

# Dealing with Complaints

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## A. INTRODUCTION

1. The School Standards and Framework Act 1998 provided an additional function of the governing body to establish and publicise procedures for dealing with complaints relating to the school, other than those that are covered by legislation and formal procedures elsewhere.
2. Each school has the primary responsibility in law for dealing with all other complaints received. Schools' governing bodies are free to set their own procedures but it is important for the governing body to draw up clear procedures for handling complaints thoroughly, quickly and fairly and to ensure that parents are aware of them. For example, the school's complaints procedures should be included in the School Prospectus or Parents Handbook and parents could be reminded of them periodically.
3. Concerns or complaints about a school by parents or members of the public should be taken up with the school itself. All complaints about a school received by the local education authority will therefore normally be passed on to the school immediately without further intervention by the LEA. The LEA would only become involved in the process in exceptional circumstances and then not until the school's own procedures had been exhausted (see the section on Further Recourse in the outline complaints procedure). However, schools that buy into the LEA's governor support service may wish to seek advice and support from the LEA at any stage of the process, and are warmly encouraged to do so.
4. All staff and members of the governing body should be made aware of the complaints procedure and the various stages involved. Governors have an important role to play in considering complaints and it is therefore important that individual governors do not act unilaterally by investigating complaints outside the procedure adopted by the governing body. Parent governors may be approached for advice by parents on how to present their concern at Stage 1 of the process. This advice would be of a general nature only and the governor should not become directly involved at this stage in case they have to play a formal role in the process later.
5. This guidance does not refer to areas where the LEA has the lead role and for which set procedures must be followed, for example:
  - complaints about the curriculum;
  - complaints about failure to assess a child's special educational needs;
  - pupil exclusions;
  - admissions.

6. Child protection issues, criminal investigations and employee grievances will also need to be handled differently. The complaints procedure is distinct from formal disciplinary proceedings for staff and this needs to be made clear to all concerned. There may be occasions where a complaint gives rise to disciplinary procedures which put the complaints process on hold. If so, the complainant should be informed of this, while any non-disciplinary aspects of the complaint should continue to be dealt with through the usual complaints procedures. If another procedure is more appropriate than the complaints procedure for a given situation then the complaints procedure should not be used.
7. The procedure may be used by anyone who has a concern or complaint about the school. In the main this means the parents and carers of the school's pupils, but may include neighbours of the school, representatives of local businesses or members of the local community.
8. Complainants can request an investigation by the LEA where they feel that their complaint has not been investigated fairly by the governing body, although it is anticipated that this will occur only rarely. The LEA has limited powers to investigate internal school matters but it does retain a responsibility to ensure that governors have acted properly in the exercise of their functions. This stage does not represent a general right of appeal and the LEA cannot carry out an investigation solely because the complainant disagrees with the decision of the governing body. The LEA can only investigate inappropriate procedure; it is not able to re-investigate the original complaint nor can it intervene to overturn the governing body's decision.
9. An effective complaints procedure is designed to:
  - encourage resolution of problems by informal means wherever possible;
  - be easily accessible and well-publicised;
  - be simple and easy to use;
  - ensure that concerns are dealt with quickly, fully and fairly, within clearly defined time limits;
  - provide effective response and appropriate redress;
  - confirm good working relationships between all people involved with the school.
10. Schools may already have well-developed and well-used procedures of their own and if so it is entirely appropriate that they continue to use them. However, schools seeking to review or develop their policies and procedures for handling complaints may wish to draw on and adapt for their own use the attached guidance, which has been developed following consultation with headteachers and governors. The guidance materials comprise an outline complaints procedure, specimen procedures for complaints committee hearings and a template for information to be given to parents and others who may have a concern about the school.
11. Schools and governing bodies are recommended to adopt a four stage procedure, of which the first stage comprises dealing with issues and concerns informally, although they may wish to adapt this model to suit their own circumstances. Further recourse to the LEA, the Secretary of State or the Local Government Ombudsman is available to complainants but lies outside the scope of the school's own procedures. Governors would not be involved in a complaint until Stage 3, with the possible exception of being approached informally for general advice, for example as a parent governor, at Stage 1. At each stage the complainant should be provided with information on how to take matter further if necessary.
12. At all but the informal Stage 1 the proper recording and communication of complaints and actions is a vital part of the process. The aim is not to create a bureaucratic record of complaints but deal

with the genuine concerns of the complainant at the lowest level of formality that is appropriate. A record of complaints and the actions that result from their resolution is an important management tool. Schools and governing bodies should keep accurate records to ensure that they can demonstrate that their decisions have been arrived at properly and impartially.

