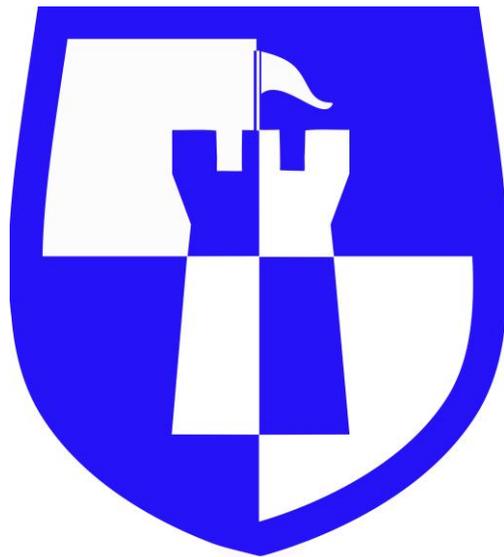


CASTLECROFT PRIMARY SCHOOL



SCHOOL BASED COMPLAINTS PROCEDURE

Reviewed October 2017

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1.0 Overview

From 1 September 2003 governing bodies of all maintained schools and maintained nursery schools in England are required, under Section 29 of the Education Act 2002 to have in place a procedure to deal with complaints relating to the school and to any community facilities or services that the school provides.

The law also requires the procedure to be publicised.

The responsibility for dealing with general school based complaints lies solely with the school. Each school may develop its own complaints procedure.

LEAs are already required to set up a procedure for dealing with certain types of complaints, for example, complaints about the curriculum or collective worship in a school. The school based complaints procedure does not replace the arrangements made for those types of complaint.

In addition, there are certain complaints which fall outside the remit of the governing body's complaints procedure, for example, staff grievances or disciplinary procedures.

It is recommended that the governing body ensure that any third party providers offering community facilities or services through the school premises, or using school facilities, have their own complaints procedure in place.

This note does not represent Statutory Guidance issued by the Secretary of State.

2.0 Dealing with Complaints

2.1 Informal Procedure

There is a need 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.

These key messages deal 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 the first instance all approaches to staff should be by appointment. It would be helpful if staff were able to resolve issues on the spot. However, complainants should be made aware of the complaints procedure.

At this stage there should be no time restriction to resolve the concern: action should be ongoing if both parties feel a solution can be found.

2.2 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 take the matter further.

A member of staff should be nominated to have responsibility for the operation and management of the school's complaints procedure. This may often be the headteacher. The nominated person should ensure that all parties are kept fully informed at all stages of the procedure.

Where the complaint concerns the actions of the Headteacher then the Chair of Governors will investigate the complaint.

Section 29 of the Education Act 2002 requires that:

- (1) The governing body of a maintained school (including a maintained nursery school) shall –
 - (a) Establish procedures for dealing with all complaints relating to the school or to the provision of facilities or services under section 27, other than complaints falling to be dealt with in accordance with any procedures required to be established in relation to the school by virtue of a statutory provision other than this section, and
 - (b) Publicise the procedures so established.
- (2) In establishing or publicising procedures under subsection (1), the governing body shall have regard to any guidance given from time to time (in relation to England) by the Secretary of State.

Section 39 of the Education Act 2002 provides the following:

“maintained school,” means a community, foundation or voluntary school, a community or foundation special school or a maintained nursery school;

“maintained nursery school,” means a nursery school which is maintained by a local education authority and is not a special school;

3.0 The Stages of Complaints

The Two Stages

- Stage one: Complaint heard by Headteacher (Chair of Governors);
- Stage two: Review of Headteacher (Chair of Governors) decision by The Governing Body Complaints Review Panel;

3.1 Stage One: Complaint Heard by Headteacher (Chair of Governors)

If the complaint is not resolved at the informal stage the complainant should write to the Headteacher (Chair of Governors) giving details of the complaint.

The headteacher may delegate the task of collating the information to another staff member but not the decision on the action to be taken.

If the complaint concerns the conduct of the headteacher or a governor, or where a headteacher or governor has been involved in the issue previously, it is not appropriate for them to be involved and the complaint should then be referred to the Chair of Governors, or if the complaint concerns the Chair of Governors it should be referred to the Vice Chair of Governors or to a third party.

Investigation of any complaint will begin within 5 school days of receiving the complaint. The investigation will be completed as soon as reasonably practicable, but normally within 20 working days.

Both the complainant and any individual, who may be the subject of the complaint, should be informed of the outcome in writing.

This may be to the effect that:

- There is insufficient evidence to reach a conclusion, so the complaint cannot be upheld
- The concern is not substantiated by the evidence
- The concern was substantiated in part or in full. (Some detail may then be given of action the school may be taking to review procedures etc... but details of the investigation or of any disciplinary procedures will not be released)
- The matter has now been fully investigated and the appropriate procedures are being followed, which are strictly confidential (e.g. where staff disciplinary procedures are being followed)

If the complainant is not satisfied with the manner in which the process has been followed the complainant may request that the governing body review the process followed by the Headteacher (or Chair of Governors) in handling the complaint. Any such request must be made in writing within two weeks of receiving notice of the outcome from the Headteacher (or Chair of Governors) and include a statement specifying any perceived failures to follow the procedure.

If the complainant considers that the decision of the Headteacher (or Chair of Governors) is perverse, or that the Headteacher (or Chair of Governors) has acted unreasonably in considering the complaint, then the complainant may bring a complaint against the Headteacher (or Chair of Governors).

3.2 Handling the Complaint

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 can be crucial in determining whether the complaint can be speedily resolved. Staff should be made aware of the procedures and know what to do when they receive a complaint.

The school should respect the views of a complainant who indicates that he/she would have difficulty discussing a complaint with a particular member of staff. Where the complaint concerns the headteacher the complaint should be referred to the chair of governors.

Where the first approach is made to a governor, the next step would be to refer the complainant to the headteacher and advise them about the procedure. Governors should not 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.

3.3 Appeals

- a. If the complainant believes that the school has acted unreasonably then they have recourse to write to the Secretary of State to make a complaint under the Education Act 1996 Section 496/497.
- b. Any individual who is the subject of the complaint who feels that the school have been unreasonable may wish to seek further advice from a trade union or a legal representative.

4.0 Investigating and Resolving Complaints

4.1 Investigating Complaints

The 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
- Interview those involved in the matter and/or those complained of, allowing them to be accompanied if they wish;
- All participants shall have the right to be accompanied/represented throughout the procedure by a friend who may be a trade union representative.
- Conduct the interview with an open mind and be prepared to persist in the questioning;
- Make agreed notes of the interview and make them available to all parties involved.

4.2 Resolving Complaints

At each stage in the procedure schools will want to keep in mind ways in which a complaint can be resolved. The outcome of the investigation may be to dismiss the complaint or uphold the complaint. The nature of the resolution will be to the extent to which the complaint is justified. 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 school policies in light of the complaint.

This list is not exhaustive.

- An admission that the school could have handled the situation better is not the same as an admission of negligence.
- An effective procedure will identify areas of agreement between the parties.
- It is also of equal importance to clarify any misunderstandings that might have occurred as this can create a positive atmosphere in which to discuss any outstanding issues.

4.3 Anonymous Complaints

Anonymous complaints will not be investigated. Such complaints should be directed to the appropriate LEA officers.

4.4 Vexatious Complaints

If properly followed, a good complaints procedure will 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 chair of the governing body is able to inform them in writing that the procedure has been exhausted and that the matter is now closed.

4.5 Time Limits

Complaints need to be considered, and resolved, as quickly and efficiently as possible. An effective complaints procedure will have realistic time limits for each action within each stage. 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.

In the normal course of events complaints should be received within 3 months.

4.6 Child Care and Child Protection Issues

Any complaint about staff conduct, either paid staff or volunteers, teaching and non-teaching, that raises child protection issues will be dealt with under the inter-agency procedures of the Wolverhampton Area Child Protection Committee. If the complaint relates to alleged physical, sexual or emotional abuse or a potential criminal offence, headteachers and governors do not carry out the necessary investigation themselves. Such complaints must be raised immediately with the LEA's lead officer for child protection (Team Leader: Pupil Attendance and Child Welfare in Access and Inclusion, Tel: 01902 555250). Under an agreed local protocol, they will then be passed to the Police and the Social Services for further investigation if they are not already aware of them.

5.0 Stage Two: Review of Headteacher (or Chair of Governors) decision by The Governing Body Complaints Review Panel.

5.1 Remit, Roles and Responsibilities of the Complaints Review Panel

If the complaint is not resolved at stage one the complainant should write to the Chair of Governors or the Vice Chair of Governors if paragraph 3.1 applies, giving details of the complaint within 10 school days. The Chair of Governors, or his/her nominee will convene and chair a governing body's Complaints Review Panel, made up of three members of the Governing Body.

The governors' review is the last school-based stage of the complaints process, and is not convened to merely rubber-stamp previous decisions.

Individual complaints should not be heard by the whole governing body at any stage, as this could compromise the impartiality of any panel set up for a disciplinary hearing against a member of staff following a serious complaint.

The review should be acknowledged **within 3 school days** and commence with within **10 school days**

Review Process

The review will normally be conducted through a consideration of written submissions, but reasonable requests to make oral representations should be considered sympathetically.

The panel will first receive written evidence from the complainant.

The panel will then invite the Headteacher (or Chair of Governors) to make a response to the complaint. The panel should also have access to the records kept of the process followed.

The complainant and the Headteacher (or Chair of Governors) will be informed in writing of the outcome. This may be to the effect that:

- There is insufficient evidence to reach a conclusion, so the complaint cannot be upheld
- The concern is not substantiated by the evidence
- The concern was substantiated in part or in full but that the procedural failure did not affect the outcome significantly so the matter is now closed.
- The concern was substantiated in part or in full and the Governing Body will take steps to prevent a recurrence or to rectify the situation, where this is practicable.

5.2 The Remit of The Complaints Review Panel

There are several points, which any governor 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. No governor 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, governors need to try and ensure that it is a cross-section of the categories of governor and sensitive to the issues of 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 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 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 is the complainant, it would be helpful to give the parent the opportunity to say which parts of the hearing, if any, the child needs to attend.
- e. The governors sitting on the panel need to be aware of the complaints procedure.

Castlecroft Primary School Complaint Form

Please complete and return to Mr A Dyall (Complaints Contact) who will acknowledge receipt and explain what action will be taken.

Your name:

Pupil's name:

Date of Birth:

Your relationship to the pupil:

Address:

Postcode:

Day time telephone number:

Evening telephone number:

Please give details of your 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)?

Are you attaching any paperwork? If so, please give details.

Signature:

Date:

School use

Date acknowledgement sent:

By whom:

Complaint referred to:

Date:

COMPLAINTS PROCEDURE – Flowchart

Concern of Parent

