

Guidance for Staff, Governors and Trust Directors on the Management of Complaints from Parents and Carers

Scope of the Complaints Procedure

The Complaints Procedure will not apply in all cases, for instance appeals against exclusions, admission appeals or decisions the local authority has made about a Special Educational Needs Statement or an Education, Health and Care Plan. In addition, staff whistleblowing, disciplinary action, grievances and capability issues related to employees, child protection or criminal investigations are also dealt with through separate specific procedures.

It will be for the Complaints Coordinator to determine if an alternative procedure should be applied.

Complaint campaigns

Complaint campaigns against the Academy or the [name of CMAT], defined as a large volume of complaints all based on the same subject or from complainants unconnected with the Academy/CMAT will not be managed under the procedure. Instead they will receive a standardised response or be a single response on the school/CMAT website. The Complaints Coordinator should be informed immediately by the Academy if they have evidence that they are likely to be subject to a campaign.

Parental responsibility

Conflict between estranged parents over the application of parental responsibility is a common cause of complaints made to academies. The Academy/CMAT should refer to the separate guidance published by the DfE on understanding and dealing with issues relating to parental responsibility.

<https://www.gov.uk/government/publications/dealing-with-issues-relating-to-parental-responsibility>

Complaints Coordinator

Previous guidance has made it clear that this is an administrative role and should not be carried out by Headteachers, Heads of School or Executive Headteachers as they are likely to be involved in attempting to resolve the majority of complaints at either the informal Stage 1 or formal Stage 2. It will be for the CMAT to determine whether to have a central CMAT Complaints Coordinator or whether this function is held at local academy level (this function could also operate across academies if that were locally appropriate).

The Complaints Coordinator should keep appropriate records, monitor progress of complaints, assist the Headteacher/Head of School/Executive Headteacher/Chair of Governors/Investigating Officer with arrangements to meet/contact complainants, provide administrative support and manage the arrangements for the Governor Panel where this cannot be best performed by the Clerk to Governors.

Publicising the Procedure

The Complaints Procedure should be displayed on the CMAT website and local academy websites and should be visible and easily accessible. Academies may also wish to consider displaying information about how to make a complaint in the main entrance or reception area.

Impact on Staff

A complaint is not part of any staff disciplinary process and staff who may be interviewed as part of the investigation must be treated fairly and have an opportunity to state their case. The academy should ensure that staff are offered support in dealing with any investigation into a complaint.

The academy should ensure that any member of staff who is complained about has the opportunity to respond to the complaint during the investigation and is able to see any response as a result of the investigation. **Any disciplinary procedures that may arise from the investigation must be dealt with separately under the academy's disciplinary procedure.**

Confidentiality and Access to Notes and Reports

Confidentiality must be maintained at all times, although all parties will need to accept that some information may need to be shared if the complaint is to be fully investigated and that complainants and staff have the right of access to information that relates to them or their complaint.

Complainants can reasonably expect to be provided with a copy of any reports or findings relating to their complaint but should expect that any information that relates to children other than their own would be removed or anonymised. They can also expect to receive the notes of any meetings they have attended, including the final Stage 3 Panel meeting and receive a copy of the outcome and recommendations from the Stage 3 Panel. Similarly, staff members are entitled to see minutes or notes from any discussions they have with investigating officers.

Recording of Complaints

A record should be held of all complaints with details of the nature and progress of all complaints, when they were made, and their final outcome. It will be for the CMAT to determine how long those records are retained linked to its policy on record retention. The record should include notes of all meetings including 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.

Correspondence, statements and records relating to individual complaints will be kept confidential except where the Secretary of State or a body conducting an inspection under section 109 of the Education 2008 Act requests access to them.

