

OLDFIELDS HALL MIDDLE SCHOOL

COMPLAINTS PROCEDURE – May 2014

Introduction

All schools are obliged by law to have a complaints procedure. The procedure should help resolve problems and give parents a means to raise issues of concern and have them addressed. The requirement to have a complaints procedure need not in any way undermine efforts to resolve concerns informally.

This procedure should be easily accessible to them via the school office and the school website. All complainants should be provided with a copy as a matter of course when matters proceed to a formal stage. A complaint does not have to be in writing but it is important to understand what the complaint is about and so a form is provided for this purpose. The school does not make the completion of such a form by parents a requirement before considering a complaint.

Complainants should be treated respectfully during and after the course of any complaints investigation. Complainants should always receive a full written response to their complaint, unless they fall into the category of Persistent and/or Vexatious Complaints dealt with below. If it is not possible to address the complaint appropriately within a few days, then a letter of acknowledgement should be sent to the complainant with a proposed timescale for a response. Each individual stage of the complaints process should take no longer than 20 school working days to complete, and if this will be exceeded for any reason then an explanation should be provided to the complainant.

All members of staff should be aware of the complaints procedure and understand:

- The importance of attempting to resolve problems before they become formal complaints
- The importance of treating complaints respectfully

Expressing Concerns

The underlying principle is that concerns ought to be handled, if at all possible, without the need for formal procedures. The legal requirement to have a complaints procedure need not in any way undermine efforts to resolve concerns informally. In most cases the class teacher or responsible member of staff will receive the first approach. Ideally staff will be able to resolve issues on the spot, including apologising where necessary. It is advisable that any member of staff involved at this informal stage keeps a record to show any agreed actions to resolve the issue.

At this informal stage the school should consider the best way of dealing with any concerns raised according to the circumstances. It is always preferable for those involved that concerns are resolved sooner rather than later.

Formal Complaints

Some concerns brought to the attention of the school via their complaints procedure, or merely through parents raising concerns, may lead to action being initiated under other formal procedures, such as safeguarding or disciplinary matters. The complainant should be advised if this is the case

and informed of the procedures that are to be followed. The school should make it clear to the complainant that they will not necessarily be able to provide them with the details of the outcome of those procedures, depending on the circumstances.

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

The Complaints Policy and associated procedures will seek to:

- encourage resolution of problems by **informal** means wherever possible;
- be easily **accessible** and **publicised**;
- be **simple** to understand and use;
- be **impartial**;
- be **non-adversarial**;
- allow **swift** handling with established **time-limits** for action and keeping people informed of the progress;
- ensure a full and **fair** investigation by an independent person where necessary;
- respect people's desire for **confidentiality**;
- address all the points at issue and provide an **effective** response and **appropriate** redress, where necessary;
- provide **information** to the school's leadership team so that services can be improved.

Details of a complaint should be kept confidential except in so far as they need to be shared with people who might contribute to their resolution. The complaint should be acknowledged and the complainant should be offered a copy of the school's Complaints Policy with clear timescales about when they can expect to receive a response. This will help to alleviate the complainant's need to contact the school about the matter unnecessarily in the meantime.

Investigating a Formal Complaint

It is suggested that at each stage, the appropriate person investigating the complaint makes sure that they:

- establish **what** has happened so far, and **who** has been involved;
- clarify the nature of the complaint and what remains unresolved;
- meet with the complainant or contact them (if unsure or further information is necessary);
- clarify what the complainant feels would put things right;
- speak with those involved in the matter and/or those complained of, allowing them to be accompanied if they wish;
- conduct the above point with an open mind and be prepared to be persistent in asking relevant questions; and
- keep notes of what is said by all.

Role of the Headteacher or the Chair of the Governing Body

It may be that the headteacher has not been aware of the concern raised prior to this point. If the complaint is not about the headteacher then the first of the formal stages is for the head to investigate the concern in line with the procedure. This will, in most cases, resolve the matter to the satisfaction of all concerned without recourse to Stage 3 of the complaints procedure. If the complaint is about the headteacher, the complainant should be advised to refer the matter to the

Chair of Governors, giving details of the complaint which should be accepted either in writing or verbally. In either case, where a complaint is accepted verbally, the details should be reported back to the complainant to ensure that they have been recorded accurately. The attached form **Appendix 1** could be used for this purpose, and it would also be useful if complainants were encouraged to state what actions they feel might resolve the problem at any stage.

In most cases the headteacher (or Chair of Governors) will seek to resolve the matter through discussion with the parties. The headteacher (or Chair of Governors) may also wish to meet with the complainant in person. If this does not resolve the issue, then the matter should be referred to the Governing Body's Complaints Committee, with this being confirmed in writing to the complainant.

The Role of the Chair of Governors if a complaint is to be referred to them

If the complaint has still not been resolved and the complainant has informed the school that they wish to take the matter further, then the matter should be referred to the Chair of Governors. The Chair's role will be to appoint a Complaints Committee in accordance with the School's Complaints Policy to review the complaint. If the Chair undertook a previous investigation then this role should be taken by the Vice Chair.

Membership of the Complaints committee should consist of three or five governors. This should include a cross section of the different categories of governor and must be independent and impartial (as well being seen to be so). The headteacher and Chair of Governors should **not** be members of this committee.

Role of the Governing Body's Complaints Committee

The complainant must be given the opportunity to make representations in person and has the right to bring a friend/family member or other supporter. The committee should therefore meet at a time and a venue convenient to all parties. If the complainant decides not to attend the review hearing it may be held in their absence.

The procedure adopted by the Complaints Committee for reviewing the complaint is set out below. When considering a complaint the chair of the Complaints Committee may wish to seek advice from the Local Authority on procedural matters. Advice on the law and the content of any letters may also be sought from the Authority's Legal Services Unit.

Governing Body Complaints Committee – Procedure

The Clerk:

It is strongly recommended that any committee reviewing a complaint should have a clerk. The clerk's role would be to:

- set the date, time and venue;
- collate any written material and send to all parties in advance;
- record the proceedings; and
- ensure that all parties are notified of the decision.

The clerk may be a member of school staff or independent of the school. The clerk will not be a member of the governing body, and will not take part in the decision-making process. Essentially the role of the Clerk is to assist the committee by providing the services referred to above.

Investigating the Complaint:

Be sure that the exact nature of the complaint is understood and, where possible, establish from the complainant what actions they feel might resolve the problem at any stage. Identify possible sources of information and advice to help collate the necessary evidence. This might include:

- staff, students, governors, parents and visitors
- policies and procedures
- school records
- the law
- research
- Local Authority officers

This information may be obtained through written statements or interviews and, in many cases, the necessary arrangements will be made by the school.

Procedure for a Complaints Committee Hearing:

- The hearing will be kept 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 should explain their complaint, and be followed by their witnesses (if any).
- The headteacher may ask questions of 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 ask questions of both the headteacher and the witnesses after each has spoken.
- The Committee 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.
- The Chair explains that both parties will hear from the Committee in writing within a set time scale.
- Both parties leave together while the panel decides on the issues.

Procedures for the complaints hearing may vary with the approval of all parties, for example the complainant may wish to meet the complaints committee without the headteacher being present. Where this is the case the complainant should be advised that it will still be necessary for the complaints committee to meet with the headteacher as part of the process.

Outcomes of Investigations

The aim of the investigation or review will always be to resolve the complaint and achieve reconciliation between the school and the complainant. However, it has to be recognised that the complainant might not be satisfied with the outcome if the governors do not find in their favour. It may only be possible to establish the facts and make recommendations which will satisfy the complainant that his/her complaint has been taken seriously.

