

8. Complaints Policy

Approved : - March 2018
Review March 2020

See EOTAS policy control document (held by Business Manager) for status,
notes and actions pertaining to this policy

COMPLAINTS POLICY

The policy should be used with reference to the latest DfE best practice advice for school complaints procedures 2016.

<https://www.gov.uk/government/publications/school-complaints-procedures>

Introduction:

The majority of issues raised by parents, the community or pupils, are concerns rather than complaints. EOTAS is committed to taking concerns seriously, at the earliest stage, in the hope of keeping the number of formal complaints to a minimum and without needing formal procedures. However, depending on the nature of the complaint, you may wish or be asked to follow the school's formal complaints procedure. For the school to be able to investigate a complaint, it needs to be made within one year of the incident occurring. If a complaint is older than a year it will not normally be investigated.

The prime aim of EOTAS policy is to resolve the concern/complaint fairly and speedily as possible. Formal complaints will be dealt with in a sensitive, impartial and confidential manner. Malicious complaints may incur appropriate action by the school.

All concerns will be logged with the complaints co-ordinator and updated with the final outcomes.

The following details outline the three stages that can be used to resolve complaints, (see Appendix 2 for a summary).

Stage 1 – Raising a concern informally with a staff member and/or Centre Manager

Concerns can be raised with the school at any time and will often generate an immediate response, which will resolve the concern. The school requests that concerns are initially raised with the appropriate member of staff, e.g. child's Class Teacher, Centre Manager. The staff member will make a log of your concern and the outcomes with the school complaints co-ordinator.

On some occasions the concern raised may require investigation, or discussion with others, in which case you will receive an informal but informed response within a day or two. The vast majority of concerns will be satisfactorily dealt with in this way. However, if you are not satisfied with the result at stage 1, please write to or call the school within 10 school working days and state what you would like the school to do. The Headteacher will then look at your complaint or concern under Stage 2 of the procedure.

Stage 2 – Formal Complaint heard by the Headteacher

Formal complaints shall be put in writing and addressed to the Headteacher (see - Appendix 3). The complaint will be logged, including the date it was received. The school will normally acknowledge receipt of the complaint within 2 school working days of receiving it.

The Headteacher will investigate the complaint and respond in writing. The Headteacher may delegate the task of collating the information to another staff member but not the decision on the action to be taken. In many cases this response will also report on the action the school has taken to resolve the issue. Additionally, a meeting may be convened to discuss the matter further. This meeting will normally take place within 10 school working days of the Headteacher receiving the written complaint. The aim will be to resolve the matter as speedily as possible.

If you are not satisfied with the result at stage 2 please write to the Chair of the Management Committee care of the school within 10 school working days of getting our response.

Complaint about the Headteacher or Management Committee

Complaints against the Headteacher will need to be raised with the Chair of the Management Committee initially informally as in Stage 1, and then if necessary formally as in Stage 2. (The Management Committee is equivalent to a school's governing body). The Chair of the Management Committee will make arrangements for your complaint to be investigated. Following the investigation, the Chair will give a written response within 10 working days. If the matter is not resolved the complaint can be heard by the Complaints Panel, stage 3 outlined below.

Where a complaint regards a member of the management committee, the same process applies as for the Headteacher. Where a complaint concerns the Chair of the management committee, the individual should contact the clerk to the governors. Informal resolution will be sought, but where this fails, the complaints procedure at Stage 3 will take immediate effect. The Vice Chair or an independent investigator will mediate any proceedings.

Stage 3 – Formal Complaint heard by the Management Committee Complaints (Governing Body) Appeal Panel (see Appendix 1)

If the matter has still not been resolved at Stage 2 then you will need to write to the Chair of the Management Committee via the EOTAS Business Support Team, the Fernbrook Centre, Ferndale Road, Swindon, SN2 1HL giving details of the complaint. You must request an appeal panel within 4 weeks of receiving the headteacher's decision or it will not be considered, except for in exceptional circumstances. The Chair or a nominated Management Committee member will convene a complaints panel. The hearing will

normally take place within 15 school working days of the receipt of the written request for Stage 3 investigation.

The aim of the Appeal panel hearing is to impartially resolve the complaint and to achieve reconciliation between the school and the complainant.

All parties will be notified of the Panel's decision in writing within five school working days after the date of the hearing. The letter will also contain what you need to do if you wish to take the matter further.

The Management Committee (Governors) appeal hearing is the last school-based stage of the complaints process.

If you consider that the Management Committee (governing body) has not acted properly in carrying out its investigation into your complaint you have a right to complain to the Local Authority (LA) as it has a responsibility to ensure that governing bodies act properly. The LA does not have the power to instruct a governing body to reverse its decision but will want to satisfy itself that the governing body has conducted the investigation fairly.

In the unlikely event that you will need to complain to the LA about the governing body's handling of a complaint please write to:

Group Director: Children Services
Swindon Borough Council
Beckhampton St
SN1 2JH

Please note that the LA can only act when each step of the school's complaints procedure has been followed.

If you think your school's Management Committee or your Local Authority is acting 'unreasonably' you can write to the Secretary of State for Education. Complaints to the Secretary of State are handled by the government's Department for Education (DfE) - School Complaints Unit.

You can write to The School Complaints Unit (SCU) at:

Department for Education 2nd Floor,
Piccadilly Gate
Manchester
M1 2WD

Or electronically at www.education.gov.uk/form/school-complaints-form

The Role of the Department for Education

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.

Unreasonable complaints

Where a complainant raises an issue that has already been dealt with via the school's complaints procedure, and that procedure has been exhausted, the school will not reinvestigate the complaint except in exceptional circumstances, for example where new evidence has come to light.

If a complainant persists in raising the same issue, the Headteacher will write to them explaining that the matter has been dealt with fully in line with the school complaints procedure, and therefore the case is now closed. The complainant will be provided with the contact details of the Department for Education if they wish to take the matter further.

Unreasonable complaints include the following scenarios:

- The complainant refuses to co-operate with the school's relevant procedures.
- The complainant changes the basis of the complaint as the complaint progresses.
- The complainant seeks an unrealistic outcome
- Excessive demands are made on the time of staff and school governors and it is clearly intended to aggravate.
- The complainant acts in a way that is abusive or offensive.

A complaint may also be considered unreasonable if the person making the complaint does so either face-to-face, by telephone or in writing or electronically:-

- maliciously;
- aggressively;
- using threats, intimidation or violence;
- using abusive, offensive or discriminatory language;
- knowing it to be false;
- using falsified information;
- publishing unacceptable information in a variety of media such as in social media websites and newspapers.

The Headteacher will use their discretion to choose not to investigate these complaints. Where they decide to take this course of action, they must inform the chair of the management committee that they have done so, explaining the nature of the complaint and why they have chosen not to investigate. If the

chair deems it appropriate to, they can redirect the Headteacher to investigate the complaint. The full complaints procedure will commence from stage one on this direction.

If the chair upholds the Headteacher's decision not to look into the complaint and the complainant deems this decision to be so unreasonable that no other rational body in the same position would have made that decision, then the complainant may write to the Department for Education.

Sample Policy for Unreasonable Complainants

EOTAS is committed to dealing with all complaints fairly and impartially, and to providing a high quality service to those who complain. We will not normally limit the contact complainants have with the school. However, we do not expect our staff to tolerate unacceptable behaviour and will take action to protect staff from that behaviour, including that which is abusive, offensive or threatening.

EOTAS defines unreasonable complainants as '*those who, because of the frequency or nature of their contacts with the school, hinder our consideration of their or other people's complaints*'.

A complaint may be regarded as unreasonable when the person making the complaint:-

- refuses to articulate their complaint or specify the grounds of a complaint or the outcomes sought by raising the complaint, despite offers of assistance;
- refuses to co-operate with the complaints investigation process while still wishing their complaint to be resolved;
- refuses to accept that certain issues are not within the scope of a complaints procedure;
- insists on the complaint being dealt with in ways which are incompatible with the adopted complaints procedure or with good practice;
- introduces trivial or irrelevant information which the complainant expects to be taken into account and commented on, or raises large numbers of detailed but unimportant questions, and insists they are fully answered, often immediately and to their own timescales;
- makes unjustified complaints about staff who are trying to deal with the issues, and seeks to have them replaced;
- changes the basis of the complaint as the investigation proceeds;
- repeatedly makes the same complaint (despite previous investigations or responses concluding that the complaint is groundless or has been addressed);
- refuses to accept the findings of the investigation into that complaint where the school's complaint procedure has been fully and properly implemented and completed including referral to the Department for Education;
- seeks an unrealistic outcome;
- makes excessive demands on school time by frequent, lengthy, complicated and stressful contact with staff regarding the complaint in person, in writing, by email and by telephone while the complaint is being dealt with.

A complaint may also be considered unreasonable if the person making the complaint does so either face-to-face, by telephone or in writing or electronically:-

- maliciously;
- aggressively;
- using threats, intimidation or violence;
- using abusive, offensive or discriminatory language;
- knowing it to be false;
- using falsified information;
- publishing unacceptable information in a variety of media such as in social media websites and newspapers.

Complainants should limit the numbers of communications with a school while a complaint is being progressed. It is not helpful if repeated correspondence is sent (either by letter, phone, email or text) as it could delay the outcome being reached.

Whenever possible, the headteacher or Chair of the Management Committee will discuss any concerns with the complainant informally before applying an 'unreasonable' marking.

If the behaviour continues the headteacher will write to the complainant explaining that their behaviour is unreasonable and asking them to change it. For complainants who excessively contact EOTAS causing a significant level of disruption, we may specify methods of communication and limit the number of contacts in a communication plan. This will usually be reviewed after 6 months. In response to any serious incident of aggression or violence, the concerns and actions taken will be put in writing immediately and the police informed. This may include banning an individual from EOTAS.

Barring from the School Premises

Although fulfilling a public function, schools are private places. The public has no automatic right of entry. Schools will therefore act to ensure they remain a safe place for pupils, staff and other members of their community.

If a parent's behaviour is a cause for concern, a school can ask him/her to leave school premises. In serious cases, the headteacher or the local authority can notify them in writing that their implied licence to be on school premises has been temporarily revoked subject to any representations that the parent may wish to make. Schools should always give the parent the opportunity to formally express their views on the decision to bar in writing.

The decision to bar should then be reviewed, taking into account any representations made by the parent, and either confirmed or lifted. If the decision is confirmed the parent should be notified in writing, explaining how long the bar will be in place.

Anyone wishing to complain about being barred can do so, by letter or email, to the headteacher or Chair of the Management Committee. However, complaints about barring cannot be escalated to the Department for Education. Once the school's own complaints procedure has been completed, the only remaining avenue of appeal is through the Courts; independent legal advice must therefore be sought.

Appendix 1

The Remit of the Complaints Appeal Panel

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 panel needs to remember:

- It is important that the appeal 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. In deciding the make-up of the panel, 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.
- 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 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.
- 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.
- 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.

- The governors sitting on the panel need to be aware of the complaints procedure.

Roles and Responsibilities

The Role of the Clerk

The DfE strongly recommends that any panel or group of governors 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 five days in advance of the hearing;
- 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, copies of panel meeting minutes should be shared with all parties involved in the hearing, providing reasonable opportunity for the minutes to be agreed)

The Role of the Chair of the Governing Body or the nominated governor

The nominated governor role:

- check the correct procedure has been followed;
- If a hearing is requested, notify the clerk to arrange the panel

The Role of the Chair of the Panel

The Chair of the Panel has a key role, ensuring that:

- 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;

