

FORREST GOVERNANCE

Improving Children's Outcomes Through Effective Governance



Effective Complaints Handling Liverpool Governors Conference 16th November 2024

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Excellence Everyday





- Clarify
- Simplify
- Demystify

With confidentiality

Look at and discuss what we can do practically to handle complaints confidently, swiftly, and well.

Issues to be covered...

- What are your statutory responsibilities?
- What should a complaints procedure include and what does publishing it mean?
- How much information should the governing board have about complaints?
- What is the role of the head, chair, & governors?
- How should hearings be conducted and recorded?
- Potential outcomes of a complaint and what avenues are available for appeals
- Dealing with unreasonable and vexatious complaints
- Impact of complaints on schools and parents

What do you want from today?



Scenario 1

A parent has written directly to the chair stating that they are unhappy with the way the head has handled their concern about how their child has been treated in relation to the behaviour policy – alleging unfair treatment. The chair has had no other involvement.



What would you advise the chair to do?



Scenario 2

A supply teaching assistant who left school last week has written directly to the chair stating that they are unhappy with the way the head handled an alleged racist incident at school the week before they left



What would you advise the chair to do?



The Big List of Getting it Right

1. Have a Policy

2. Follow It

... how confident are you?

Core principles

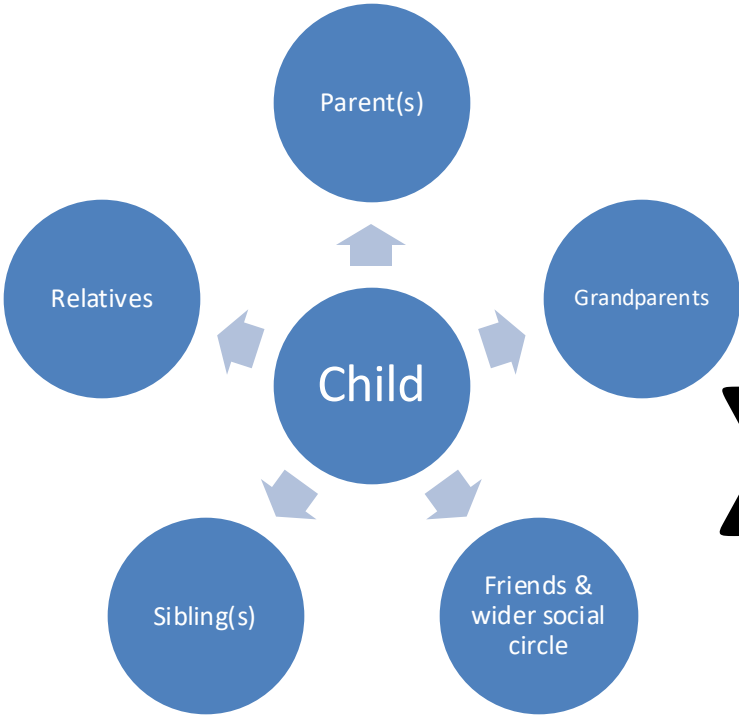
Unless a formal complaint is about the headteacher or a governor, we don't get involved in the first stage

Schools are dealing with grumbles and concerns every day – **please don't get involved!**

Don't try to turn a formal complaint into an informal one by adding stages that aren't in your policy

When you act – what policy are you acting under?

Some Maths



$$\text{X Number on Role X 190 = ?}$$

Plus multiply by any previous concerns, mood that day, frame of mind, and many other factors



"So, as you can see, customer satisfaction is up considerably since phasing out the complaint forms."

Six Core Principles of Public Governance

1. Focus on the organisation's purpose and on **outcomes for citizens and users**
2. Performing effectively in clearly defined functions and roles
3. Promoting values for the whole organisation and demonstrating the values of good governance through behaviour
4. [The Independent Commission on Good Governance in Public Services published in 2004](#)

Six Core Principles of Public Governance

4. Taking informed, transparent decisions and managing risk
5. Developing the capacity and capability of the Governing Body to be effective
6. ***Engaging stakeholders and making accountability real***

[The Independent Commission on Good Governance in Public Services published in 2004](#)

Role of the Governing Board

3 Core Functions:

- Vision, ethos and strategic direction of school are clearly defined
- The headteacher performs their responsibilities for the educational performance of the school
- Sound, proper, and effective use of the school's financial resources

[DfE Governance Guide March 2024](#)

[Ofsted School Inspection Handbook Sept 2024 Section 371](#)

[School Governance Roles, Procedures and Allowances Regulations 2013](#)

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Education Act 2002 Section 29

The governing body of a **maintained school** shall —

- a) establish procedures for dealing with all complaints relating to the school ...
- b) publicise the procedures so established

...What does that look like in practice?

How easy is it to find your procedure?

[DfE Model Complaints Policy – Maintained Schools](#)

Education (Independent School Standards) (England) Regulations 2014 i.e. Academies

The manner in which complaints are handled is met if the proprietor ensures that a complaints procedure is drawn up and effectively implemented which deals with the handling of complaints from parents of pupils...

and which...

- a. is in writing;
- b. is made available to parents of pupils;
- c. sets out clear time scales for the management of a complaint;
- d. allows for a complaint to be made and considered initially on an informal basis;
- e. where the parent is not satisfied with the response to the informal complaint made, establishes a formal procedure for the complaint to be made in writing;

- f. where the parent is not satisfied with the response to the formal complaint, makes provision for a hearing before a panel appointed by or on behalf of the proprietor and consisting of at least three people who were not directly involved in the complaint
- g. ensures that, where there is a panel hearing of a complaint, one panel member **is independent of the management and running of the school;**
- h. allows for a parent to attend and be accompanied at a panel hearing if they wish;

- i. provides for the panel to make findings and recommendations and stipulates that a copy of those findings and recommendations is—
 - i. provided to the complainant and, where relevant, the person complained about; and
 - ii. available for inspection on the school premises by the proprietor and the head teacher;

- j. provides for a written record to be kept of all complaints that are made in accordance with subparagraph (e) and—
- i. whether they are resolved following a formal procedure, or proceed to a panel hearing; and
 - ii. action taken by the school as a result of those complaints (regardless of whether they are upheld); and

- k. provides that correspondence, statements and records relating to individual complaints are to be kept confidential except where the Secretary of State or a body conducting an inspection under section 109 of the 2008 Act requests access to them

[DfE Model Complaints Policy - MAT](#)

Who can make a complaint?

Academies

Only parents. However...

Maintained schools

- You must not limit complaints to parents or carers of children that are registered at the school.
- Anyone can make a complaint about any provision of facilities or services that a school provides, unless separate statutory procedures apply (such as exclusions or admissions).
- This includes parents or carers of children no longer at the school and members of the public

School Policy

- 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;**
- If you choose to adopt the DfE/LA model policies, you must tailor them to your school

[From DfE guidance 2020](#)

Concern or a Complaint?

A 'concern' may be treated as '**an expression of worry or doubt** over an issue considered to be important for which reassurances are sought'

A complaint may be generally recognised as '**an expression or statement of dissatisfaction** however made, about actions taken or a lack of action'.

[From DfE guidance 2020](#)

Complaints not covered by the complaints policy

- Admissions to schools
- School re-organisation proposals
- Statutory assessments of special educational needs
- Matters likely to require a child protection investigation
- Exclusion of children from school
- Whistleblowing
- Staff grievances
- Staff conduct complaints
- Complaints about services provided by other providers who may use school premises or facilities
- Complaints about the national curriculum content

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From DfE Model Policy

Stage 1

Investigation by headteacher or appropriate member of staff (or “impartial and suitably skilled governor”)



Stage 2

Governors’ Appeal Panel

However... For MATs the DfE model policy actually has 3 stages...

From DfE Model MAT Complaints Policy

Stage 1

Informal Complaint to teacher/year head, head teacher, who investigate and provide an ‘informal’ written response



Stage 2

Formal Complaint to the head. Investigation by headteacher or appropriate member of staff or “impartial and suitably skilled governor”

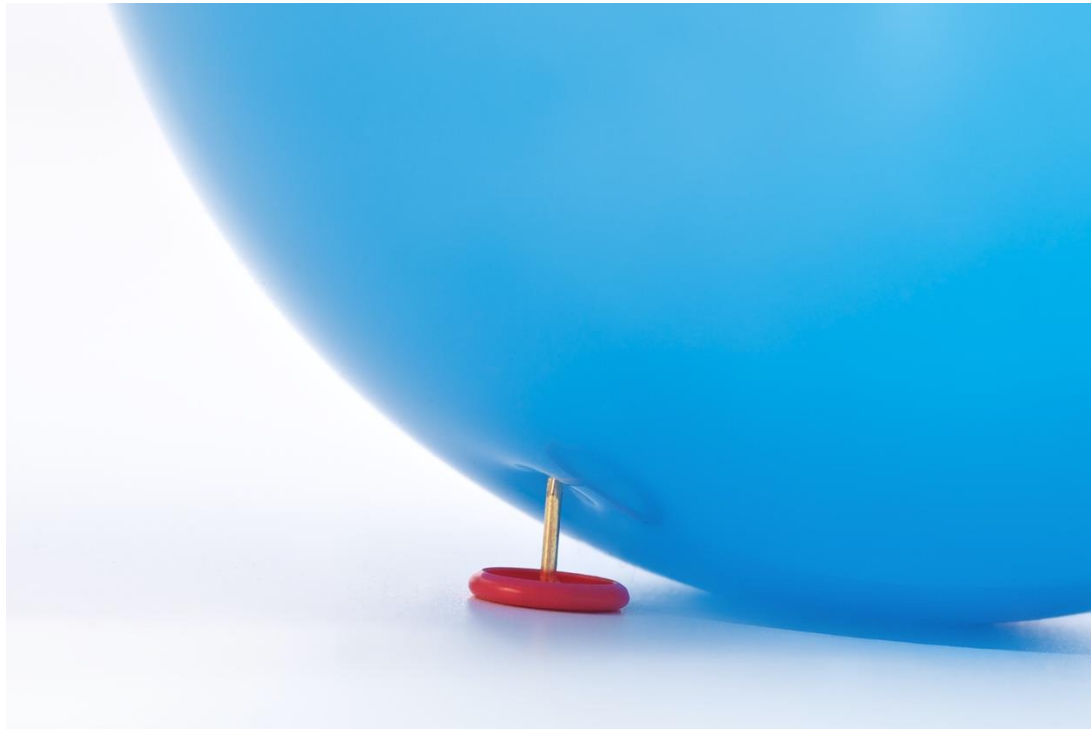


Stage 3

Governors’ panel hearing

Governor involvement

If we are following the DfE model policy, unless the complaint is about the headteacher, governors should not get involved at stage 1.



- I'll refer to Stage 1 & Stage 2 in Maintained school model policy...
- ...which would be stages 2 & 3 in the MAT model policy

Clear?



Dial Down the Pressure

You should make sure that your complaints procedure:

- Is simple to understand and use
- Is impartial
- Is non-adversarial
- Enables a full and fair investigation
- Respects confidentiality
- Addresses all the points and provides an effective response and appropriate redress, where necessary
- **Provides information to the school so that services can be improved**



[From DfE guidance 2020](#)

Fixing Things

- **Ask the complainant** at the earliest stage what they think might resolve the issue
- Admitting that 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 if the headteacher or member of the Board is the subject of the complaint
- wherever possible, state what you **'will'** do rather than what you 'should' or 'may' do

Fixing Things

What if a complaint is upheld - might a panel make a Trust liable?

- “Upholding a complaint, including with an apology and/or admission that things could have been done better, is not an admission of liability in a legal sense.
- This reflects the fact that complaints panels are not a formal legal process and panels are not required to engage with legal arguments.
- The whole process is simply a mechanism for resolution and reconciliation.”

[From Brown Jacobson blog for NGA May 2023](#)

Timeframes

- Set realistic and reasonable time limits for each action within each stage.
- where further investigations are necessary and published timescales cannot be met, we recommend you:
 - set new time limits
 - send the complainant details of the new deadline and explain the delay
 - allow a reasonable timeframe for complaints to be raised after an incident arises
- You can include a cut-off time frame (e.g. 3 months) for:
 - raising a complaint
 - escalating a complaint
- But take exceptional circumstances into account when deciding whether to accept a complaint

[From DfE guidance 2020](#)

General Issues

- Declaration of Interest – what does it mean to have an ‘interest’?
- Confidentiality
- Recording complaints – what records should be made?

Legal Representation

In the event that a complaint progresses to a committee of members of the school governors (Stage 2) we recommend that neither the complainant nor the school bring legal representation. These committees are **not** a form of legal proceedings. The aim should be:

- Reconciliation
- To put right things that may have gone wrong

Complaints about School Staff

Complaints about staff conduct may more appropriately be dealt with under the **staff disciplinary procedures**.

Complainants will not be informed of any disciplinary action taken against a staff member as a result of a complaint. However, the complainant will be notified that the matter is being addressed.

Complaints about School Staff

We recommend that:

- complaints involving school staff are dealt with by the headteacher (Stage 1), then a committee of members of the governing body (Stage 2)
- complaints involving the headteacher are dealt with by a suitably skilled member of the governing body (Stage 1) and then a committee of members of the governing body (Stage 2)

Complaints About Governors

We recommend that:

- Complaints against the chair or individual governors are **made to the clerk** who should arrange for the complaint to be heard. This can be done by a suitably skilled and impartial member of the governing body (Stage 1) and then a committee of members of the governing body (Stage 2)
- Complaints against the entire governing body or complaints involving both the chair and vice chair should also **be sent to the clerk**, who should then determine the most appropriate course of action. This will depend on the nature of the complaint

Complaints About Governors

Complaints about governors

This may involve sourcing an independent investigator to complete stage 1 and co-opted governors from other schools to hear the complaint at stage 2.

If appropriate, the clerk could ask for support from the:

- Governor services team at the local authority/MAT
- Diocese

Investigating Complaints

What does it mean to ‘investigate’?

Generally done by the
head or suitable person at
stage 1



Appeals / Panel Hearing (Stage 2/3)

The procedure should be included within policy



There are a number of considerations needed to establish and run an effective panel

- **Panel Members – Who?**
- **Role of the Clerk**
- **Role of the Head**
- **Timetable** – what’s in your policy?
- **Scope of the Panel**
- Evidence
- The Hearing itself
- Confidentiality
- Where should it be held?
- Who should attend?
- How should it be recorded?
- What should we do with new allegations arising during the panel?
- **What might be the potential outcomes?**
- What should be reported back to the Governing Board?

Panel Members

- usually three
- always an odd number
- MUST be impartial
- Probably not the Chair of Governors

Role of the Clerk

- Point of contact for all involved
- Ensures all know their legal rights and duties
- Sets the time and venue – convenient for all
- Collates and sends information/documentation to all
- Records the proceedings
- Circulates the minutes
- Notifies all parties of the outcome

Role of the Headteacher

- Does not overstep their boundaries
- Must not sit on the panel
- Does not investigate the complaint and get the ball rolling before an investigator has been appointed, must follow policy
- Does not get involved in the investigation once the investigator has been appointed

Potential outcomes

- Uphold or dismiss the complaint either in whole or part
- If upheld, decide how the complaint should be resolved
- Recommend changes to the school's systems to prevent similar issues in the future

Complaint Panel - Example

Timetable

- Complainant has 20 school days from receipt of written complaint response to refer to Complaints Panel
- Acknowledge within 5 school days
- Panel hold a pre meeting ASAP once appointed
- Hold Panel within 20 school days
- Keep informed in writing if not possible in 20 school suggesting alternative dates
- Notify complainant of time/date/venue at least 10 school days before panel
- All parties receive all paperwork at least 5 school days before the panel
- Findings and recommendations provided within 5 school days of panel hearing

From DfE Guidance

Any decision made by a school must be:

- lawful - it complies with education and other law, including human rights and equality law, such as the [Human Rights Act 1998](#) and the [Equality Act 2010](#)
- rational
- reasonable
- fair
- proportionate

What should a response look like?

- Reference to the policy used to address the complaint (and which stage of the policy the complaint is at)
- Brief outline of the investigation undertaken
- Summary of the school's understanding of each complaint
- Synopsis of what the school believes the evidence shows happened;
- Description of the action that the school is proposing to take
- Details of next options available to the complainant, if they are dissatisfied with the school's decision

Options to “complain” beyond the school

- Local Authority (Safeguarding only)
- **Secretary of State (DfE School Complaints Unit or ESFA)**
- **Teaching Regulation Agency**
- **Ofsted**
- Information Commissioner
- The media/social media
- Elected members
- Members of Parliament
- National and European courts

Audio and Video Recordings

- If there are communication difficulties, you may wish to use recording devices to ensure the complainant is able to access and review the discussions at a later point. All parties should agree **in advance** to being recorded.
- Schools are data controllers in their own right and you have the discretion via your policies to decide for yourselves whether to allow complainants to record meetings, if it's not required for the purposes of a reasonable adjustment.

[From DfE guidance 2020](#)

Audio and Video Recordings

“Unless exceptional circumstances apply, we’ll support schools who refuse to accept, as evidence, recordings of conversations that were obtained covertly and without informed consent of all parties being recorded. We recommend this is made clear in complaints procedures.”

[From DfE guidance 2020](#)

Managing serial and persistent complaints

If a complainant tries to reopen the same issue, inform them that procedure has been completed and the matter is now closed. If they contact you again on the same issue this may then be viewed as 'serial or persistent' and you may choose not to respond.

The decision to stop responding should never be taken lightly. You need to be able to say yes to all of the following:

- you have taken every reasonable step to address the complainant's concerns
- the complainant has been given a clear statement of your position and their options
- the complainant contacts you repeatedly, making substantially the same points each time

Managing serial and persistent complaints

The case to stop responding is stronger if you agree with one or more of these statements:

- their letters, emails, or telephone calls are often or always abusive or aggressive
- they make insulting personal comments about or threats towards staff
- you have reason to believe the individual is contacting you with the intention of causing disruption or inconvenience

You should **not** stop responding just because an individual is difficult to deal with or asks complex questions.

[hcr law - Managing the increase in parental complaints](#)

[Stone King – How to deal with complex & vexatious complaints](#)

When is a complaint 'vexatious'?

You may receive complaints you consider to be vexatious.

[DfE](#) defines the characteristics of a 'frivolous' or 'vexatious' complaint:

- Obsessive, persistent, harassing, prolific, repetitious
- Insistence upon pursuing unmeritorious complaints and/or unrealistic outcomes beyond all reason
- Insistence upon pursuing meritorious complaints in an unreasonable manner
- Complaints which are designed to cause disruption or annoyance
- Demands for redress that lack any serious purpose or value

What are the school's options re “vexatious” complaints...?

- Take advice!
- It's their child – so their world
- Remember – just because someone's a nuisance doesn't automatically mean they're vexatious! (the Ombudsman differentiates between 'persistent' and 'unreasonably persistent' complainants);
- Options to limit school communication with complainants;
- Last resort – ban complainants from premises.

Barring from school premises

- You don't need to tolerate aggression and abuse
- Although fulfilling a public function, schools are private places. The public has no automatic right of entry. Headteachers and governing bodies will therefore need to act to ensure they remain a safe place for pupils, staff and other members of their community – but there needs to be a clear process in place
- If an individual's behaviour is a cause for concern, they can be asked to leave school premises. In some cases, individuals can be barred from entering school premises. You should always give the individual the opportunity to formally express their views on a decision to bar.
- [Controlling access to school premises](#) provides more guidance on access to school premises.

Duplicate Complaints

- What are these?
- What can you do?



Model policy for managing serial and unreasonable complaints

Does your current procedure cover these issues?

[DfE Model policy for Serial & Unreasonable Complaints](#)

Complaint campaigns

Occasionally a school might receive a large volume of complaints linked to the same issue. For example, all the parents of a Year 4 class complain that their children have had poor teaching for the last two years, with a number of supply teachers teaching the class. If the complaints are:

- all based on the same subject
- from complainants unconnected with the school

you can include a separate procedure in your complaints policy to handle complaints of this type.

This could include:

- sending a template response to all complainants
- publishing a single response on the school's website

Finishing line



Dealing with Complaints:

Key Messages

- Have a workable, up to date policy
- Publicise the policy
- **Follow your policy**
- Keep an open mind and avoid being defensive
- Think about lessons the school can learn
- Act swiftly and within timescales
- Try to focus complainants on the **outcome** they're seeking – is this achievable?
- Deal with complaints at as low a level as possible
- Don't tolerate bad behaviour

Any final questions?

