

## ADVICE & GUIDANCE

### School Complaints Procedure

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In January 2016 the Department for Education (DfE) published a non-statutory guidance document entitled '[Best Practice Advice for School Complaints Procedures 2016](#)'. This replaces the 'School Complaints Toolkit 2014'.

The 'Best Practice' advice published by the Government does not introduce any changes to the statutory basis informing school complaints procedures. For this reason NAHT has not amended its model policy but has revised some of the accompanying model letters.

Many maintained schools adopt model complaints policies provided by local authorities or diocesan boards. The DfE document includes local authorities in its target audience and it is anticipated that LAs will review their model policies in the light of the latest DfE publication. However, in an era when LA capacity is being stretched this may not take place in a timely manner.

NAHT's advice, therefore, is that maintained schools should review their complaints policies in the context of the DfE's [January 2016 document](#). Although it has non-statutory status the document does make reference to statutory requirements.

The regulations pertaining to academies and non-maintained special schools have not been amended. We are aware that academy chains produce model policies, including complaints procedures, for their academies to adopt. Our advice is that academies should consider the extent to which the DfE's 'good practice' is consistent with such policies. Having reviewed a sample of such policies NAHT believes that there is no inconsistency. Non-chain academies may well continue to have policies based upon model LA policies or NAHT's model. In such circumstances the new DfE advice is entirely appropriate.

#### **Background**

Section 29 of the Education Act (2002) requires all local authority maintained schools to produce and make available a procedure to deal with complaints related to the school or any community facilities or services provided by the school.

Since 2002 there has been a significant increase in the number of academies. The 2002 Act does not apply to such institutions. Academies are bound by 'The Education (Independent Schools Standards) Regulations 2014. This includes free schools, studio schools and university technical colleges.

A further set of regulations defines the requirements for non-maintained special schools, these being [‘The Education \(Non-Maintained Special Schools\) \(England\) Regulations 2011’](#). Regulation 35 covers complaints.

### **Is it a ‘complaint’?**

Parents and others are often not reluctant to share concerns about aspects of the school’s work. NAHT advises that the use of the word ‘complaint’ should be restricted to situations where a situation is being formally investigated. Our advice is that members try to use language such as ‘concerns’ or ‘clarification’. Terminology of this nature may well be more conducive towards resolving matters informally and more quickly.

An informal solution is also more likely to emerge if the potential complainant is asked to identify what they think would resolve the situation.

The DfE document supports the above. They advise schools to be careful in other respects about the language used. Policies and procedures ought to state that a school ‘will’ do something rather than ‘should’ do so. The latter, if a complaint was eventually referred to the DfE, incurs the risk of the school being asked to explain why this course of action had not been followed.

### **A good procedure should:**

#### **Be accessible and readily available**

- The Public Sector Equality Duty **must** be met by ensuring that complaints may be submitted via means other than the conventional written approach
- NAHT recommends that the procedure is published on the school’s website

#### **Ensure that accurate records are kept**

- Notes of meetings held and of telephone conversations should be attached to the record
- Consideration should be given to recording conversations in situations where there are communication difficulties. (Permission must be sought from all parties involved)
- All stages of the process should be documented in a single file held centrally by the person designated as the complaints co-ordinator (this could be the headteacher)
- All such records are subject to the Freedom of Information and Data Protection Acts. Content should therefore be factual and objective

#### **Be informed by the ‘need to know’ principle**

- Concerns are sometimes brought to a governor in the first instance. Governors need to understand that their response ought to be to advise the person to follow the procedure set out in the school’s complaints policy. The

Chair should be advised that this procedure has been followed without providing details of the substance of the potential complaint. This ensures that the governor concerned does not play any part in any subsequent investigation. It is essential to prevent governors becoming aware of the details of a complaint. Otherwise they may become ‘compromised’ and this would cause difficulties at later stages of the complaints procedure

- Should a concern be shared with the entire governing body, arrangements should be made to convene an independent panel via the local authority or diocese. Academy chains or trusts should have similar arrangements

### Does a school's complaints procedure cover all provision?

The DfE's advice identifies areas lying outside the scope of school procedures.

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> </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.

## Is it vexatious?

There will be some complainants who are reluctant to accept the outcome of the process. In such cases the person should be encouraged to refer the matter to the Secretary of State. This option should be included in the school's complaints policy.

The Secretary of State's powers are delegated to the School Complaints Unit (SCU). The SCU will only consider cases in which the governing body has acted unlawfully or unreasonably. It will only overturn a decision in extreme circumstances. If it decides that a school has not followed its published procedures it has the power to direct that the process is re-visited.

Telephone	0370 000 2288
Online	<a href="http://www.education.gov.uk/help/contactus">www.education.gov.uk/help/contactus</a>
Letter	DfE, School Complaints Unit, 2 <sup>nd</sup> Floor, Piccadilly Gate, Store Street, Manchester, M1 2WD.

Should the complainant continue to make contact on the same issue the Chair of Governors has the power to inform them that the process is complete and the matter is therefore closed.

In the context of Freedom of Information requests 'vexatious' is defined as the 'manifestly unjustified, inappropriate or improper use of a formal procedure.' It is not, however, a term that the DfE employs, preferring the terms 'serial' or 'persistent' complaints. NAHT advises that these criteria may be used in determining whether the situation may be defined as 'serial' or persistent'

## What criteria may be applied to decide whether it is 'manifestly unjustified, inappropriate or improper'?

- All reasonable steps have been taken to address matters
- A clear statement has been provided of the school's position
- The school is being repeatedly contacted with the same points being raised
- The school has reasonable grounds for believing that the intention is to cause inconvenience
- Communications are aggressive in tone or content. Abusive, derogatory and/or threatening comments are made

## Requests for information

Complaints are sometimes accompanied by requests for information pertaining to the circumstances underpinning the complaint. The term 'vexatious' is more properly deployed in this context. Members are advised to consult the guidance issued by the Information Commissioners Office in the first instance and the to seek advice from the school's provider of legal services (<https://ico.org.uk/media/for-organisations/documents/1198/dealing-with-vexatious-requests.pdf>)

It is important to understand that in dealing with persistent complaints and vexatious requests for information that it is the request and not the individual that is so labelled. Schools should not fail to respond to a complaint on the grounds that an individual has a track record of such behaviour.

### **Is it harassment?**

The DfE guidance suggests that schools should seek legal advice if they think that persistent contact by a complainant constitutes harassment.

## **Model Complaints Policy**

### **General Principles:**

- This procedure is intended to allow you to raise a concern or complaint relating to the school, or the services that it provides.
- An anonymous concern or complaint will not be investigated under this procedure, unless there are exceptional circumstances.
- To enable a proper investigation, concerns or complaints should be brought to the attention of the school as soon as possible. In general, any matter raised more than 3 months after the event, being complained of, will not be considered.

### **Raising a concern or complaint**

#### **Informal Stage**

It is normally appropriate to communicate directly with the member of staff concerned. This may be by letter, by telephone or in person by appointment, requested via the school office. Many concerns can be resolved by simple clarification or the provision of information and it is anticipated that most complaints will be resolved by this informal stage.

In the case of serious concerns it may be appropriate to address them directly to the Head Teacher (or to the Chair of the governing body, if the complaint is about the Head Teacher).

If you are uncertain about who to contact, please seek advice from the school office or the Clerk to the governing body.

#### **Formal Stage**

If your concern or complaint is not resolved at the informal stage you may choose to put the complaint in writing and pass it to the Head Teacher, who

will be responsible for ensuring that it is investigated appropriately. If the complaint is about the Head Teacher, your complaint should be passed to the Clerk to the governing body, for the attention of the Chair of the governing body.

A Complaint Form is provided to assist you.

You should include details which might assist the investigation, such as names of potential witnesses, dates and times of events, and copies of relevant documents.

It is very important that you include a clear statement of the actions that you would like the school to take to resolve your concern. Without this, it is much more difficult to proceed.

Please pass the completed form, in a sealed envelope to the school office. The envelope should be addressed to the Head Teacher, or to the Clerk to the governing body, as appropriate.

The Head Teacher (or Chair) may invite you to a meeting to clarify your concerns and to explore the possibility of an informal resolution. If you accept that invitation, you may be accompanied by a friend, if you wish, to assist you in explaining the nature of your concerns.

It is possible that your complaint will be resolved through a meeting with the Head Teacher (or Chair). If not, arrangements will be made for the matter to be fully investigated, using the appropriate procedure. In any case you should learn in writing, usually within 5 days of the school receiving your formal complaint, of how the school intends to proceed. This notification should include an indication of the anticipated timescale.