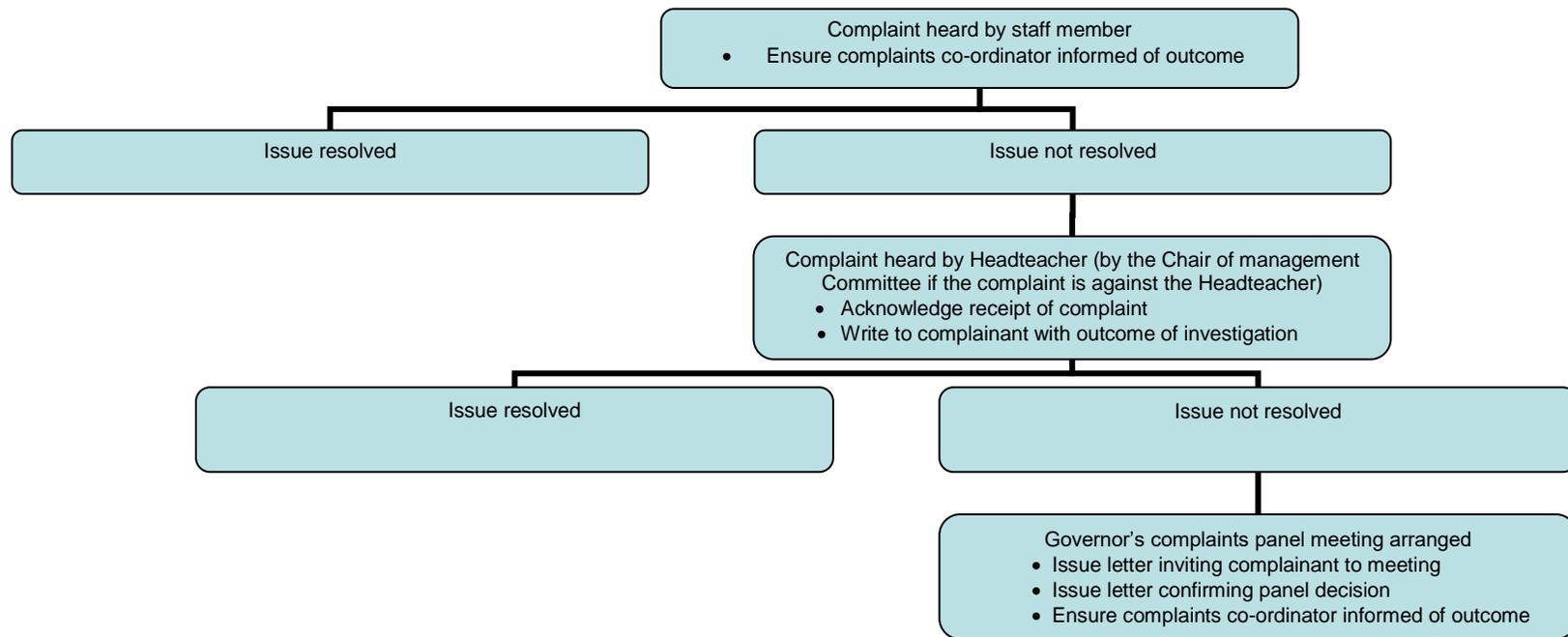
- no member of the panel has a vested interest in the outcome of the proceedings or any involvement in an earlier stage of the procedure;
- each side is given the opportunity to state their case and ask questions;
- written material is seen by all parties. If a new issue arises it would be useful to give all parties the opportunity to consider and comment on it.
- ensure that the complainant is notified of the panel's decision, in writing, with the panel's response (including the reasons for the decision); The letter needs to explain if there are any further rights of appeal and, if so, to whom they need to be addressed.

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.

Summary of Dealing with Complaints



Annex 3 - Complaints Form

Please complete and return to Headteacher who will acknowledge receipt and explain what action will be taken.

Your name:

Pupil's name:

Your relationship to the pupil:

Address:

Postcode:

Day time telephone number:

Evening telephone number:

Please give details of your complaint.

**What action, if any, have you already taken to try and resolve your complaint.
(Who did you speak to and what was the response)?**

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

Are you attaching any paperwork? If so, please give details.

Signature:

Date:

Official use

Date acknowledgement sent:

By who:

Complaint referred to:

Date: