>-64478</b>	<b>-149663</b>	<b>-34360</b>	<b>287919</b>	<b>-146074</b>	<b>249233</b>	<b>47</b>	<b>-404456</b>	<b>0</b>	<b>10044</b>	<b>1127</b>	<b>39758</b>
<b>Balance b/fwd from Previous Year</b>	<b>969920</b>	<b>969920</b>	<b>467840</b>	<b>467840</b>	<b>318178</b>	<b>318178</b>	<b>606097</b>	<b>606097</b>	<b>855330</b>	<b>855330</b>	<b>450874</b>	<b>450874</b>	<b>460919</b>	<b>460919</b>
<b>Final Surplus/(Deficit)</b>	<b>970864</b>	<b>467840</b>	<b>403362</b>	<b>318177</b>	<b>283818</b>	<b>606097</b>	<b>460023</b>	<b>855330</b>	<b>855377</b>	<b>450874</b>	<b>450874</b>	<b>460918</b>	<b>462046</b>	<b>500677</b>
Public Reserves (B02) At year end		467840		318178		606097		855330		450874		460919		500677
Plus														
<b>Non Public Funds</b>														
Voluntary Fund (VF) Balance in bank Note 3		158244		135384		229778		484387		812038		1012021		1188141
Less VF Committed balances (School trips)		N/A		N/A		N/A		-372230		-397290		-419296		-354209
Block Grant held by Foundation note 7		0		0		0		0		137480		309062		499413
Headmasters fund available balance note 8		39306		45072		51011		57094		63784		65864		72157
<b>Total funds available to the School at year end</b>		<b>665390</b>		<b>498634</b>		<b>886886</b>		<b>1024581</b>		<b>1066886</b>		<b>1428570</b>		<b>1906179</b>

N/A = not available

1. 2013/14 onwards SBM's policy was to use this line to balance the budget. Outturn income included transfers of parental donations in 2010/11 of £4492.30, 2012/13 of £3000, 2015/16 of £134000 & 2016/17 £17400

2. Deficit budgets were set? Some caused by capital budgets being set where income did not match expenditure? Revenue budgets did not show deficits

3. Parental contributions increase to around £300k a year from 2013/14

4. 2010/11 Sports Hall redevelopment

5. 2014/15 New science laboratories

6. 2015/16 New Boiler & New Gym roof

7. Funding held by the Foundation available to the school

8. Cumulative income available to the school

**Loan Account paid by Foundation from Grant to school**

Minimum repayment £13,200 per quarter

Currently repaying £21,250 per quarter

If current repayment of £85000 continues it will be repaid in 2020/21