



St. Helens Council

Department of Children and Young
People's Services

SCHOOL COMPLAINTS PROCEDURE

Revised and Updated September 2013

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KEY PRINCIPLES

Summary

This document has been produced as a St Helens Council Model School Complaints Procedure to assist schools in meeting their obligations under Section 29 of the Education Act 2002, to have in place a procedure to deal with complaints.

If adopted, it should be read and understood by all School Staff and Governors who may receive or have cause to deal with complaints as part of their role.

This document does not prevent a school deciding to establish their own procedures for dealing with complaints.

In general, the School Complaints Procedure consists of four main stages, which include the following:

- **Stage 1:** Informal Resolution
- **Stage 2:** Formal Complaint
- **Stage 3:** Governing Body Investigation & Appeal Hearing
- **Stage 4:** Appeal to the Secretary of State

Each of these stages will usually occur in the above order and there will usually be no return to previous stages. Experience suggests that in the vast majority of cases, complaints are usually resolved at Stage 1 via informal means.

Aims and Objectives of the Procedure

- To ensure that complaints are dealt with appropriately and within relevant timescales
- To provide parents with information about the Complaints Procedure
- To ensure that parents understand what they can complain about and how to complain
- To provide Headteachers with guidance about how to respond to complaints
- To provide Governors with guidance about how to address and respond to complaints
- To provide Governors with advice about conducting complaints appeal hearings

Legal Context and the Role of the Local Authority (LA)

Since September 2003 Governing Bodies of all maintained schools and nursery schools in England have been required, under Section 29 of the Education Act 2002, to have in place a procedure to deal with complaints.

The School Standards and Framework Act 1998 also requires governing bodies to establish and publish procedures for dealing with complaints relating to the school, other than those covered by legislation and formal procedures elsewhere.

In July 2012, Section 45 of the Education Act 2011, changed the role of the Local Authorities regarding the handling and reviewing of school complaints. The role of the LA is now of an advisory and supportive nature and any powers of intervention or scrutiny have been removed. The LA is no longer obliged to consider or review complaints formally as previously undertaken.

The Secretary of State now undertakes the scrutiny role, although the LA will continue to provide informal advice, guidance and support to individuals, headteachers, and school governing bodies in dealing with complaint related matters, but does not have any other powers of direction and is not in a position to challenge decisions made by governing bodies.

Types of complaint covered by this procedure

- Bullying
- Unfair treatment of pupil by staff
- Behaviour and Discipline
- Pupil Safety
- Handling of Concerns
- Communication with Parents
- Temporary Exclusions
- Extra-Curricular activities
- School Uniform
- School Policy or Working practices

Circumstances under which this procedure should not be used

The School Complaints Procedure should not be used to investigate and deal with matters relating to the following areas below, which should be dealt with via other procedures:

- National Curriculum
- Collective Worship
- Religious Education
- Hate Crime
- Safeguarding
- Non-approved external qualifications
- Withdrawal of pupils from the national curriculum
- Pupil Admissions
- Pupil Exclusions
- Special Educational Needs
- Staff Grievance & Capability
- Financial Impropriety

If an individual raises a complaint that is specifically related to any of the above areas, then they should be informed by the school of the specific procedures will be used to investigate the issues.

This policy does not cover complaints made against St Helens Council. Any complaint of this nature should be dealt with in accordance with the Council's Corporate Complaints Procedure.

Who is allowed to complain?

This procedure should be used for guidance by anyone who has a concern or complaint about any aspect relating to a school, including other organizations or contractors providing services on behalf of the school. This generally includes parent/carers of the school's pupils, but may also include local residents, who may live within close proximity of the school.

