

DERBYSHIRE LEA

COMPLAINTS PROCEDURE FOR EXTERNAL COMPLAINTS ABOUT THE ACTIONS OF SCHOOL STAFF



ASHBOURNE HILLTOP Primary & Nursery School

COMPLAINTS PROCEDURE FOR EXTERNAL COMPLAINTS ABOUT THE ACTIONS OF SCHOOL STAFF

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 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 available, and clear, to Governors, employees, parents, carers and members of the public.

Schools will have procedures for complaints or appeals about the curriculum, special educational needs provision, exclusions, and admissions. Disciplinary action, child protection or criminal investigations are also dealt with through separate specific procedures. This document provides advice and guidance on how schools should respond when an external complaint has been made about the actions of school staff.

It is important to note that anonymous complaints cannot be dealt with under this procedure.

In most cases complaints are successfully resolved informally through discussions with the member of staff concerned or Headteacher. In others the Headteacher is responsible for investigating the complaint, reporting back to the complainant and informing Governors of the outcome of the investigation.

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 it is appropriate for the matter to be referred to the Governing Body or a Complaints Panel set up by the Governing Body. The remit for the Complaints Panel is included in **Section 3 —Procedure** of this document.

Except in exceptional circumstances previous stages of the procedure should be exhausted before a complaint is referred to a subsequent stage.

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.

Where complainants or members of staff are invited to a planned meeting either as part of the investigation or of The Complaints Panel any request to be accompanied by a friend or representative should be accommodated.

Governing Bodies may want to monitor the level and nature of complaints and review the outcomes on a regular basis to ensure the effectiveness of their procedure and make changes where necessary. Information about complaints presented to the Governing Body for monitoring purposes should not name individuals.

The monitoring and review of complaints by the school and the GB can be a useful tool in evaluating a school's performance and contribute to school improvement. As well as addressing an individual's complaints, the process of listening to, and resolving complaints may identify underlying issues that need to be addressed and ensure more effective school management and routines.

Governing Bodies are legally required to publicise their Complaints Procedure. The Governing Body must decide how to fulfil this requirement but details of the Complaints Procedure could be included in:

- The school prospectus.
- Information given to new parents when their children join the school.
- Information given to the children themselves.
- The home-school agreement.
- School bulletins or newsletters.
- The school website.
- Information given to community users and in letting agreements.
- A specific complaints leaflet which includes a form on which a complaint can be made.
- Posters displayed in the main entrance or reception area of the school and others used by the public.

2. Managing Complaints

2.1 Principles

An effective Complaints Procedure will:

- Encourage **informal** resolution wherever possible and practicable.
- Be easily **accessible and publicised**.
- Be **simple** to understand and use.
- Be **impartial**.
- Be **non-confrontational**.
- Allow **swift** handling with established **time-limits** for action and keeping people informed of progress.
- Ensure a full and fair investigation.
- Respect and ensure **confidentiality**.
- Address all the issues and provide an **effective** response and **appropriate** redress where necessary.
- Provide **information** to the school's senior management team so that services can be improved.

2.2 Investigating Complaints

At each stage the person investigating the complaint, should make sure that they:

- Establish what has happened so far, and who has been involved.
- Clarify the nature of the complaint and what remains unresolved.
- Meet with the complainant or contact them if clarification or further information is needed.
- Ascertain what the complainant feels would put things right.
- Interview the person who is the subject of the complaint and any other people involved. They should be allowed to be accompanied if they wish.
- Conduct interviews with an open mind to find out facts not judgements and be prepared to persist in the questioning.
- Keep notes of all interviews.

2.3 Resolving Complaints

It is important to be aware from the outset of the ways in which a complaint can be resolved. It might be sufficient to acknowledge that the complaint is valid in whole or in part and an admission that the school could have handled the situation better is not the same as an admission of negligence. In addition, it may be appropriate to offer one or more of the following:

- An apology.

- An explanation.
- An admission that the situation could have been handled differently or better.
- An assurance that the event complained of will not recur.
- An explanation of the steps that have been taken to ensure that it will not happen again.
- An undertaking to review school policies in light of the complaint.

It is useful to encourage complainants to indicate what actions they feel might resolve the problem. In this respect it should be noted that complainants' views on this may be unreasonable and they should be made aware of what are reasonable and appropriate outcomes in relation to the specific nature of their complaint.

Identify areas of agreement and clarifying any issues can also create a positive atmosphere in which to discuss any outstanding issues.

2.4 **Time-Limits**

Complaints need to be considered, and resolved, as quickly and efficiently as possible. An effective complaints procedure will have realistic time limits for each action at each stage. In circumstances where further investigations are necessary new time limits can be set and the complainant should be sent details of, and reasons for, the new timescale.

2.5 **Recording Complaints**

The Headteacher should arrange for a **confidential** record to be kept in a complaints file of the nature and progress of all complaints, when they were made, and their final outcome. The record should include notes of all meetings and what was discussed and agreed. Notes of telephone calls and conversations should be kept along with a copy of any verbal or written response included in the record.

The purpose of the Record is for monitoring purposes only and not as a source of information for future references or other issues.

2.6 **Vexatious Complaints**

A good complaints procedure which has been properly followed will limit the number of protracted complaints. There will, however, be occasions when the complainant remains dissatisfied even though all stages of the Complaints Procedure have been completed. If the complainant continues to raise the same issue it is reasonable for the Chair of Governors to inform them in writing that the procedure has been exhausted and that the matter is now closed.

3. Procedure

3.1 Informal Stage

In most cases complaints are successfully resolved informally by teachers, senior managers and Headteachers. Complaints should, therefore, initially be directed to the Headteacher.

The head teacher will:

Either

1. Encourage the complainant and member of staff to discuss the complaint and resolve it informally.

Or

2. If the complainant has already discussed their complaint with the member of staff, or that would be inappropriate, discuss the complaint with the complainant and resolve it informally, or arrange for a senior manager to do so.

And

3. Where appropriate inform the Chair of Governors without discussing the nature of the complaint at this stage.

If a School Governor is directly approached by a complainant it is important that the Governor emphasises that they can only give general advice about how their complaint might be dealt with. The Governor should encourage the complainant to talk to the Headteacher who will attempt to resolve their complaint informally in the first instance. The Governor should also inform the headteacher about the complaint as soon as possible.

It is important to note that when a Governor becomes involved in this way they cannot take part in any of the formal procedures which may follow. It may, however, be appropriate for them to accompany the complainant to a planned meeting with a member of staff or the Headteacher at this stage or any other subsequent formal meetings. This would normally only be necessary if the complainant appears uncomfortable about attending a meeting with the member of staff or Headteacher or any other subsequent formal meetings on their own.

3.2 **Formal Stage 1**

If a complaint cannot be resolved in an informal way and/or the complainant still remains unhappy the Headteacher should deal with the complaint formally. The Headteacher should ask the complainant to put their complaint in writing, stating that they wish to make a formal complaint.

The letter should include:

- Their name.
- The nature of their complaint.
- How they can be contacted.

The headteacher should:

- Acknowledge this letter within two working days.
- Investigate the complaint and then decide how best to resolve it within a further five working days.
- Provide a written response outlining how the investigation was conducted and the outcome of the complaint, as well as offering the complainant the opportunity to discuss the outcome if appropriate. This should be within two working days of completing the investigation.
- Advise the complainant that if they are dissatisfied with the outcome their complaint will be considered by the Chair of Governors at Formal Stage 2.
- Inform the Chair of Governors that a Formal Complaint has been received and what action will be taken to provide a response without discussing the nature of the complaint at this stage.

If the Headteacher is not able to resolve the complaint and/or the complainant still remains unhappy the complaint should be dealt with at Formal Stage 2.

3.3 **Formal Stage 2**

The complainant should be informed that their complaint has been passed to, and how to contact, the Chair of Governors. The complainant should write to the Chair of Governors 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.
- How they can be contacted.

At this stage it is important that only the Chair of Governors is involved, as other Governors may have to listen to any subsequent hearings which may result from an investigation of the complaint

The Chair of Governors should:

- Acknowledge the letter within two working days.
- Conduct an investigation and speak to everyone involved as soon as practicable. This will usually be within ten working days.
- Provide a written response outlining how the investigation was conducted and the outcome of the complaint, as well as offering the complainant the opportunity to discuss the outcome if appropriate. This should be within two working days of completing the investigation.
- Advise the complainant that if they are dissatisfied with the outcome their complaint will be considered by the Complaints Panel of the Governing Body at Formal Stage 3.

If the Chair of Governors is not able to resolve the complaint and/or the complainant still remains unhappy the complaint should be dealt with at Formal Stage 3.

3.4 **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 Chair of Governors 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.

A meeting of the Complaints Panel will be convened within 10 working days of the request.

At least five working days before the meeting members of the Complaints Panel should receive papers about the complaint which should include as appropriate:

- A copy of the original complaint.
- An outline of any investigation carried out by the Headteacher at Formal Stage 1.
- A copy of the letter sent to the complainant about 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 Chair of Governors requesting an investigation at Formal Stage 2.
- An outline of any investigation carried out by the Chair of Governors 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.

- A copy of the letter 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 the meeting in which case the Complaints Panel will consider the documentary evidence relating to any investigation(s) the Headteacher or Chair of Governors carried out.

The Complaints Panel may invite the Chief Education Officer's representative to provide advice and guidance. That person will not have any role in deciding the outcome but will advise on whether the procedure has been followed appropriately and on the reasonableness of the Complaints Panel's decision.

[Attendance by the Director's representative will be part of the LA's traded Comprehensive Personnel Package or on a consultancy basis].

The Complaints Panel will consider 2 questions only:

1. Whether the investigation(s) were conducted properly and reasonably within this procedure.
2. Whether the outcome was reasonable and appropriate

If the Complaints Panel decides the answer to the second question is no it should decide a different outcome to the complaint.

The Panel will have an opportunity to question the complainant, Headteacher and/or Chair of Governors when they have stated their cases. When the Complaints Panel is satisfied that it has all the information it needs it will consider all the evidence and decide an outcome. In the event that further information is needed and it is not available at the time the meeting may be adjourned and reconvened at a mutually convenient time. This should be as quickly as possible and wherever practicable within five working days.

When the Complaints Panel has all the information it needs the complainant, Headteacher and/or Chair of Governors will leave the meeting. The Complaints Panel will then reach its decision in private. It will decide:

- Whether the earlier investigation(s) were conducted appropriately and reasonably.

- Whether the decision of the Headteacher and/or Chair of Governors was reasonable and appropriate.
- Where appropriate an alternative outcome to the complaint.

The complainant should be informed of the Complaints Panel's decisions in writing within two working days.

The decision of the Complaints Panel is Final.

3.5 Remit of The Complaints Panel

Governors sitting on the Complaints Panel need to be aware, and have a copy, of the Complaints Procedure.

The Complaints Panel should:

- Consider the complaint in an independent and impartial way and must be seen to do so.
- Consider the complaint in private and confidentially.
- Resolve the complaint and achieve reconciliation between the school and the complainant.
- Recognise the complainant might not be satisfied with the outcome if it does not find in their favour.
- Establish the facts and make recommendations which will satisfy the complainant that the complaint has been taken seriously.
- Acknowledge that a complainant may feel nervous and inhibited in a formal setting. Also that parents often feel emotional when discussing an issue that affects their child.
- Ensure that the proceedings are as welcoming as possible and that the layout of the room will ensure the setting is informal and not adversarial.
- Take extra care when the complainant is a child, so the child does not feel intimidated.
- Give the views of children equal consideration to those of adults.
- Give the parent(s) of a child the opportunity to say which parts of the hearing, if any, their child needs to attend.

The Complaints 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.

4. The Role of the LA

- 4.1 The LA has no statutory role in resolving external complaints about the actions of school staff.

The LA does have a responsibility to ensure that an appropriate procedure has been followed when schools deal with complaints, particularly if a complainant remains unhappy with the outcome. If a complainant contacts the LA it will only investigate procedure and will not consider the complaint itself. Also, it will only do so if all stages of the procedure have been exhausted and if not the complainant will be referred back to the school.

If all stages of the school's procedure have been exhausted the complainant will be asked to write to the Director's representative, and will be informed that their letter should include:

- The reasons why they remain unhappy with the outcome.
- Any letters or documentary evidence sent or provided by them or the school at all stages of the school's Complaints Procedure.
- Any other evidence that shows that the school did not follow its Complaints Procedure correctly.
- How they can be contacted.

The Director as representative will:

- Acknowledge the letter within two working days.
- Contact the school and ask for details of the way in which the complaint was dealt with.
- Provide a written response stating whether or not the school investigated the complaint appropriately and according to its Complaints Procedure. This should be within five working days of receiving all the relevant documentation from the school.

- 4.2 The Director's representative may be asked to provide advice and guidance to the Governing Body, Headteacher, Chair of Governors or the Complaints Panel.

The advice and guidance will only be about:

- Procedural matters.
- The reasonableness of decisions.

Attendance by the Director's representative will be part of the LA's traded Comprehensive Personnel Package or on a consultancy basis.

- 4.3 If the complaint is particularly complex and requires extensive investigation or in other appropriate circumstances the Director's representative may be asked to investigate the complaint. Any request will be made in writing by the Chair of Governors. The Chair of Governors letter should include:

- The request to carry out the investigation.
- A copy or details of the complaint.
- A statement as to why the Director's representative is being asked to investigate the complaint.
- At what stage of the School's Complaints Procedure the investigation will be conducted. This will normally be Formal Stage 1 or 2.
- Details of any actions the school has already taken in response to the complaint.
- A copy of the School's Complaints Procedure.

The Director's representative will conduct the investigation **on behalf of** the Headteacher (Formal Stage 1) or the Chair of Governors (Formal Stage 2) and not as a representative of the LA.

The Headteacher or Chair of Governors will be responsible for communicating the outcome of the complaint to the complainant.

Investigation by the Chief Education Officer's representative will be part of the LA's traded Comprehensive Personnel Package or on a consultancy basis.

Any investigation conducted by the Director's representative as part of the School's Complaints Procedure does not prevent a different Director's representative considering procedural issues once all stages of the School's Complaints Procedure have been exhausted.