



Summer: 2023

# Complaints Procedure

Watcombe Primary School



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# *Torbay Maintained Schools Parental Complaints Policy*

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**(1) Section 29 of the Education Act 2002 requires that:**

**The governing body of a maintained school in England shall –**

- (a) establish procedures for dealing with all complaints relating to the school or to the provision of facilities or services under section 27, other than complaints falling to be dealt with in accordance with any procedures required to be established in relation to the school by virtue of a statutory provision other than this section, and**
  
- (b) publicise the procedures so established.**

**(2) In establishing or publicising procedures under subsection (1), the governing body shall have regard to any guidance given from time to time by the Secretary of State.**

**Section 39 of the Education Act 2002 provides the following:**

**“maintained school” means a community, foundation or voluntary school, a community or foundation special school or a maintained nursery school;**

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The LA needs to be clear about the difference between a concern and a complaint. The LA will advise parents to use the schools complaints procedure in the first instance. If the school takes informal concerns seriously at the earliest stage, it will reduce the numbers that develop into formal complaints. However, formal complaints should always follow the complaints procedure.

These key messages deal with complaints but the underlying principle is that concerns ought to be handled, if at all possible, without the need for formal procedures. The requirement to have a complaints procedure need not in any way undermine efforts to resolve the concern informally. In most cases the class teacher or the individual delivering the service in the case of extended school provision, will receive the first approach. It would be helpful if staff were able to resolve issues on the spot, including apologising where necessary.

## 2. Dealing with complaints – formal procedures

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The formal procedures will need to be invoked when initial attempts to resolve the issue are unsuccessful and the person raising the concern remains dissatisfied and wishes to take the matter further.

Schools might wish to nominate a member of staff to have responsibility for the operation and management of the school complaints procedure. They could be termed the school's 'complaints co-ordinator'. In smaller schools this may often be the headteacher.

## 3. Investigating complaints

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It is suggested that before a complaint is escalated to the LA, the person investigating the complaint (the complaints co-ordinator), makes 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 unsure or further information is necessary);
- ❖ clarify what the complainant feels would put things right;
- ❖ interview those involved in the matter and/or those complained of, allowing them to be accompanied if they wish;
- ❖ conduct the interview with an open mind and be prepared to persist in the questioning;
- ❖ keep notes of the interview or arrange for an independent note taker to record minutes of the meeting.

## 4. Resolving complaints

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At each stage in the procedure schools will want to keep in mind ways in which a complaint can be resolved. It might be sufficient to acknowledge that the complaint is valid in whole or in part. 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 would be useful if complainants were encouraged to state what actions they feel might resolve the problem at any stage. An admission that the school could have handled the situation better is not the same as an admission of negligence.

An effective procedure will identify areas of agreement between the parties. It is also of equal importance to clarify any misunderstandings that might have occurred as this can create a positive atmosphere in which to discuss any outstanding issues.

## 5. Vexatious Complaints

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If properly followed, a good complaints procedure will limit the number of complaints that become protracted. However, there will be occasions when, despite all stages of the procedures having been followed, the complainant remains dissatisfied. If the complainant tries to reopen the same issue, the chair of the GB is able to inform them in writing that the procedure has been exhausted and that the matter is now closed. If the complainant writes again on the same issue, then the correspondence may be recognised as vexatious and there will be no obligation on the part of the school to respond.

It is important to note however that, should a complainant raise an entirely new, separate complaint, it must be responded to in accordance with the complaints procedure. It is not the complainant who is vexatious; it is the correspondence.