Records of complaints held by the CMAT should show:

- the progress of the complaint and the final outcome
- whether the case progressed to a panel hearing
- the action taken by the school or the trust, regardless of outcome

As the data controller the CMAT must decide long to keep records, unless statutory regulations apply. For example, copies of attendance registers must be retained for 3 years. Under the General Data Protection Regulations (EU) 2016/679 (GDPR), data must not be kept longer than is necessary. You should consider that complainants may have a right to copies of these records under the Freedom of Information Act 2000, the Data Protection Act 2018 and GDPR. Refer to the ESFA Data protection: toolkit for schools or the Information Commissioner's Guide to GDPR for more information.

There may be occasions where complaints are made or continue to be escalated after a child has left the school. On changing schools, the pupil's educational record is transferred to the new school and no copies are retained. Schools can consider holding records of complaints separate to their pupil records (while a complaint is ongoing) so that access to them can be maintained. As information generated by a complaint may not form part of the pupil record, you should consider how best to store this information. Personal data should only be kept for as long as is necessary for the immediate purpose of processing. The data should be stored securely and, where appropriate, encrypted to maximise security.

Time limits for Bringing Complaints and Extensions to Time Limits

Complaints need to be considered and resolved as quickly and efficiently as possible. The ESFA have recommended 12 months after an incident arises to be an acceptable time frame in which to lodge a complaint and this has been included in the procedure. However it is right that complaints received after this time are reviewed and any exceptional circumstances, such as late disclosure of an incident or inability to promptly secure supporting evidence, are taken into account before deciding whether to accept or progress a complaint.

During the course of managing a complaint if at any stage further investigations are necessary or it is proving difficult to agree mutually acceptable dates for meetings then new time limits can be set. If this occurs, it is important that the complainant is sent details of the new timescale and an explanation as to why it has proved necessary to apply a new schedule to the management of their complaint.

Resolving Complaints

The intention must be to attempt to resolve any complaint. This may be achieved simply by acknowledging that the complaint is valid in whole or in part and/or an admission that the academy/CMAT could have handled the situation better. This 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 academy/CMAT policies in light of the complaint.

Complainants should always be encouraged to indicate what actions they feel might resolve the problem. If complainants' views on this are unreasonable, they should be made aware of what are reasonable and appropriate outcomes in relation to the specific nature of their complaint.

Progressing to the Next Stage

Despite best endeavours, it may not be possible to achieve a resolution at Stage 1. Parents/carers should expect to be able to progress their complaint to the Stage 2 (formal investigation) phase if they are not satisfied with the outcomes from Stage 1. Similarly, they can request their complaint moves to the Stage 3 panel phase if they are not satisfied with the outcomes from Stage 2.

In the vast majority of cases, the academy should expect to apply all three stages of the procedure in order to attempt to seek resolution. We expect all stages starting with Stage 1 to be applied because the resolution of complaints most often occurs in this informal stage and omitting it will more often than not result in a complaint moving through to the Stage 3 panel.

However, the academy may be presented with a complainant who refuses to engage with Stage 1 or even Stage 2 as all they wish to do is present their case to the Stage 3 panel. The ESFA has clarified that despite this requests to progress a complaint to the next stage cannot be refused. However, it remains reasonable for the school to ask the complainant to comply with the requirement to complete and submit the appropriate Stage (2 or 3) complaint form before the complaint can be taken through the next Stage.

Ultimately for a complaint to be progressed the complainant must provide the information required to progress the complaint to the next stage, ie the Stage 2 or 3 complaint form within the timescale stated in the procedure.

There can also be instances where the complainant is seeking a Stage 3 panel even where the academy has completely upheld the complaint at Stage 1 or Stage 2, and the complainant has raised no new issues, or is raising issues that cannot be addressed by the panel, for instance requesting disciplinary action against academy staff which would be an internal matter for the academy to manage. Under these circumstances the Academy **could**, determine that the Complainant is acting vexatiously (see guidance below).

In each of the above instances, it is important that any decision to determine that a complaint is out of scope because the procedural timetable has been breached or that the complainant is acting vexatiously is not taken by the Headteacher alone. The Complaints Coordinator and Chair must be involved in that decision.

Unreasonably Persistent (Vexatious) Complaints

This is a difficult issue as defining 'acting unreasonably' is subjective. This is why it is important that the Complaints Coordinator is involved together with the Chair as it would not be right for decisions on whether a complainant is being unreasonable to be taken by one person. It is also the reason why the procedure includes a very clear statement on 'expectations'.

However, for the benefit of staff and the academy, it is important that prompt action is taken to deal with vexatious complaints. 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. In addition, on occasions the behaviour of complainants can constitute harassment of academy staff in which case prompt and robust action must be taken by the academy. Dependent on the nature and severity of the issues, the academy can take a number of steps including sanctions preventing access to the academy and academy staff. The academy must still address the complaint but may decide to do so without including the complainant in the investigatory process. It should be stressed that such instances are expected to be extremely rare and decisions on whether the complainant is acting vexatiously and what action to take in response cannot be taken by the Headteacher alone. The Complaints Coordinator must be involved and they must consult with the governing body (Chair or Vice/Chair). Guidance on vexatious complaints has been specifically included at Annex D of the procedure in order to draw this to the attention of parents.

Stage 1 - Informal Concerns or Complaints

If a member of staff is contacted by a parent/carer with a concern/complaint, they should clarify the nature of the concern/complaint and reassure them that the academy wants to hear about it. If the matter cannot be dealt with immediately, they should make a clear note of the date, name and contact details of the complainant and agree a convenient time to make contact.

The record of the Stage 1 complaint completed by the academy should be copied to the complainant to provide evidence that the school has considered their concern/complaint.

If any other member of staff or any academy governor is directly approached by a complainant, it is important they emphasise that they can only give general advice about how their complaint might be dealt with. They should encourage the complainant to talk to the Headteacher who will attempt to resolve their complaint informally in the first instance. They should also inform the Headteacher about the contact with the complainant as soon as possible.

Governors should not become directly involved in a complaint at this stage as this would prevent them from taking part in any of the formal procedures which may follow.

Stage 2 – Formal Complaint Investigation

Investigating Officers 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;
- Provide an opportunity to meet with the complainant or contact them to clarify points made or to provide other information relevant to the complaint. They should be allowed to be accompanied if they wish;
- 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 records of all interviews, telephone conversations and other documentation.

It is important that, where possible, only the Chair of Governors or other nominated governor is involved at this stage as other governors may have to take part in any subsequent panel hearing.

If the complaint centres on a pupil, they may be asked to provide a statement. If pupils are interviewed in a formal situation then a member of staff will be invited to attend.

A template for Investigation Reports is provided at **Annex A** to this guidance. The written response should include the full findings, conclusions and the reasons for them. Where appropriate, it should also include recommendations of any actions the academy should take to resolve the complaint or deal with procedural issues. The complainant should be advised that if they wish to refer the matter to a Stage 3 Governors' Panel they should notify the Chair of Governors within 10 school days of notification of the Stage 2 outcome.

Stage 3 – Formal Complaint Panel

If not already aware, we would expect the academy to inform the CMAT when a complaint reaches this stage and discuss the composition of the panel. A named person should manage the arrangements for the panel hearing. This should normally be the Clerk to the governing body or another suitable person.

The Complaints Panel should be comprised of three people with no prior knowledge or previous involvement with the complaint and no personal or pecuniary interest. Normally, we would expect the panel to be comprised of foundation governors, **however the panel must contain at least one person who is considered to be ‘independent’ from the running of the academy. Directors of the CMAT are not to be seen as ‘independent persons’, however, a member of the local governing body of another academy within the same Trust may be selected for the complaints panel as they are not involved in the running of the academy at the centre of the complaint.**

Depending on who the complaint relates to, the panel will be appointed by either the Chair or Vice Chair of Governors or by a CMAT Director. The table within the procedure gives guidance on this.

The complainant, Headteacher (or Head of School and the Executive Headteacher), any relevant witnesses and members of the Complaints Panel should be informed at least 5 school days in advance of the date, time and place of the meeting and the complainant should be informed of his/her right to be accompanied to the meeting by a friend or interpreter (see below) and given an explanation of how the meeting will be conducted (see Procedural Guidance for Hearings at **Annex B**).

At least five working days before the hearing, members of the Panel and all other parties should receive all relevant paperwork including:

- A copy of the original complaint.
- An outline of any investigation carried out at Stage 2.
- A copy of the letter sent to the complainant about the outcome at Stage 2.
- A copy of the letter from the complainant expressing their dissatisfaction with the outcome at Stage 2 and requesting that the complaint is heard by a panel.
- Statement for the panel from the Headteacher(or Head of School/Executive Headteacher)/Investigating Officer
- Any additional documentation supplied by the complainant

There is no expectation that children will attend governor panels. However, if the child wishes to attend for all or part of the meeting and the Panel agrees that it would be helpful for the child to be present then this will be permitted (with the permission of the parents where appropriate).

The complainant does not have to attend the meeting in which case the Panel will consider the documentary evidence provided by the complainant.

The complainant can be accompanied by someone to provide them with support (and this applies to any meeting throughout any of the stages of the procedure) and they may also bring an interpreter to speak for them if that is required. However, legal representation is not permitted as this would fundamentally change the nature of the discussions which should be about attempting to resolve issues.

The Headteacher (or Head of School and Executive Headteacher) and/or the Investigating Officer should be invited to attend the meeting to state their case. They do not have to attend the meeting in which case the Panel will consider the documentary evidence relating to the investigation.

The meeting should be minuted by the Clerk to Governors.

The Panel can question the complainant, Headteacher (or Head of School and Executive Headteacher) and/or Investigating Officer after they have stated their cases. When the Panel is satisfied that it has all the information it needs, it will consider all the evidence and decide an outcome. If further information is needed and it is not available at the time, the meeting may be adjourned and re-convened at a mutually convenient time. This should be as quickly as possible and wherever practicable within five working days.

The Panel should reach its decision in private, although advisers to the panel may remain in the room.

The Panel should:

- Consider the complaint in an independent and impartial way and must be seen to do so;
- Establish the facts and make recommendations which will satisfy the complainant that the complaint has been taken seriously;
- Where possible, resolve the complaint and achieve reconciliation between the academy and the complainant;
- Recognise that the complainant may not be satisfied with the outcome if it is not found in their favour;
- The panel will consider:
 - Whether the earlier investigation(s) were conducted appropriately and reasonably;
 - Whether the decision of the Headteacher (or Head of School/Executive Headteacher) and/or Chair of Governors/Investigating Officer was reasonable and appropriate.

The Panel can decide:

- to dismiss or uphold the complaint in whole or in part;
- that changes to school procedures may be necessary.

The Panel can reach either unanimous or majority decisions.

It is considered sensible practice for complainants not to wait whilst the panel considers its decision. At the end of the formal presentation and questioning phase before the panel holds its closed session the complainant should be advised that they should now leave and the results from the panel will be issued in writing to them and this includes providing the complainant with minutes (subject to any appropriate redactions) of the meeting.

Deviation from the published procedure

There may be occasions when it's necessary or reasonable to deviate from the published complaints procedure. This includes not doing something that the procedure states you will, should or may do. A decision to do so cannot be taken by one individual alone, i.e. the Headteacher must consult with the Chair of Governors before making this decision and regardless it is recommended that advice is taken from the Complaints Coordinator. If it is determined to deviate from the procedure then this must be documented together with a clear statement of the rationale for the deviation.

Application of Academy Policies and Procedures

All complaints should be dealt with impartially and with an open mind. However, Investigating Officers and Governor Panels should always bear in mind that in some cases, complaints can be brought by parents/carers who are simply unhappy with the application of an academy/CMAT policy by the academy or Headteacher. Academy policies are set by the governing body and the academy and its management team are required to apply those policies in the best interests of all the children at the academy. Investigating Officers and Governor Panels should be considering if academy policy has been applied correctly and can make recommendations to the governing body or CMAT Board of Directors for changes in policy and procedure if their investigation suggests that would be appropriate. It would not be reasonable, however, for an Investigating Officer or Panel to criticise or imply criticism of a staff member where it is clear that they have appropriately applied school policies or procedures. Indeed, it can be helpful within the Investigating Officer/Panel's summary statement to highlight where staff have simply applied academy policy and sometimes to re-iterate the governors' commitment to the consistent application of academy policy.

Further Support:

For further guidance, please contact:

Neil Weightman (Assistant Director)

Nottingham Roman Catholic Diocesan Education Service (Governor Support)

neil.weightman@nottingham-des.org.uk

01332 293833 extension 211

Annex A

Stage 2: Investigation of Complaint	
Name of Academy:	
Name(s) of Complainant(s):	
Date Complaint Received:	
Investigating Officer:	
Required from Investigating Officer at Stage 2:	
<ul style="list-style-type: none">• Acknowledge the complaint within five working days.• Investigate the complaint, speaking to all involved and decide how best to resolve it within a further 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 five working days of completing the investigation.• Advise the complainant that if they are dissatisfied with the outcome, their complaint will be considered by a Panel of the governing body at Stage 3.	
Summary of Complaint:	
[Brief description of the complaint]	
Timeframe of Relevant Events:	
[Details of timeline of the complaint and the investigation process]	
Information and References:	
[Details of relevant policies and documents referred to]	
Notes of Meetings and Discussions:	
[Include notes here of any face to face meetings or telephone interviews conducted with the complainant or school staff]	
Investigation Findings:	
[Summary of findings from investigation]	
Recommendations:	
[Statement of any recommendations for action by the school including any suggestions for changes to procedural changes or the management of complaints by the school]	
Signature:	Date:

Annex B

Model Procedure for the Conduct of a Stage 3 Panel

1. The Clerk for the meeting should invite everybody into the room, introduce them and explain the role of each person.
2. The Chair should explain to all present that the purpose of the meeting is to review the complaint, resolve any differences and where possible to achieve a reconciliation between the academy and the complainant.
3. The Chair should then outline the proposed procedure for the meeting. They should listen to any concerns about the procedure but has the final decision about the arrangements:
 - (a) The complainant will outline the complaint and may call witnesses.
 - (b) The Headteacher (or Head of School/Exec Headteacher)/Investigating Officer will be given the opportunity to seek clarification from the complainant and/or witnesses.
 - (c) The Panel may seek clarification from the complainant and/or witnesses.
 - (d) The Headteacher (or Head of School/Exec Headteacher)/Investigating Officer will be given the opportunity to respond and call witnesses.
 - (e) The complainant will be given the opportunity to seek clarification from the Headteacher (or Head of School/Exec Headteacher)/Investigating Officer and/or witnesses.
 - (f) The Panel will seek clarification from the complainant and/or witnesses.
 - (g) The complainant will be given the opportunity to sum up.
 - (h) The Headteacher (or Head of School/Exec Headteacher)/Investigating Officer will be given the opportunity to sum up.
 - (i) Both parties will then leave the room to allow the Panel to deliberate. Any Diocesan Education Service or HR service provider representative may remain to offer technical and/or procedural advice.
4. The Panel will then arrive at its decision. This will cover:
(this needs to be consistent with the Panel's role in the policy and further up the guidance note)
 - (a) Findings on the complaint;
 - (b) Appropriate action to be taken by the academy;
 - (c) Any recommended changes to systems or procedures.
5. The decision will be notified to all parties, in writing, within seven school days.