



**NORTH TYNESIDE COUNCIL
CHILDREN, YOUNG PEOPLE & LEARNING**

Guidance for governing bodies

COMPLAINTS

**- Guidance and procedure for dealing
with school complaints**

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Recommended by the Director of Children's
Services**

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Introduction

This guidance is based on the principle that, where at all possible, complaints will be dealt with informally between the school staff and the complainant.

Where this has been tried and been unsuccessful, the more formal procedures will give the complainant a route to ensuring the issue is appropriately considered. Since September 1, 2003, governing bodies of all maintained schools and maintained nursery schools in England have been required, under Section 29 of the Education Act 2002, to have a procedure in place to deal with complaints relating to the school and to any community facilities or services that the school provides. In October 2009, the Human Rights Act came into force, and schools should be mindful to consider Article 6, 'The Right to a Fair Trial'. All schools must have a publicised complaints procedure.

There are certain complaints that fall outside the remit of the governing body's complaints procedure. They include:

- Matters which are the responsibility of the local authority;
- Conduct or performance of staff at the school;
- Content of a statutory statement of special educational needs;
- Pupil admissions;
- Pupil exclusions;
- The national curriculum and related issues, including religious education and sex education, where this relates to the local authority's powers or functions;
- Child protection.

All of the above are dealt with under their own specific procedures and the local authority (or Diocese) can provide advice on how to make a complaint regarding any of the above.

Notes:

- (1) The governing body should 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.
- (2) Complaints relating to curriculum or sex education can be considered by the governing body in the first instance. However, where the complaint relates to the local authority's powers or functions, this would only be considered by the local authority and not the governing body.

Part 1 - Guidance

i. Definition of a complaint

A complaint is 'an expression of dissatisfaction which needs a response from the school'.

Where informal resolution is not successful, a formal complaint should be made in writing to the appropriate person in school. Where the complaint is against a member of staff, the complaint should be addressed to the Headteacher and where the complaint is against the Headteacher, the complaint should be addressed to the Chair of the governing body.

General complaints about the school, but not specifically against any person, would usually be addressed as complaints against the management of the school and therefore addressed as a complaint against the Headteacher.

ii. Purpose of a complaints procedure

This procedure aims to reassure parents and others with an interest in the school that:

- Where possible, complaints will be dealt with informally and at the least senior level possible in order to reach a speedy and satisfactory resolution;
- Where a complaint is made against the school, this will be dealt with in a fair, open and sensitive way, with the school following the procedure identified and keeping communication channels open with the complainant so that prolonged disruption is avoided wherever possible;
- The school is willing to listen to questions and criticism and is able to use this to improve aspects of school life and practices, where changing such aspects is identified as being improvement.

Parents, pupils and members of the public who make a complaint will be expected to comply with the procedures and work with the school to seek informal resolution wherever this is possible. Where a complaint become formal, complainants are expected to co-operate by following the procedure, listening to explanations and wherever possible working with the school to find speedy and satisfactory resolution.

iii. Vexatious complaints

If properly followed, the complaints procedure will limit the number of complaints that become protracted. However, there will be occasions when, despite all stages of the procedure having been followed, the complainant remains dissatisfied.

If the complainant tries to reopen the same issue, the Chair of the governing body or their designate, is able to inform them in writing that the procedure has been exhausted and that the matter is now closed.

While parents/carers/guardians of children should have the opportunity to raise issues about emerging problems, all members of the school community have a right to expect

that their school is a safe place in which to work and learn. Therefore, violence, threatening or aggressive behaviour, repeated harassment or racially aggravated behaviour, or abuse against school staff or other members of the school community will not be tolerated.

iv. Anonymous complaints

The governing body will not consider anonymous complaints.

v. Confidentiality

Complaints should be treated in confidence and information only given on a need to know basis.

It is not advisable for details of a complaint to be discussed at full governing body meetings as this may prejudice any involvement of governors at a later stage.

However, governing bodies may be required to consider recommendations that come out of a complaint process.

Additionally, complainants should also refrain from jeopardising a fair and impartial process by breaching confidentiality or by making public comments, which could be detrimental to the professional reputation of a member of staff.

vi. Complaints about the Headteacher

Where it is clear that the complaint is about the Headteacher the matter should be referred to the Chair of the governing body, who will be responsible for dealing with the matter.

The same procedure applies as that which applies to complaints against other members of staff. However, for complaints against the Headteacher it would be the Chair of the governing body who would fulfill the role that is allocated to the Headteacher in the recommended procedures.

vii. Publicising the complaints procedure

There is a legal requirement for the complaints procedure to be publicised. It is for the governing body to decide how to fulfill this requirement but details of the complaints procedures **could** be included in:-

- School prospectus;
- Information given to new parents when their children join the school;
- Information given to children themselves;
- The home-school agreement;
- Bulletins or newsletters;
- Documents supplied to community users;
- A specific complaint leaflet which includes a form on which a complaint can be made;
- Posters displayed in public areas of the school;
- The school website.

viii. Monitoring the procedure

The governing body will review this procedure regularly. The number of formal complaints will be reviewed annually and this information can be used in self-evaluation of the school's performance.

ix. Keeping records

Where formal procedures are followed, records should be kept at all stages.

It is good practice to ensure that even at the informal stage, proportionate records are being kept, in case the complaint becomes formal. Accurate information of any investigations should be documented, to avoid confusion at any later stage.

x. 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 or other delays are experienced, new time limits can be set and the complainant made aware of the new deadline and given an explanation for the delay.

The suggested time limits in this procedure refer to school days, i.e. excluding school holidays and weekends.

xi. Investigation

The extent of the investigation and number of persons interviewed will vary on a case-by-case basis, but some broad principles can be identified:-

- Meet with the complainant or contact them to clarify exactly what the complaint is;
- Establish what has happened so far and who has been involved;
- Clarify the nature of the complaint and what remains unresolved;
- Find out what the complainant believes would be the desired outcome i.e. what would put things right;
- Interview those involved in the matter and/or those complained about, allowing them to be accompanied if they wish (**Note:** Where it is deemed necessary to interview children, the interviewer should seek advice on how best to conduct this process and also seek the relevant permissions and chaperone);
- Conduct the interview with an open mind and be prepared to persist in the questioning if clarification is not sufficient;
- Avoid asking leading questions;
- Keep notes of the interview.

In some **rare** circumstances, the school may wish to reserve the right to seek the support of an external body, e.g. an independent local authority officer, in relation to investigating the complaint. In such circumstances, liaison with the local authority via the Governor

Services department and/or the HR department would be essential before suggesting this option to a complainant.

xii. Resolving complaints

Throughout the process it is important to clear up any misunderstandings that might have occurred. Sometimes people's own perceptions of an issue may be inaccurate and by clearing up any misperceptions, it might be possible to create a positive atmosphere in which to discuss any outstanding issues and resolve the complaint at an early stage.

At each stage in the procedure, the lead person will want to keep in mind ways in which the complaint can be resolved. It might be sufficient to acknowledge that the complaint is valid in whole or in part. It would be helpful for the lead person to have some indication from the complainant what their desired outcome for resolution of the issue would be. 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
Note: an admission that the situation could have been handled better is not the same as an admission of negligence or guilt;
- An assurance that the event or issue 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.

xiii. Support

Staff and Headteachers who are the subject of a complaint are entitled to bring a friend or representative (i.e. that could be a representative of their professional association if they wish) to support them at a review meeting.

Anyone invited to attend the review meeting in order to support a member of staff, Head teacher, Chair of governing body, panel or complainant should be named. Their relationship should be identified, as part of the information sent out to all parties prior to the review meeting.

It is the responsibility of the person receiving the support to ensure that the person supporting them receives the full pack of information sent out before the review meeting. This can usually be negotiated with the clerk to the panel, to find the most effective way to organise this.

The local authority (or Diocese) can provide advice and support to school staff and governors at any stage of the complaint. Governor Services, Human Resources or the School Improvement Service may provide this support. Guidance for governors on the most appropriate format for a review meeting is available at Appendix C of this document. Parents may seek advice from the local authority (or Diocese) – a Parent Partnership Officer is available to support and advise parents at any stage.

Contact the Parent Partnership Officer on 0345-2000-108 or email:
parentpartnership@northtyneside.gov.uk

The Clerk to the Panel may seek guidance and support from Governor Services, who can confirm his/her role and duties in this process.

Part 2 - Procedure

Informal Action

i. Stage 1

Most parental concerns can be dealt with by the class teacher. Depending upon what their concern is, it is always best to try to deal with it informally initially.

Most complaints can be dealt with at the informal stage and resolved very quickly, which is usually the best outcome for most issues.

The experience of the first contact between the complainant and the school can be crucial in determining whether the complaint will escalate. Therefore, if staff and governors are aware of the procedure, they will know what to do should they receive a complaint.

Where the first approach is made to a governor, the complainant should be referred to the appropriate person, made aware of the procedure and where they can obtain a copy of the complaints procedure. Individual governors should not act unilaterally in relation to an individual complaint as they may be required to be part of a panel at a later stage of the procedure, and it is important that they remain impartial for that occasion.

Complaint against a member of staff

If a member of staff approached feels too compromised to deal with a complaint, the complaint could be referred to another member of staff (e.g. classroom teacher, senior teacher, member of leadership team, Deputy Headteacher). That member of staff may be more senior, but does not have to be. The ability to consider the complaint objectively and impartially is crucial. If the class teacher or another member of the school staff cannot help, the complainant could be referred to the Head teacher still as part of the informal stage.

If the complainant remains dissatisfied with the outcome of informal action where this has been dealt with by a member of staff, they should put their complaint in writing to the Head teacher – Stage 2 Formal Action.

However, if the complainant remains dissatisfied with the outcome of informal action where this has been dealt with by the Headteacher, the matter should be progressed to Stage 3 Formal Action and be heard by a panel of governors.

A form for submitting a complaint is attached to this procedure at Appendix B. The benefit of submitting the complaint on the form is that this helps to focus on the issue and

the preferred outcome. However, a letter or email detailing the complaint, what action has already been taken and the desired outcome, would be acceptable.

Complaint against the Headteacher

If a complaint is against the Headteacher (see Part 1: i & vi), it may be appropriate to refer directly to the Chair of Governors under the formal stage, i.e. Stage 2. However, if there is any possibility of informal resolution being achieved between the complainant and the Headteacher, this should be considered and sought before formal action is taken.

Formal Action

ii. Stage 2

While the formal stage begins at this point, it is worth bearing in mind that the procedures explained throughout Stages 2 and 3 are there to ensure an equitable and fair process for all concerned, it is not a legal process.

The written complaint should be acknowledged by the Headteacher (where the complaint is against a member of staff), or Chair of the governing body (where the complaint is against the Headteacher) within five school days.

An opportunity to meet with the complainant to discuss the grounds for the complaint can be offered as part of this stage of the process. At this stage the Headteacher, (where the complaint is against a member of staff) or Chair of the governing body (where the complaint is against the Headteacher) may still seek to resolve the complaint informally.

The Headteacher, (where the complaint is against a member of staff) or Chair of the governing body (where the complaint is against the Headteacher) will investigate the complaint.

A written response will normally be issued within 25 school days of receipt of the complaint, or from the date when the complainant meets with the Headteacher (or Chair of the governing body). If this time limit needs to be extended, the complainant will be both advised of the new deadline and given an explanation.

A written response will include the decision of the Headteacher (where the complaint is against a member of staff) or Chair of the governing body (where the complaint is against the Head teacher) and reasons for the decision.

Where the school agrees to take any remedial actions, the Headteacher (or Chair of the governing body) will make those actions known to the complainant. However, it would not be an expectation that the complainant would receive detailed information as to any issue that is referred to the school's corrective procedures.

The written response from the Headteacher (where the complaint is against a member of staff), or Chair of the governing body (where the complaint is against the Headteacher) will advise the complainant of the action required if they are dissatisfied with the decision.

If they wish to pursue the complaint they may ask that a review takes place with a panel of three governors.

iii. Stage 3

Where the complainant remains dissatisfied with the outcomes of Stages 1 and 2, they may write to the Chair (or Vice Chair of the governing body if the previous Stage involved the Chair) giving details of their concerns and asking for a review of the decision or action taken.

A written notification from the complainant requesting a move to Stage 3 should be received by the designated person, i.e. clerk to governing body or Vice-Chair of the governing body, within 10 school days from receipt of the decision from Stage 2.

If written notification is not forthcoming from the complainant within the deadline the issue will be considered closed.

It may be worth making the complainant aware via documentation that is sent out to them that Stage 3 will not be a re-investigation of the complaint but will be a review of the process and conclusions made at the earlier stage.

The Chair (or Vice Chair of the Governing Body if the previous stage involved the Chair) will seek to arrange a meeting of a panel of three governors within 25 school days. That panel may or may not include the Chair/Vice Chair. If the panel considers that an extension to the time limit is required, the Chair of the panel, or their designate, should contact the complainant explaining the reasons for the delay and giving an alternative date for the panel to meet. All parties will be given at least 15 school days' notice of the review meeting.

The Headteacher (or Chair of the governing body where the complaint is against the Headteacher) should not be a member of the panel, as they will be expected to respond to the complainant at a review meeting.

The Clerk to the panel will invite all documentary information to be submitted by the complainant and the Headteacher (or the Chair of the Governing Body) by a set deadline.

This must be sufficient time for both parties to collate and submit their evidence and for the clerk to copy the evidence packs and allow all those who require the documentation to have received all of the relevant documentation at least five school days before the date of the review.

The panel will only consider reviews against complaints that have already progressed through the appropriate prior stages of this procedure.

The review is the final stage of the school's complaints procedure.

In relation to complaints against a member of staff, the Headteacher and the member of staff may consider that the member of staff's attendance would be unnecessary. In such cases, the Headteacher would present findings and rationale for any outcomes to the

panel members. Likewise, in relation to complaints against the Headteacher, the Headteacher and Chair of the governing body may consider that the Headteacher's attendance would be unnecessary. In such cases, the Chair of the governing body would take the role of the Headteacher in the procedure at this stage.

If this approach is to be adopted, the complainant and the Chair of the panel should be advised no later than the point at which notification of the date of the review meeting is given to the parties, i.e. usually 15 days prior to the review meeting. It should be noted that this approach may undermine the member of staff's or the Headteacher's ability to fully present their case and may result in a less than satisfactory explanation of issues. Further advice and guidance concerning the appropriateness of the attendance of the member of staff or the Headteacher can be sought from the local authority or the appropriate Diocese.

The Chair of the panel should ensure that the complainant is notified of the panel's decision in writing within five school days. A letter summarising the reasons for the decision and, where it has been agreed action is required on behalf of the school, an indication of those actions would be good practice.

Where a panel needs to re-convene to give further consideration to the complaint, all parties should be notified of the new deadline. Consequently, a final response should be given within five school days of the reconvened meeting.

This is the end of the procedure as far as the school's complaints' procedure is concerned. The decision of the panel is final and binding.

The only recourse left to the complainant is to refer the complaint to the Secretary of State for Education. The letter notifying the complainant of the panel's decision should indicate how the complainant can have recourse to the Secretary of State.

iv. Guidance for a review meeting

a. Witnesses

At Stage 3, both parties are entitled to invite those witnesses that they consider relevant in supporting their case. It is the responsibility of the party calling the witnesses to ensure that they are willing to attend and to make arrangements for them to be present at the appropriate time.

Each witness should bring material facts that other witnesses called by that party have not presented, to ensure that the panel has a clear understanding of the party's case. All witnesses called should be named as part of the information sent out to all parties prior to the review meeting. Any witness statements, which will be referred to as part of the evidence, should be submitted as part of the information sent out to all parties prior to the review meeting.

Where the complaint is against a member of staff, the Headteacher may call that member of staff as a witness. Similarly, where the complaint is against the Headteacher, the Chair of the governing body may call the Headteacher as a witness if the Headteacher has decided not to present the case.

The Chair of the panel has discretion to reduce the number of witnesses where the number of witnesses is disproportionate to the issue and where witness statements indicate repetitive information. Any subsequent witnesses could only be admitted at the discretion of the Chair of the panel, although the Chair of the panel may ask either party to provide additional witnesses where further clarification is required.

b. Documentation

Once the deadline has passed for submission of documentary information to be presented to the review meeting, additional documentation may only be considered by the panel at the discretion of the Chair of that panel.

c. Action taken as a result of the complaint

The panel can:

- Dismiss the complaint in whole or in part;
- Uphold the complaint in whole or in part;
- Decide upon the appropriate action to be taken to resolve the complaint;
- Recommend changes to the school's systems or procedures to ensure that problems of a similar nature do not recur.

Where the Head teacher, Chair of Governors, or panel of governors have decided that action may be taken against the subject of the complaint, i.e. member of staff or head teacher, this action must be in line with the school's corrective procedures.

Note: It would not be an expectation that the complainant would receive detailed information as to any issue that was considered for referral to the school's corrective procedures.

d. Format for a review meeting

A suggested format is attached as Appendix C.

e. Further recourse for the complainant

The decision of the governing body's panel hearing the review is final. However, complainants have a right of appeal to the Secretary of State for Education on the grounds that:

- The governing body is acting or proposing to act unreasonably, or
- The governing body has failed to discharge its duties under the Act.

Note: The Secretary of State would not take action until the school's complaints procedures have been completed. In most cases the Secretary of State would not be able to investigate a complaint if the child no longer goes to the school where the incident took place (www.directgov.uk). Contact details for the Secretary of State will be provided in the letter to the complainant giving the decision of the Stage 3 process.