## 6. The Stages of Complaints

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### School

#### Stage 1 – Complaint heard by staff member

- Ensure complaints co-ordinator informed of outcome
- Offer escalation to Stage 2

#### Stage 2 – Complaint heard by **headteacher**

- Acknowledge receipt of complaint
- Write to complainant with outcome of investigation
- Ensure complaints co-ordinator informed of outcome
- Offer escalation to Stage 3 if dissatisfied

#### Stage 3 - Complaint heard by **Chair of Governors**

- Acknowledge receipt of complaint
- Write to complainant with outcome of investigation
- Ensure complaints co-ordinator informed of outcome
- Offer escalation to Stage 4 if dissatisfied

#### Stage 4 – **Governor’s complaints panel** meeting arranged

- Issue letter inviting complainant to meeting
- Issue letter confirming panel decision
- Ensure complaints co-ordinator informed of outcome Advise of escalation to stage 5 if dissatisfied

#### Stage 5- Local Authority intervention

- Co-ordinating Officer to review all records and decide on course of action: interviews or panel hearing
- Advise of escalation routes to the Secretary of State for Education

## 7. Recording Complaints

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Schools should record the progress of the complaint and the final outcome. A complaint may be made in person, by telephone, or in writing. An example of a complaint form can be found in Annex D. At the end of a meeting or telephone call, it would be helpful if the member of staff ensured that the complainant and the school have the same understanding of what was discussed and agreed. A brief note of meetings and telephone calls can be kept and a copy of any written response added to the record.

The complaints co-ordinator could be responsible for the records and hold them centrally. If the complaint is escalated to the local authority they will need access to all of these records.

## 8. Governing Body Review

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The GB can monitor the level and nature of complaints, and review the outcomes on a regular basis to ensure the effectiveness of the procedure, making changes where necessary. Complaints information shared with the whole GB should not name individuals in case an appeal panel needs to be constituted.

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

The frequency with which the school complaints procedure must be reviewed is determined by the GB. The GB may also delegate responsibility to a committee of the governing body, an individual governor or the headteacher. The revised policy must be ratified by the GB. If projected review dates are published on the policy document, they should be adhered to. Reviews should also be considered in the event that new guidance or legislative changes are introduced by the Department for Education.

## 9. Publicising the Procedure

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There is a legal requirement for school complaints procedures to be publicised. It is up to the GB to decide how to fulfil this requirement.

## 10. Local Authority involvement

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Regardless of how many stages the school chooses, an unsatisfied complainant can **always** take a complaint to the next stage. Torbay Council will provide an independent officer to review the process for maintained schools if all other avenues have been exhausted.

The school complaints procedure should not suggest that a complaint can only be escalated to the next stage if the school permits it.

An effective procedure will specify how a complaint will be dealt with if it concerns the conduct of the headteacher or a governor or where a headteacher or governor has been involved in the issue previously. Complaints against the headteacher are usually first dealt with by the Chair of Governors (Stage 3). Complaints against the Chair of Governors or any individual governor should be made by writing to the Clerk to the Governing Body.

If the Governing Body is unable to resolve the issue, they can ask the LA for an independent review.

A co-ordinating officer will be assigned and they will require all of the records surrounding the complaint from the school.

The co-ordinating officer will log the details and then decide on one of the following courses of action.

**A) No further action will be taken-** The school has done everything it can through its own complaints procedure and will close the case.

**B) Further investigation required** -The LA may decide to conduct further investigation. Depending on the nature of the complaint, the investigation may involve the following activities;

- Review of all the records;
- Interviews with all concerned;
- Refer to The Local Authority Complaints Appeal panel;

## 11. The remit of The Local Authority Complaints Appeal Panel

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The panel can:

- dismiss the complaint in whole or in part;
- uphold the complaint in whole or in part;
- decide on the appropriate action to be taken to resolve the complaint;
- recommend changes to the school's systems or procedures to ensure that problems of a similar nature do not recur.

There are several points which any LA officer sitting on a complaints panel needs to remember:

a. It is important that the appeal hearing is independent and impartial and that it is seen to be so.

No officer may sit on the panel if they have had a prior involvement in the complaint or in the circumstances surrounding it. In deciding the make-up of the panel, Officers need to try and ensure that it is a cross-section of the categories of Officers and sensitive to the issues of race, gender and religious affiliation.

b. The aim of the hearing, which needs to be held in private, will always be to resolve the complaint and achieve reconciliation between the school and the complainant. However, it has to be recognised that the complainant might not be satisfied with the outcome if the hearing does not find in their favour. It may only

be possible to establish the facts and make recommendations which will satisfy the complainant that his or her complaint has been taken seriously.