In all cases, in any response to a complaint at any stage, the school will try to:

Determine the facts

Decisions must be made on the balance of probabilities, which means that the evidence demonstrates that it is more likely than not that a particular event or action occurred.

Identify what should have happened

By referring to relevant policies, procedures, or using common sense, determine how the situation could have been handled. Refer to the relevant policy and procedure in your response to the complaint and, if possible, enclose a copy. If it is simply a matter of common sense then explain that this is what you would have expected to occur and the reasons for this.

Identify any significant failings

Was anything handled inappropriately by the school, in the circumstances? Significant failings mean that, in the circumstances of this case, a particular action was unreasonable. However, if there was a valid reason for that action then, even if you disagree with that reason, the action could be deemed as reasonable.

‘Reasonable’ broadly means that the action was one which a large proportion of people in that profession, job, or in that situation, would have considered as an appropriate action in the given circumstances.

If it is subsequently felt that the school, its staff or governors acted inappropriately then an apology is likely to be appropriate, and the school will briefly outline what will be done to put things right. It is possible, however, that those involved may have a right to their personal information kept confidential, dependent on the circumstances.

If however it is felt that the school, its staff or governors acted properly then the committee will say so and give the reasons why this is the case. Usually in these circumstances the committee will explain that no further action will be taken but that the school will continue to support the child, the alleged perpetrator, the parents, the family etc., despite the decision not to uphold the complaint.

Responding to the Complaint

At each stage in the procedure the school will keep in mind ways in which a complaint can be resolved. If, at any of the stages the complaint isn’t upheld, it is important to re-assure the complainant that the matter has been fully investigated and to advise where the complaint may be referred further.

It might be sufficient to acknowledge that the complaint is valid in whole or in part. In addition, it may be appropriate to offer one or more of the following:

- an apology;
- an explanation;
- an admission that the situation could have been handled differently or better;
- an assurance that the event complained of will not recur;
- an explanation of the steps that have been taken to ensure that it will not happen again; and/or
- an undertaking to review school policies in light of the complaint.

Complainants are encouraged to state what actions they feel might resolve the problem at any stage. An admission that the school could have handled the situation better is not the same as an admission of negligence.

The decision of the headteacher, the chair of governors, or the complaints committee after the investigation process should be conveyed in writing to the complainant within the agreed timescale.

The Role of Staffordshire County Council (the Local Authority)

Parents do not have a right of appeal to the Local Authority should they disagree with the decision of the committee. They may, however, raise the matter with the Local Authority if they consider the complaint wasn't investigated properly and fairly. So long as the committee followed a proper procedure and considered the complaint in a reasonable manner, then the Local Authority will do little more than inform the complainant of that fact. If the committee is perceived not to have followed the proper procedure and considered the complaint reasonably the Local Authority may make practical suggestions to the committee but nothing more. The Local Authority does not have a statutory duty to consider the complaint any way.

Persistent or Vexatious Complaints

If a complainant remains dissatisfied despite all the procedures having been followed and reasonable responses being provided, it may be the case that it is not possible to resolve all their concerns and meet all their wishes. Sometimes it is preferable to 'agree to disagree' and move on.

If the complainant continues to make representations to the school or attempts to continue correspondence into the same issues, the Chair of Governors will inform them, in writing, that the procedures have all been followed and that all reasonable actions have been taken to try to resolve the issue and that the matter is now closed. The school will enlist the help of the Local Authority and/or Legal Services Unit if necessary to advise on these cases.

Dealing with Persistent and/or Vexatious Complaints

A vexatious or persistent complainant is **not** someone who raises legitimate concerns or criticisms of a complaints procedure as it progresses, for example, with regard to timescales, nor are they someone who is unhappy with the outcome of a complaint and are therefore seeking to challenge it.

It is important that the school takes, and is seen to take, all complaints seriously by following their complaints policy in the first instance. Occasionally however there may be situations where the head teacher and/or governing body have done all they can to resolve matters, and it is therefore appropriate to consider closing a complaint as it has been ongoing for some time, or even in some cases there could be a valid reason for not following the full complaints process. This strategy will be used if the headteacher and/or Governing Body have done everything possible to address and resolve a person's complaint(s) and it appears that the complainant has become overly preoccupied with their personal grievances, thereby becoming defined as being a vexatious complainant. If a complainant persists in making these types of representations to the school, to the headteacher, designated governor, Chair of Governors or anyone else, this can be extremely time-consuming and can detract from the school's responsibility to look after the interests of all the children in its care.

As mentioned previously, raising legitimate concerns or criticisms of a complaints procedure as it progresses (for example in relation to timescales) does not make a complainant vexatious, and neither does a person seeking to challenge the outcome of a complaint that they are unhappy with. The vast majority of complaints, even those which are not upheld by the school, will not be defined as being vexatious. To define a complainant's actions as vexatious, it would be expected that the complainant would be engaged in some or all of the following types of behaviour:

- frequently complaining about a variety of different things, or the same issue through a number of different channels in an obsessive, persistent, harassing, prolific and /or repetitious manner;
- seeking unrealistic outcomes relative to the issue being raised, and stating that their intention is to persist until that outcome is achieved;
- insisting upon pursuing valid complaints in an unreasonable manner;
- persistently making the same complaint with minor differences but never accepting the outcome of any investigation into their complaint;
- challenging a historical decision/action which cannot be changed;
- contacting the school frequently in a lengthy and/or complicated way;
- behaving aggressively and provocatively towards the school and individual members of staff;
- changing aspects of the complaint or the desired outcome part way through the investigation and/or after the investigation is completed and a conclusion has been reached;
- refusing to co-operate with the investigation process;
- insisting on the complaint being dealt with in ways which are incompatible with the adopted procedure or with good practice;
- making what appear to be groundless complaints about the staff dealing with the complaint, and seeking to have them replaced by someone more senior or with a person the complainant names;
- refusing to accept information provided, for no justifiable reason;
- making statements the complainant knows are not true or persuading others to do so;
- supplying manufactured 'evidence' or other information the complainant knows is incorrect;
- raising a large number of detailed but unimportant questions and insisting that they are all fully answered;
- lodging a number of complaints in batches over a period of time, resulting in related complaints being at differing stages of the complaints procedure;
- pressing for further investigation of matters that have already been addressed;
- electronically recording meetings and conversations without the prior knowledge and consent of the other persons involved;
- using obscene, racist, offensive or threatening language in written or verbal communications;
- threatening or aggressive or abusive behaviour in direct personal contacts with staff;

- using the vehicle of valid new complaints to resurrect issues which were included in previous complaints; and/or
- persistently sending communications which demand responses, or making telephone calls seeking interview with staff, after the school has closed the investigation into a complaint and all rights of review and appeal have been exhausted.

If the complainant's behaviour appears to noticeably fall into any of the above categories, then it is recommended that the headteacher, Chair of Governors or Chair of the governors' Complaints Committee contact the Local Authority and/or Legal Services who can provide guidance on the appropriateness of imposing sanctions on the complainant. The governors should formulate a plan as to an appropriate sanction, which will depend on the circumstances and should be the most appropriate and least obstructive measure available. This should be approved by the Local Authority and/or Legal Services before being implemented.

The complainant concerned should also be given an opportunity to modify their behaviour before closing correspondence. For example, a person who writes regularly to the school but refuses to meet with staff could be invited to a meeting with the governors to discuss their concerns. If the complainant does not comply with the request to change their conduct then a letter should be sent making clear that future correspondence will not be responded to, but that the school will note any new concerns being raised and will appropriately investigate any that are considered to be of merit.

Correspondence received from the complainant subsequent to closure should be kept on file, indefinitely, as should notes of telephone calls and any further personal calls referring to the matter.

This procedure was adopted formally by governors on 14th May 2014.