

ARCHDIOCESE OF SOUTHWARK
EDUCATION COMMISSION

**Education
Commission**
CATHOLIC DIOCESE OF SOUTHWARK



**Guidance to Governing Bodies
on the Management of
School Complaint Procedures**

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Guidance for Academy Trusts

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INTRODUCTION

The Catholic Academy

As the first educators of their children, parents have a duty to take an active interest in their academy. Canon Law requires that there is a partnership between the parent and the academy “...there must be the closest co-operation between parents and the teachers to whom they entrust their children to be educated. In fulfilling their task, teachers are to collaborate closely with parents and willingly listen to them.” (Canon 796).

The partnership between the parent and the academy is integral to the ethos and mission of the Catholic academy and should be characterised by a mutual respect by which parents feel they are able to bring their concerns to the attention of someone in the academy, at any time, with the expectation they will be listened to and their concerns addressed.

Dealing with concerns

Not all concerns are complaints. A concern is an issue raised by a parent, pupil or other person that is resolved quickly and informally. Most concerns are resolved by the person to whom the concern is addressed e.g. the class/subject teacher or the subject coordinator/head of department. It is only when a resolution cannot be reached at the informal stage the concern becomes a complaint and the formal part of the procedure is applied. Academies should treat all concerns seriously and take prompt action to reach a resolution.

Many concerns are expressed because of misunderstandings. Academies can work to reduce these concerns by:-

- providing parents with regular information;
- involving parents and pupils in academy reviews and evaluations;
- inviting feedback from parents e.g. policy developments;
- providing adequate times in the school year for parents to meet with teachers;
- regular communication between the teacher and the parent by notes home or entries in the day book/diary/journal;
- inviting parents in if the academy has concerns.

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The examples given above apply to communications with parents as the vast majority of concerns are expressed by parents. Other parties, e.g. neighbours, may also express concerns which should be treated as seriously as those expressed by parents.

Concerns that are resolved informally are not complaints and there is no requirement to record them as complaints. It is strongly advised that academies should keep notes on each concern expressed with regard to the nature of the concern, the person who dealt with it, how it was addressed and resolved. It may be that a concern that was resolved becomes a complaint at a later date. It is important the academy is able to show that it took prompt action to resolve the concern in its initial stage. The senior leadership team should be informed of all concerns so that services can be improved if necessary.

Statutory requirements.

The requirement for schools to have a complaints procedure came into effect in September 2003. The duties and obligation on academies arise from The Education (Independent Schools Standards) (England) Regulations 2010 as amended. Best Practice advice for school complaints procedures 2016 has been produced by the DfE and is available on its website, for maintained schools and gives an idea of what is good practice.

www.gov.uk/government/publications/school-complaints-procedure

The complaints procedure is one of the procedures Academy Trusts are required to have in place by law and therefore should be reviewed regularly.

This guidance is designed to support academy trusts in managing complaints relating to the academy and to any community facilities or services that the academy provides.

The complaints procedure **does not** deal with:-

- staff grievances;
- staff discipline;
- staff capability;
- staff absence owing to sickness;
- safeguarding concerns about staff.

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The CES has produced policies on the four areas above for use in Catholic voluntary aided schools and academies. They are available on www.catholiceducation.org.uk.

Nb. It is strongly recommended that academy trusts ensure that any third party providers offering community facilities or services through use of the academy premises or using academy facilities have their own complaints procedure in place. Examples include outside artistic, sporting or creative organisations hiring academy accommodation or facilities; private hire for functions such as wedding receptions.

Language used

Academies must be mindful of the language used in order to better manage complainant expectations. There is a legal distinction between the words should/may and must/will. If a policy uses the words 'must' or 'will', then the academy is required to carry out the action referred to in the policy.

If a complaint were to be referred to the Education Funding Agency, failure to carry out an act when the policy uses the words 'must' or 'will' may result in the Education Funding Agency declaring the academy to be in breach of its policy.

The words 'should' or 'may' allow for the possibility that the action may not occur, however academies have to have regard to the policy and only depart from it when there is good reason not to follow it.

Concurrent considerations

Legal, safeguarding or disciplinary proceedings may take precedence over complaints procedures and timescales.

If there is a risk that dealing with a complaint might prejudice a concurrent consideration, the complaints procedure will be suspended until the concurrent consideration is concluded. The complaints coordinator will write to the complainant explaining the reason for the decision and the nature of the concurrent consideration. Once the concurrent consideration is concluded, the complaint can be investigated as appropriate.

Aims

The two most important aims of a complaints procedure are i) that the person's concerns have been taken seriously and have been addressed in a fair way and, ii) that the resolution reached will enable relationships to be strengthened so that the academy and those who use its services can continue to work together. It is important then, that the gospel values of justice and reconciliation underpin the whole process.

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All people concerned in the investigation of a complaint should be supported as the complainant may feel intimidated by the academy as an institution and members of staff who are subjects of complaints may feel vulnerable.

THE FORMAL PROCEDURE

Principles

The formal procedure should be determined by the following principles:-

- it should be published (preferably in the academy 's prospectus and website) and be easily accessible to all academy users;
- it should be simple to understand and use;
- it should be non adversarial;
- it should be impartial and allow for a fair investigation by an independent person where necessary;
- it should be designed to facilitate a swift handling of complaints with established time limits for keeping people informed of progress;
- it should respect a person's wish for confidentiality;
- it should show at each stage how issues are addressed;
- it should provide an effective response and appropriate resolution;
- it should provide information to the academy's senior leadership team so that services can be improved if necessary.

The DfE guidance recommends that academies appoint a complaints coordinator whose name should be published with the procedure. In a very small academy this may be the headteacher but any member of staff may be appointed. The member of staff appointed will need to be held in high regard by parents, staff and Trustees.

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The procedure framework.

Although it is up to Trustees to determine the procedure, it should contain at least three of the following stages (Stages 1,2 and 4) to ensure that the procedure meets statutory requirements

Stage 1. (informal) Complaint heard by a member of staff (not the subject of the complaint).

Stage 2. (formal) Complaint heard by the headteacher (if not the subject of the complaint).

Stage 3 (formal) Complaint heard by Chair of the Academy Trust (if not the subject of the complaint)

Stage 4. (formal) Complaint heard by the Academy Trust's complaints appeal panel.

The intention should be to resolve the complaint at the first stage. It is up to the complainant to take the complaint to the next stage.

The Best practice advice for school complaints procedures 2016 produced by the DfE suggests there could be another stage which would involve allowing the complainant to take the complaint to the Diocese, the LA or other external agency providing an independent appeal or review.

The Education Commission may become involved with a complaint by giving advice to a panel, headteacher or Chair of the Academy Trust or by carrying out the investigation. Remuneration for the work undertaken by the Education Commission will be considered in one of two ways

- 1 if the matters complained about are to do with Catholicism, the academy's Catholic ethos or about the Religious Education curriculum at the academy. The work undertaken by the Education Commission in these matters is not chargeable;
- 2 If the academy's policy allows for the Education Commission to be the fifth stage in the process, the work undertaken will be chargeable. This must be agreed between the academy and Education Commission before the policy is published.

Some LAs suggest that academies should use them as the fifth stage in the process. Academy Trusts do not have to agree to this and are asked to contact the Education Commission if they are considering this option, before publishing their procedure.

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It is acceptable for academies to contract with the LA to support them in the implementation and application of the academy procedures. This service is often part of Personnel Service Level Agreements between academies and the LA.

According to the Education Act 1996 sections 496 and 497, anyone can complain to the Secretary of State if they believe that an Academy Trust is acting unreasonably or failing to carry out its statutory duties properly. If the Secretary of State considers the complaint to be justified, he can direct the Academy Trust to act appropriately. The Education Funding Agency handles complaints about academies and free schools on behalf of the Secretary of State.

The academy may use independent investigators for all or part of the investigation at stages 1 and 2 if this is felt to be appropriate and is in the interests of the process being seen to be thorough and fair.

