

## COMPLAINTS PROCEDURE

### 1. Introduction

From 1 September 2003 Governing Bodies of all maintained schools and maintained nursery schools in England are required, under Section 29 of the Education Act 2002 to have in place a procedure to deal with complaints relating to the school and to any community facilities or services that the school provides.

It is recommended that the governing body ensures that any third party providers, offering community facilities or services through the school premises or using school facilities, have their own complaints procedure in place. The law also requires the school's complaints procedure to be publicised.

It is the responsibility of a school's Governing Body to resolve a complaint received by a school and it is, therefore, important to have a procedure for doing so which is clear and available to Governors, employees, parents, carers and members of the public. **Complaints from members of staff should be dealt with under the appropriate internal procedure (e.g. Grievance, Harassment etc.)**

From July 31 2012 section 45 of Education Act 2011 came into force removing the duty of the Local Authority (LA) to consider complaints about the curriculum, sex education and worship. Concerns regarding these areas must now be taken up with the school.

The process and procedures for complaints or appeals about:

- a) special educational needs provision \*
- b) exclusions
- c) admissions
- d) child protection procedures
- e) criminal investigations

may be separate from this procedure. The Headteacher may consult with the local authority for advice on the appropriate procedure for dealing with a complaint in the areas above.

Also any complaint that leads to a disciplinary investigation will be subject to a separate specific procedure. The details of such investigations and

any sanction applied are confidential but there will be a report back to the complainant giving as much feedback as is possible.

\*The LA should investigate a complaint where the pupil has a statement of Special Educational Needs and the complaint is related to the Statement or the conduct of any centrally employed authority staff responsible for the provision made through the Statement.

Note: Derbyshire Parent Partnership offers free confidential help, advice and support for parents/carers of children with special needs or at risk/have been excluded from the school. 01629 533660.

This document provides advice and guidance on how schools should respond to external complaints. **It is important to note that anonymous complaints cannot be dealt with under this procedure.**

## 2. How will complaints be handled?

In most cases complaints are successfully resolved informally through discussions with the Headteacher or, if appropriate, and only with the agreement of them, the staff member. It is anticipated that most concerns will be handled without the need for formal procedures.

Advice from appropriate Local Authority sections is available to advise Headteachers and Chairs of Governors in responding to complaints, concerning matters of procedure and substance. Sections which colleagues may wish to contact for such advice include:

Governor Support Service  
CAYA HR Advice and Guidance  
Education Improvement Service  
Special Educational Needs  
Health and Safety  
Student Services  
Safeguarding

**The local authority does not have a formal role in relation to the investigation and adjudication of school complaints, other than some elements of items a) to d) in Section 1 above.**

The Headteacher will track, collate and record complaints received.

There are three stages to the formal complaints procedure. A flow chart of the stages can be found in Appendix 1.

## **FORMAL STAGE 1**

If unresolved through informal discussion with the Headteacher or relevant staff member offered by the school, the complainant may submit their concerns formally in writing to the Headteacher, using the attached form. (Appendix 2). This may be by email but consideration should be given to the confidentiality of the email address.

The Headteacher will refer the complaint to an appropriate staff member who will investigate, report back to the complainant and inform the Headteacher of the outcome. If actions are agreed with the complainant, in response to the concerns raised, the Headteacher will be informed and any other relevant staff members. Where relevant, arrangements to keep the complainant informed of progress will be made.

The Headteacher should ensure that:

- The complaint is acknowledged within two working days.
- The staff member investigates the complaint and decides how best to resolve it within a further ten working days.
- The staff member responds to the complainant in writing or meets with them (as appropriate to the situation) to provide their findings and the outcome of the complaint. This should be within two working days of completing the investigation, unless they have informed the complainant that further time will be needed in the circumstances.
- They receive a note from the staff member of the findings/outcome of the complaint, for the record and in case the complaint progresses further through the procedure.
- The complainant is advised that if they are dissatisfied with the outcome they may refer their complaint to the Headteacher at Formal Stage 2.
- The Chair of Governors is informed that a Formal Complaint has been received and what action has been taken to provide a response, without discussing the nature of the complaint at this stage.

In the event the complaint is about the way in which the school has dealt with a complaint or the complaint is about the Headteacher, the matter should be submitted in writing, preferably on the form provided, to the Chair of Governors and addressed c/o the school. It will be dealt with directly at Stage 2.

It is important that the letter includes name, contact details, nature of complaint and any suggested resolution to the complaint.

## **FORMAL STAGE 2**

If the complainant is unsatisfied with the response and wishes to pursue the matter further, through the procedure, the complainant should write to the Headteacher (or Chair of Governors where the complaint is about the headteacher) within 10 days and that letter should include:

- Their name.
- The nature of their complaint.
- Where appropriate, the reasons why they were unhappy with the Headteacher's decision.
- Any resolution they seek.
- How they can be contacted.

