

# *St James' Church of England Primary School*

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## ***Complaints Procedures – adopted from LA policy***

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*Learn, laugh and live with the love of God*

Presented to Governors: January 2017 Review date: Spring 2018

Signed \_\_\_\_\_ Chair of Governors

\_\_\_\_\_ Head teacher

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POLICY

## 1.0 **Introduction**

- 1.1 Education legislation requires Governing Bodies to have in place a formal written procedure to deal with complaints relating to the school and any facilities or services that the school provides. The procedure must also be publicised, including to parents.
- 1.2 The Governors of the school are committed to ensuring that the highest standards are maintained at the school both in the provision of education to pupils and in every other aspect of the running of the school. A complaints procedure is an important part of the management of a well-run school allowing parents and others the opportunity to voice any concerns they may have through appropriate channels.
- 1.3 This policy explains the procedure which has been adopted by the Governing Body to ensure a timely, systematic and fair approach to the resolution of such concerns. We recognise the need to be clear about the difference between a concern and a complaint. Taking informal concerns seriously at the earliest stages reduces the numbers that develop into formal procedures. Our formal complaints procedure is only necessary if efforts to resolve the concern informally are unsuccessful. In most cases, a teacher or an individual delivering the service will receive the first approach.
- 1.4 Our formal procedures are invoked when initial attempts to resolve the issue are unsuccessful and the person raising the concern remains dissatisfied and wishes to take the matter further. A complaint may result in disciplinary action by the school against a member of staff and this would be confidential between that member of staff and the school, but otherwise parents will be kept fully informed of the handling of any complaint. Any complaint will be kept confidential unless it is necessary to involve other parties and will be dealt with as quickly as possible.

## 2.0 **Legal Context and the Role of the Local Authority (LA)**

- 2.1 Since September 2003 Governing Bodies of all maintained schools and nursery schools in England have been required, under Section 29 of the Education Act 2002, to have in place a procedure to deal with complaints.
- 2.2 The School Standards and Framework Act 1998 also requires governing bodies to establish and publish procedures for dealing with complaints relating to the school, other than those covered by legislation and formal procedures elsewhere.
- 2.3 In July 2012, Section 45 of the Education Act 2011, changed the role of the Local Authorities regarding the handling and reviewing of school complaints. The role of the LA is now of an advisory and supportive nature and any powers of intervention or scrutiny have been removed. The LA is no longer obliged to consider or review complaints formally as previously undertaken.
- 2.4 The Secretary of State, through the School Complaint Unit, now undertakes the scrutiny role, although the LA will continue to provide informal advice, guidance and support to individuals, headteachers, and school governing bodies in dealing with complaint related matters, but does not have any other powers of direction and is not in a position to challenge decisions made by governing bodies.

### **3.0 Principles of the procedure:**

- Where possible, complaints will be resolved through informal discussion.
- All complaints will be dealt with impartially and, subject to the need to investigate fully, in confidence.
- Complaints will be dealt with within clear time limits.
- Complainants may be supported by a friend or colleague in any formal consideration of the complaint.
- Any issues identified as requiring action will be addressed.
- The policy will be non-adversarial and promote flexibility and reconciliation between parties.
- Staff will be supported appropriately.
- The School will keep records of all complaints, including progress by stage and outcomes, and will report relevant details to the Governing Body on a regular basis – this will be for monitoring purposes only and will present an overview of the types of complaints and associated themes.
- The policy will be reviewed by the Governing Body every three years or more frequently in the light of changing legislation.

### **4.0 Serial and Persistent Complaints**

We reserve the right not to consider complaints that:

- are malicious (that is, they are instituted without sufficient grounds and serving only to cause annoyance)
- use obscenities, racist or homophobic language
- contain personally offensive remarks about members of our staff
- are repeatedly submitted with only minor differences after we have fully addressed the complaint.

### **5.0 Issues not covered by this policy**

This policy does not cover the following for which there are separate procedures:

- Delivery of the national curriculum and the provision of collective worship and religious education in accordance with the Education Act 1996;
- School admissions;

- School exclusions;
- Special educational needs (statutory assessments and statements);
- Sex education;
- Child protection;
- Staff grievance and capability procedures;
- Discrimination;
- Internal disciplinary matters.
- School re-organisation issues
- Whistleblowing
- Complaints about services provided by other providers who may use school premises or facilities.

## **6.0 Stages in the Procedure**

It is in everyone's interest that complaints are resolved at the earliest possible stage. There are three stages in the school's complaints process.

### **6.1 Stage 1: The First Contact – Informal Consideration by Staff**

- 6.1.1 The person making the complaint has an opportunity for discussion of their concern with the appropriate member of staff who clarifies with the individual the nature of the concern and reassures them that the school wants to hear about it. They may explain to the individual how the situation happened.
- 6.1.2 It can be helpful to identify at this point what sort of outcome the parent is looking for.
- 6.1.3 If the member of staff first contacted cannot immediately deal with the matter, he/she will make a clear note of the date, name, contact address or phone number and the nature of the concern. All members of staff will know how to refer, if necessary, to the person with responsibility for the particular issue raised by the parent. He/she will check later to make sure the referral has been dealt with.
- 6.1.4 There is no need for the complaint to be put in writing at this stage. The staff member dealing with the matter will make sure that the individual is clear what, if any, action or monitoring of the situation has been agreed. The complaint will be considered and resolution attempted within 10 working days.
- 6.1.5 Where no satisfactory solution has been found, the individual will be asked if they wish their concern to be considered further within the formal complaints process set out below. If so they are given clear information about how to proceed and a copy of this document is provided.

## **6.2 Stage 2: Formal Investigation by Head Teacher or designated Senior Leader**

- 6.2.1 At this point the individual will be asked to formally put the complaint in writing within 10 working days to the Head Teacher. The written complaint must be clear and detailed and a copy of this procedure will be provided to the complainant.
- 6.2.2 If the complaint concerns the Head Teacher, the Chair of Governors will lead Stage 2.
- 6.2.3 The Head Teacher (or designated member of the Senior Leadership Team) will acknowledge receipt of the complaint in writing within 5 working days of receiving the written complaint. The acknowledgement will give a target date for providing a response to the complainant – normally within 10 working days. If, thereafter, it is not possible to respond within the 10 days, a letter will be sent explaining the reason for the delay and giving a revised target date.
- 6.2.4 The Head Teacher (or designate) will undertake an investigation as appropriate and will provide an opportunity for the complainant to meet with him/her to supplement any information provided previously. It will be made clear to the complainant that he/she may be accompanied to any meeting by a friend or colleague.
- 6.2.5 Once all the relevant facts have been established, the Head Teacher (or designate) will invite the complainant to discuss/resolve the matter directly. The response may be in writing or at a meeting with written confirmation of the outcome.
- 6.2.6 The complainant must be advised of his/her right to have the matter referred to the Governors' Complaints Review Committee if the outcome of Stage 2 is not satisfactory. If he/she wish to take the complaint further he/she should notify the Clerk of Governors within 10 working days of receiving the outcome letter.

## **6.3 Stage 3: Formal consideration by the Governors' Complaints Review Committee**

- 6.3.1 The Complaints Committee must have a Clerk. The Clerk may be a member of the school staff, Governor or any third party appointed by the Governing Body.
- 6.3.2 The Local Authority can offer advice and guidance to the Clerk, the Chair of Governors and/or the members of the Complaints Committee on the procedural issues relating to the Committee Hearing, but will not participate in reviewing the complaint.
- 6.3.3 It is recommended that School Governing Bodies annually agree five governors from whom the school will be able to form a complaints committee if required at any point.
- 6.3.1 The Governors' Complaints Review Committee will comprise at least three non-staff Governors not previously involved in the complaint. If the whole governing body is aware of the substance of a complaint before the final stage has been completed, the school will arrange for an independent panel to hear the complaint.

- 6.3.2 The Clerk to the Committee will seek to convene the Complaints Review Committee within 20 working days of receiving the referral from the complainant.
- 6.3.3 The Clerk to the Committee will ask the Head Teacher to prepare a written report for the Committee in response to the complaint. The Head Teacher will additionally ask members of staff directly involved in matters raised by the complainant to prepare reports.
- 6.3.4 The Clerk to the Committee will write and inform the complainant, the Head Teacher, any relevant witnesses, and members of the Committee at least 7 working days in advance, of the date, time and place of the meeting. All relevant correspondence, reports and documentation about the complaint will be included with the letter in bundle format.
- 6.3.5 The complainant should also be informed of his/her right to be accompanied to the meeting by a friend or colleague.
- 6.3.6 The letter will also explain how the meeting will be conducted and the complainant's right to submit further written evidence to the Committee at least five working days before the meeting.
- 6.3.7 The aim of the meeting will be to resolve the complaint and achieve a reconciliation between the school and the complainant. The Chair of the Committee will explain to the complainant and the Head Teacher that the Committee will consider its decision, and that written notice of the decision including any recommendations will be sent to both parties within 15 working days.

## **7.0 The Role of the School Complaint Unit**

- 7.1 If a complaint has completed stage 3 of this procedure and the complainant 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 however will only act where the governing body has acted unlawfully or unreasonably and where it is expedient or practical to do so.
- 7.2 The Secretary of State's powers, in respect of LA maintained schools in England, are delegated to the School Complaints Unit (SCU). The SCU will examine if the complaint policy and any other relevant statutory policies were followed in accordance with the provisions they set out. The SCU also examines policies to determine if they adhere to education legislation. However, the SCU will not normally re-investigate the substance of the complaint. This remains the responsibility of schools.
- 7.3 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](http://www.education.gov.uk/help/contactus) or by writing to:

Department for Education  
School Complaints Unit  
2<sup>nd</sup> Floor, Piccadilly Gate

Store Street  
Manchester  
M1 2WD

## **8.0 Monitoring and Evaluation**

- 8.1 The Governing Body will monitor the level and nature of complaints and review the outcomes on a regular basis to ensure the effectiveness of the procedure and make changes where necessary. Complaints information shared with the whole Governing Body will not name individuals.

If an appropriate forum exist then schools may wish to share complaint types and associated themes with pupils.

## Appendix 1 – Procedure at Stage 2

1. The Head Teacher (or designated member of SLT) acknowledges the complaint, orally or in writing, within 5 working days of receiving confirmation that the complaint is now to be dealt with at stage 2. The acknowledgement gives a target date for providing a response to the complaint. This should normally be within 10 working days; if this proves impossible, a letter is sent explaining the reason for the delay and giving a revised target date.
2. The Head Teacher (or designated member of SLT) provides an opportunity for the complainant to meet him/her to supplement information provided previously. It is made clear to the complainant that if s/he wishes, s/he may be accompanied to any meeting by a friend, or colleague.
3. If necessary, the Head Teacher (or designated member of SLT) should interview witnesses and take statements from those involved. If the complaint centres on a pupil, the pupil should also be interviewed. Pupils would normally be interviewed with parents/guardians present. In some situations circumstances may prevent this e.g. where this would seriously delay the investigation of a serious/urgent complaint or where particular circumstances mean that a pupil has specifically said s/he would prefer that parent/guardians were not involved. In such circumstances another member of staff with whom the pupil feels comfortable may be asked to attend. If a member of staff is complained against, the needs of that person should be borne in mind.
4. The Head Teacher (or designate) keeps written records of meetings, telephone conversations, and other documentation. Once all the relevant facts have been established, the Head Teacher (or designate) should then produce a written response to the complainant to discuss/resolve the matter.
5. A written response includes a full explanation of the decision and the reasons for it. Where appropriate, this includes what action the school will take to resolve the complaint. The complainant is advised that should s/he wish to take the complaint further s/he should notify the Chair of the Governing Body within 10 working days of receiving the outcome letter, however the school will consider exceptions to this cut-off point.



## Appendix 2 - Procedure at Stage 3

Upon receipt of a written request by the complainant for the complaint to proceed to stage 3, the procedures outlined below should be followed:

1. A person will be appointed as The Clerk to the Complaints Review Committee. The Clerk to the Committee should write to the complainant within 5 working days to acknowledge receipt of the written request. The acknowledgement should inform the complainant that the complaint is to be heard by a panel of at least three members of the Governing Body, within 20 working days of receiving the complaint. The letter should also explain that the complainant has the right to submit any further documents relevant to the complaint. These must be received in time for the documents to be sent to the members of the panel.
2. The Clerk to the Committee should arrange to convene a Governors' Complaints Review Committee from members of the Governing Body. The Committee members should be governors who have had no prior involvement with the complaint.
3. The Chair of the Committee will ensure that the complaint is heard by the Panel within 20 working days of receiving the letter. All relevant documentation regarding the complaint should be given to each Panel member when the composition of the panel is confirmed.
4. The Chair of the Committee will write and inform the complainant, Head Teacher, any relevant witnesses and members of the Panel at least 7 working days in advance, of the date, time and place of the meeting. The notification to the complainant should also inform him/her of the right to be accompanied to the meeting by a friend or colleague. The letter will also explain how the meeting will be conducted. Witnesses will not be entitled to receive a copy of the bundle.
5. The Chair of the Committee should invite the Head Teacher (or designated SLT member who responded to the complaint at Stage 2), to attend the panel meeting and prepare a written report for the committee in response to the complaint. Any relevant documents including the Head Teacher's report should be received by all concerned, including the complainant, at least 5 working days prior to the meeting.
6. The aim of the meeting should be to resolve the complaint and achieve reconciliation between the school and the complainant. However, it has to be recognised that sometimes it may only be possible to establish facts and make recommendations which will satisfy the complainant that his or her complaint has at least been taken seriously.
7. The meeting should allow for:
  - the complainant to explain their complaint
  - the Committee to question the complainant
  - the Head Teacher to explain the school's response

- the Committee to question the Head Teacher and/or other members of staff about the School's response
  - any party to have the right to call witnesses (subject to the approval of the Chair)
  - final statements by both the complainant and the Head Teacher
8. The Chair of the Committee will explain to all concerned that the Committee will now consider its decision, and a written decision will be sent to both parties within 15 working days.
  9. The Committee will then consider the complaint and all the evidence presented and
    - (a) reach a unanimous, or at least a majority, decision on the complaint
    - (b) decide upon the appropriate action to be taken to resolve the complaint
    - (c) where appropriate, suggest recommended changes to the School's systems or procedures to ensure that problems of a similar nature do not happen again.
  10. The written statement outlining the decision of the Committee must be sent to the complainant and Head Teacher. The letter to the complainant should explain whether a further external appeal can be made, and if so, to whom.
  11. The School should ensure that a copy of all correspondence and notes are kept. These records should be kept separately from the student's personal records.

## **Appendix 3 – Roles and Responsibilities**

### **The Complainant**

The complainant or person who makes the complaint will receive a more effective response to the complaint if he/she:-

- co-operates with the school in seeking a solution to the complaint;
- expresses the complaint in full as early as possible;
- responds promptly to requests for information or meetings or in agreeing the details of the complaint;
- asks for assistance as needed;
- treats all those involved in the complaint with respect.

### **The Complaints Co-ordinator (or headteacher)**

The complaints co-ordinator should:-

- ensure that the complainant is fully updated at each stage of the procedure;
- ensure that all people involved in the complaint procedure will be aware of the legislation around complaints including the Equality Act 2010, Data Protection Act 1998 and Freedom of Information Act 2000;
- liaise with staff members, headteacher, Chair of Governors and Clerk to ensure the smooth running of the complaints procedure;
- keep records;
- be aware of issues regarding:-
  - sharing third party information;
  - additional support - this may be needed by complainants when making a complaint including interpretation support.

### **The Investigator**

The Investigator is the person involved in Stages 1 and 2 of the procedure. The Investigator's role can include:-

- providing a comprehensive, open, transparent and fair consideration of the complaint through:-
  - sensitive and thorough interviewing of the complainant to establish what has happened and who has been involved;
  - consideration of records and other relevant information;

- interviewing staff and children/young people and other people relevant to the complaint;
- analysing information;
- effectively liaising with the complainant and the complaints co-ordinator as appropriate to clarify what the complainant feels would put things right;
- identifying solutions and recommending courses of action to resolve problems;
- being mindful of the timescales to respond; and
- responding to the complainant in plain and clear language.
- The person investigating the complaint should make sure that they:
  - conduct interviews with an open mind and be prepared to persist in the questioning;
  - keep notes of interviews or arrange for an independent note taker to record minutes of the meeting.

### **The Committee Clerk**

The Clerk is the contact point for the complainant for the committee meeting and is expected to:-

- set the date, time and venue of the hearing, ensuring that the dates are convenient to all parties and that the venue and proceedings are accessible;
- collate any written material and send it to the parties in advance of the hearing;
- meet and welcome the parties as they arrive at the hearing;
- record the proceedings;
- circulate the minutes of the panel hearing;
- notify all parties of the panel's decision;
- liaise with the complaints co-ordinator.

### **The Committee Chair**

The Committee Chair has a key role in ensuring that:-

- the meeting is minuted;
- the remit of the committee is explained to the complainant and both they and the school have the opportunity of putting their case without undue interruption;
- the issues are addressed;

- key findings of fact are made;
- parents/carers and others who may not be used to speaking at such a hearing are put at ease – this is particularly important if the complainant is a child/young person;
- the hearing is conducted in an informal manner with everyone treated with respect and courtesy;
- the layout of the room will set the tone – care is needed to ensure the setting is informal and not adversarial;
- the committee is open-minded and acts independently;
- no member of the committee has an external interest in the outcome of the proceedings or any involvement in an earlier stage of the procedure;
- both the complainant and the school are given the opportunity to state their case and seek clarity;
- written material is seen by everyone in attendance – if a new issue arises it would be useful to give everyone the opportunity to consider and comment upon it; this may require a short adjournment of the hearing;
- liaise with the Clerk and complaints co-ordinator.

### **Committee Member**

Committee Members will need to be aware that:-

- it is important that the review committee hearing is independent and impartial, and that it is seen to be so;
- No governor may sit on the panel if they have had a prior involvement in the complaint or in the circumstances surrounding it.
- the aim of the hearing, which will be held in private, will always be to resolve the complaint and achieve reconciliation between the school and the complainant;
- However, it must be recognised that the complainant might not be satisfied with the outcome if the hearing does not find in their favour. It may only be possible to establish the facts and make recommendations which will satisfy the complainant that his or her complaint has been taken seriously.
- many complainants will feel nervous and inhibited in a formal setting;
- Parents/carers often feel emotional when discussing an issue that affects their child. The panel chair will ensure that the proceedings are as welcoming as possible.
- extra care needs to be taken when the complainant is a child/young person and present during all or part of the hearing;

- Careful consideration of the atmosphere and proceedings will ensure that the child/young person does not feel intimidated. The panel should respect the views of the child/young person and give them equal consideration to those of adults.
- If the child/young person is the complainant, the committee should ask in advance if any support is needed to help them present their complaint. Where the child/young person's parent is the complainant, the panel should give the parent the opportunity to say which parts of the hearing, if any, the child/young person needs to attend.
- The parent should be advised however that agreement might not always be possible if the parent wishes the child/young person to attend a part of the meeting which the panel considers not to be in the child/young person's best interests.
- The welfare of the child/young person is paramount.

## Appendix 4 - Flowchart for Complaints Procedure

\*Exceptions may be made to allow the complainant more than 10 days to take their complaint to the next stage.

