

Policy Statements and Procedures

COMPLAINTS PROCEDURE

1. Introduction

Since September 2003, the Governing Body of each maintained nursery, school and college in England has been required, under Section 29 of the Education Act 2002, to have in place a procedure to deal with complaints. The law also requires the procedure to be published.

Local Authorities (LA) have long since been required to set up such procedures which encompass specific types of complaints. However, education reform has brought with it a changing relationship between LAs and schools/colleges, meaning that The Rosedale Hewens Academy Trust, as the appropriate authority, must set in place alternative arrangements.

2. Scope

This procedure is specific to the nursery provision, primary schools and secondary colleges and extended services sponsored by The Rosedale Hewens Academy Trust. Within this meaning, where the policy is being applied to nursery provision and the primary phase, reference is made to the School and the Headteacher. Equally, where the policy is being applied to the secondary phase, reference is made to the College and the Principal.

3. General principles of complaints

3.1 Dealing with complaints – initial concerns

It is important to be clear about the difference between a concern and a complaint. Taking informal concerns seriously at the earliest stage will reduce the numbers that develop into formal complaints.

This policy deals with complaints but the underlying principle is that concerns ought to be handled, if at all possible, without the need for formal procedures. The requirement to have a complaints procedure need not in any way undermine efforts to resolve the concern informally. In most cases the class teacher, subject teacher or individual responsible for the service will receive the first approach and in most cases, the staff concerned should be able to resolve issues on the spot and where necessary, an apology would of course be made.

3.2 Dealing with complaints – formal procedures

The 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 escalate the complaint.

The Principal Administrative Officer will take responsibility for the operation and management of the Complaints procedure on behalf of the Trust. The Officer will coordinate the routing of complaints to ensure that the Headteacher/Principal is aware of the nature and circumstances of the said complaint.

3.3 Framework of principles

This Complaints Procedure:

- encourages resolution of problems by **informal** means wherever possible; thereby allowing a complaint to be made initially on an informal basis;
- where a parent, guardian or carer is not satisfied with the response to the complaint made through informal means, establishes a formal procedure for the complaint to be made in writing;
- where a parent, guardian or carer is not satisfied with the response to the complaint made through formal means, **makes provision for a hearing before a panel appointed by or on behalf of the Trust and consisting of at least three people who were not directly involved in the matters detailed in the complaint;**
- ensures that where there is a panel hearing of a complaint, one panel member is independent of the management and running of the School/College;
- a full and **fair** investigation by an independent person where necessary;
- allows for a parent, guardian or carer to attend and be accompanied at a panel hearing if they wish;
- provides for the panel to make findings and recommendations and stipulates that a copy of those findings and recommendations is provided to the complainant and, where relevant, the person complained about;
- is available for inspection on the premises by the Trust and Headteacher/Principal;
- provides for a written record to be kept of all complaints made that are in accordance with procedure and whether they are resolved following a formal procedure or proceed to a panel hearing; and action taken by the School/College as a result of complaints regardless of whether they are upheld;
- provides that correspondence, statements and records relating to individual complaints be kept confidential except where the Secretary of State or body conducting an inspection under Section 109 of the 2008 Act requests access to them;
- is easily **accessible** and **publicised**;
- is **simple** to understand and use;
- is **impartial**;
- is **non-adversarial**;
- allows **swift** handling with established **time-limits** for action, keeping people informed of the progress; **setting out clear time scales for the management of a complaint;**
- respects people's desire for **confidentiality**;
- addresses all the points at issue and provide an **effective** response and **appropriate** redress, where necessary;
- provides **information** to the Trust so that services delivered at each of its Schools/Colleges can be improved.

3.4 Investigating complaints

The person investigating the complaint should ensure that the facts are gathered, by:

- establishing **what** has happened so far, and **who** has been involved;
- clarifying the nature of the complaint and what remains unresolved;
- meeting with the complainant or contacting them (if unsure or further information is necessary);
- clarifying what the complainant feels would put things right;
- interviewing those involved in the matter and/or those complained of, allowing them to be accompanied if they wish;
- conducting the interview with an open mind and being prepared to persist in the questioning;
- keeping notes of the interview using the standard template as guidance.

3.5 Resolving complaints

At each stage in the procedure, the member of staff will keep in mind different ways in which a complaint can be resolved. 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;
- an undertaking to review policies in light of the complaint.

It is important that the complainant states what actions they feel would resolve the problem at any stage. An admission that the situation could have been dealt with more effectively is not the same as an admission of negligence.

It is useful to identify areas of agreement between the parties. It is also important to clarify any misunderstandings that might have occurred as this can create a positive atmosphere in which to discuss any outstanding issues.

3.6 Vexatious complaints

This procedure should limit the number of complaints that become protracted. However, there will be occasions when, despite all stages of the procedures having been followed, the complainant remains dissatisfied. If the complainant tries to reopen the same issue, the Chairman of the Local Advisory (Governing) Body (LAB) should inform the complainant in writing that the procedure has been exhausted and the matter is now closed. In addition, details of the Local Government Ombudsman will be offered should the complainant wish to take the matter further.

3.7 Time-limits

Complaints need to be considered, and resolved, as quickly and efficiently as possible using time limits given in this procedure. However, where further investigations are necessary, new time limits can be set and the complainant sent details of the new deadline and an explanation for the delay.

4. Managing and recording complaints

4.1 Recording complaints

It is essential to record the progress of the complaint and the final outcome. A concern may be made in person, by telephone, or in writing. At the end of a meeting or telephone call, it is important that the member of staff ensures that the complainant and the School/College have the same understanding of what was discussed and agreed. A brief note of meetings and telephone calls must be kept and a copy of any written response added to the record. Please note that any complaint must be made in writing. This will be duly registered and followed up appropriately.

4.2 The Local Advisory (Governing) Body (LAB) review

The LAB will monitor the level and nature of complaints and review the outcomes on a regular basis to ensure the effectiveness of the procedure and make changes where necessary. Complaints information shared with the Trust will not name individuals.

As well as addressing an individual's complaints, the process of listening to, and resolving complaints will contribute to the School/College self-evaluation, allowing procedures to be reviewed and improvements identified. When individual complaints are heard, the School/College leaders will seek to identify underlying issues which need to be addressed. The monitoring and review of complaints by the School/College and the LAB can be a useful tool for quantifying performance.

4.3 Publicising the procedure

There is a legal requirement for the Complaints Procedures to be published. This will be determined by the Academy Trust and could require individual Schools/Colleges to include this information in the:

- prospectus;
- information given to new parents/guardians/carers;
- information given to the children themselves;
- home-school agreement;
- bulletins or newsletters;
- documents supplied to community users including course information or letting agreements;
- posters displayed in areas of the School/College used by the public, such as reception or the main entrance;
- School/College website.

5. Complaints Procedure

5.1 Stage 1: Complaint heard by staff member

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

Parents/guardians/carers should never feel or be made to feel that a complaint made in a reasonable and appropriate way will be taken amiss or will reflect adversely on their child and the child's opportunities at the School/College. The School/College should try to investigate and try to resolve every complaint in a positive manner and will treat every complaint as an opportunity to improve service.

The School/College will respect the views of a complainant who indicates that they would have difficulty discussing a complaint with a particular member of staff through the line management structure of the School/College. In these cases, the matter can be referred to the Headteacher/Principal who may, if they feel it appropriate, refer the complainant to another member of staff until the process is exhausted. Alternatively the complainant may not feel this is necessary. Where the complaint concerns the Headteacher/Principal, the complainant can be referred to the Chair of the LAB.

Similarly, if the member of staff directly involved feels too compromised to deal with a complaint, they may consider referring the complainant to the Headteacher/Principal. The member of staff may be more senior but does not have to be. The ability to consider the complaint objectively and impartially is crucial.

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

The person dealing with the complaint should provide a written acknowledgement to the complainant within 5 working days of receiving the complaint. A copy of the Complaints Procedure should be provided at the same time. All written complaints will be noted on a register.

The person dealing with the complaint will carry out the necessary investigation to establish the facts. This may include meeting with the complainant. On completion of the investigation, a written response to the complaint should be provided to the complainant within 10 working days of the School/College's written acknowledgement of the complaint to the complainant. The written response should contain an outline of the complaint, the response to the complaint, the decisions reached and the reasons for those decisions. This can include:-

- There is insufficient evidence to reach a conclusion, so the complaint cannot be upheld;
- The concern was not substantiated by the evidence;
- The concern was substantiated in part or in full. Some details may then be given of the action that the School/College may be taking to review procedures etc. but details of the investigation or of any disciplinary procedures should not be released;
- The matter has been fully investigated and that appropriate procedures are being followed which

may be strictly confidential (e.g. where staff disciplinary procedures are being followed).

The written response must be endorsed by the Headteacher/Principal. It should also inform the complainant that if they remain dissatisfied with the outcome to their complaint, they can progress it to the second stage of this procedure. Where the complainant wishes to take the matter to the second stage, they must send a written request within 10 working days of receiving the Stage 1 written response stating their reasons.

If no further communication is received from the complainant within the given period of time, it is deemed that the complaint has been resolved and the matter is closed.

5.2 Stage 2: Complaint heard by the Headteacher/Principal

If the complainant is dissatisfied with the way the complaint was handled at Stage 1, they may go to Stage 2 and have the matter considered by the Headteacher/Principal. The Headteacher/Principal may delegate the task of collating any additional information required to what has already been done at Stage 1 to another staff member but not the decision on the action to be taken.

The same process and timings apply as in Stage 1.

The written response to the complainant should inform them that if they remain dissatisfied with the outcome, they can request for the matter to be considered by the LAB Complaints Appeal Panel. This request must be made in writing to the Chair of the LAB within 10 working days of receiving the outcome of Stage 2 stating their reasons why they remain dissatisfied.

If no further communication is received from the complainant within the given period of time, it is deemed that the complaint has been resolved and the matter is closed.

5.3 Stage 3: Complaint heard by the LAB Complaints Appeal Panel

Following a request being received from the complainant for their complaint to be considered at Stage 3, the Chair of the LAB, or a nominated governor, will convene a LAB Complaints Panel within 4 working weeks of receiving the request. The panel will consist of 3 members who should ideally not be a parent governor.

No person involved should have had previous involvement in the complaint.

The complainant should be given 10 working days' notice of the meeting. The Clerk will write and inform the complainant and any witnesses, the panel etc. of the date and location of the meeting. The notification should inform the complainant that they can bring a friend/relative to accompany them to the meeting, and that they if they wish to they can submit further written evidence relevant to the complaint for consideration by the Appeal Panel.

5.4 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/College systems or procedures to ensure that problems of a similar nature do not recur.

There are several points which any member sitting on a complaints panel needs to remember:

- a) It is important that the appeal hearing is independent and impartial and that it is seen to be so. **Where there is a panel hearing of a complaint, one panel member must be independent of the management and running of the school.** Indeed, it is essential to identify suitable individuals who are well placed to fulfil the function with membership not drawn solely from the LAB of the School or College. **No member 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, there is a need to try and ensure a cross-section of the categories of governor, for example, and sensitive to the issues of disability, race, gender and religious affiliation.

- b) 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/College 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.
- c) An effective panel will acknowledge that many complainants feel nervous and inhibited in a formal setting. Parents/guardians/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. The layout of the room will set the tone and care is needed to ensure the setting is informal and not adversarial.
- d) Extra care needs to be taken when the complainant is a child. Careful consideration of the atmosphere and proceedings will ensure that the child does not feel intimidated. The 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/guardian/carer is the complainant, it would be helpful to give the parent/guardian/carer the opportunity to say which parts of the hearing, if any, the child needs to attend.
- e) Those serving on the panel will be fully aware of the complaints procedure.

5.5 Roles and responsibilities

5.5.1 The role of the Clerk

It is strongly recommended that any panel or group 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 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.

5.5.2 The role of the Chair of the LAB or the Nominated Panel Member

The nominated panel member role:

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

5.5.3 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/guardians/carers 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.

5.6 Hearing the complaint at the meeting

The aim of the meeting will be to resolve the complaint and achieve reconciliation between the School/College and the complainant.

In the interest of natural justice, the introduction of previously undisclosed evidence or witnesses would be a reason to adjourn the meeting so that both sides has time to consider and respond to the new evidence.

The recommended conduct of the meeting is as follows:-

- The Chair will welcome the complainant, introduce the panel members and explain the procedure;
- The Chair of the panel will invite the complainant to explain the complaint;
- The panel members may question the complainant about the complaint and the reasons why it has been made;
- The Chair will invite the Headteacher/Principal to ask any questions of the complainant relevant to the complaint;
- The Chair will invite the Headteacher/Principal to make a statement in response to the complaint. At the discretion of the Chair, the Headteacher/Principal may invite members of staff directly involved in the complaint to supplement the Headteacher/Principal's response;
- The panel may ask questions of the Headteacher/Principal and the members of staff about the response to the complaint;
- The Chair will allow the complainant to ask questions of the Headteacher/Principal and members of staff about the response to the complaint;
- Either party has the right to call witnesses, subject to the approval of the Chair;
- The Panel, the Headteacher/Principal and the complainant may question any such witnesses;
- The Chair will invite the Headteacher/Principal to make a final statement to sum up their case;
- The Chair will invite the complainant to make a final statement to sum up their case;
- The Chair will explain to the complainant and the Headteacher/Principal that the panel will now consider all of the information available to them and reach a decision, and a written decision will be sent to both parties within 10 working days. The Chair will then ask all parties to leave except the members of the panel. The panel will then consider the complaint and all the evidence presented and reach a decision on the complaint and the reasons for it; and decide upon the appropriate action to be taken to resolve the complaint

5.7 Notification of the Panel's decision

The Chair needs to ensure that the complainant is notified of the panel's decision, in writing, with the panel's response within 10 working days. The letter should inform the complainant that this was the last stage of the Complaints Procedure and the Appeal Panel's decision is final. They should be informed of what they need to do should they wish to pursue the claim further. (5.8 and 5.9 refers.)

5.8 Complaint to the Department for Education/Education and Skills Funding Agency

If the complainant remains dissatisfied with the outcome of the appeal hearing, they can take the matter to the Department for Education (DfE) or Education and Skills Funding Agency (ESFA). Unless there are exceptional circumstances, the DfE/ESFA will not deal with a complaint unless satisfied that the School/College has first had the proper opportunity to consider it and respond.

Complaints about a School/College can be made by writing to the Department for Education (DfE), as follows:

Department for Education
Castle View House
East Lane
Runcorn
Cheshire WA7 2GJ

A complaint can also be made via the Education and Skills Funding Agency (ESFA) using the schools complaints form: <https://form.education.gov.uk/submitform>

The ESFA can support academies to achieve a compliant procedure but it is the responsibility of the Academy Trust to ensure the Complaints Procedure is fully compliant; also with responsibility to ensure compliance with funding agreements.

If a complaint is received, the ESFA will check whether the complaint has been dealt with properly by the School/College. It will consider complaints that fall into any of the following three areas:

- where there is undue delay or the School/College did not comply with its own procedure when considering a complaint;
- where the School/College is in breach of its funding agreement with the Secretary of State;
- where a School/College has failed to comply with any other legal obligation.

The ESFA will not overturn a School/College decision about a complaint. However, if it is found that the School/College did not deal with a complaint properly, a request will be made to look at the complaint again with procedures meeting the requirements set out in the Regulations.

If the procedure does not meet the Regulations, the ESFA will ask this is corrected. It may seek to enforce the decision under the terms of the funding agreement on behalf of the Secretary of State, if appropriate.

Appendix

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/Principal may question both the complainant and the witnesses after each has spoken.
- The Headteacher/Principal is then invited to explain the School/College's actions and be followed by the School/College's witnesses.
- The complainant may question both the Headteacher/Principal 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/Principal is then invited to sum up the School/College'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.
- The hearing and related correspondence is confidential.

Concern/Complaint Form ~ Sample

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

Your name:

Pupil/Student's name:

Your relationship to the pupil/student:

Address:

Postcode:

Day time telephone number:

Evening telephone number:

Please give details of your concern/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:

Concern/Complaint referred to:

Date:

