

# Guidance

# Formal School

# Complaints



## *Sandwell Home and Hospital Tuition Service*

Signed by Chair of Governors:



Date ratified by Governing Body: 26.02.2019



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## 1.0 Introduction:

It is in everyone's interest that concerns are resolved/clarified at the earliest possible stage. Where concerns can be resolved informally schools should seek to identify what would resolve the situation and then endeavour to find a resolution at the earliest opportunity.

In accordance with **Section 29 of the Education Act 2002**, all local authority maintained schools must have and make available a procedure to deal with all complaints relating to their school and to any community facilities or services that the school provides. A guidance document for parents does not satisfy this legal requirement and a distinct policy must be in place.

In January 2016, the Department for Education published a document entitled "**Best Practice Advice for School Complaints Procedures 2016**". This replaces the School Complaints Toolkit 2014.

Where it is not possible to resolve concerns informally, the school's formal complaints procedure should be invoked through the stages outlined in the complaints procedure.

Individuals must always be given the opportunity to complete the complaints process in full, regardless of whether it is felt that that the complaint is justified or not. Complaints procedures should not suggest that a complaint can only be escalated to the next stage if the school permits it.

If the complaints process is in progress and further enquiries are received regarding the same subject this can be unhelpful in managing the complaint. Therefore, if additional correspondence is received it should not be responded to and a simple letter issued to confirm this. This will apply to all enquiries including those received from Local Councillors or MPs.

Head Teachers have a duty of care to consider if staff named in a complaint may require support and to provide this. When staff are dealing with concerns they should make a written note to record it and share this with their Line Manager.

## 2.0 The Model Complaints Policy

The LA has agreed a model complaints procedure for non-statutory school complaints and has agreed that this should be implemented in all Sandwell schools to ensure consistency and good practice. This document is guidance for Head Teachers and Governors to support the model policy and provide practical guidance on dealing with complaints. It is based on the guidance issued by the DfE in 2016\* on school complaints and the guidance document issued by NAHT in response to this.

\*Revised guidance has been reissued by DfE (January 2019):

<https://www.gov.uk/government/publications/school-complaints-procedures/best-practice-advice-for-school-complaints-procedures-2019>

Schools should tailor the LA’s model policy to the requirements of the school. Schools may also wish to consider adding complaints handling to induction for Governors, Head Teachers and staff involved in dealing with complaints.

The governing body should ensure that where the school has third party providers offering community facilities or services through the school premises, or using school facilities, the providers have their own complaints procedure in place. Any complaints made concerning third party providers will be dealt with under their own procedures.

### 3.0 The Complaints Procedure:

General good practice in dealing with complaints:

#### 3.1 Accessibility

Schools should ensure that the formal complaints procedure:

- is easily accessible and publicised both within the school and available on the school website;
- is simple to understand and use;
- is impartial and in the spirit of working together co-operatively to reach the best resolution for everyone;
- respectful of confidentiality for all;

#### 3.2 Complaints not in scope of the complaints procedure

The complaints procedure should cover all complaints about any provision of facilities or services provided with the exceptions listed below, for which there are separate (statutory) procedures. If the school decide that one of the exceptions are applicable then they should write to the complainant to advise them of this decision, confirming the correct procedure to follow and how this can be accessed:

Exceptions	Whom to contact
<ul style="list-style-type: none"> <li>• Admissions to school</li> <li>• Statutory assessments of Special Educational Needs</li> <li>• School re-organisation proposals</li> <li>• Matters likely to require a Child Protection investigation</li> </ul>	Local authority.
<ul style="list-style-type: none"> <li>• Exclusion from school</li> <li>• This would be recorded at the mainstream school for all pupils dual registered at Albright Education Centre</li> </ul>	Parents and carers may use procedures to challenge permanent exclusions and fixed-term exclusions of more than 5 days in a given term. Concerns about the process followed can be raised via the complaints procedure.
<ul style="list-style-type: none"> <li>• Whistleblowing</li> </ul>	<ul style="list-style-type: none"> <li>• Schools should have an internal procedure for employees and volunteers.</li> <li>• Ofsted may be contacted by email (<a href="mailto:whistleblowing@ofsted.gov.uk">whistleblowing@ofsted.gov.uk</a>) telephone (03001233155) or in writing (WBHL, Ofsted, Piccadilly Gate, Store Street, Manchester, M1 2WD).</li> </ul>
<ul style="list-style-type: none"> <li>• Staff grievances and disciplinary procedures</li> </ul>	Schools <b>must</b> have staff grievances, discipline and conduct procedures in place. Complainants are not informed of the outcomes of actions under this procedure.
<ul style="list-style-type: none"> <li>• Complaints about services provided by external bodies using a school’s premises or facilities.</li> </ul>	Providers should be contacted directly and have their own procedures for such eventualities.

### 3.3 Time limit for making a complaint:

In general, any matter which is raised more than 3 months after the event being complained of, will not be considered. However, schools should consider if there is any good cause why it was not possible for the complaint to be made within 3 months. There may be some circumstances where the complaint can be accepted outside of this timescale and each request should be considered on its own merit. The final decision on whether a complaint should be accepted outside of this timescale will be made by the Head Teacher.

### 3.4 Recording Complaints:

Schools must ensure that they comply with their obligations under the Equality Act 2010. It is common practice to ask for complaints to be made in writing using a complaints form. However, the complainant may have communication preferences due to disability or learning difficulties and schools must allow alternative methods of contact:

- Complaints may be made in person, by telephone, or in writing;
- Where complaints are accepted by telephone or in person it is good practice to make a written record of the complaint and ask for this to be signed off by the complainant. Where complaints are likely to escalate this provides a clear record of the scope of the complaint to be investigated.
- Notes should be kept of meetings and telephone calls and any written response should be added to the record for later reference if required
- Schools should record the progress of the complaint and the outcome. The Head Teacher or designated person should be responsible for holding these records in a central location.
- Schools should also be aware that complainants have a right to copies of these records under the Freedom of Information and Data Protection Acts.

### 3.5 Keeping people informed

Each stage of the complaints process has agreed timescales which should be adhered to. If for any reason this is not possible the school/governing body should write to the complainant to explain the reasons and confirm when the action will be completed.

Stage	Timescale
Informal stage	As soon as possible but no longer than?
Stage 1 Formal Complaint	<ul style="list-style-type: none"><li>• Letter to be sent within 5 days of the school receiving the complaint to confirm how the complaint will proceed with timescales.</li><li>• Full response within 15 school days.</li></ul>
Request for stage 2 independent review	<ul style="list-style-type: none"><li>• To be made within 10 school days of receiving the outcome of the stage 1 complaint.</li></ul>
Independent stage 2 review panel	<ul style="list-style-type: none"><li>• To be heard within 10 school days of receiving the request.</li></ul>
Panel decision to be issued	<ul style="list-style-type: none"><li>• Within 5 school days of the panel</li></ul>
Review by LA	<ul style="list-style-type: none"><li>• To be completed within 10 working days</li></ul>

### **3.6 Stages of the complaints process:**

The following outlines the stages of the complaints procedure, at the end of each stage of the procedure complainants should be advised of their right to progress to the next stage and how to do this.

**Informal stage - dealing with concerns:** initial concerns should be dealt with by an appropriate member of staff. These should be taken seriously and every effort made to resolve matters as quickly as possible.

In certain cases, it may be appropriate to forward these to the Head Teacher (or to the Chair of the Governing Body, if the complaint is about the Head Teacher). If the Chair of Governors is implicated in the process then they should nominate the Vice Chair to deal with the complaint.

**Formal stage one:** a formal complaint should be investigated by the Head Teacher or person nominated by the Head Teacher. The investigation should be completed within 10 school days and at the end of the investigation a full written response should be sent to the complainant.

If the formal complaint is about the Head Teacher this stage should be dealt with by the Chair of Governors.

Where a complaint relates to a member of staff this may be subject to internal staffing procedures and the outcome of such investigations will not be shared with complainants.

Where a complaint relates to the behaviour of a pupil this may be subject to the school's conduct and disciplinary procedures and the detail will remain confidential to the school and the parents of the child involved.

Complainants should be assured that the complaints will be investigated fully but due to data protection information will not be shared with them and this should be confirmed in writing.

**Formal stage two:** if stage one has been completed and the complainant remains unhappy with the way in which the investigation has been conducted the individual can request that the complaint is referred to a panel of governors. The panel will carry out a review of the investigation process which has been carried out at stage one. The request to progress to stage 2 should be made in writing within 10 school days of receiving the stage 1 response and addressed to the Clerk to Governors.

The governing body panel should be independent and should be made up of three members who have had no awareness or involvement with the complaint.

The request to progress to stage 2 should include a statement from the complainant which clearly states why they are dissatisfied with the process of the investigation. If the reasons are not clear the Chair of Governors should write to the complainant to request the additional information required to hear the panel or consider inviting the complainant to attend the panel to present their views.

Complainants have the right to request an independent panel if they believe that there is likely to be bias in the proceedings. Schools can consider approaching a different school to ask for help or contact the local Governor Services team commissioned by the LA, or the Diocese. Schools should consider any such request but ultimately, the final decision is made by the Chair of Governors.

The panel will normally be conducted through consideration of a written submission, but reasonable requests to make oral representations should be considered sympathetically. Inviting the complainant to the review can often be beneficial in understanding the complaint and assisting in resolution, however the final decision will be taken by the Chair of Governors.

The panel will normally take place within 10 school days of receipt of the request.

### **3.7 Next Steps for complainants who remain dissatisfied with the process of investigation and have completed the formal school complaints procedure:**

If complainants are dissatisfied with the way in which their investigation was conducted and have exhausted the school's complaints procedure they may request a further review of the process which should be completed in 10 working days.

The type of review will depend upon the type of school: for maintained schools the LA will complete a review; will complete a review; and for academy schools the Regional Schools Commissioner may consider completing a review.

### **4.0 Support for schools when dealing with complaints:**

In dealing with difficult complaints schools may seek guidance from the LA and from Legal Services.

The DfE have a School Complaints Unit who may also be contacted for support when dealing with complaints and their role is outlined below.

#### **4.1 The role of the DfE School Complaints Unit**

If a complainant has completed the local procedures and remains dissatisfied, they have the right to refer their complaint to the Secretary of State for Education. The Secretary of State has a duty to consider all complaints raised but will only intervene where the governing body has acted unlawfully or unreasonably and where it is expedient or practical to do so.

The School Complaints Unit (SCU) considers complaints relating to LA maintained schools and academies in England on behalf of the Secretary of State. The SCU will look at whether the complaints policy and any other relevant statutory policies were adhered to. The SCU also looks at whether statutory policies adhere to education legislation.

The SCU would only overturn a school's decision on a complaint in exceptional circumstances where the school have acted unlawfully or unreasonably.

Schools may contact the SCU for advice on whether they have acted reasonably. The SCU will not be able to advise on how to resolve the complaint.

Further information can be obtained from the SCU by calling the National Helpline on 0370 000 2288 or going online at: [www.education.gov.uk/help/contactus](http://www.education.gov.uk/help/contactus).

## 5.0 Social Media

Individuals who raise concerns are asked to comply with the Schools guidance on social media which should be available on the school website, a complaint can be undermined by:

- Comments made on social media
- Identifying individual staff on social media
- Personal abuse targeted towards individual members of staff
- Physical or verbal threats targeted to individuals or groups of staff

These behaviours amount to harassment and will be dealt with by the Police.

## 6.0 Serial and Persistent Complainants

In cases where schools are contacted repeatedly by individuals making the same point or asking them to reconsider their position the school will need to take appropriate action and may choose not to respond to the concerns.

In coming to this decision, the school must be confident that they have done everything that they can to resolve the issues and that the formal complaints procedure has been followed in full. If the complainant contacts the school again on the same issues, the Chair of Governors can inform them that the procedure has been completed and the matter is closed. This should be put in writing to the complainant and the letter should fully explain the reasons for this.

If the complainant continues to contact the school on the same issue, then the correspondence may be viewed as 'serial' or 'persistent' and the school may choose not to respond. It is important to note that the complaint should not be considered as 'serial' or 'persistent' until the complaints procedure has been completed.

Everyone has a democratic right to contact their local MP regardless of which stage the complaint has reached and this should not be considered under any circumstances as 'serial' or 'persistent'.

The application of a 'serial' or 'persistent' marking should be against the subject or the complaint itself rather than the complainant.

**Note:** The Department for Education does not itself use the term 'vexatious' when dealing with serial or persistent correspondents as it could potentially be inflammatory. However, it is a recognised term. In the context of Freedom of Information (FOI) requests, the Upper Tribunal concluded that 'vexatious' could be defined as the '*...manifestly unjustified, inappropriate or improper use of a formal procedure.*' An exemption therefore exists in Section 14(1) of the Freedom of Information Act 2000. However, this exemption can only be applied to requests themselves, and not the individuals who submit them.

More information about dealing with vexatious requests for information is available on the [Information Commissioner's Office](http://www.ico.gov.uk) (ICO) website.



## 6.1 When should schools stop responding to complainants?

The decision to stop responding to complainants should not be taken lightly and a school must be able to say yes to each of the following:

- The school has taken every reasonable step to address the complainant's needs and concerns; and
- The complainant been given a clear statement of the school's position and their options (if any); and
- They are contacting the school repeatedly but making substantially the same points each time.

The case is stronger if the school agrees with one or more of these statements:

- The school has reason to believe the individual is contacting them with the intention of causing disruption or inconvenience – they have actually said as much in a letter, email or telephone call?
- Their letters/emails/telephone calls are often or always abusive or aggressive.
- They make insulting personal comments about or threats towards staff.

Schools should not stop responding just because an individual is difficult to deal with or asks complex questions. In most circumstances, the subject matter is what you can refuse to respond to, not the correspondent.

Schools must provide parents with the information they are entitled to under The Education (Pupil Information) (England) Regulations 2005.

However, where an individual's behaviour is causing a significant level of disruption schools may wish to implement a tailored communications strategy such as restricting them to a single point of contact via an email address or by limiting the number of times they make contact; e.g. a fixed number of contacts per term.

Complainants have a right to have any new complaint heard and failure to respond at all to a complainant could mean that the school is failing to comply with its legal obligations. A school needs to ensure that they are acting reasonably and that any genuine complaint can still be heard.

If maintained school staff find it difficult to deal direct with a complainant because of their unreasonable behaviour and other strategies are not working, they could approach the Governor Services team at the LA to ask for assistance.

Complainants who may have been restricted in their communications with the school can also be advised to ask a third party to act on their behalf, such as the local Citizen's Advice Bureau.

Ultimately, if a complainant persists to the point that the school considers it to constitute harassment, legal advice should be sought as to the next steps. In some cases, injunctions and other court orders have been issued to complainants because of their behaviours.

It is important to keep a chronology of events to support decisions that are taken.

Different procedures apply to FOI and Data Protection (DP) correspondence. You should talk to your FOI/DP advisor contact about those or approach the ICO for further advice.

Once a school has decided that it is appropriate to stop responding, they will need to let the complainant know; ideally, through a hard copy letter but an email will suffice.

## Appendix 1 Model complaint form



### (Name of school) School Complaint Form

Please complete this form and return it to the school office or to the Head Teacher who will acknowledge its receipt within 5 school days and inform you of the next stage in the procedure.

Your Name \_\_\_\_\_

Relationship with school (e.g. parent of a pupil on the school roll):

\_\_\_\_\_

Pupil's name (if relevant to your complaint):

\_\_\_\_\_

Your address:

Telephone numbers

Daytime:

Evening

Email:

Please confirm below the details of your complaint, include dates, names of witnesses and any other information which is relevant to enable your complaint to be investigated. Please continue on a separate sheet if more space is required.

**If you have taken any actions to try to resolve this complaint please confirm the details below and include the names of people you have spoken to.**

**What actions do you feel might resolve the problem?**

**School use:**

Date form received:

Received by:

Complaint being dealt with by:

Date acknowledgment sent:

Target response date:

## Appendix 2 Model complaint review request form

### (Name of school) School Complaint Review Request Form

**Please complete this form and return it to the Head Teacher (or clerk to the governing body), who will acknowledge its receipt and inform you of what will happen next.**

**Your name:** \_\_\_\_\_

**Your address:** \_\_\_\_\_

Your address:

Telephone numbers

Daytime:

Evening

Email:

Dear school,

I submitted a formal complaint to the school on \_\_\_\_\_ and am dissatisfied with the outcome and the procedure that has been followed.

My complaint was submitted to \_\_\_\_\_ and I received a response from \_\_\_\_\_ on \_\_\_\_\_

I have attached copies of my formal complaint and of the response from the school.

I am dissatisfied with the outcome of my complaint for the following reasons:

Please use a separate sheet if necessary.

**What actions do you feel might resolve the problem?**

**School use:**

Date form received:

Received by:

Complaint being dealt with by:

Date acknowledgment sent:

Target response date:

**Appendix 3 Model letter for complaints received which cannot be investigated under the school complaints policy:**

Dear (Name of complainant)

Thank you for submitting your concerns on (insert date). I have reviewed the details of your complaint and regrettably I am unable to deal with this matter under the school's complaints procedure. This is because:

***(Include information as appropriate)***

- Your complaint has already been dealt with under the school's complaints procedure at both stage 1 and stage 2. (Include details of the process which has been followed.) We are therefore unable to consider the same complaint again.

Or;

- The concerns which you have raised do not fall within the scope of the school complaints procedure. There is a statutory process in place to consider this matter which can be accessed by (provide details of what the alternative process is and how this can be accessed).

Yours sincerely

Head Teacher

Or Chair of Governing Body

## Appendix 4 Model receipt of a complaint and invitation to meet

Dear [Name of Complainant]

I have received your formal complaint, dated ....., thank you for bringing this to my attention.

The school and governing body take any complaint seriously. Therefore, I would like to meet with you, as soon as possible, so that I may understand the details of your concerns more clearly. You are welcome to be accompanied to the meeting by a friend, if you would find this helpful. *Please telephone..... to arrange an appointment. **OR** I can offer you an appointment at .... on ,.. Please let me know if this is convenient.*

I hope that we will be able to resolve your concerns through our meeting, but if not, I will ensure that the appropriate formal investigation takes place and will discuss what will happen next when we have met.

Yours sincerely,

Head Teacher

Or Chair of Governing Body



## Appendix 5 Model Acknowledgment of formal complaint received by a third party (e.g. LA, Diocese, MP)

Dear [Name of Complainant]

I have received a copy of the documentation that you sent in to ..... setting out a complaint about ..... This has been passed to the school as it has responsibility for these matters.

The school and governing body take any complaint seriously. Therefore, I would like to meet with you, so that I may understand the details of your concerns more clearly. Please telephone ....., to arrange an appointment. **OR** I can offer you an appointment at ..... on ..... Please let me know if this is convenient.

Meanwhile I would be grateful if you would complete and return the Formal Complaint Form that is enclosed, along with details of the school's complaints procedure.

I hope that we will be able to resolve your concerns through our meeting, but if not, I will ensure that the appropriate investigation takes place.

Yours sincerely,

Head Teacher

Or Chair of Governing Body

## **Appendix 6 Model acknowledgement of a formal complaint which is to be dealt with as a confidential matter**

Dear .....

I have received your formal complaint, dated ..... thank you for bringing this to my attention.

The school and governing body take any complaint seriously. Therefore, I have initiated an immediate investigation. It is possible that the investigator will wish to meet with you to clarify the evidence that you have provided so far. If so, he/she will write to you to make suitable arrangements.

As your concerns relate to the conduct/capability of a member of staff, the investigation will be carried out under the school's personnel procedures. This means that the detail of the procedure and its outcome **must** remain confidential to the school and the member of staff concerned.

### **OR**

As your concerns relate to the behaviour of a pupil, the investigation will be carried out under the school's pupil conduct and disciplinary procedures. This means that the detail of the procedure and its outcome must remain confidential to the school and the parents of the child concerned.

In due course, I may be able to provide you with some information about the outcomes of the investigation and the processes that have been followed, but in any event, will let you know when the matter has been concluded.

If I can be of any further assistance, please do let me know.

Yours sincerely,

Head Teacher

Or Chair of Governing Body

## Appendix 7 Model letter to convey stage 1 outcome/decision:

Dear

Following receipt of your complaint and careful consideration of all the available relevant evidence, I/the panel have/has concluded that:

The concern is not substantiated by the evidence in that .....

**OR**

The concern was substantiated in part/in full, as ..... The school will review its practices/procedures..... with the intention of avoiding any reoccurrence. Parents will be informed in due course of any policy changes.

**OR**

To address fully the matters investigated, the school has initiated appropriate internal procedures. Due to the nature of these procedures, their outcome must remain strictly confidential. We are confident, however, that the circumstances that gave rise to your complaint should not recur

**OR**

To address fully the matters of concern that you identified, the panel recommended that the governing body should review its ..... policy, as a matter of urgency. We are confident that this should prevent similar concerns arising in future.

We trust that you will be satisfied with the outcome of this complaint, however should this not be the case you may request to progress your complaint to stage 2. This can be done by contacting .... (Add contact details)

Yours sincerely,

Head Teacher/Chair of Governing Body/Chair of Panel

## Appendix 8 Model letter to convey outcome of a stage 2 review

Dear

Having carefully considered your representations in the context of the relevant evidence, the Governing Body Complaints Review Panel has concluded that the school followed the relevant procedure appropriately in respect of your complaint.

Summary of reasons .....

Therefore, we now consider the matter closed.

**Or**

Having carefully considered your representations in the context of the relevant evidence, the Governing Body Complaints Review Panel has concluded that the school followed the relevant procedure appropriately in respect of your complaint except .....

Therefore, the following action will be taken .....

Once this action has been completed the school will consider the matter to be closed.

**Or**

Having carefully considered your representations in the context of the relevant evidence, the Governing Body Complaints Review Panel has concluded that the school followed the relevant procedure appropriately in respect of your complaint except .....

However, the panel determined that this procedural failure did not affect the outcome of the consideration of your complaint so, while we regret this error, we will now consider this matter to be closed as far as the school is concerned.

We trust that you will be satisfied with the outcome of this review, however should this not be the case you may contact the local authority or Regional Schools Commissioner (add contact details).

Yours sincerely,

Chair of Complaints Review Panel

c.c. Head Teacher

Chair of Governors