## **B. OUTLINE COMPLAINTS PROCEDURE FOR SCHOOLS**

The school welcomes feedback, both positive and negative, about how it is doing. Where someone has a concern or complaint the school will endeavour at all times to deal with the issues responsively and reasonably and if necessary put things right as quickly as possible.

### **STAGE 1: Dealing with concerns and complaints informally**

- i) The vast majority of concerns and complaints can be resolved informally. There are many occasions where concerns are resolved straight away through the class teacher, form tutor, head of house or year, head of department, school secretary, other member of staff or headteacher, depending on whom the parent first approached, without the need to resort to a formal complaints procedure, and this is preferable for all concerned.
- ii) Although this stage involves dealing with the issue informally it may prove helpful later, although not essential at this stage, for the person responding to make a basic record of the issue or complaint raised, which may include brief notes of conversations (face to face or over the telephone), and the responses made.
- iii) The person who raised the issue should be informed of the action to be taken to resolve the issue. It may be helpful to confirm undertakings given about future action or monitoring in writing.
- iv) If the person is dissatisfied with the response they have been given, they should be provided with a copy of the school's complaints procedure and informed about how to take their complaint to Stage 2, by referring it to the headteacher, usually in writing.

### **STAGE 2: Referral to the headteacher**

- i) The issue is referred to the headteacher for investigation, usually by the complainant writing to the headteacher. It is generally at this or the previous stage that it will become clear whether it is appropriate for the complaint to be dealt with under these procedures or whether there are statutory processes as outlined in the Guidance for Parents. If the latter is the case, the Headteacher will need to inform the complainant of this and the way in which the complaint will be handled.
- ii) At this stage it has become clear that the concern is a definite complaint. Any complaint received by the headteacher under this process, whether orally or in writing, should be acknowledged within 5 school days with a full written response within 15 school days. Complainants should also be given the opportunity to meet with the headteacher, accompanied by a relative or friend if they so wish, to discuss their complaint. Written records of interviews with complainants and with staff or witnesses carried out in the course of the investigation should be kept by the headteacher.
- iii) In the letter conveying the outcome, the complainant should be informed of the process for referral to the Chair of Governors if they wish to take their complaint further. Any such referral should be made within 10 school days after receipt of the headteacher's letter.

### **STAGE 3: Review by the Chair of Governors**

- i) The complainant requests a review of their complaint by writing to the chair of governors care of the school, making it clear why they are complaining, who they have already spoken to and what they want to happen as a result of their complaint. Complaints received by the Chair should be acknowledged within 7 school days with a substantive response within 20 school days. The Chair may need to hold interviews with the Headteacher and possibly other members of staff and notes should be kept of those meetings. Chairs may also wish to take advice on particular issues from relevant officer of the LEA. At this stage the LEA's governor support team should be informed that the governing body is dealing with a complaint at this level.
- ii) Again, the letter conveying the Chair's findings should include details of the next stage of the procedure.
- iii) This stage should also serve as the first point at which complaints specifically about the Headteacher, the actions of the governing body or an individual governor should be considered (should the complaint be about the Chair, the Vice-Chair should undertake the investigation).
- iv) In acknowledging any complaint, the Chair may need to explain the powers of the governing body in the matter in question and the extent to which it may or may not be possible to achieve the outcome desired by the complainant. For example, a parent may be unhappy with their child's class placement. Whilst the governors can look at whether the decision about the class placement was made in a fair, reasonable and consistent way, they do not have the powers to change the placement. In such instances it is important that the complainant is made aware at the outset of the scope of the investigation. However, where it is not within the remit of a governing body to change a decision, it may make a recommendation for the headteacher to consider.

### **STAGE 4: Review by Governing Body Complaints Committee**

- i) Complaints only rarely reach this formal level, but it is important that governing bodies are prepared to deal with them when necessary. Where the clerk to the governors receives a complaint under these procedures, he or she should arrange for a complaints committee to meet between 12 and 20 school days from receipt of the letter. (The governing body should have nominated three members to serve on the committee and reserves to ensure that sufficient governors are available to hold a meeting within the specified time period. The chair of governors should not be a member of the committee as they will have been involved at the previous stage).
- ii) The headteacher should also be informed immediately that a complaint has been received and consulted about the proposed date of the hearing. At this stage the LEA's governor support team should be informed that a hearing was taking place.
- iii) On issuing notification of the date and time of the hearing, the clerk will need to advise the complainant and the Headteacher that any written documentation they wish the committee to consider will need to be submitted in time to be circulated to committee members 5 days prior to the hearing. The complainant should be advised that they may be accompanied by a relative or friend.
- iv) Notification of the hearing should also include details of the way in which the hearing will be conducted. (A specimen of such procedures is included in this guidance). The hearing should be minuted and copies of all relevant correspondence and notes should be kept on file by the clerk.
- v) The findings of the committee should be notified to the complainant and the headteacher in writing within 5 school days of the hearing.

- vi) When considering the membership of the complaints committee, the governing body should have regard to whether it would be advisable to include governors who are employed at the school. If this were the case, it may be perceived by the complainant that those governors would be unlikely to amend or overturn a decision taken by the headteacher. In those circumstances, the complainant might regard this as grounds to complain to the LEA or the Secretary of State.

## **FURTHER RECOURSE**

If the complainant is dissatisfied with the governing body's handling of their complaint, further recourse to other agencies is available to them outside the scope of the school's own procedures. However, these agencies would be unable to take any action until the school's own procedures had been completed.

### **To the LEA**

- i) If, having been given the governing body's decision, a complainant believes that a complaint was not handled fairly according to the school's complaints procedure, they can write to the education department's complaints officer.
- ii) The complainant should explain their complaint, and give evidence that shows that the school did not follow its complaints procedure. The department's complaints officer will acknowledge the complainant's letter within 10 working days and inform the Chair of Governors that a complaint has been received. If the evidence supports it, the complaints officer will investigate whether the school had dealt with the complaint properly according to its procedure.
- iii) The LEA is not able to re-investigate the original complaint nor can it seek to substitute the LEA's judgement for that of the governing body if the governors have followed a proper procedure and considered the complaint reasonably. If the results of an investigation show that there had been a breach of procedure the matter will be referred back to the governing body, with a copy to the headteacher and the complainant will be informed of the outcome of the investigation. The governing body should then re-investigate the original complaint.

### **To the Secretary of State for Education**

- i) Complainants have a right of appeal to the Secretary of State for Education and Skills under sections 496 or 497 of the 1996 Education Act if they believe that the LEA has acted unreasonably. If the Secretary of State agrees that a complaint is justified, the DfES has the power to require the LEA to take certain actions including the issuing of instructions to school governing bodies in appropriate circumstances, although in practice this would be very rarely exercised.
- ii) The Secretary of State would not take action until the school and LEA procedures have been completed.

### **To the Local Government Ombudsman**

- i) If a complainant feels that there has been maladministration in the manner in which a complaint has been dealt with, they can take this to the Local Government Ombudsman. The Ombudsman can investigate complaints about how something has been done but he cannot question what has been done simply because someone does not agree with it. The Ombudsman cannot investigate the internal management of schools and colleges.
- ii) The Ombudsman would not take action until the school and LEA procedures have been exhausted.



