



STOCKPORT
METROPOLITAN BOROUGH COUNCIL

Our Lady's Catholic Primary School

"Living and Learning in Faith"



STOCKPORT GUIDANCE FOR SCHOOL COMPLAINT PROCEDURES 2019

Produced by	Barry Kirkman – Schools Support Service
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Introduction

In accordance with Section 29(1) of the Education Act 2002, all maintained schools and maintained nursery schools *must* have and publish procedures to deal with complaints relating to their school and to any community facilities or services that the school provides, for which there are no separate (statutory) procedures.

The duty to establish procedures for dealing with complaints lies with the governing body. It is recommended that the policy is reviewed at least every 2 or 3 years and / or following a change of school leadership.

This guidance is produced to share and encourage good and consistent practice across all Stockport schools and to help schools avoid common pitfalls. There is a difference between 'legal requirement' and 'good practice'. In this guidance the following terms are used:

- **Must** – where a school has a legal duty to do (or not to do) something
- **Can** – where a school has a legal power (not a duty) to do something
- **Should** – for guidance on best practice

Under Section 29(2) of the Education Act 2002, governing bodies of maintained schools *must* 'have regard to any guidance given from time to time (in relation to England) by the Secretary of State' when establishing and publishing complaint procedures relating to their school and any facilities or services the school provides.

The phrase 'must have regard', when used in this context, does not mean that DfE's guidance has to be followed in every detail. While DfE's expectations are that schools will adopt their best practice recommendations, schools and local authorities *can* apply alternative processes if they have good reason to.

Publishing your procedure

Schools *must* publish their complaint procedures on their websites. This does not apply to community or foundation special schools that are established in hospitals or maintained nursery schools.

If you do not have your own website, it *must* still be published online. This may be through the Local Authority, or other hosting platform, for example, the Diocesan or Foundation's website.

In the case of federation schools, the federation's governing body is responsible for creating a complaint procedure and *must* ensure that each school publishes the procedure on their own school's website, unless member schools do not have a website of their own.

Third party providers

You *should* make sure that any third-party providers, such as before and after school clubs, have their own complaint procedures in place if they are using school premises or facilities to offer community facilities or services.

The difference between a concern and 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'.

It is in everyone's interest that complaints are resolved at the earliest possible stage. Many issues can be resolved informally, without the need to follow formal procedures. Schools *should* take informal concerns seriously and make every effort to resolve the matter as quickly as possible. However, there will be occasions when complainants want to raise their concerns formally. In those cases, your complaint procedure *should* be followed.

Who can make a complaint?

You *must* not limit complaints solely to those 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
- members of the public

In accordance with administrative law principles, complainants *should* be given the opportunity to complete the complaint procedure in full, unless you possess clear evidence that the complaint meets the serial complaint criteria. If the complainant contacts you again on the same issue, the correspondence may then be viewed as 'serial' or 'persistent' and you may choose not to respond.

You *should* not mark a complaint as 'serial' before the complainant has completed the procedure.

Duplicate complaints

After closing a complaint, you may receive a duplicate complaint from:

- a spouse
- a partner
- a grandparent
- a child

If the complaint is about the same subject, you *can* inform the new complainant that the school has considered the complaint and the local process is complete. Take care not to overlook any new aspects to the complaint that may not have been previously considered. You will need to ensure these are investigated and dealt with to the full extent of the complaint procedure.

Your complaints procedure

You *must* have your own distinct complaints procedure in place. A guidance document for parents on making complaints, such as this one, does not satisfy the legal requirement to have in place a procedure to deal with all complaints.

You are free to adopt Stockport's model policy and it would be useful for the sake of consistency for all schools to do so. However, as the duty to establish procedures for dealing with complaints lies with governing bodies, you *must* tailor the policy to your individual school.

You *should* make sure that your complaint procedure:

- is simple to understand and use
- is impartial
- is non-adversarial
- enables a full and fair investigation
- where necessary respects confidentiality
- addresses all the points at issue and provides an effective response and appropriate redress, where necessary
- provides information to the school's senior management team so that services can be improved

To make sure your complaint procedure is effective, we recommend that:

- you ask the complainant at the earliest stage what they think might resolve the issue - an acknowledgement that the school could have handled the situation better is not the same as an admission of unlawful or negligent action
- when responding to a complaint, you advise the complainant of any escalation options at each stage of the procedure - for example, when communicating the outcome of the stage 1 process, include the details of the stage 2 process
- wherever possible, procedures state what you 'will' do rather than what you 'should' or 'may' do

Try to avoid using ambiguous language in your complaint procedures, as not doing something the procedure states the school *should* or may do, can lead to further complaints.

Scope of the Complaint Procedure

This procedure covers all complaints about any provision of community facilities or services by the school other than complaints that are dealt with under other statutory procedures, including those listed below.

Exceptions	Who to contact
<ul style="list-style-type: none"> • Admissions to schools • Statutory assessments of Special Educational Needs • School re-organisation proposals 	<p>Concerns about admissions, statutory assessments of Special Educational Needs, or school re-organisation proposals should be raised with the relevant service within the local Authority</p>
<ul style="list-style-type: none"> • Matters likely to require a Child Protection Investigation 	<p>Complaints about child protection matters <i>should</i> be handled under the school's child protection and safeguarding policy and in accordance with relevant statutory guidance.</p> <p>If complainants have serious concerns, they may wish to contact the local authority designated officer (LADO) who has local responsibility for safeguarding or the Multi-Agency Safeguarding Hub (MASSH).</p>
<ul style="list-style-type: none"> • Exclusion of children from school* 	<p>Further information about raising concerns about exclusion can be found at: www.gov.uk/school-discipline-exclusions/exclusions.</p> <p><i>*complaints about the application of the behaviour policy can be made through the school's complaint procedure.</i></p> <p><i><Insert link to school behaviour policy>.</i></p>
<ul style="list-style-type: none"> • Whistleblowing 	<p>The school <i>should</i> have an internal whistleblowing procedure for all its employees, including temporary staff and contractors.</p> <p>The Secretary of State for Education is the prescribed person for matters relating to education for whistleblowers in education who do not want to raise matters direct with their employer. Referrals can be made at: www.education.gov.uk/contactus.</p> <p>Volunteer staff who have concerns about the school should complain through the school's complaints procedure. They may also be able to complain direct to the</p>

	local authority or the Department for Education, depending on the substance of their complaint.
<ul style="list-style-type: none"> • Staff grievances 	Complaints from staff will be dealt with under the school's internal grievance procedures.
<ul style="list-style-type: none"> • Staff conduct 	<p>Complaints about staff should be dealt with under the school's internal disciplinary procedures, if appropriate.</p> <p>Complainants should not be informed of any disciplinary action taken against a staff member as a result of a complaint. However, they <i>should</i> be notified that the matter is being addressed.</p>
<ul style="list-style-type: none"> • Complaints about services provided by other providers who may use school premises or facilities 	Providers <i>should</i> have their own complaint procedure to deal with complaints about service. Complainants <i>should</i> contact them direct.
<ul style="list-style-type: none"> • National Curriculum - content 	Complainants <i>should</i> contact the Department for Education at: www.education.gov.uk/contactus

If other bodies are investigating aspects of the complaint, for example the police, local authority (LA) safeguarding teams or Tribunals, this may impact on your ability to adhere to the timescales within this procedure or result in the procedure being suspended until those public bodies have completed their investigations.

If legal action is commenced against the school in relation to the complaint, you *should* consider whether to suspend the complaint procedure in relation to the complaint until those legal proceedings have concluded.

Reviewing your procedure

You *should* determine how often to review the complaint procedure. We recommend at least every 2 to 3 years, as this should enable you to take into account any legislative changes or new guidance, and any changes to staffing or governing body membership.

Responsibility for reviewing the complaint procedure may be delegated to:

- a committee of the governing body
- an individual governor
- the headteacher

You *should* adhere to projected review dates set out in the complaint procedure. Not doing so could constitute a failure to adhere to the procedure.

Setting realistic and reasonable timescales

It is important that complaints are resolved as quickly, and efficiently as possible. Your procedure *should* set realistic and reasonable timescales for each action within each stage. The timelines for acknowledging and responding to a complaint, including those received in person, by telephone, in writing, or via email, *should* be stated in 'school days'. Standard practice is to acknowledge within 3 school days and offer a full response within 10 school days of receipt of a complaint at stage 1. At stages 2 and 3 the timescale is 15 school days for the response by the chair of governors and the governing body complaints panel.

If you receive a complaint outside of term time it *should* be deemed to have been received on the first school day after the holiday period. If a complaint is received within ten school days before a school holiday, the school *should* endeavour to respond before the commencement of the holiday. If this is not possible the school *should* advise the complainant of the revised date of the response.

If the complaint requires a more in-depth investigation, the respondent *should*:

- 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

The DfE consider 3 months to be an acceptable time frame in which to lodge a complaint. However additional time *can* be given in exceptional circumstances.

Your policy *can* include a cut-off time frame for escalating a complaint and you *should* make it clear that exceptional circumstances will be taken into account when deciding whether to accept or progress a complaint received outside of the timescale. It is for you to determine what constitutes exceptional circumstances.

Notwithstanding the above you *must* not have a 'blanket' policy of refusing to consider any complaints not lodged, or escalated, within the stated period. Blanket policies are where all cases are treated in the same way, with no allowances made for individual circumstances – this also goes against the principle of 'objectivity' as set out in the 'The 7 Principles of Public Life'.

Any decision *must* also be made in line with the principles of administrative law. This means a decision is:

- 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

Stages

You are free to determine how many stages your procedure will include. *However, we strongly recommend 3 stages:*

- Stage 1 - Headteacher
- Stage 2 - Chair of Governors
- Stage 3 - Governing Body Complaints Panel

This ensures that decisions are not taken in isolation and there is always a mechanism in place by which decisions are considered independently.

Schools and complainants *should* attempt informal resolution before making a formal complaint, if it is appropriate to do so. However, if the complainant wishes to raise a formal complaint, you *should* not attempt to prevent this by insisting on informal resolution first.

We do not recommend that the third stage only considers the handling of the complaint at earlier stages. One of the DfE's roles in considering school complaints is to review a school's handling of a complaint. You *should* be mindful of this when establishing your complaint procedures.

The procedure *must* not state that a complaint can only be escalated to the next stage if the school permits it. Complainants *should* be given the opportunity to complete the complaint procedure in full, unless you possess clear evidence that the complaint meets your published serial complaint criteria.

Acknowledging receipt of a complaint

Below is a model response which can be tailored to meet the needs of the school and take account of the circumstances and events to date.

DRAFT

Dear xxxx

Thank you for your letter dated xxx and for drawing your concerns to my attention.

I will consider the issues you have raised and anticipate that my investigation and response is likely to take up to 10 school days (*15 school days if Chair's response*). If for any reason I am unable to meet this deadline, I will provide you with an update and revised response date.

(OR), I would like to discuss this matter with you in more detail and would therefore request that you contact the school to arrange a mutual time and date for us to meet.

As you know we are committed to working in partnership with all parents and carers in our community in order to achieve the best possible outcomes for our children. As a school we are also obliged to investigate concerns in a way which is fair and impartial to all parties as possible. I would therefore ask you to refrain from discussing this issue beyond your immediate and trusted support network.

In particular, I would ask you to refrain from discussing this matter on social media as this may jeopardise our ability to investigate the matter in a way that is considered fair and transparent to all parties.

Please do not hesitate to get in touch if I can be of any further assistance.

Yours sincerely

Headteacher

Mediation

Some schools choose to include a mediation stage in their complaint procedures. Mediation *can* provide a helpful mechanism for discussion when a concern is raised and help to rebuild the relationship between parties once all the investigative stages of the complaint procedure have been completed.

While this can be useful in helping you and complainants reach an agreement and move forward, there are times when it may not be the most appropriate course of action. It *should* not be used as a substitute for an investigation during the formal stages of the complaint procedure. If neither the complainant nor the school considers that mediation will serve any practical purpose at this point, the complainant *should* not be prevented from moving to the next investigative stage of the complaint procedure.

Complaints about school staff and governors

Your complaint procedure *must* also set out the steps to follow if the subject of the complaint is:

- school staff
- the headteacher

- a member of the governing body
- the chair of governors
- the entire governing body

We recommend that:

- complaints about school staff are dealt with by the headteacher (stage 1), then the chair of governors (stage 2). Following this a governing body complaints panel *can* be held (stage 3);
- complaints about the headteacher are dealt with by the chair of governors. Should the complainant or headteacher be dissatisfied with the outcome, the matter *can* be referred to the local authority;
- complaints about a member of the governing body are dealt with by the chair of governors, then the whole governing body;
- complaints about the chair of governors are dealt with by the vice chair of governors, then the whole governing body;
- complaints about the entire governing body or complaints involving both the chair and vice chair *should* be sent to the Governor Service Manager within the local authority, who will determine the most appropriate course of action. This will depend on the nature of the complaint. This may involve sourcing an independent investigator in the first instance, and then co-opted governors from other schools to hear the complaint at the next stage.

Please note: Complaints about staff conduct should be dealt with under the school's internal disciplinary procedure, if appropriate. Complainants should not be informed of any disciplinary action against a staff member as a result of a complaint. However, they should be notified the matter is being addressed.

Independent complaint panels

Complainants *can* request an independent complaints panel if they believe there is likely to be bias in the proceedings. To appoint a governor from another school onto an independent complaint panel, a maintained school's governing body does not have to enter into, or already be in, a formal arrangement under the School Governance (Collaboration) (England) Regulations 2003.

If you arrange independent complaint panel meetings on an ad-hoc, informal basis, you only need to source governors who are suitably skilled and can demonstrate their independence. You *can* approach governors from any category of governor, or associate member of another governing body.

Maintained schools *can* also ask governors in academies to serve on a complaints panel and vice versa. The exception to this is when a maintained school wishes to appoint a standing committee to hear all the complaints they receive under the committee's tenure. To

appoint governors from another school onto the complaints panel, you *must* enter into a formal collaborative arrangement with another maintained school.

If appropriate, support *can* be requested from the governor services team at the local authority, or the diocese in which the school belongs.

Complainants *should* provide the school with evidence of bias in support of their request, as it is your decision whether to agree to it. If the appearance of bias is sufficient to taint the decision reached, then we recommend that you grant such requests. This should only be done following consultation with the local authority.

If you've made reasonable attempts to accommodate complainants with dates for complaint meetings and they refuse or are unable to attend you *can*:

- convene meetings in their absence
- reach a conclusion in the interests of drawing the complaint to a close

Legal representation

In the event that a complaint progresses to a governing body complaints panel, we recommend that neither the complainant nor the school bring legal representation. These panels are not a form of legal proceedings. The aim of the governing body panel *should* be:

- reconciliation
- to put right things that may have gone wrong

We recognise there are occasions where legal representation may be appropriate. For example:

- If a school employee is a witness in a complaint, they may be entitled to bring union or legal representation

If a complainant commences legal action against the school in relation to their complaint, you *should* consider whether to suspend the complaint procedure, until those legal proceedings have concluded.

Communicating the Panels' decision

The chair of the panel should provide the complainant and the school with the conclusion and reasons for any decisions, and any further rights of appeal within 15 school days.

The response should include details of how to contact the Department for Education if they remain dissatisfied with the way the complaint has been handled.

Whilst there is no duty for formal minutes to be taken at a complaints panel meeting, we recommend that copies of the notes of the meeting are made available to the complainant.

Failure to do so may lead to a further complaint. They may also be entitled to them, subject to any necessary redactions, under the Data Protection Act 2018 and GDPR.

Recording complaint progress

Schools are data controllers in their own right and, therefore, the governing body *must* decide how long records are retained, unless statutory regulations apply. For example, copies of attendance registers *must* be retained for 3 years. Under the General Data Protection Regulations, data *must* not be kept longer than is necessary.

You *should* ensure that:

- a record is kept of the progress of the complaint and the outcome
- an appropriate member of school staff is responsible for these records and the data is kept secure

You *should* also consider that complainants may have a right to copies of these records under the Freedom of Information Act 2000, the Data Protection Act 2018 and GDPR.

You *can* refer to the DfE Data protection: toolkit for schools, or the Information Commissioner's Guide to GDPR for more information.

There may be occasions where complaints are made or continue to be escalated after a child has left the school. On changing schools, the pupil's educational record is transferred to the new school and copies may not be retained. Schools *can* consider holding records of complaints separate to their pupil records (while a complaint is ongoing) so that access to them can be maintained. As information generated by a complaint may not form part of the pupil record, you *should* consider how best to store this information.

Personal data *should* only be kept for as long as is necessary for the immediate purpose of processing. The data *should* be stored securely and, where appropriate, encrypted to maximise security.

Recording complaints

The process of listening to and resolving complaints can contribute to school improvement. Governing bodies *can* use learning identified from across the spectrum of complaint investigations to:

- inform improvements within the school
- improve the effectiveness of the complaint procedure.

You *must* comply with your obligations under the Equality Act 2010. It is common practice to ask for complaints to be made using a complaint form or in writing. However, complainants may have communication preferences due to:

- disability
- learning difficulties
- difficulties using English

A complaint, therefore, may be made:

- in person, by telephone or in writing
- by a third party acting on behalf of the complainant

You *should* make sure, however, that you have written consent from the complainant before disclosing information to a third party.

To prevent any later challenge or disagreement over what was said; brief notes of meetings and telephone calls *should* be taken. These *should* be kept securely and encrypted where appropriate. You may wish to follow up any discussions by providing the complainant with a brief written summary of the meeting, highlighting the main discussion points and any agreed actions.

A copy of any written response *should* be added to the complaint record.

Recording meetings, audio / visual evidence

Where 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 and you have the discretion via your policies to decide for yourselves whether to allow complainants to record meetings if it is not required for the purposes of a reasonable adjustment.

You're also responsible for ensuring there is a fair and reasonable purpose for allowing complainants to record meetings, as there may be various levels of identifiable personal information recorded.

We recommend you consider:

- how any decision to allow recordings may affect any third parties called to act as witnesses
- the impact and consequences on the individuals involved in the complaint in the event recordings are lost or leaked

Complainants *should* make sure they obtain informed consent from all parties present before recording conversations or meetings.

Should a complaint escalate to the DfE it would not normally accept electronic recordings as evidence when asked to consider a complaint. However, it may accept independently notarised transcriptions of recordings. It may also ask for the written consent of all recorded parties.

Unless exceptional circumstances apply, the DfE will support schools that 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 complaint procedures.

Complaint campaigns

Occasionally, you may become the focus of a campaign and receive large volumes of complaints:

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

It is recommended you include a separate procedure in your complaint policy to handle complaints of this nature. This could include sending a template response to all complainants. In any event you *should* seek advice from the local authority.

Managing serial and persistent complaints

You *should* do your best to be helpful to people who contact you with a concern or complaint, or a request for information. However, there will be occasions when, despite all stages of the complaint procedure having been followed, the complainant remains dissatisfied. In this instance if a complainant tries to re-open the same issue, you *can* inform them that the procedure has been completed and that the matter is now closed.

If the complainant contacts you again on the same issue, the correspondence may then be viewed as 'serial' or 'persistent' and you may choose not to respond. However, you *should* not mark a complaint as 'serial' before the complainant has completed the procedure, unless your published serial complaint criterion applies.