Other relevant documents

- St Helens Council Corporate Complaints Procedure
- Department for Education National Guidance around dealing with Complaints

Monitoring complaints

Schools should ensure that they keep a formal record of complaints that are received and dealt with at the formal stages. Complaints should be reviewed on a regular basis by the School and the Governing Body. The following information about the complaint should be recorded:

- Name and contact details of the complainant
- Date and time at which complaint was made
- Details of the complaint
- Desired outcome of the complainant
- How the complaint is investigated (including written records of interviews held)
- Results and conclusions of investigations
- Any actions taken
- The complainant's response (satisfaction or further pursuit of complaint)

The Headteacher will for the most part, adopt the role of complaints officer, although this role may be delegated to another senior member of staff, who should be named by the school. If a complaint relates to the Headteacher then the Chair of Governors should adopt the role of Complaints Officer to deal with the matter. Depending upon the nature of the complaint, the Chair may decide to delegate the role to another Governing Body member.

Upholding or not upholding complaints

At each stage of the School Complaints Procedure, schools should always indicate whether a complaint has been upheld (in part or in full) and what action is to be taken, or whether the complaint is not upheld and reasons for this are clearly given.

In any situation in which a complaint is upheld (in part or full), the school's response should incorporate the following as appropriate :

1. An apology
2. An explanation of the school's overall position in response to the complaint
3. An explanation of the steps that have been taken to prevent a recurrence

When schools do not uphold a complaint, a complainant could choose to take no further action concerning the matter, or opt to progress the complaint to the next relevant stage.

Communication of Complaints Procedure to parents & carers

Schools have a legal requirement to publicise their Complaints Procedure. Schools should ensure that they make their Complaints Procedure accessible and available. It may be supplied to parents/carers when the child joins the school, published on the school web site and available in hard copy from the School Office.

Confidentiality

Schools should ensure that complaints are dealt with confidentially. All conversations and correspondence should be treated with discretion. Complainants have the right to know what use will be made of personal information held and, accordingly, personal information should only be shared between relevant staff on a 'need to know' basis.

Equal Access, Accompaniment and Representation

Individuals wishing to raise concerns or submit a complaint have the right to be accompanied or represented by a friend or relative at any discussions or hearings. In situations where a particular individual may experience difficulties in terms of accessing a particular venue for instance, the LA will aim to assist the matter by providing an appropriate venue.

There is an expectation that equal respect is granted to individuals involved within the process and that differences between people are respected and understood at all times.

Progression through the Complaints Procedure

The stages within the Complaints Procedure should normally occur consecutively, although it is not always necessary for each stage to immediately follow the last. The nature of the complaint will determine what stage the complaint begins at and how it progresses through the stages.

Changes to time limits and deadlines

Schools should aim to adhere to the procedures time scales when addressing and responding to complaints. In certain circumstances, the school may extend response deadlines when they are not able to address and respond to a complaint within the relevant time frame.

Schools should only extend any response deadlines when there are reasonable grounds to do so. Reasonable grounds may include school holidays, the complexity of the complaint, the need to gather further information about the complaint, and the availability of certain individuals for decision-making purposes.

If and when it becomes necessary to alter the time limits and deadlines in the procedures, the complainant should always be informed and given an explanation as to why this is the case.

Appeals

Individuals who have made a complaint and received a response that they are unhappy with have the right to appeal the decision and to progress their complaint to the next relevant stage in the procedures. Individuals should always be informed of their rights to appeal any decision and provided with the details about how to do this and by when.

Individuals should explain the reasons why they are unhappy with a complaint response or outcome and these reasons should always be included in any appeal.

Unreasonable and/or Vexatious Complaints

Schools will on certain occasions receive complaints, which are vexatious in nature. Examples of unreasonable or vexatious behaviour may include:

- Having insufficient or no grounds for a complaint or making the complaint only to annoy
- Refusing to co-operate with the complaints investigation process
- Refusing to accept that issues are not within the remit of the Complaints Procedure
- Making groundless complaints about the staff dealing with the complaints
- Seeking to have staff dismissed or replaced on totally unreasonable grounds
- Making an unreasonable number of contacts
- Making persistent and unreasonable demands or expectations of staff
- Harassing or verbally abusing staff dealing with their complaint
- Use of foul or inappropriate language or by the use of offensive and racist language
- Raising subsidiary or new issues whilst a complaint is being addressed that were not part of the complaint at the start of the complaint process

