



Department
for Education

Best Practice Advice for School Complaints Procedures 2016

**Departmental advice for maintained
schools, maintained nursery schools and
local authorities**

January 2016

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Summary

About this departmental advice

This is departmental advice from the Department for Education. This advice is non-statutory, and has been produced to help governing bodies understand their obligations and duties in relation to Section 29 of the Education Act 2002¹.

Expiry or review date

This advice replaces the School Complaints Toolkit 2014. It will be reviewed before January 2018 subject to any relevant changes in legislation.

Who is this advice for?

This guidance is for:

- School leaders, school staff and governing bodies in all maintained schools and maintained nursery schools
- Local authorities
- Dioceses

Introduction

In accordance with [Section 29 of the Education Act 2002](#), all local authority (LA) maintained schools must have and make available a procedure to deal with all complaints relating to their school and to any community facilities or services that the school provides.

The Department for Education has produced this non-statutory guidance to share best practice and help schools avoid common pitfalls. It is for school leaders, school staff and governing bodies in all LA maintained schools and maintained nursery schools, LAs and Dioceses. It is not designed for use by academies, free schools or independent schools.

There is a difference between 'legal requirement' and 'good practice'. In this guidance, we use 'must' where a school has a duty. We use 'can' where a school has a power (not a duty) under statutory or common law. We use 'should' for advice on good practice.

¹ <http://www.legislation.gov.uk/ukpga/2002/32/section/29>

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.

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.

The Complaints Procedure – Best Practice Tips

- A guidance document for parents on making complaints does not satisfy the legal requirement for schools to have in place a procedure to deal with all complaints. A distinct policy must be in place;
- While schools are free to adopt their LA's model policy, it must be tailored to the individual school;
- Some complaints fall outside the school's complaints procedure, for example, staff grievances or disciplinary procedures (see: Complaints not in Scope);
- We recommend that the governing body ensures that any third party providers offering community facilities or services through the school premises, or using school facilities, have their own complaints procedure in place;
- 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.

The following tips and suggestions are intended to help schools ensure their complaints procedures are robust and effective:

- Be aware of the difference between a concern and a complaint (taking informal concerns seriously will reduce the numbers that develop into formal complaints);
- Be mindful of the language used in the complaints procedure (it is recommended that schools have policies which state what they 'will' do rather than what they 'should' or 'may' do);

Where a policy states that a school '*should*' do something which they then choose not to do, if escalated to the Department for Education for further consideration, the school may be asked to provide a written explanation for the reasons why they deviated from best practice.

- Ask the complainant 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 complaints procedure should set out the steps to follow in the event that the headteacher or member of the governing body is the subject of the complaint.

Schools should also ensure the complaints procedure:

- is easily accessible and publicised;
- is simple to understand and use;
- is impartial;
- is non-adversarial;

- enables a full and fair investigation by an independent person where necessary;
- respects people's desire for confidentiality;
- addresses all the points at issue and provides an effective response and appropriate redress, where necessary;
- provides information to the school's senior management team so that services can be improved.

Timeliness

Complaints need to be considered and resolved as quickly, and efficiently as possible:

- Set realistic and reasonable time limits for each action within each stage (where further investigations are necessary, set new time limits, send the complainant details of the new deadline and give an explanation for the delay);
- Understand that the department does not consider excessive time limits to be reasonable or acceptable, except in extenuating circumstances;
- 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 to lodge a complaint);
- Ensure that, if the policy includes a cut-off timeframe, the school will consider exceptions and that their complaint procedure reflects this. Schools must not have blanket policies of refusing to consider any complaints not lodged within the stated period.

Stages

Schools are free to choose how many stages their procedure will include – two or three formal school-based stages are likely to be sufficient for most schools.

- Determining what the appeal panel considers is for the school to decide.
- The complaints procedure must not suggest that a complaint can only be escalated to the next stage if the school permits it.

Regardless of how many stages the school chooses, or whether or not the complaint is 'justified', a dissatisfied complainant must always be given the opportunity to complete the complaints procedure in full.

- Some procedures may also allow for an additional stage if the LA, Diocese or other external agency provides an independent appeal or review.
- Complaints against the headteacher are usually first dealt with by the Chair of Governors. Complaints against the Chair of Governors or any individual governor should be made by writing to the Clerk to the Governing Body.

Recording Complaints

Schools must ensure that they comply with their obligations under the Equality Act 2010. It is common practice to ask for complaints to be made by using a complaint form or in writing, however the complainant may have communication preferences due to disability or learning difficulties and schools must allow alternative methods of contact:

- 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.
- Schools should be aware that complainants have a right to copies of these records under the Freedom of Information and Data Protection Acts.

Governing Body Review

- Complaints should not be shared with the whole governing body, except in very general terms, in case an appeal panel needs to be organised;
- If the whole governing body is aware of the substance of a complaint before the final stage has been completed, schools should arrange for an independent panel to hear the complaint. They may approach a different school to ask for help or the local Governor Services team at the LA, or the Diocese;
- Complainants have the right to request an independent panel, if they believe there is likely to be bias in the proceedings. Schools should consider the request but ultimately, the decision is made by the governors;
- The process of listening to and resolving complaints can contribute to school improvement. When individual complaints are heard, schools may also identify underlying issues that need to be addressed. The monitoring and review of complaints can be a useful tool in evaluating a school's performance. The governing body may wish to consider using complaints and review their handling at regular intervals to inform improvements and the effectiveness of the complaints procedure;
- It is the governing body which determines how often the complaints procedure is reviewed however the department 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.

Complaints not in scope of the procedure

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	Who to contact
<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).</p> <p>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:</p> <p>WBHL, Ofsted Piccadilly Gate Store Street Manchester M1 2WD.</p> <p>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>

Serial and Persistent Complainants

Schools should do their best to be helpful to people who contact them with a complaint or concern or a request for information. However, in cases where a school is contacted repeatedly by an individual making the same points, or who asks them to reconsider their position, schools 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 schools to recognise when they really have done everything they can in response to a complaint. It is a poor use of schools' 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, schools 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 to stop responding should never be taken lightly. A 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.

Schools 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 schools may wish to implement a tailored communications strategy such as restricting them 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 their LA 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 should be sought as to the next steps. In some cases, injunctions and other court orders have been issued to complainants because of their behaviours.

Different procedures apply to FOI and Data Protection (DP) correspondence. You should talk to your FOI/DP advisor contact about those or approach the ICO for further advice.

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

Sample Policy for Unreasonable Complainants

<...School> 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.

<...School> 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 Governors 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 <...School> 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 <...School>.

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 Governors. 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.

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

Appendix – 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:-
 - sharing third party information;
 - 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:-
 - 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



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