



## External Complaints about the Actions of School Staff

### Complaints Procedure

What follows is a detailed description of the actions to be taken, time frames, relevant communications and considerations relevant to particular circumstances, at each stage of the procedure. It is strongly advised that school leaders familiarise themselves with this guidance and refer to it whenever the procedure needs to be implemented.

#### 1. How will complaints be handled?

##### Informal Stage

It is important to be clear about the difference between a concern and a complaint. The school will take informal concerns seriously at the earliest stage. In most cases concerns are successfully resolved informally through discussions with the Headteacher or, if appropriate, with the staff member. **Heads/complaints co-ordinators should not arrange for concerned individuals to meet with staff without their specific agreement.** The initial contact with the school may be by telephone, email or in writing, to make appropriate arrangements. The sharing of concerns at this stage will reduce the numbers that develop into formal complaints. It is anticipated that most concerns will be handled without the need for formal procedures.

- Where the staff member has agreed to a meeting, if the concerned individual feels that they would have difficulty discussing the matter with the particular member of staff, arrangements will be made by the complaints co-ordinator/Headteacher for another, probably more senior, staff member to hear the concerns. Similarly the member of staff involved may feel too compromised to deal with the issue themselves and ask for a referral to another staff member.
- Where the matter is clearly a complaint, rather than a concern then the complainant should refer it to the complaints co-ordinator/headteacher.

- Where the first approach is made to a governor, the next step would be to refer the complainant to the complaints co-ordinator/headteacher and advise them of the procedure. It is important for governors to be aware that they should not act unilaterally outside the formal procedure or be involved in the early stages of a complaint.
- Where a complaint concerns the headteacher, the matter will be referred to the Chair of Governors. Complaints against the Chair of Governors or any individual governor should be made in writing to the Clerk to the Governing Body.

### Formal Stage

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

#### **FORMAL STAGE 1 (Complaint Heard by Headteacher)**

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 Complaints Co-ordinator (*enter name here where one is appointed or designate the Headteacher to receive complaints*), using the attached form. (Appendix 2). This may be by email but consideration should be given to the confidentiality of the email address.

It is important that the letter includes name, contact details, nature of complaint and any suggested resolution to the complaint. Where there is any reason that the complainant does not wish to submit their complaint in writing, they should approach the school to request that should arrangements are made to take down the required information and details on their behalf.

The School Complaints Co-ordinator (where one is appointed) will refer the complaint to the Headteacher who may delegate an appropriate staff member to collect and collate the information but the headteacher will make the decision on the action to be taken.

**A meeting with the complainant should be offered**, as part of the investigation, in order to ascertain whether they have further information to offer.

Clarification should be sought as to what the complainant feels would put things right. The investigation may have to respond to a complainant's dissatisfaction with the way their complaint was handled at the informal stage as well as the initial complaint. The Headteacher will report back to the complainant and inform the School Complaints Co-ordinator (where applicable) of the outcome. If actions are agreed with the complainant, in response to the concerns raised, the Headteacher will inform any other relevant staff members. Where

appropriate, arrangements to keep the complainant informed of progress will be made.

The School Complaints Co-ordinator should liaise with the Headteacher to ensure that:

- The complaint is acknowledged within two working days.
- The investigation takes place (probably including a meeting with the complainant) and a decision is made on how best to resolve it within a further fifteen working days unless they have informed the complainant that further time will be needed, in the circumstances.
- The complainant receives a response in writing and the Headteacher may meet with them (as appropriate to the situation) to provide their findings and the outcome of the complaint.
- They receive a note 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 Chair of Governors 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 Complaints Co-ordinator will refer the written complaint submission, preferably on the form provided, to the Chair of Governors and addressed..... It will be dealt with directly at Formal Stage 2. *(If the headteacher is the Complaints Co-ordinator, please make this clear in the procedure and clarify that the form should be submitted directly to the Chair, when the complaint concerns the Headteacher.)* The Chair will need to complete the record of the complaint in these circumstances, rather than the Complaints Co-ordinator.

The Headteacher should assess whether the situation surrounding the complaint is affecting members of staff adversely and put in place measures to mitigate this, including use of in-school mentor, advising contact with trade union representatives, referrals to occupational health and directing to available counselling, as appropriate.

