

Minsterley Primary School

Complaints Procedure

Reviewed by Governors: June 2016

Date for next review: June 2018

Statements in italics have been adopted with adaptations from the DfE 'Best Practice Advice for School Complaints Procedures 2016'

The difference between a concern and a complaint

A 'concern' may be defined as 'an expression of worry or doubt over an issue considered to be important for which reassurances are sought'. A complaint may be generally defined as 'an expression of dissatisfaction however made, about actions taken or a lack of action'.

It is in everyone's interest that complaints are resolved at the earliest possible stage. Many issues can be resolved informally, without the need to invoke formal procedures. Schools should take informal concerns seriously and make every effort to resolve the matter as quickly as possible.

There are occasions when complainants would like to raise their concerns formally. In those cases, the school's formal procedure should be invoked through the stages outlined within their procedure.

Schools should be aware of the difference between a concern and a complaint (taking informal concerns seriously will reduce the numbers that develop into formal complaints);

Who can make a complaint?

Any person, including members of the general public, may make a complaint about any provision of facilities or services that a school provides, unless separate statutory procedures apply (such as exclusions or admissions). Schools must not limit complaints to parents or carers of children that are registered at the school.

Conflict between estranged parents over the application of parental responsibility is a common cause of complaints made to schools. 'Understanding and Dealing with Issues Relating to Parental Responsibility' contains specific advice about how to properly approach issues concerning parental responsibility.

A complaint may be made in person, by telephone, or in writing.

In order to prevent any later challenge or disagreement over what was said, brief notes of meetings and telephone calls should be kept and a copy of any written response added to the record. Where there are communication difficulties, schools may wish to use recording devices to ensure the complainant is able to access and review the discussions at a later point.

Schools should record the progress of the complaint and the final outcome. The headteacher or complaints co-ordinator should be responsible for these records and hold them centrally.

Complaints not in scope of the procedure

<p><i>A complaints procedure should cover all complaints about any provision of facilities or services that a school provides with the exceptions listed below, for which there are separate (statutory) procedures. Exceptions</i></p>	<p>Who to contact</p>
<ul style="list-style-type: none"> • Admissions to schools • Statutory assessments of Special Educational Needs (SEN) • School re-organisation proposals • Matters likely to require a Child Protection Investigation 	<p>Concerns should be raised direct with local authorities (LA). For school admissions, it will depend on who is the admission authority (either the school or the LA). Complaints about admission appeals for maintained schools are dealt with by the Local Government Ombudsman.</p>
<ul style="list-style-type: none"> • Exclusion of children from school 	<p>Further information about raising concerns about exclusion can be found at: www.gov.uk/school-discipline-exclusions/exclusions.</p>
<ul style="list-style-type: none"> • Whistleblowing 	<p>Schools have an internal whistleblowing procedure for their employees and voluntary staff. Other concerns can be raised direct with Ofsted by telephone on: 0300 123 3155, via email at: whistleblowing@ofsted.gov.uk or by writing to: WBHL, Ofsted Piccadilly Gate Store Street Manchester M1 2WD. The Department for Education is also a prescribed body for whistleblowing in education.</p>
<ul style="list-style-type: none"> • Staff grievances and disciplinary procedures 	<p>These matters will invoke the school's internal grievance procedures. Complainants will not be informed of the outcome of any investigation.</p>
<ul style="list-style-type: none"> • Complaints about services provided by other providers who may use school premises or facilities. 	<p>Providers should have their own complaints procedure to deal with complaints about service. They should be contacted direct.</p>

Stage One: Complaint Heard by Headteacher

It is in everyone's interest that complaints are resolved at the earliest possible stage. The experience of the first contact between the complainant and the school can be crucial in determining whether the complaint will escalate. To that end, if staff are made aware of the procedures, they know what to do when they receive a complaint.

The complainant will be asked at the earliest stage what they think might resolve the issue (an acknowledgement that the school could have handled the situation better is not the same as an admission of unlawful or negligent action).

The school will respect the views of a complainant who indicates that he/she would have difficulty discussing a complaint with the headteacher. Where the complaint concerns the headteacher, he/she or the complaints co-ordinator can refer the complainant directly to the chair of governors.

Similarly, if the headteacher feels too compromised to deal with a complaint he/she may consider referring the complainant directly to the chair of governors. The ability to consider the complaint objectively and impartially is crucial.

Where the first approach is made to a governor, the next step is to refer the complainant to the headteacher and advise them about the procedure. It would be useful if governors do not act unilaterally on an individual complaint outside the formal procedure or be involved at the early stages in case they are needed to sit on a panel at a later stage of the procedure.

Complaints will be considered by the headteacher as soon as is practicable.

Expect complaints to be made as soon as possible after an incident arises (although three months is generally considered to be an acceptable time frame in which a complainant is to lodge a complaint);

Stage Two: Complaint Heard by Chair of Governors

If the complainant is unhappy that the complaint has not been resolved they may request that their complaint be considered by the chair of the governors. The chair of governors will investigate the complaint and convey the outcome to the complainant within a reasonable amount of time.

Stage Three: Complaint Heard by the Governing Body Complaints Committee

If the complainant feels that their complaint still hasn't been resolved, they need to write to the chair of the governors' complaints committee giving details of the complaint. The chair will acknowledge receipt of the letter within a 10 day period and ask the clerk to convene a Governing Body complaints committee meeting. This meeting should, wherever possible, take place within three weeks (excluding school holidays) of dispatch of the acknowledgment letter unless a longer period (perhaps to arrange suitable dates or collate information) is necessary in which case the chair will inform the complainant the reason for the delay.

The governors' complaints committee is the last school-based stage of the complaints process, and is not convened to merely rubber-stamp previous decisions.

Individual complaints will not be heard by the whole Governing Body at any stage, *except in very general terms*, as this could compromise the impartiality of any panel set up for a disciplinary hearing against a member of staff following a serious complaint.

If the whole governing body is aware of the substance of a complaint before the final stage has been completed, the school should arrange for an independent panel to hear the complaint. It may approach a different school to ask for help or the local Governor Services team at the LA.

Complainants have the right to request an independent panel, if they believe there is likely to be bias in the proceedings. The school should consider the request but ultimately, the decision is made by the governors.

The governing body should appoint a committee consisting of three or five members (preferably with reserves) with delegated powers to hear complaints at this stage in the complaint process, and set out its terms of reference. These can include:

- drawing up its procedures;
- hearing individual complaints;
- making recommendations on policy as a result of complaints.

If the governing body does not appoint a chair, the panel will choose its own chair.

It would not be appropriate to appoint anyone who works at the school to sit on this committee.

The complainant and the person who is the subject of the complaint (if appropriate) should be permitted to bring a supporter (friend, spouse, union representative, etc) should they so choose.

The Remit of the Complaints Committee

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 governor sitting on a complaints committee needs to remember:

a) It is important that the committee is independent and impartial and that it is seen to be so. No governor may be a member of the committee if they have had a prior involvement in the complaint or in the circumstances surrounding it. In deciding the make-up of the committee, the governors need to try and ensure that it is a cross-section of the categories of governor and sensitive to the issues of race, gender and religious affiliation.

b) The aim of the meeting, 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 the complainant might not be satisfied with the outcome if the committee 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 committee 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.

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 committee 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. It would not normally be appropriate for the child to be present throughout the meeting.

e) The governors sitting on the committee need to be aware of the complaints procedure.

Roles and Responsibilities

The Role of the Clerk

It is important that any complaints committee meeting which is considering complaints should be clerked. The clerk would be the contact point for the complainant and be required to:

- set the date, time and venue of the meeting, 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 meeting;
- meet and welcome the parties as they arrive at the meeting;
- record the proceedings;
- notify all parties of the committee's decision.

It is important that the clerk does not influence in any way the decision taken by the committee and must be seen to be impartial at all times.

The Role of the Chair of the Governing Body

The chair of the governing body shall:

- check that the correct procedure has been followed;
- if a hearing is appropriate, notify the clerk to arrange the meeting.

The Role of the Chair of the Committee

The chair of the committee has a key role, ensuring that:

- the remit of the committee 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 meeting is conducted in an informal manner with each party treating the other with respect and courtesy;
- the committee is open minded and acting independently;
- no member of the committee 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 Committee's Decision

The chair of the committee will ensure that the complainant is notified of the decision, in writing, with the committee's response; within seven days of the meeting. The letter will explain that the complainant can contact the Children's Secretary if they wish to pursue the matter (0370 000 2288).

Serial and Persistent Complainants

The school will do its best to be helpful to people who contact them with a complaint or concern or a request for information. However, in cases where the school is contacted repeatedly by an individual making the same points, or who asks them to reconsider their position, the school will need to act appropriately.

There will be occasions when, despite all stages of the complaint procedure having been followed, the complainant remains dissatisfied. It is important for the school to recognise when they really have done everything they can in response to a complaint. It is a poor use of the school's time and resources to reply to repeated letters, emails or telephone calls making substantially the same points. If a complainant tries to re-open the same issue, the Chair of Governors can inform them that the procedure has been completed and that the matter is now closed.

If the complainant contacts the school again on the same issue, then the correspondence may be viewed as 'serial' or 'persistent' and the school may choose not to respond. However, the school must be careful that they do not mark a complaint as 'serial' before the complainant has completed the procedure.

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 (ICO) website.

Under no circumstances should an individual be marked as serial for exercising their democratic right to refer their complaint to their local MP regardless of which stage the complaint has reached. The application of a 'serial or persistent' marking should be against the subject or complaint itself rather than the complainant.

Is it time to stop responding?

The decision for the school to stop responding should never be taken lightly. The school needs to be able to say yes to all of the following:

- *The school has taken every reasonable step to address the complainant's needs;*
- *The complainant has 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 - have they 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.*

The school 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 the school may wish to implement a tailored communications strategy such as restricting the complainant 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 school staff find it difficult to deal direct with a complainant because of their unreasonable behaviour and other strategies are not working, they may be able to approach the governor services team at Shropshire Council to ask for assistance. If this is agreed, complainants can be advised not to contact the school, but to communicate instead with the LA who will co-ordinate any response.

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 maybe sought as to the next steps. Injunctions and other court orders may be issued to a complainant because of their behaviour.

Different procedures apply to FOI and Data Protection (DP) correspondence.

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

See also Minsterley School's 'Policy for Unreasonable Complainants'

The Role of the School Complaints Unit

If a complaint has completed the local procedures and the complainant remains dissatisfied, they have the right to refer their complaint to the Secretary of State. 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 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. However, the SCU will not normally re-investigate the substance of the complaint. This remains the responsibility of schools.

The SCU will not overturn a school's decision about a complaint except in exceptional circumstances where it is clear the school has acted unlawfully or unreasonably. If the SCU finds that the school has not handled a complaint in accordance with its procedure, we may request that the complaint is looked at again.

If legislative or policy breaches are found, the SCU will report them to the school and the complainant, and where necessary, ask for corrective action to be taken. The SCU normally also seeks written assurances as to future conduct. Failure to carry out remedial actions or provide written assurances could ultimately result in a formal Direction being issued by the Secretary of State in accordance with her powers under sections 496 and 497 of the Education Act 1996.

Schools may wish to contact the SCU for advice on whether they have acted reasonably; for example: in closing down a complaint from a serial complainant before the local procedure has been completed. However, 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 or by writing to:*

Department for Education School Complaints Unit 2nd Floor, Piccadilly Gate Store Street Manchester M1 2WD

It is the governing body which determines how often the complaints procedure is reviewed however the DfE suggests as good practice that it is reviewed regularly; every two to three years is quite typical. This will enable the school to take into account any new guidance issued by the Department for Education or legislative changes.

Responsibility for reviewing the procedure may be delegated to a committee of the governing body, an individual governor or the headteacher. If projected review dates are published on the policy document they should be adhered to. Failure to do so could constitute a failure to adhere to a policy.

Appendix

(taken directly from the DfE 'Best Practice Advice for School Complaints Procedures 2016')

Roles and Responsibilities

The Complainant

The complainant or person who makes the complaint will receive a more effective response to the complaint if he/she:-

- *co-operates with the school in seeking a solution to the complaint;*
- *expresses the complaint in full as early as possible;*
- *responds promptly to requests for information or meetings or in agreeing the details of the complaint;*
- *asks for assistance as needed;*
- *treats all those involved in the complaint with respect.*

The Complaints Co-ordinator (or headteacher)

The complaints co-ordinator should:-

- *ensure that the complainant is fully updated at each stage of the procedure;*
- *ensure that all people involved in the complaint procedure will be aware of the legislation around complaints including the Equality Act 2010, Data Protection Act 1998 and Freedom of Information Act 2000;*
- *liaise with staff members, headteacher, Chair of Governors and Clerk to ensure the smooth running of the complaints procedure;*
- *keep records;*
- *be aware of issues regarding:-*
 - o *sharing third party information;*
 - o *additional support - this may be needed by complainants when making a complaint including interpretation support.*

The Investigator

The Investigator is the person involved in Stages 1 and 2 of the procedure. The Investigator's role can include:-

- *providing a comprehensive, open, transparent and fair consideration of the complaint through:*
 - o *sensitive and thorough interviewing of the complainant to establish what has happened and who has been involved;*

- *consideration of records and other relevant information;*
 - *interviewing staff and children/young people and other people relevant to the complaint;*
 - *analysing information;*
- *effectively liaising with the complainant and the complaints co-ordinator as appropriate to clarify what the complainant feels would put things right;*
 - *identifying solutions and recommending courses of action to resolve problems;*
 - *being mindful of the timescales to respond; and*
 - *responding to the complainant in plain and clear language.*

The person investigating the complaint should make sure that they:

- *conduct interviews with an open mind and be prepared to persist in the questioning;*
- *keep notes of interviews or arrange for an independent note taker to record minutes of the meeting.*

The Panel Clerk (this could be Clerk to the Governors or the Complaints Coordinator)

The Clerk is the contact point for the complainant for the panel meeting and is expected 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;*
- *meet and welcome the parties as they arrive at the hearing;*
- *record the proceedings;*
- *circulate the minutes of the panel hearing;*
- *notify all parties of the panel's decision;*
- *liaise with the complaints co-ordinator.*

The Panel Chair

The Panel Chair has a key role in ensuring that:-

- *the meeting is minuted;*
- *the remit of the panel is explained to the complainant and both they and the school have the opportunity of putting their case without undue interruption;*
- *the issues are addressed;*
- *key findings of fact are made;*
- *parents/carers and others who may not be used to speaking at such a hearing are put at ease – this is particularly important if the complainant is a child/young person;*
- *the hearing is conducted in an informal manner with everyone treated with respect and courtesy;*
- *the layout of the room will set the tone – care is needed to ensure the setting is informal and not adversarial;*
- *the panel is open-minded and acts independently;*
- *no member of the panel has an external interest in the outcome of the proceedings or any involvement in an earlier stage of the procedure;*

- *both the complainant and the school are given the opportunity to state their case and seek clarity;*
- *written material is seen by everyone in attendance – if a new issue arises it would be useful to give everyone the opportunity to consider and comment upon it; this may require a short adjournment of the hearing;*
- *liaise with the Clerk and complaints co-ordinator.*

Panel Member

Panellists will need to be aware that:-

- *it is important that the review panel hearing is independent and impartial, and that it is seen to be so;*

No governor may sit on the panel if they have had a prior involvement in the complaint or in the circumstances surrounding it.

- *the aim of the hearing, which will be held in private, will always be to resolve the complaint and achieve reconciliation between the school and the complainant;*

However, it must 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.

- *many complainants will feel nervous and inhibited in a formal setting;*

Parents/carers often feel emotional when discussing an issue that affects their child. The panel chair will ensure that the proceedings are as welcoming as possible.

- *extra care needs to be taken when the complainant is a child/young person and present during all or part of the hearing;*

Careful consideration of the atmosphere and proceedings will ensure that the child/young person does not feel intimidated. The panel should respect the views of the child/young person and give them equal consideration to those of adults.

If the child/young person is the complainant, the panel should ask in advance if any support is needed to help them present their complaint. Where the child/young person's parent is the complainant, the panel should give the parent the opportunity to say which parts of the hearing, if any, the child/young person needs to attend.

The parent should be advised however that agreement might not always be possible if the parent wishes the child/young person to attend a part of the meeting which the panel considers not to be in the child/young person's best interests.

- *The welfare of the child/young person is paramount.*

Interviewing Best Practice Tips

Children/young people

• *Children/young people should be interviewed in the presence of another member of staff, or in the case of serious complaints (e.g. where the possibility of criminal investigation exists) in the presence of their parents/carers. However, it might not always be possible to conduct an interview in case it prejudices a LADO or police investigation.*

- *Care should be taken in these circumstances not to create an intimidating atmosphere.*
- *Children/young people should be told what the interview is about and that they can have someone with them.*

Staff/Witnesses

• *Explain the complaint and your role clearly to the interviewee and confirm that they understand the complaints procedure and their role in it.*

• *Staff are allowed a colleague to support them at their interview. The colleague must not be anyone likely to be interviewed themselves, including their line manager.*

• *Use open, not leading questions.*

• *Do not express opinions in words or attitude.*

• *Ask single not multiple questions, i.e. one question at a time.*

• *Try to separate 'hearsay' evidence from fact by asking interviewees how they know a particular fact.*

• *Persist with questions if necessary. Do not be afraid to ask the same question twice. Make notes of each answer given.*

• *Deal with conflicting evidence by seeking corroborative evidence. If this is not available, discuss with the complaints co-ordinator/ headteacher/ Chair of Governors the option of a meeting between the conflicting witnesses.*

• *Make a formal record of the interview from the written notes as soon as possible while the memory is fresh. Show the interviewee the formal record, ask if s/he has anything to add, and to sign the record as accurate.*

Further information

Useful Resources and External Organisations

- *National Governors Association*
- *Information Commissioner's Office*

Other Relevant Departmental Advice and Statutory Guidance

- *Section 29 of the Education Act 2002*
- *Governors Handbook*
- *Understanding and Dealing with Issues Relating to Parental Responsibility*

Other Departmental Resources

- *How to complain about a school - Advice for complainants*
- *Parental Responsibility Guidance – non-statutory advice for schools*