- Introducing trivial or irrelevant new information whilst the complaint is being investigated and expect this to be taken into account and commented on
- Changing the substance or basis of the complaint without reasonable justification whilst the complaint is being addressed
- Denying statements he or she made at an earlier stage in the complaint process
- Recording meetings and conversations without prior knowledge and consent of persons
- Refusing to accept the outcome of the complaint process after conclusion, and repeatedly arguing points, and/or denying that an adequate response has been given

Schools can refuse to consider a complaint if there is strong evidence that the individual making the complaint is consistently acting in an unreasonable and vexatious manner. Schools should however, always make reasonable efforts to resolve any complaint and should not simply label a received complaint as vexatious from the outset to avoid simply dealing with it.

Schools can contact the Local Authority for further advice and guidance about whether any specific complaints can be considered of an unreasonable and/or vexatious nature. In the first instance this should be the Governor Services Team who may in turn refer matters to the Council's Legal Services Department as necessary. If the school decides that it has grounds to refuse to deal with a complaint, the Chair of Governors should write to the individual and inform them of the reasons why.

1.0 STAGE 1: Informal Resolution

1.1 Introduction

The vast majority of concerns and complaints can be dealt with informally. There are many occasions where concerns are resolved straight away without the need to submit a formal complaint.

1.2 Who to speak to informally

Individuals may raise concerns initially with a member of the School Administrative Staff, Teaching Staff, School Governors, or the Headteacher depending on the nature of the issues they have or want to discuss.

1.3 Monitoring

It is not necessary to record or monitor complaints at this level, although Schools may decide to do so as a measure of good practice.

1.4 Time scales

There are no specific time scales for Schools to adhere to when dealing with concerns at this stage. However, as at all stages, Schools should take reasonable steps to deal with emerging issues as quickly and effectively as possible.

1.5 Response

The individual who raised the issue should be informed of any action to be taken to address and resolve the issues in question. If appropriate, this might be confirmed in writing to the individual.

1.6 Options for complainant

If the individual is dissatisfied with the manner in which the matter is being dealt with at this stage of the process then they have the right to make a formal complaint. The School should provide the individual with a copy of the School Complaints Procedure and depending upon the nature of the complaint inform the individual whether the complaint is best directed to either the Headteacher or the Chair of the School Governing Body.

2.0 STAGE 2: Formal Complaint

2.1 Introduction

This is the first stage of the formal complaints process. All communications between parties need to be carefully recorded as set out in the 'monitoring complaints' section of this document.

2.2 Informal discussion with Headteacher

Before proceeding with a formal investigation, the Headteacher may decide to meet with the individual and discuss the concerns and make a final attempt to reach an informal resolution. If this is not possible, the Headteacher will decide whether the complaint will be dealt with by this procedure, or another statutory procedure and advise them on what they need to do.

2.3 Submitting a Formal Complaint

The Complainant must submit their complaint formally in writing to the Headteacher. The written complaint should be clear, factual, and contain the following information:

- Name and contact details
- Date
- Details of the complaint
- Outcomes Sought
- Signature
- Any supporting evidence

2.4 Complaints involving the Headteacher

If the complaint is related to the Headteacher, then the Chair of Governors will either investigate the complaint personally or ask an experienced governor to investigate the matter on his/her behalf. The Complainant should be informed who will be investigating the complaint.

Dependent upon the nature of the issues raised, the matter will either continue to be dealt with via the School Complaints Procedure, or by other procedures such as the Disciplinary or Safeguarding Procedures. If this happens the complainant will be informed of this fact.

2.5 Acknowledgement and time scales

The Headteacher should formally acknowledge the received complaint in writing within five school days of receipt, and inform the Complainant that the complaint will be investigated, and a response will be provided within a specified period.

2.6 The Investigation

The Headteacher will investigate the issues, review evidence before making the decision on how to respond. Depending upon the nature of the complaint, the Headteacher may interview witnesses and take statements from those involved. If the complaint centres on a pupil, the pupil will also usually be interviewed.