**The letter should not be sent to other governors or to the clerk to governors to be submitted to a Governing Body Meeting.** This is because other governors may be needed if the complaint is progressed further through the formal procedure. To fulfill such a role they must not have had prior involvement in the complaint.

The Headteacher (Chair of Governors) should:

- Acknowledge the letter within two working days of receipt. (Complainants need to be aware that governors are not employees and may not receive the communication immediately.) The Chair may nominate another governor to investigate, for personal or contextual reasons. Apart from the 'nominated governor', the Chair must not involve any further governors or report any detail to the Governing Body at this stage. They should first contact the complainant to ascertain whether it is necessary to meet with them in order to fully understand their complaint.
- Review the investigation conducted at stage 1 and carry out further enquiries if required. Where the Chair/nominated governor receives a complaint they will conduct an investigation and speak to everyone involved as soon as practicable. The investigation will usually be within ten working days. (It is important to remember that governors are volunteers and may have their own work commitments.)

- Provide a written response with the outcome of the complaint. This should be within a further five working days, unless additional time is arranged.
- Advise the complainant that if they are dissatisfied with the outcome they may refer the complaint to the Complaints Panel of the Governing Body at Formal Stage 3.

The timescales indicated in the Complaints Procedure are those which are expected in normal circumstances. Where the complaint is detailed and/or requires an extensive investigation the timescales may be increased. The complainant should be informed in writing of any variations to the timescales indicated and given a revised timetable for resolving their complaint.

### **FORMAL STAGE 3**

#### **Governors' Complaints Panel**

If the complainant is dissatisfied with the outcome of the Headteacher's (Chair of Governor's) investigation they should write to the Chair of Governors, within 10 working days of receiving the response, stating why, and request that their complaint be referred to the Complaints Panel of the Governing Body.

The Complaints Panel will comprise three Governors who have not previously been involved in the complaint and/or do not have a personal or pecuniary interest. It may also be inappropriate for the Complaints Panel to include teacher or staff Governors. In particular circumstances, where the governing body is small and it is not possible to nominate 3 governors, who do not have prior involvement or an interest in the case, then the panel may comprise 2 members.

The Clerk to Governors will convene a meeting of the Complaints Panel within 10 working days of the request, or as soon as is reasonably practicable.

At least 5 working days before the meeting members of the Complaints Panel, Headteacher/Chair and complainant will be provided with all papers to be considered at the hearing, which should include, as appropriate:

- A copy of the original complaint.
- A copy of the outcome at Formal Stage 1.

- A copy of the letter from the complainant expressing their dissatisfaction with the outcome at Formal Stage 1.
- A copy of the letter to the Headteacher (Chair of Governors) requesting an investigation at Formal Stage 2.
- A copy of the letter sent to the complainant about the outcome at Formal Stage 2.
- A copy of the letter from the complainant expressing their dissatisfaction with the outcome at Formal Stage 2 and requesting that the complaint is heard by the Complaints Committee.

The complainant should be invited to attend the meeting to state their case and should be offered the opportunity to be accompanied by a friend or other adult if they wish. Normally children should not attend. If the Complaints Panel thinks that it would be helpful for a child to be present the Governors should seek the permission of the parents. The complainant does not have to attend the meeting in which case the Complaints Panel will consider the documentary evidence provided by the complainant.

The Headteacher and/or Chair of Governors should be invited to attend the meeting to state their case. They do not have to attend a meeting, in which the Complaints Panel will consider the documentary evidence relating to any investigation(s) the Headteacher or Chair of Governors carried out.

The panel needs to take the following points into account:

- The hearing is as informal as possible.
- Witnesses are only required to attend for the part of the hearing in which they give their evidence.
- After introductions, the remit of the panel should be confirmed.
- Clarification of time allocation/constraints and any potential for adjournment
- Check all parties have all documentation.
- Complainant is invited to explain their complaint, and be followed by their witnesses.
- The headteacher may question both the complainant and the witnesses after each has spoken.
- The headteacher is then invited to explain the school's actions and be followed by the school's witnesses.
- The complainant may question both the headteacher and the witnesses after each has spoken.
- The panel may ask questions at any point.

- The complainant is then invited to sum up their complaint.
- The headteacher is then invited to sum up the school's actions and response to the complaint.
- Complainant and headteacher parties leave together while the panel decides on the issues.
- The chair explains that both parties will hear from the panel within two working days.

Advice on conducting a complaint hearing may be sought from the Local Authority Governor Support Service. In exceptional circumstances the Chair may wish to request the attendance of an appropriate LA officer to provide advice and guidance to the panel. Attendance by an appropriate officer would be part of the authority's traded services and subject to availability. That person would not have any role in deciding the outcome but would advise on procedure.

The chair should arrange for notes, to aid the panel's decision, to be taken during the hearing. Schools may wish to seek the services of their clerk to governors in such circumstances.

In the event that further information is needed and it is not available at the time the meeting may be adjourned and re-convened at a mutually convenient time. This should be as quickly as possible and wherever practicable within five working days.

#### **The panel can:**

- dismiss the complaint in whole or in part;
- uphold the complaint in whole or in part;
- decide on the appropriate action to be taken to resolve the complaint;
- recommend changes to the school's systems or procedures to ensure that problems of a similar nature do not recur.

They should consider whether the earlier investigation(s) were conducted appropriately and reasonably, whether the decision of the Headteacher /Chair of Governors was reasonable and the panel may determine an alternative outcome to the complaint, where appropriate.

**The decision of the Complaints Panel is final.**

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

The LA has no statutory role in resolving complaints other than those listed in Section 1 a) to d) in section 1. The authority is not able to review the school's response to a complaint and is not an appeal body.

### **Unsatisfied Complainants**

If a complaint is not resolved by the school, the complainant is not satisfied and wishes to pursue the matter further, they may address their complaint to the Secretary of State for Education. **The formal complaint must have been through all the stages of the school's procedure.**

Registered parents and carers may complain to Ofsted about issues that relate to the school as a whole eg:

- the education provided,
- underachievement of pupils or different needs not being met,
- poor leadership/management or waste of money,
- the neglect of pupils' personal development.

**These issues must not relate to an individual pupil.** Ofsted cannot investigate incidents or review how a school has responded to a complaint.

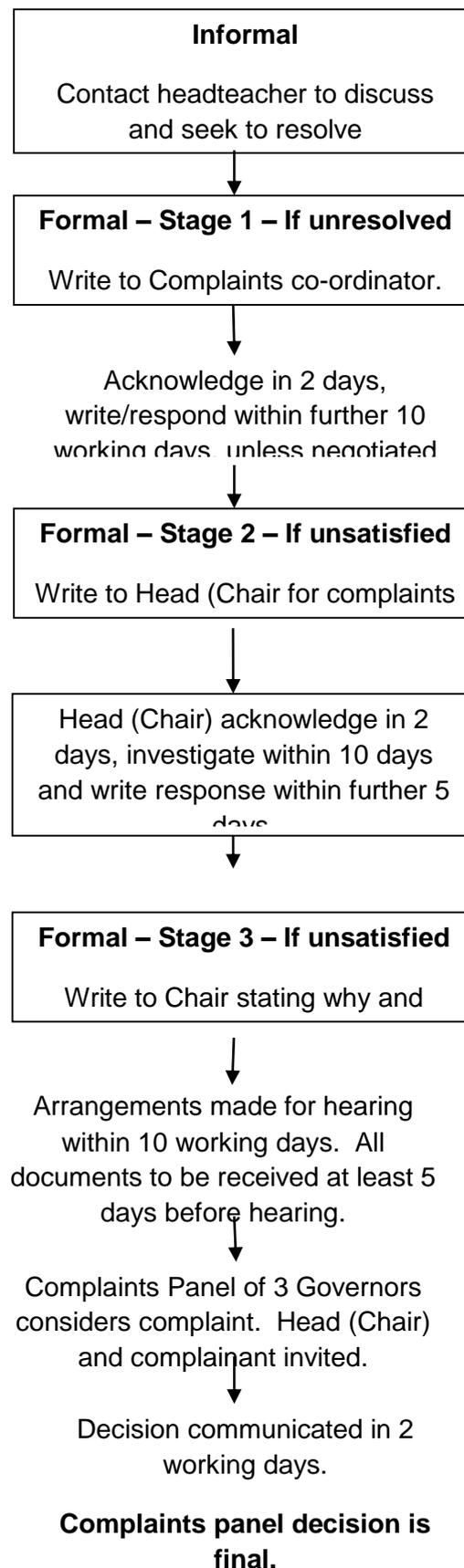
### **Repeated Complaints/Unreasonably Persistent Complainants and Unreasonable Behaviour**

There is a procedure for dealing with unreasonably persistent complainants and/or unreasonable complaints behaviour, available as Appendix 4

## Flow Chart

## Appendix 1

Please check the detail of the procedure for what needs to be included at each stage.



Example of A Complaint Form

Please complete and return to the Headteacher who will acknowledge receipt and explain what action will be taken.

Your name:

Pupil's name:

Your relationship to the pupil:

Address:

Postcode:

Day time telephone number:

Evening telephone number:

Please give details of your complaint.

What action, if any, have you already taken to try and resolve your complaint.  
(Who did you speak to and what was the response)?

What actions do you feel might resolve the problem at this stage?

Are you attaching any paperwork? If so, please give details.

Signature:

Date:

Official use

Date acknowledgement sent:

By who:

Complaint referred to:

Date:

