



Guidance

Formal School Complaints

This is a practical guidance document for Headteachers and Governors to support them in dealing with formal complaints in accordance with the School's Complaints Procedure.

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1.0 Introduction:

It is in everyone's interest that concerns are resolved/clarified at the earliest possible stage. Where concerns can be resolved informally schools should seek to identify what would resolve the situation and then endeavour to find a resolution at the earliest opportunity.

In accordance with **Section 29 of the Education Act 2002**, all local authority (LA) maintained schools must have and make available a procedure to deal with all complaints relating to their school and to any community facilities or services that the school provides. A guidance document for parents does not satisfy this legal requirement and a distinct policy must be in place.

In January 2019, the Department for Education published an updated set of documents advising schools on dealing with complaints. The revised guidance for Sandwell Schools has now been produced in line with the 2019 DfE Guidance and this links directly with the latest model complaints policy.

Where it is not possible to resolve concerns informally, the school's formal complaints procedure should be invoked through the stages outlined in the complaints procedure.

Individuals must always be given the opportunity to complete the complaints process in full, regardless of whether it is felt that that the complaint is justified or not. Complaints procedures should not suggest that a complaint can only be escalated to the next stage if the school permits it.

If the complaints process is in progress and further enquiries are received regarding the same subject this can be unhelpful in managing the complaint. Therefore, if additional correspondence is received it should not be responded to and a simple letter issued to confirm this. This will apply to all enquiries including those received from local Councillors or MP's.

Head Teachers have a duty of care to consider if staff named in a complaint may require support and to provide this. When staff are dealing with concerns they should make a written note to record it and share this with their line manager.

2.0 The Model Complaints Policy

The LA has agreed a model complaints procedure for non-statutory school complaints and has agreed that this should be implemented in all Sandwell maintained schools to ensure consistency and good practice. This document is guidance for Head Teachers and Governors to support the model policy and provide practical guidance on dealing with complaints. It is based on the guidance issued by the DfE in 2019 on school complaints.

Schools should tailor the LA's model policy to the requirements of the school. Schools may also wish to consider adding complaints handling to induction for governors, head teachers and staff involved in dealing with complaints.

The governing body should ensure that where the school has third party providers offering community facilities or services through the school premises, or using school facilities, the providers have their own complaints procedure in place. Any complaints made concerning third party providers will be dealt with under their own procedures.

3.0 The Complaints Procedure:

General good practice in dealing with complaints:

3.1 Accessibility

Schools should ensure that the formal complaints procedure is:

- easily accessible and publicised both within the school and available on the school website;
- simple to understand and use;
- impartial and in the spirit of working together co-operatively to reach the best resolution for everyone;
- respectful of confidentiality for all.

3.2 Complaints not in scope of the complaints procedure

The complaints procedure should cover all complaints about any provision of facilities or services provided with the exceptions listed below, for which there are separate (statutory) procedures. If the school decide that one of the exceptions are applicable then they should write to the complainant to advise them of this decision, confirming the correct procedure to follow and how this can be accessed:

Exceptions	Whom to contact
<ul style="list-style-type: none"> • Admissions to school • Statutory assessments of Special Educational Needs • School reorganisation proposals • Matters likely to require a Child Protection investigation 	Local Authority.
<ul style="list-style-type: none"> • Exclusion from school 	Parents and carers may use procedures to challenge permanent exclusions and fixed-term exclusions of more than 5 days in a given term. Concerns about the process followed can be raised via the complaints procedure.
<ul style="list-style-type: none"> • Whistleblowing 	<ul style="list-style-type: none"> • Schools should have an internal procedure for employees and volunteers. • Ofsted may be contacted by email (whistleblowing@ofsted.gov.uk) telephone (03001233155) or in writing (WBHL, Ofsted, Piccadilly Gate, Store Street, Manchester M1 2WD).
<ul style="list-style-type: none"> • Staff grievances and disciplinary procedures 	Schools must have staff grievances, discipline and conduct procedures in place. Complainants are not informed of the outcomes of actions under this procedure.
<ul style="list-style-type: none"> • Complaints about services provided by external bodies using a school's premises or facilities. 	Providers should be contacted directly and have their own procedures for such eventualities.

3.3 Time limit for making a complaint:

Complaints should be raised within three months of the incident or, where a series of associated incidents have occurred, within three months of the last of these incidents. Complaints may be considered outside this time frame if exceptional circumstances apply. However, the final decision on whether a complaint should be accepted outside of this timescale will be made by the Head Teacher.

3.4 Anonymous complaints:

We will not normally investigate anonymous complaints. However, the headteacher or Chair of Governors, if appropriate, will determine where the complaint warrants an investigation.

3.5 Complaints received outside of term time:

We will consider complaints made outside of term time to have been received on the first school day after the holiday period.

3.6 Recording Complaints:

Schools must ensure that they comply with their obligations under the Equality Act 2010. It is common practice to ask for complaints to be made in writing using a complaints form. However, the complainant may have communication preferences due to disability or learning difficulties and schools must allow alternative methods of contact:

- Complaints may be made in person, by telephone, or in writing.
- Where complaints are accepted by telephone or in person it is good practice to make a written record of the complaint and ask for this to be signed off by the complainant. Where complaints are likely to escalate this provides a clear record of the scope of the complaint to be investigated.
- Notes should be kept of meetings and telephone calls and any written response should be added to the record for later reference if required. Information should be kept securely.
- Schools should record the progress of the complaint and the outcome. The Head Teacher or designated person should be responsible for holding these records in a central location.
- Schools should also be aware that complainants have a right to copies of these records under the Freedom of Information and Data Protection Acts.

3.7 Keeping people informed

Each stage of the complaints process has agreed timescales which should be adhered to. If for any reason this is not possible the school/governing body should write to the complainant to explain the reasons and confirm when the action will be completed.

Stage	Timescale
Stage 1 formal complaint	<ul style="list-style-type: none"> Letter to be sent within 5 days of the school receiving the complaint to confirm how the complaint will proceed with timescales. Full response by school within 15 school days of receiving the complaint.
Request for stage 2 review	<ul style="list-style-type: none"> To be made by complainant within 10 school days of receiving the outcome of the stage 1 complaint.
School to acknowledge stage 2 request	<ul style="list-style-type: none"> Acknowledgement letter to be issued within 5 school days
Panel meeting to hear the complaint	<ul style="list-style-type: none"> Panel to meet within 20 working days of receiving the complaint
Stage 2 review panel arrangements confirmed	<ul style="list-style-type: none"> At least 10 school days before the meeting the Clerk will confirm the date, time and venue and ask for any additional information to be provided at least 5 days prior to the panel
Panel decision to be issued	<ul style="list-style-type: none"> Within 5 school days of the panel meeting
Request for LA review of process	<ul style="list-style-type: none"> To be made by complainant within 10 school days of receiving the outcome of the stage 2 review
Review by LA	<ul style="list-style-type: none"> To be completed within 10 working days of receiving the request to review

3.8 Stages of the complaints process:

The following outlines the stages of the complaints procedure, at the end of each stage of the procedure complainants should be advised of their right to progress to the next stage and how to do this.

Informal stage - dealing with concerns: initial concerns should be dealt with by an appropriate member of staff. These should be taken seriously, and every effort made to resolve matters as quickly as possible.

In certain cases, it may be appropriate to forward these to the Head Teacher (or to the chair of the governing body if the complaint is about the Head Teacher). If the Chair of Governors is implicated in the process, then they should nominate the Vice Chair to deal with these initial concerns.

Formal stage one: a formal complaint should be investigated by the Head Teacher or person nominated by the Head Teacher. The investigation should be completed within 15 school days and at the end of the investigation a full written response should be sent to the complainant.

If the formal complaint is about the Head Teacher, this should be dealt with by the Chair of Governors.

Complaints made against the Chair of Governors or any individual governors are addressed to the Clerk to the Governing Body. The Clerk should then arrange for the complaint to be heard by a suitably skilled and impartial member of the governing body (Stage 1) and then a committee at Stage 2.

Complaints made 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.

Where a complaint relates to a member of staff this may be subject to internal staffing procedures and the outcome of such investigations will not be shared with complainants.

Where a complaint relates to the behaviour of a pupil this may be subject to the school's conduct and disciplinary procedures and the detail will remain confidential to the school and the parents of the child involved.

Complainants should be assured that the complaints will be investigated fully but due to data protection information will not be shared with them and this should be confirmed in writing.

Formal stage two: if stage one has been completed and the complainant wishes to take the matter further they can escalate their complaint to stage 2. This will be a meeting with members of the governing body's complaints committee, which will be formed by the first three, impartial, governors available.

The request to progress to stage 2 should be made in writing within 10 school days of receiving the stage 1 response and addressed to the Clerk to Governors via the school office.

The Clerk will record the date the complaint is received and acknowledge receipt of the complaint in writing (either by letter or email) within 5 school days.

The Clerk will write to the complainant to inform them of the date of the meeting. The school will aim to convene a meeting within 20 school days of receipt of the Stage 2 request. If this is not possible, the Clerk will provide an anticipated date and keep the complainant informed. If the complainant rejects the offer of three proposed dates, without good reason, the Chair will decide when to hold the meeting. It will then proceed in the complainant's absence based on written submissions from both parties.

The complaints committee will consist of at least three governors with no prior involvement or knowledge of the complaint. Prior to the meeting they will decide between themselves who will act as Chair of the Complaints Committee. If there are fewer than three governors available, the Clerk can source additional, independent governors from a different school. Alternatively, an entirely independent committee may be convened to hear the complaint at Stage 2.

The committee will decide on whether to deal with the complaint by inviting parties to a meeting or through written representations, but in making the decision they will be sensitive to the complainant's needs. If it is agreed to invite parties to a meeting, then all parties should be invited including the Stage 1 complaints investigator and the complainant.

If the complainant is invited to attend the meeting, they may bring someone along to provide support. This can be a relative or friend. Generally, it is not encouraged for either party to bring legal representatives to the committee meeting. The meeting should be held in the spirit of reconciliation and attempt to reach a resolution which is acceptable to all.

Representatives from the media are not permitted to attend.

At least 10 school days before the meeting, the Clerk will:

- Confirm and notify the complainant of the date, time and venue of the meeting, ensuring that, if the complainant is invited, the dates are convenient to all parties and that the venue and proceedings are accessible.
- Request copies of any further written material to be submitted to the committee at least 5 days before the meeting

Any written material will be circulated to all parties at least 5 school days before the meeting. The committee will not normally accept, as evidence, recordings of conversations that were obtained covertly and without the informed consent of all parties being recorded.

The committee will also not review any new complaints at this stage or consider evidence unrelated to the original complaint. New complaints must be dealt with at stage 1 of the procedure.

The meeting will be held in private. Electronic recordings of meetings or conversations are not normally permitted unless a complainant's own disability or special needs require it. Prior knowledge and consent of all parties attending must be sought before meetings or conversations take place. Consent will be recorded in any minutes taken. The Chair should arrange for either the Clerk or suitable person to record the minutes of the meeting.

The committee will consider the complaint and all the evidence presented. The committee can:

- Uphold the complaint in whole or in part
- Dismiss the complaint in whole or in part

If the complaint is upheld in whole or in part, the committee will:

- Decide on the appropriate action to be taken to resolve the complaint
- Where appropriate, recommend changes to the school's systems or procedures to prevent similar issues in the future

The Chair of the Committee will provide the complainant and the school with a full explanation of their decision and the reasons for it, in writing, within 5 school days.

The letter to the complainant will include details of how to progress the complaint further they should remain dissatisfied with the outcome of their complaint:

If the complaint is:

- jointly about the Chair and Vice Chair; or
- the entire governing body; or
- the majority of the governing body;

Stage 2 will be heard by a committee of independent, co-opted governors.

The response will detail any action taken to investigate the complaint and provide a full explanation of the decision made and the reasons for it. Where appropriate, it will include details of the actions taken by the school to resolve the complaint.

The response will also advise the complainant of how to escalate their complaint should they remain dissatisfied with the outcome.

3.9 Next Steps for complainants who remain dissatisfied with the process of investigation and have completed the formal school complaints procedure:

When stage 2 has been completed this is the end of the school complaints procedure. If complainants are dissatisfied with the way in which the investigation was conducted, they may request a review of the procedure by the Local Authority.

If a complainant has completed the local procedures and remains dissatisfied, they have the right to refer their complaint to the Secretary of State. The Secretary of State has a duty to consider all complaints raised but will only intervene where the governing body has acted unlawfully or unreasonably and where it is expedient or practical to do so.

Further information can be obtained from the DfE School Complaints Unit (SCU) by calling the National Helpline on 0370 000 2288 or going online at: www.education.gov.uk/help/contactus.

4.0 Support for schools when dealing with complaints:

In dealing with difficult complaints schools may seek guidance from the LA and from Legal Services.

The DfE have a School Complaints Unit who may also be contacted for support when dealing with complaints and their role is outlined below.

4.1 The role of the DfE School Complaints Unit

If a complainant has completed the local procedures and remains dissatisfied, they have the right to refer their complaint to the Secretary of State. The Secretary of State has a duty to consider all complaints raised but will only intervene where the governing body has acted unlawfully or unreasonably and where it is expedient or practical to do so.

The School Complaints Unit considers complaints relating to LA maintained schools and academies in England on behalf of the Secretary of State. The SCU will look at

whether the complaints policy and any other relevant statutory policies were adhered to. The SCU also looks at whether statutory policies adhere to education legislation.

The SCU would only overturn a school's decision on a complaint in exceptional circumstances where the school have acted unlawfully or unreasonably.

Schools may contact the SCU for advice on whether they have acted reasonably. The SCU will not be able to advise on how to resolve the complaint.

Further information can be obtained from the SCU by calling the National Helpline on 0370 000 2288 or going online at: www.education.gov.uk/help/contactus.

5.0 Social Media

Individuals who raise concerns are asked to comply with the school's guidance on social media which should be available on the school website. A complaint can be undermined by:

- Comments made on social media
- Identifying individuals staff on social media
- Personal abuse targeted towards individual members of staff
- Physical or verbal threats targeted to individuals or groups of staff

These behaviours amount to harassment and will be dealt with by the police.

6.0 Serial and Persistent Complainants

In cases where schools are contacted repeatedly by individuals making the same point or asking them to reconsider their position, the school will need to take appropriate action and may choose not to respond to the concerns.

In coming to this decision, the school must be confident that they have done everything that they can to resolve the issues and that the formal complaints procedure has been followed in full. If the complainant contacts the school again on the same issues, the Chair of Governors can inform them that the procedure has been completed and the matter is closed. This should be put in writing to the complainant and the letter should fully explain the reasons for this.

If the complainant continues to contact the school on the same issue, then the correspondence may be viewed as 'serial' or 'persistent' and the school may choose not to respond. It is important to note that the complaint should not be considered as 'serial' or 'persistent' until the complaints procedure has been completed.

Everyone has a democratic right to contact their local MP regardless of which stage the complaint has reached and this should not be considered under any circumstances as 'serial' or 'persistent'.

The application of a 'serial' or 'persistent' marking should be against the subject or the complaint itself rather than the complainant.

Note:

The Department for Education does not itself use the term ‘vexatious’ when dealing with serial or persistent correspondents as it could potentially be inflammatory. However, it is a recognised term. In the context of Freedom of Information (FOI) requests, the Upper Tribunal concluded that ‘vexatious’ could be defined as the ‘...*manifestly unjustified, inappropriate or improper use of a formal procedure.*’ An exemption therefore exists in Section 14(1) of the Freedom of Information Act 2000. However, this exemption can only be applied to requests themselves, and not the individuals who submit them.

More information about dealing with vexatious requests for information is available on the Information Commissioner’s Office (ICO) website.

6.1 When should schools stop responding to complainants?

The decision to stop responding to complainants should not be taken lightly and a school must be able to say yes to each of the following:

- The school has taken every reasonable step to address the complainants needs and concerns; and
- the complainant been given a clear statement of the school’s position and their options (if any); and
- they are contacting the school repeatedly but making substantially the same points each time.

The case is stronger if the school agrees with one or more of these statements:

- The school has reason to believe the individual is contacting them with the intention of causing disruption or inconvenience – they have said as much in a letter, email or telephone call.
- Their letters/emails/telephone calls are often or always abusive or aggressive.
- They make insulting personal comments about or threats towards staff.

Schools should not stop responding just because an individual is difficult to deal with or asks complex questions. In most circumstances, the subject matter is what you can refuse to respond to, not the correspondent.

Schools must provide parents with the information they are entitled to under The Education (Pupil Information) (England) Regulations 2005.

However, where an individual’s behaviour is causing a significant level of disruption schools may wish to implement a tailored communications strategy such as restricting them to a single point of contact via an email address or by limiting the number of times they make contact; e.g. a fixed number of contacts per term.

Complainants have a right to have any new complaint heard and failure to respond at all to a complainant could mean that the school is failing to comply with its legal obligations. A school needs to ensure that they are acting reasonably, and that any genuine complaint can still be heard.

If school staff find it difficult to deal direct with a complainant because of their unreasonable behaviour and other strategies are not working, they should approach the governor services team at their LA to ask for assistance. If this is agreed, complainants can be advised not to contact the school, but to communicate instead with the LA who will co-ordinate any response.

Complainants who may have been restricted in their communications with the school can also be advised to ask a third party to act on their behalf, such as the local Citizen's Advice Bureau.

Ultimately, if a complainant persists to the point that the school considers it to constitute harassment, legal advice should be sought as to the next steps. In some cases, injunctions and other court orders have been issued to complainants because of their behaviours.

It is important to keep a chronology of events to support decisions that are taken.

Different procedures apply to FOI and Data Protection (DP) correspondence. You should talk to your FOI/DP advisor contact about those or approach the ICO for further advice.

Once a school has decided that it is appropriate to stop responding, they will need to let the complainant know, ideally, through a hard copy letter but an email will suffice.

6.2 Barring from the School Premises

Although fulfilling a public function, schools are private places. The public has no automatic right of entry. Schools will therefore act to ensure they remain a safe place for pupils, staff and other members of their community.

If a parent's behaviour is a cause for concern, a school can ask him/her to leave school premises. In serious cases, the Head Teacher or the local authority can notify them in writing that their implied licence to be on school premises has been temporarily revoked subject to any representations that the parent may wish to make. Schools should always give the parent the opportunity to formally express their views on the decision to bar in writing.

The decision to bar should then be reviewed, considering any representations made by the parent and either confirmed or lifted. If the decision is confirmed the parent should be notified in writing, explaining how long the bar will be in place.

Anyone wishing to complain about being barred can do so, by letter or email, to the Head Teacher or Chair of Governors. However, complaints about barring cannot be escalated to the Department for Education. Once the school's own complaints procedure has been completed, the only remaining avenue of appeal is through the Courts; independent legal advice must therefore be sought.

Appendix 1 Model letter for complaints received which cannot be investigated under the school complaints policy:

Dear (Name of complainant)

Thank you for submitting your concerns on (insert date). I have reviewed the details of your complaint and regrettably I am unable to deal with this matter under the school's complaints procedure. This is because:

(Include information as appropriate)

- Your complaint has already been dealt with under the school's complaints procedure at both stage 1 and stage 2. (Include details of the process which has been followed) We are therefore unable to consider the same complaint again.

Or;

- The concerns which you have raised do not fall within the scope of the school complaints procedure. There is a statutory process in place to consider this matter which can be accessed by (provide details of what the alternative process is and how this can be accessed)

Yours sincerely

Head Teacher

Or Chair of Governing Body

Appendix 2 Model receipt of a complaint and invitation to meet (Stage 1)

Dear [Name of Complainant]

I have received your formal complaint, dated, thank you for bringing this to my attention.

The school and governing body take any complaint seriously. Therefore, I would like to meet with you, as soon as possible, so that I may understand the details of your concerns more clearly. You are welcome to be accompanied to the meeting by a friend, if you would find this helpful. *Please telephone..... to arrange an appointment. **OR** I can offer you an appointment at on ... Please let me know if this is convenient.*

I hope that we will be able to resolve your concerns through our meeting, but if not, I will ensure that the appropriate formal investigation takes place and will discuss what will happen next when we have met.

Yours sincerely,

Head Teacher

Or Chair of Governing Body

Appendix 3 Model acknowledgment of formal complaint received by a third party (e.g. LA, Diocese, MP)

Dear [Name of Complainant]

I have received a copy of the documentation that you sent in to setting out a complaint about This has been passed to the school as it has responsibility for these matters.

The school and governing body take any complaint seriously. Therefore, I would like to meet with you, so that I may understand the details of your concerns more clearly. Please telephone, to arrange an appointment. **OR** I can offer you an appointment at on Please let me know if this is convenient.

Meanwhile I would be grateful if you would complete and return the Formal Complaint Form that is enclosed, along with details of the school's complaints procedure.

I hope that we will be able to resolve your concerns through our meeting, but if not, I will ensure that the appropriate investigation takes place.

Yours sincerely,

Head Teacher

Or Chair of Governing Body

Appendix 4 Model acknowledgement of a formal complaint which is to be dealt with as a confidential matter

Dear

I have received your formal complaint, dated thank you for bringing this to my attention.

The school and governing body take any complaint seriously. Therefore, I have initiated an immediate investigation. It is possible that the investigator will wish to meet with you to clarify the evidence that you have provided so far. If so, he/she will write to you to make suitable arrangements.

As your concerns relate to the conduct/capability of a member of staff, the investigation will be carried out under the school's personnel procedures. This means that the detail of the procedure and its outcome **must** remain confidential to the school and the member of staff concerned.

OR

As your concerns relate to the behaviour of a pupil, the investigation will be carried out under the school's pupil conduct and disciplinary procedures. This means that the detail of the procedure and its outcome must remain confidential to the school and the parents of the child concerned.

In due course, I may be able to provide you with some information about the outcomes of the investigation and the processes that have been followed, but in any event, will let you know when the matter has been concluded.

If I can be of any further assistance, please do let me know.

Yours sincerely,

Head Teacher

Or Chair of Governing Body

Appendix 5 Model letter to convey stage 1 outcome/decision:

Dear

Following receipt of your complaint and careful consideration of all the available relevant evidence, I/the panel have/has concluded that:

The concern is not substantiated by the evidence in that

OR

The concern was substantiated in part/in full, as The school will review its practices/procedures..... with the intention of avoiding any reoccurrence. Parents will be informed in due course of any policy changes.

OR

To address fully the matters investigated, the school has initiated appropriate internal procedures. Due to the nature of these procedures, their outcome must remain strictly confidential. We are confident, however, that the circumstances that gave rise to your complaint should not recur

OR

To address fully the matters of concern that you identified, the panel recommended that the governing body should review its policy, as a matter of urgency. We are confident that this should prevent similar concerns arising in future.

We trust that you will be satisfied with the outcome of this complaint, however should this not be the case you may request to progress your complaint to stage 2. This can be done by contacting (Add contact details) within 10 working days of receiving this letter.

Yours sincerely,

Head Teacher/Chair of Governing Body/Chair of Panel

Appendix 6 Model letter to convey stage 2 outcome/decision

Dear

Having carefully considered your representations in the context of the relevant evidence, the Governing Body Complaints Review Panel has concluded that they:

(Delete as appropriate)

- Uphold the complaint in whole or in part
- Dismiss the complaint in whole or in part

If the complaint is upheld in whole or in part, the letter will:

- Confirm the appropriate action to be taken to resolve the complaint
- Confirm how the Panel have arrived at their decision
- Where appropriate, state any recommend changes to the school's systems or procedures to prevent similar issues in the future

Summary of reasons

Therefore, we now consider the matter closed.

Or

Having carefully considered your representations in the context of the relevant evidence, the Governing Body Complaints Review Panel has concluded that the complaint has been dealt with appropriately and state reasons for this.

Therefore, the following action will be taken (If any) ...

Once this action has been completed the school will consider the matter to be closed.

We trust that you will be satisfied with the outcome of this review, however should this not be the case you may contact the Local Authority (Add contact details) within 10 working days of receiving this letter to request a review of the complaints procedure.

Yours sincerely,

Chair of Complaints Review Panel

c.c. Head Teacher

Chair of Governors