All individuals have the right, at this or any other stages, to be accompanied or represented by a friend, relative, or colleague at discussions and hearings. This includes the right of teachers to be accompanied by a representative from their Trade Union. When pupils are interviewed, an additional member of staff should always attend.

2.7 Written Response

The Headteacher should provide the Complainant with a full written response within ten school days of receiving the complaint. The response deadline may be extended to twenty school days depending on the nature and complexity of the complaint. If it is likely that the ten-day response deadline will not be met, then the Headteacher should inform the complainant of this fact.

2.8 Options for complainant

If the Complainant remains unhappy with the outcome then they are entitled to progress the complaint to the next stage in the procedure. The Complainant should be referred to the School's Complaints Procedure and told how to move on to the next stage.

3.0 STAGE 3: Governing Body Review

3.1 Introduction

Complaints rarely reach this formal level, but it is important that governing bodies are prepared to deal with them should they do so. Upon receiving a formally submitted complaint at this stage the Chair of Governors should arrange for the Governing Body Complaints Committee Hearing to be convened to hear the complaint.

3.2 The Complaints Committee

The Complaints Committee must have a Clerk. The Clerk may be a member of the school staff, Governor or any third party appointed by the Governing Body.

The Local Authority can offer advice and guidance to the Clerk, the Chair of Governors and/or the members of the Complaints Committee on the procedural issues relating to the Committee Hearing, but will not participate in reviewing the complaint.

It is recommended that School Governing Bodies annually agree five governors from whom the school will be able to form a complaints committee if required at any point.

At least three Governors should be appointed to the Complaints Committee for any Hearing. The Complaints Committee will be required to consider the complaint and its members should not have had any involvement with the complaint at earlier stages.

3.3 Requesting a Complaints Committee Hearing

The Complainant must submit a written request to the Chair of Governors for their complaint to be considered by the School's Complaints Committee. This should be done within ten days of receiving a response to their complaint at the previous stage.

3.4 Acknowledgement and time scales

The Chair of Governors should acknowledge receipt of this request within five school days if possible but no more than ten days at most by writing to the Complainant. This letter will inform them that the Complaints Committee will hear their complaint within fifteen school days.

3.5 Preparation for Complaints Committee Hearing

The Chair of Governors should ask the Clerk to make arrangements. The Clerk should convene a meeting of the Complaints Committee. The membership of the Complaints Committee should be confirmed, and a date and time arranged for the Hearing and all relevant documentation should be given to the three appointed Complaints Committee members.

The Clerk should then write to the Complainant, the Headteacher and any other relevant Staff or Witnesses and inform them of:

- Date, time and venue of the hearing
- Aims and objectives of the hearing and how it will be conducted
- Documentation they wish the committee to consider must be presented to the Clerk no later than 5 school days before the hearing takes place
- The rights to bring along someone to provide support or act as a representative
- How and when the committee will reach their decision in writing

It is the responsibility of the Clerk to ensure that all parties receive all relevant documents at least three school days before the date of the hearing so as to allow individuals to familiarise themselves with the evidence.

3.6 Format of the Hearing

The Complaints Committee Hearing should allow each party to explain their understanding or interpretation of events and provide the opportunity for the other parties to question them. The Complaints Committee Hearing should follow the suggested format provided below:

1. The Chair of the meeting will introduce all parties to one another and explain the principles, objectives and format of the hearing.

2. The Complainant will be given the opportunity to explain their complaint. Following this, the Headteacher and the Complaints Committee members may ask the complainant questions.
3. The Headteacher will then be given an opportunity to explain the School's official response, interpretation or view about the complaint. Following this the complainant and committee will be allowed to question the Headteacher.
4. Each party will be given the opportunity to call any witnesses and question witnesses called by the other parties.
5. The Headteacher and the Complainant will be given the opportunity to give final statements in relation to the matter.
6. The Chair of the meeting should bring the hearing to conclusion. The Committee members should consider their final decision and write to both parties within five school days informing them of the outcome of the Hearing in writing.