Recording Complaints

All complaints should be recorded in a complaints register kept by the complaints coordinator. The record form should include:

- the name of the complainant;
- the nature of the complaint;
- date of complaint being made and dates of referral to stages 2 and 3 if applicable;
- whether the complaint was unfounded or upheld in whole or in part;
- the stage at which a resolution was reached.
- the resolution outcome, if applicable;
- names of investigators at each stage.

As well as keeping a record the register will allow the senior leadership team and the Academy Trust to evaluate issues that have arisen to help them improve their quality assurance procedures so that any areas needing attention can be identified.

MODEL PROCEDURE

(This model procedure is designed to take account of the guidance given by the DfE. It is not intended that academy trusts should necessarily adopt this version above others as

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it is the responsibility of each academy trust to agree its own procedure. It is strongly advised that the procedure agreed by an academy trust has four stages only in which the referral to the academy trust complaints appeal panel is the final stage).

Stage 1 Complaint heard by a member of staff

1.1 The complaint can be made in writing, telephone or in person and should be addressed to the complaints coordinator who will log the complaint (see Appendix 1 for sample record form) and either investigate the complaint personally or refer it to an appropriate member of staff.

1.2 The Complaints coordinator will acknowledge receipt of the complaint by replying in writing within five school days giving the name of the member of staff investigating the complaint.

1.3 If the complaint concerns the headteacher or a member of the academy trust it should be referred to the Chair of the academy trust and the headteacher or governor should be informed. If the complaint concerns the Chair of the academy trust it should be referred to the vice chair and the chair informed.

1.4 The appropriate member of staff should investigate the complaint (see appendix 2 for guidelines on investigating complaints).

1.5 The investigation should be completed within ten school days of receiving the complaint. There may be occasions when more time is needed. If this is the case the complainant should be informed immediately and within the ten school days timescale. The complainant should be given the reasons why more time is needed with an approximation of the number of extra days.

1.6 Within three days of the completion of the investigation the investigator will contact the complainant to arrange a meeting

1.7 The purpose of the meeting with the complainant is to ensure them that the investigation has been thorough and fair and to make every effort to reach a resolution. (See Appendix 3 for possible resolution outcomes).

1.8 If a resolution has been reached, the complaints coordinator should be informed and a letter confirming this should be sent by the complaints coordinator to the complainant

1.9 If the complaint cannot be resolved the complaints coordinator should be informed who will then write to the complainant informing them of their right to refer the complaint to stage 2.

Stage 2 Investigation by the headteacher

(In very small academies this may be the start of the procedure)

2.1 If the complaint remains unresolved after stage 1 it will be referred to the headteacher unless the complaint concerns the headteacher or trustee in which case it will be referred to stage 3.

2.2 The headteacher may investigate the complaint personally or appoint a more appropriate senior member of staff or arrange for an independent investigation in which case the complainant should be notified of the name of the person.

2.3 In referring the complaint to this stage it may now contain dissatisfaction at how it was managed in the first stage in which case both parts need to be investigated.

2.4 The complaint will be investigated (see Appendix 2).

2.5 The investigation should be completed within ten school days of the complaint being referred to this stage. There may be occasions when more time is needed and if this is the case the complainant should be informed immediately and within the ten school days timescale. The complainant should be given reasons why more time is needed with an approximation of the number of extra days.

2.6 Within three days of the completion of the investigation the headteacher will contact the complainant to arrange a meeting.

2.7 The purpose of the meeting with the complainant is to ensure them the investigation has been thorough and fair and to make every effort to reach a resolution (see Appendix 3 for possible resolution outcomes).

2.8 If a resolution has been reached the complaints coordinator should be informed and a letter confirming this should be sent by the complaints coordinator to the complainant.

2.9 If the complaint cannot be resolved the complaints coordinator should be informed who will then write to the complainant informing them of their right to refer the complaint to stage 3.

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Stage 3 Complaint heard by Chair of the academy trust

(In a very small number of cases this may be the start of the procedure.)

3.1 If the complaint remains unresolved after stage stages 1 and 2 it can be referred to the Chair of the academy trust unless the complaint concerns the Chair of the Academy Trust in which case it will be referred to stage 4.

3.2 The complainant must write to the Chair of the academy trust, giving details of the complaint. The Chair will meet with the complainant, and head teacher separately hear the complaint and make every effort to resolve the issue. The procedure should only move to Stage Four, below, if the complaint cannot be resolved at Chair of the Academy Trust level.

3.3 The date of the meeting should be agreed between all parties within five school days from receipt of the written referral of the complaint to stage 3 and must take place within fifteen school days of receipt.

Stage 4 Complaint heard by academy trust's Complaints Appeal Panel.

4.1 A complaints appeal panel consisting of three panel members should be appointed annually by the academy trust, (two trustees should sit on this panel and another person who is independent of the management and running of the school must be appointed.) This independent person may be a parish priest from a neighbouring parish, a governor from another Catholic school, a trustee from another academy trust. Academy trusts should consider appointing more than three from whom three may be appointed to hear a particular complaint. This guards against not having a panel if one of only two trustees appointed has prior involvement in or detailed knowledge of the complaint.

4.2 The complainant must put the complaint in writing to the Chair of the Complaints Appeal Panel also giving reasons why they have been dissatisfied with the outcomes of the first three stages. The chair of the Complaints Appeal Panel will check that the procedures have been followed correctly up to this point and then arrange for a meeting of the academy trust complaints appeal panel. If the original complaint concerned the Chair of the academy trust and was referred to the vice chair at stage 1, the vice chair will arrange for the panel to meet.

4.3 The date of the meeting should be agreed between all parties within five school days from receipt of the written referral of the complaint to stage 4 and must take place within fifteen school days of receipt.

4.4 The clerk to the trustees will manage all administration for the meeting.

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4.5 If the complainant or headteacher wishes to submit information in writing to the meeting it should reach the clerk at least five school days before the meeting.

4.6 The timescale may be altered with agreement of all parties if the referral to stage 4 comes at the end of term particularly the summer term. It will be in everyone's interest not to delay the meeting to the start of the next term since the aim of the procedure is to resolve issues as soon as possible to effect reconciliation.

4.7 Before the meeting takes place all parties should be given details outlining

The purpose of the meeting*

The conduct of the Meeting*

The order of the meeting*

The role of the clerk*

The role of the chair of the panel.*

*(See Appendix 4 The management of the academy trust complaints appeal panel meeting)

The clerk will inform the complainant of the decision reached by the panel within five calendar days of the meeting. The letter should also state this was the final stage of the complaints procedure and there is no further appeal.

5.1 Vexatious complaints

If the complainant remains dissatisfied with the outcome of the complaint when complaint's procedure has been exhausted and attempts to reopen the issue the Chair of the academy trust will inform them in writing that the matter is now closed. As the complaint has been heard according to the published complaints procedures and there is nothing further that the academy can offer.

5.2 Anonymous complaints

The academy will deal with anonymous complaints that raise safeguarding concerns but will not investigate other anonymous complaints (see Appendix 5)

Unreasonable complainants

All complaints should be dealt with fairly and impartially and to provide a high quality of service to those who complain and academies will not normally limit the contact complainants have with the academy. However, academies do not expect their staff to tolerate unacceptable behaviour and they will take action to protect staff from that behaviour, including that which is abusive, offensive or threatening.

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Unreasonable complaints are defined as ‘those who, because of the frequency or nature of their contacts with the academy, hinder our consideration of their or other people’s complaints.’ According to the Local Government Ombudsman the following are examples of unreasonable actions and behaviours. See Appendix 6

Appendix 1 **Example of Complaint Record Form** **(To be used for stages 1 and 2)**

Part A RECORD OF COMPLAINT

Complainant’s Name:

Pupil’s name (if relevant)

Address:

Telephone:

Details of the Complaint:

Date Complaint Made:

Action Already Taken to Resolve the Matter:

Complainant’s View of what might resolve the issue:

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

Part B ACTION TAKE IN ACCORDANCE WITH THE COMPLAINTS PROCEDURE

Complaint Investigated By:

Action (with dates):

Appendix 2 Guidelines on investigating complaints.