Any investigation will begin as soon as possible and when it has been concluded, you will be informed in writing of its conclusion.

If you are not satisfied with the manner in which the process has been followed, you may request that the governing body reviews the process followed by the school, in handling the complaint. Any such request must be made in writing to the clerk to the governing body, within 10 school days of receiving notice of the outcome, and include a statement specifying any perceived failures to follow the procedure. The procedure described below will be followed. A Review Request form is provided for your convenience.

## **Review Process**

Any review of the process followed by the school will be conducted by a panel of three members of the governing body. This will usually take place within 10 school days of receipt of your request.

The review will normally be conducted through a consideration of written submissions, but reasonable requests to make oral representations should be considered sympathetically.

**Model Forms**

***[Name of school]* School: Meeting Request Form**

I wish to meet *[name of teacher]* to discuss the following matter:

Brief details of topic to be discussed:          
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Dates/times when it would be most convenient for a meeting:          
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Your name:

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

Pupil's name (if relevant to the matter to be discussed)

Your Address:

Telephone numbers

Daytime:

Evening:

e-mail address:

**Signed** .....

**Date** .....

[Please complete this form and return it to the school office]

**School use:**

Date Form received:

Date response sent:

Received by:

Response sent by:



**[Name of School] School Formal Complaint Form**

Please complete this form and return it to the school office or to the Head Teacher who will acknowledge its receipt 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:

E-mail address:

Please give concise details of your complaint, (including dates, names of witnesses etc...), to allow the matter to be fully investigated:

You may continue on separate paper, or attach additional documents, if you wish.

Number of Additional pages attached =

What action, if any, have you already taken to try to resolve your complaint? (i.e. who have you spoken with or written to and what was the outcome?)

What actions do you feel might resolve the problem at this stage?

**School use:**

Date Form received:

Received by:

Date acknowledgement sent:

Acknowledgement sent by:

Complaint referred to:			
Date:			

**[Name of school] School Complaint Review Request Form**

Please complete this form and return it to Head Teacher (or Clerk to the governing body), who will acknowledge its receipt and inform you of the next stage in the procedure.

Your name: .....

Your Address:

Telephone numbers:

Daytime:

Evening:

E-mail address:

Dear Sir

I submitted a formal complaint to the school on ..... and am dissatisfied by 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(s) from the school.

I am dissatisfied with the way in which the procedure was carried out, because:

You may continue on separate paper, or attach additional documents, if you wish.

Number of Additional pages attached =

What actions do you feel might resolve the problem at this stage?

Signature:

Date:

**School use**

Date Form received:

Received by:

Date acknowledgement sent:

Acknowledgement sent by:

Request referred to:			
Date:			

## Model Letters

### Response to spurious complainant

Dear [Name of complainant]

Thank you for submitting your concern in the letter received on the [insert date]. After careful consideration, unfortunately, I am unable to deal with this matter under the Governing Body's Complaints Procedure. This is because:

*[we suggest that you include one of the following statements]*

- The substance of your complaint has been addressed under the complaints procedure already.
- The concerns that you raise do not fall within the scope of this procedure  
*[suggest alternative for example: admissions policy, exclusion policy, behaviour policy, grievance procedure etc]*

If you wish my decision to be reviewed then you can follow the school's Formal Complaint Procedure, by writing to the Clerk to the Governing Body.

Yours sincerely,

Head Teacher  
Or Chair of Governing Body

**Acknowledgement of receipt of formal complaint *and* invitation to meet**

Dear [Name of Complainant]

I have received your formal complaint, dated ..... I am grateful that you have brought 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..... in order 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 investigation takes place.

Yours sincerely,

Head Teacher  
Or Chair of Governing Body

**Acknowledgement of receipt of formal complaint referred 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 ....., in order 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

**Acknowledgements of receipt of formal complaint and advising complainant that the matter is being dealt with under a confidential school procedure**

Dear .....

I have received your formal complaint, dated ..... I am grateful that you have brought 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



## **NOTIFICATION OF DECISION REGARDING FORMAL COMPLAINT**

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**

In order 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**

In order 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.

I hope that this will now conclude the matter and we can look to the future working together for the benefit of your child's and the school.

Yours sincerely,

Head Teacher/Chair of Governing Body/Chair of Panel

## **REVIEW OUTCOME NOTIFICATION**

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.

Yours sincerely,

Chair of Complaints Review Panel

c.c. Head Teacher  
Chair of Governors