3.7 After the Complaints Committee Hearing

The Complaints Committee members should consider the complaint and all the evidence presented by both parties and then begins the process of consideration. After all the evidence has been weighed up on both sides the Complaints Committee members will either:

- Reach a unanimous, or at least a majority decision, on the complaint outcomes
- Decide upon the appropriate action(s) (if any) to be taken
- Suggest changes to, or request a review of, the School's existing Policy or Procedures to ensure that problems of a similar nature do not happen again.

The Complaints Committee should decide together whether the complaint outcomes sought are upheld in full, partially upheld, or irresolvable. The Complaints Committee should then write to the Headteacher and the Complainant and inform them of the outcome.

3.8 Options for Complainant

If the Complainant remains dissatisfied with the outcome of the investigation and would like to take their complaint further, they should be referred to the School's Complaints Procedure and informed how to progress their complaint to the next stage of the process.

STAGE 4: Appeal to the Secretary of State

4.1 Introduction

Individuals have the right to contact the Secretary of State for Education with regards to the way their complaint has been handled if they are unhappy with the outcome reached after a Governing Body Appeal. **Note: The Secretary of State will usually not consider any complaints until the schools complaint procedure has been exhausted.**

4.2 Complaining to the Secretary of State

Complainants have a right of appeal to the Secretary of State for Education under sections 496 or 497 of the 1996 Education Act if they feel that the School Governing Body has acted unreasonably in terms of how they have dealt with a complaint.

If the Secretary of State agrees that a complaint is justified, the Department for Education has the power to require the Local Authority to take actions including issuing instructions to School Governing Bodies, although in practice this would be very rarely exercised.

4.3 Contacting the Secretary of State

The Department for Education contact details are provided below.

Telephone: 0870 000 2288
Web site: www.education.gov.uk

If you wish to write to the Secretary of State for Education by post:

Role: Secretary of State for Education
Address: Sanctuary Buildings
Address: Great Smith Street
City: London
Post Code: SW1P 3BT

5 APPENDIX 1: Complaint Scenarios

This annex provides further information about some of the potential scenarios that the school may have to deal with in relation to complaints. The information below provides a summary as to what should be done in each situation, but it is always advisable for schools to contact the LEA for further advice and guidance if unclear how to handle a particular situation.

5.1 Complaints received in the form of Solicitors letter

The Chair of Governors should investigate the complaint as per Complaints Procedures. The Governing Body should be kept informed at subsequent governor meetings that the complaint has been received. The LEA Legal Department should be consulted for advice throughout the process and should be consulted in preparing the response to the solicitor.

5.2 Complaints relating to the Headteacher

The Chair of Governors should investigate relating to the actions, maladministration or conduct of the Headteacher as per the Complaints Procedures. Advice and guidance should be sought from the Local Authority as and when required.

5.3 Complaints Committee Hearings

The Complaints Committee should conduct Complaints Committee appeal hearings as per the Complaints Procedures. The Complaints Committee requires three members, one of whom must be a parent governor with a child in full time education. The Chair of Governors should not serve on the committee. The Clerk of Governors should attend any hearings and take minutes.

5.4 Complaints relating to the Chair of Governors

The Deputy Chair of Governors should deal with complaints relating to the actions or conduct of the Chair of Governors, as per the Complaints Procedures. Depending on the nature of the complaint, further advice should be sought from the LA.

5.5 Complaints relating to Governors

The Chair of Governors should deal with complaints relating to the actions or conduct of school governors as per the Complaints Procedures. Depending on the nature of the complaint, further advice should be sought from the Local Authority.

5.6 Complaints made directly to the Secretary of State

In rare cases, a complainant may complain directly to Ofsted or the Secretary of State rather than attempt to make the complaint and achieve a resolution with the school. If the school receives notification of the complaint from the Secretary of State, the matter should be directed to the Chair of Governors for consideration.

The complaint should be addressed as a Stage 2 formal complaint and the school should seek to comply with the requirements for acknowledging and responding to the complaint given by the Secretary of State. The LA can provide advice on handling such complaints if required.