- c. An effective panel will acknowledge that many complainants feel nervous and inhibited in a formal setting. Parents often feel emotional when discussing an issue that affects their child. The panel Chair will ensure that the proceedings are as welcoming as possible. The layout of the room will set the tone and care is needed to ensure the setting is informal and not adversarial.
- d. Extra care needs to be taken when the complainant is a child. Careful consideration of the atmosphere and proceedings will ensure that the child does not feel intimidated. The panel needs to be aware of the views of the child and give them equal consideration to those of adults. Where the child's parent is the complainant, it would be helpful to give the parent the opportunity to say which parts of the hearing, if any, the child needs to attend.
- e. The officers sitting on the panel need to be aware of the complaints procedure.

## 12. Roles and Responsibilities

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### **The role of the clerk**

The department strongly recommends that any panel considering complaints be clerked. The clerk would be the contact point for the complainant and be required to:

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

As best practice, the Clerk should share copies of the panel meeting minutes with all parties involved in the panel hearing, providing a reasonable opportunity for the minutes to be agreed and if necessary, challenged. It is not unknown for complainants to raise additional complaints because they do not agree with the record of the meeting.

### **The role of the Chair**

- Check that the correct procedure has been followed;
- If a hearing is requested, notify the clerk to arrange the panel.
- the remit of the panel is explained to the parties and each party has the opportunity of putting their case without undue interruption;
- the issues are addressed;
- key findings of fact are made;



- parents and others who may not be used to speaking at such a hearing are put at ease;
- the hearing is conducted in an informal manner with each party treating the other with respect and courtesy;
- the panel is open minded and acting independently;
- no member of the panel has a vested interest in the outcome of the proceedings or any involvement in an earlier stage of the procedure
  - each side is given the opportunity to state their case and ask questions;
- written material is seen by all parties. If a new issue arises it would be useful to give all parties the opportunity to consider and comment on it.

#### **Notification of the panel's decision**

The Chair of the Panel needs to ensure that the complainant is notified of the panel's decision, in writing, with the panel's response (including the reasons for the decision); this is usually within 7 days of the hearing. The letter needs to explain if there are any further rights of appeal and, if so, to whom they need to be addressed.

#### **The final stage of appeal is to the Secretary of State for Education.**

**Complainants should be advised to write to The School Complaints Unit (SCU) at:**

**Department for Education**

**2nd Floor, Piccadilly Gate**

**Manchester**

**M1 2WD**

#### **What will the Department for Education do?**

If a complaint has exhausted the local procedures, SCU will examine if the complaints policy and any other relevant policies were followed in accordance with the provisions set out. SCU also examines policies to determine if they adhere to education legislation. However, the department will not re-investigate the substance of the complaint. This remains the responsibility of schools.

If legislative or policy breaches are found, SCU will report them to the school and the complainant and, where necessary, require remedial action to be taken. Failure to carry out remedial actions could ultimately result in a formal Direction being issued by the Secretary of State.

#### **Checklist for a panel hearing**

The panel needs to take the following points into account:

- The hearing is as informal as possible.
- Witnesses are only required to attend for the part of the hearing in which they give their evidence.
- After introductions, the complainant is invited to explain their complaint, and be followed by their witnesses.
- The headteacher may question both the complainant and the witnesses after each has spoken.
- The headteacher is then invited to explain the school's actions and be followed by the school's witnesses.
- The complainant may question both the headteacher and the witnesses after each has spoken.
- The panel may ask questions at any point.
- The complainant is then invited to sum up their complaint.
- The headteacher is then invited to sum up the school's actions and response to the complaint.
- Both parties leave together while the panel decides on the issues.

The Chair explains that both parties will hear from the panel within a set time scale.