## C: SUMMARY OF THE COMPLAINTS PROCEDURE

### Concern or complaint received

#### INFORMAL PROCEDURE

STAGE	ACTION REQUIRED
Stage 1. Informal discussion with the class teacher or other relevant member of staff (possibly the Headteacher) usually resulting in resolution of the issue	The person is informed of the action to be taken to resolve the issue. If they are not satisfied they should be provided with a copy of the school's complaints procedures and information of how to proceed to stage 2 with their complaint

#### FORMAL PROCEDURE

Stage 2: The complaint is submitted, either verbally or in writing, to the Headteacher	<p style="text-align: right;"><b><i>If the complaint is not resolved</i></b></p> The Headteacher acknowledges receipt with 5 school days and provides a full written response within 15 school days. If necessary the complainant should be informed of how to contact the chair of governors
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Stage 3: A written complaint is submitted to the Chair Governors	<p style="text-align: right;"><b><i>If the complaint is not resolved</i></b></p> The Chair acknowledges receipt within 5 school days. Chair of Governors provides full written response within 15 school days. Information is provided to complainant if required on how to progress complaint to stage 4. School notifies LEA governor support team
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Stage 4: Complainant writes to the Clerk to Governors requesting that the complaint be heard by a complaints committee of governors	<p style="text-align: right;"><b><i>If the complaint is not resolved</i></b></p> Clerk arranges for complaints committee to meet between 12 and 20 school days from receipt of letter and informs complainant of findings within 5 school days of hearing. School notifies LEA Governor support team. School notifies complainant how to contact education department if required
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	<p style="text-align: right;"><b><i>If the complainant is not satisfied that the complaint has been dealt with properly according to the school's procedure</i></b></p>
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#### FURTHER RECOURSE

Complainant writes to the LEA education department complaints officer with evidence that the school did not follow its complaints procedure	Department complaints officer acknowledges letter with 10 working days and informs the complainant about what will be done, making it clear that the department can only investigate inappropriate procedure, not the complaint itself
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	<p style="text-align: right;"><b><i>If the complainant is not satisfied that the complaint has been dealt with properly and fairly</i></b></p>
Complainant writes to the Secretary of State for Education and Skills, or the Local Government Ombudsman	The Secretary of State may intervene if a governing body or a LEA has not carried out a statutory duty or has acted unreasonably. The Ombudsman only investigates issues of maladministration

## **OUTLINE PROCEDURES FOR COMPLAINTS COMMITTEE HEARINGS**

### **Before the hearing**

1. The complainant and the headteacher should be provided with details of the way in which the hearing will be conducted.
2. If necessary support for the complainant should be arranged, for example, translation of any of the papers provided by the school or the LEA, provision of an interpreter or any arrangements necessary to give the complainant full access to the proceedings, for example if the complainant has a disability.
3. The members of the committee should elect one of their number to act as Chair of the committee for the hearing.

### **The hearing**

4. The complainant and the headteacher should simultaneously be invited into the room where the hearing is being held. At this point the Chair may wish to reiterate the scope of the governing body's powers and clarify the aims of the hearing, i.e. to resolve the complaint, reconcile differences between the complainant and the school and to help identify the way forward.
5. The Chair should introduce all those present and ensure that all parties have been advised of the way in which the hearing will be conducted.
6. The complainant to begin by explaining the basis of their complaint and the headteacher to respond by stating the reasons for the school's response.
7. The headteacher to ask the complainant any questions regarding their complaint and the complainant to raise questions with the headteacher about the school's response.
8. Members of the committee to have the opportunity to ask questions of either the complainant or the headteacher.
9. The complainant and the headteacher to be given the opportunity to make any final statement.
10. The Chair to confirm that a decision will be issued within 5 school days.
11. The complainant and the headteacher should then leave the hearing.

### **The decision making process**

12. The committee should then consider a decision based on the information and evidence presented to them. It should decide whether or not to uphold the complaint, suggest any actions which may be taken to resolve the complaint and consider whether it would be appropriate to suggest a review of any school policies in the light of issues raised in the course of the complaint. The committee should reach a unanimous or majority decision on the complaint.

### **Communicating the decision**

13. The findings of the committee should be notified to the complainant and the headteacher in writing within 5 school days of the hearing.