Under no circumstances *should* a complainant be marked as 'serial' for exercising their right to refer their complaint to their MP, regardless of which stage the complaint has reached.

You may receive complaints you consider to be vexatious. The Office of the Independent Adjudicator defines the characteristics of a 'frivolous' or 'vexatious' complaint as:

- complaints which are 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

You *should* not refuse to accept further correspondence or complaints from an individual you have had repeat or excessive contact with. The application of a serial or persistent 'marking' *should* be against the subject or complaint itself rather than the complainant.

You may find it useful to establish a policy for managing serial and unreasonable complaints, and include it in the school's published complaint procedure.

When to stop responding

The decision to stop responding *should* never be taken lightly and only after:

- 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

The case to stop responding is stronger if one or more of these statements apply:

- 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.

Communication strategy for persistent correspondents

If an individual's behaviour is causing a significant level of disruption, regardless of whether or not they have raised a complaint, you *can* implement a tailored communication strategy. For example, you *can*:

- restrict the individual to a single point of contact via an email address
- limit the number of times they can make contact, such as a fixed number of contacts per term

However, regardless of the application of any communication strategy, you *must* provide parents and carers with the information they are entitled to under The Education (Pupil Information) (England) Regulations 2005, within the statutory time frame.

Different procedures apply to freedom of information (FOI) and data protection (DP) correspondence. You *should* talk to your FOI and DP advisor about those or approach the Information Commissioner's Office for further advice.

You *should* act reasonably and consider any new complaint. Anyone has the right to raise a new complaint at any time and failure to respond could result in the school failing to act reasonably. If you find it difficult to deal with a person who is behaving unreasonably and other strategies are not working or, if an individual persists to the point that may constitute harassment, you *should* approach the School Support Service within the local authority to ask for assistance. In some cases, injunctions and other court orders have been issued to individuals preventing them from contacting schools direct.

You *can* also suggest that the complainant asks a third party to act on their behalf, such as the local Citizen's Advice.

Once you've decided that it's appropriate to stop responding, you will need to inform the individual.

Barring from school premises

Despite fulfilling a public function, schools are private places and the public has no automatic right of entry. If an individual's behaviour is a cause for concern, they can be asked to leave the premises and, in some cases, individuals can be barred from entering school premises, including playing fields and parking areas.

You should always give the individual the opportunity to formally express their views on a decision to bar. The decision to bar should then be reviewed and a decision reached as to whether to either confirm or lift the bar. If the decision is confirmed, the individual should be notified further in writing, explaining:

- how long the bar will be in place
- when the decision will be reviewed

Once the school's appeal process has been completed, individuals who remain barred may be able to apply to the Courts for a review of the school's decision and should seek independent legal advice.

Whistleblowing

You *must* have an internal whistleblowing procedure for your employees, including temporary staff and contractors.

The Secretary of State is the prescribed person for matters relating to education for those who do not want to raise matters direct with their employer. Concerns can be raised with the DfE using their contact form (<https://www.education.gov.uk/contactus>).

Volunteers who have concerns about schools *should* complain through the school's complaint procedure. Depending on the substance of the complaint they may also be able to complain to:

- the local authority
- DfE using their contact form

Further information

Guidance and support on any aspect of this guidance can be sought from the Schools Support Service and Governor Support Service. Contact details are below:

Schools Support Service:

Pat Morgan: Office - 0161 474 3917 mobile: 07800 617 942 pat.morgan@stockport.gov.uk	Barry Kirkman: Office – 0161 474 3842 mobile: 07800 617 943 barry.kirkman@stockport.gov.uk
Devon Sherwood: 0161 474 3895 devon.sherwood@stockport.gov.uk	Katie Moores: 0161 218 1581 katie.moores@stockport.gov.uk

Governor Support Service:

Pam Dunham, Governor Service Manager: 0161 474 3914 pam.dunham@stockport.gov.uk

Staged approach to complaint procedure - Schools