### **FORMAL STAGE 2 (Complaint Heard by Chair of Governors)**

If the complainant is unsatisfied with the response and wishes to pursue the matter further, through the procedure, the complainant should write to the Chair of Governors 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 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. Envelopes marked 'private & confidential' will not be opened in their absence.) 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 completed within fifteen working days. (It is important to remember that governors are volunteers and may have their own work commitments.) If the complaint is about the Headteacher, this will be the first formal investigation of the complaint, as it will have been directly referred to the Chair.
- 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 Chair of Governor's investigation they should write to the Clerk to the Governing Body, 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 will not usually be appropriate for the Complaints Panel to include teacher or staff Governors. If there are insufficient available governors to form a panel without including staff member(s), the Chair of Governors may take advice (LA Governor Support helpline 01629 535769) and determine whether:-

- Inclusion of staff governors is appropriate given the substance of the complaint, their pecuniary interest and willingness to join the panel. If inclusion of a staff governor is proposed, the agreement of the complainant and any member of staff who is the subject of the complaint must also be secured.
- The panel will comprise only 2 members, in this instance. In such cases, if the panel disagrees on their judgment of the case, the decision of the Chair of the Complaints Panel would prevail. The robustness of a panel with only 2 members would be strengthened if the school had secured an officer of the LA to advise the panel.
- Experienced Governor(s) of other similar schools may be sought to serve on the panel. Where the school is a Church of England Voluntary Aided or Controlled school the Diocese may be able to suggest suitable individuals. For community schools the Governor Support Service may be able to help with access to experienced Local Authority governors.

Where the complainant is a child extra consideration will be given to the atmosphere of the proceedings, aiming to ensure that the child does not feel intimidated. The views of the child need to be given equal consideration to those of adults. The Chair should ensure that the proceedings are as welcoming as possible. The layout of the room should be designed to be as informal as possible in the circumstances and not adversarial.

The Clerk will convene a meeting of the Complaints Panel within 15 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 to the Chair of Governors from the complainant expressing their dissatisfaction with the outcome at Formal Stage 1 and stating that they wish to proceed to 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.

Witnesses may not need to be invited as their information will have been included in the Headteacher/Chair's investigation report. However, if the complainant or the headteacher feel that the presence of a witness is particularly crucial, to confirm the detail of the information they have provided, this may be arranged.

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 role of the panel is to review the earlier investigation and outcome, not conduct a fresh investigation. Therefore new information should not be presented to the hearing. **The aim of the hearing will always be to resolve the complaint and achieve reconciliation between the school and the complainant**

The panel needs to take the following points into account:

- The hearing is as informal as possible.
- Witnesses should only 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 leave together while the panel decides on the issues.

- The chair of the panel explains that both parties will hear from the panel within two working days (or a set timescale where there are reasons that more time will be needed)

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 of the panel 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 there are further questions the panel needs to ask in relation to the information presented and if this is not possible at the time, the meeting may be adjourned and re-convened at a mutually convenient time. The panel will determine whether only they need to reconvene, having asked for the answers to be submitted in writing, or whether all parties should again be present in order to conclude the hearing. 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 in the light of the information gathered and presented. The panel may determine an alternative outcome to the complaint, based on the same information, where appropriate.

The aim of the hearing is always to resolve the complaint, and achieve reconciliation between the school and complainant. However, it is recognised that the complainant may not be satisfied with the outcome, if the hearing does not find in their favour. It may only be possible to establish the facts and make recommendations which will satisfy the complainant that his or her complaint has been taken seriously

**The decision of the panel is the end of the school based process.**

**The Role of the Local Authority**

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

### **The Role of the Complainant**

The person making the complaint will receive a more effective response if he/she:-

- co-operates with the school in seeking a solution to the complaint;
- expresses the complaint in full as early as possible;
- responds promptly to requests for information or meetings or in agreeing the details of the complaint;
- asks for assistance as needed;
- treats all those involved with respect.

### **The Role of the Complaints Co-ordinator (or Headteacher)**

The complaints co-ordinator/Headteacher should:-

- ensure that the complainant is fully updated at each stage of the procedure;
- ensure that all people involved in the procedure will be aware of the legislation around complaints including the Equality Act 2010, Data Protection Act 1998 and Freedom of Information Act 2000;
- liaise with staff members, Headteacher, Chair of Governors and Clerk to ensure the smooth running of the complaints procedure;
- keep records;
- be aware of issues regarding:
  - third party information,
  - additional support – this may be needed when making a complaint ( including arranging for interpretation support.)

It is advised that consideration is given to whether the subject of the complaint needs/would like support. While the complaints procedure is not a staff management policy in the same category as Disciplinary or Managing Allegations procedures, it may still be appropriate to suggest that the staff member may want to consult their trade union/professional association for advice (rather than representation)

### **The Role of the Chair of the Governing Body or Nominated Governor**

The nominated governor role:

- Check that the correct procedure has been followed
- Investigate and produce a response, where the complaint reaches Formal Stage 2
- If a hearing is requested, notify the clerk to arrange the panel.

## **The Role of the Chair of the Panel**

The Chair of the panel has a key role, ensuring that:

- the remit of the panel is explained to the parties and each party has the opportunity of putting their case without undue interruption;
- the meeting is minuted;
- the issues are addressed;
- key findings of fact are made;
- parents and others who may not be used to speaking at such a hearing are put at ease (particularly important if the complainant is a child/young person);
- the hearing is conducted in an informal manner with each party treating the other with respect and courtesy;
- the layout of the room sets the right tone – care taken to ensure the setting is informal and not adversarial;
- the panel is open minded and acts independently;
- no member of the panel has a vested interest in the outcome of the proceedings or any involvement in an earlier stage of the process;
- both the complainant and the school are given an opportunity to state their case and seek clarity;
- written material is seen by all parties. If a new issue arises it would be useful to give all parties the opportunity to consider and comment on it. This may require a short adjournment of the hearing.

The panel chair should liaise with the Clerk and complaints co-ordinator to ensure arrangements and communication are robust.

The Chair of the panel should liaise with the Headteacher to ensure that feedback is provided to any member of staff involved with a complaint and learning points communicated, where relevant. Likewise, learning for schools leaders to take on board in managing and developing staff should also be discussed.

## **The Role of the Panel Clerk (This could be the Clerk to the Governors or Complaints Co-ordinator)**

It is strongly recommended that any panel or group of governors considering complaints be clerked. The clerk would be the contact point for the complainant and be required to;

- set the date, time and venue of the hearing, ensuring the dates are convenient to all parties and that the venue and proceedings are accessible;
- collate any written material and send it to all parties in advance of the hearing (recommended at least 5 working days in advance);
- meet and welcome the parties as they arrive at the hearing;
- record the proceedings;
- notify all parties of the panel's decision,

- liaise with the complaints co-ordinator.

As best practice the Clerk should share copies of the meeting minutes with all parties involved in the hearing, providing a reasonable opportunity for the minutes to be agreed and if necessary, challenged.

It is not unknown for complainants to raise additional complaints because they do not agree with the record of the meeting.

## Checklists

### Informal Stage

- ≡ Concerns (as opposed to formal complaints) referred to relevant staff members
- ≡ Complaint (as opposed to concerns above) referred to Complaints Co-ordinator (who may be Headteacher)
- ≡ Receipt of Complaint recorded and dated
- ≡ Complaint referred to relevant member of staff (or Chair)
- ≡ Complaints Co-ordinator receives notification that matter has been dealt with and records, with date

### Formal Stage 1

- ≡ Complaint received in writing (including by email) by Complaints Co-ordinator, use of form encouraged
- ≡ Complaint record opened
- ≡ Check with LA, Children Services complaints co-ordination (*enter contact*) for guidance, where necessary ( & contact made with specialist officer where appropriate)
- ≡ Complaint acknowledged in writing within 2 working days
- ≡ Investigation delegated to appropriate staff member
- ≡ Contact made with complainant to check whether meeting is required
- ≡ Timescale for response agreed if more than 15 working days needed
- ≡ Written response sent to Complainant, meeting offered if appropriate
- ≡ Resolution reported to Complaints Co-ordinator and recorded
- ≡ Complainant is advised of how to progress their complaint if unsatisfied
- ≡ Chair of Governors informed, formal complaint has been dealt with

## **Formal Stage 2**

- ≡ Referral (received within 10 working days) of complaint to Chair of Governors is reported to Complaints Co-ordinator for record. (If Complaints Co-ordinator is subject of complaint they can still make this administrative record)
- ≡ Chair determines whether to investigate or nominate another governor
- ≡ Complaint acknowledged within 2 working days
- ≡ Investigation at Stage 1 reviewed
- ≡ Need to meet with Complainant considered – agree timescale for response
- ≡ Carry out own investigations
- ≡ Provide written response within 15 working days
- ≡ Complainant informed of how to progress their complaint if unsatisfied, within 10 days of receipt of response.
- ≡ Complaints Co-ordinator informed of response, records and dates

## **Formal Stage 3**

- ≡ Referral of Complaint to Stage 3 received by Clerk to Governors within 10 working days
- ≡ Receipt of Complaint acknowledged
- ≡ Complaints Co-ordinator informed of referral, for administrative record.
- ≡ Clerk calls meeting of Complaints Panel within 15 working days of receipt (or asap by arrangement with complainant and other invitees)
- ≡ Complainant invited to meeting and given procedure
- ≡ All documents for meeting circulated to all parties at least 5 working days before meeting
- ≡ Check LA advice where necessary
- ≡ Provision made for witness, if necessary
- ≡ Arrangements for venue etc finalised
- ≡ Clerking of meeting arranged
- ≡ Meeting arrangements checked
- ≡ Brief the clerk
- ≡ Establish any time constraints
- ≡ Check all attending
- ≡ Check all parties including any witnesses are attending
- ≡ Send panel's decision to complainant with findings of fact and any actions to resolve the complaint within 2 working days and that is end of cohort procedure but provide information on School Complaints Unit
- ≡ Inform Complaints Co-ordinator
- ≡ Ensure any actions determined by the panel are followed up