It is important to the complainant and to anyone concerned in the complaint that the investigation is impartial, thorough and fair. It is also important that everyone concerned is able to feel they have been listened to and have been able to make their contributions to the process.

The investigating person should:

- establish the exact nature of the complaint (the complainant may need to be contacted if there is any uncertainty. The investigation should not proceed until there is absolute clarity);
- establish what has happened so far and who has been involved;
- clarify what the complainant feels would put things right, clearing up any areas of misunderstanding and identifying ways forward;
- interview those involved in the matter and/or those named in the complaint, ensuring they are aware of the exact details of the complaint and allowing them to be accompanied if they wish;
- conduct all interviews and investigations with an open mind (the appointed person should continue with the investigation until they are sure that they have all the necessary detail to come to a fair conclusion even if it means interviewing people more than once;
- keep full notes with times and dates;
- make sure all information has been collated before arranging the meeting with the complainant;
- seek assistance by means of independent investigators if this is necessary (permission must be obtained from the complaints coordinator if another person is investigating);
- give a summary of the investigation to the complainant at the meeting called to reach a resolution;
- give reasons for the decision reached;
- give copies of all notes from the investigation and the meeting with the complainant to the complaints coordinator.

Appendix 3 **Examples of resolution outcomes.**

Before the investigating person meets with the complainant it is important that she/he is satisfied that the investigation has been impartial, thorough and fair and that the summary explained to the complainant is able to demonstrate this clearly. If an independent investigator has been used for all or part of the investigation it is important to explain the reasons to the complainant.

The complainant should be informed of the decision reached by the investigator giving reasons and evidence as to why the decision was reached. Every effort should be made to reach a resolution at this meeting. Any of the following may be appropriate:

an acknowledgement that a complaint is valid in whole or in part (if this is the case the investigator should refer to the part of the investigation where the complainant was asked what they feel would put things right);

- an apology;
- an explanation;
- a clarification of misunderstandings;
- an admission that the situation could have been handled differently or better;
- an assurance that, as far as is possible, the event complained of will not happen again.
- an explanation of the steps to be taken to ensure that it will not happen again;
- an undertaking to review the academy policies in light of the complaint.

Some of the above may require that the investigator seeks authority from the headteacher or, in the case of the headteacher investigating, the Academy Trust.

The investigator may come to the decision the complaint is unfounded. If this is the case the investigator should ensure that the evidence from the investigation confirms this on the balance of probabilities. The investigator must be sensitive to the complainant's feelings and should make them aware that they had a right to bring their concerns to the attention of the academy and if the complaint arose from a misunderstanding to explain how this might have occurred and clarify the area from which the misunderstanding arose.

Appendix 4 **The Management of the Complaints Appeal Panel Meeting.**

The purpose of the meeting

The purpose of the meeting is to:

- hear a complaint which remains unresolved at the previous two stages;
- ensure the procedure has been followed correctly;
- act as an independent arbiter of the complaint;
- come to a decision;
- determine an appropriate response.

The Conduct of the meeting

Only members of the Academy Trust appointed at a full Academy Trust meeting may sit on the complaints appeals panel. Any independent member of the complaints appeal panel must also be appointed by a full Academy Trust meeting.

It is important that the appeal hearing is independent and impartial and that it is seen to be so.

Every member of the Complaints Appeal Panel needs to be aware of the academy's complaints procedure.

Documentation received before the meeting should have been read but treated as confidential and should not be discussed with anyone else including other members of the panel.

Academies which contract with their LA may have an advisor present whose role is to advise and support the panel so that they come to a just decision. The LA advisor does not represent the panel nor is party to the decision made.

The meeting should be held in private where there will be no interruption.

The layout should be informal.

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One of the panel should act as chair and there should be a clerk present to ensure an accurate record of the meeting.

Either the chair or clerk should brief the panel before the meeting begins bearing in mind peoples sensitivities and emotions. For some parents it will be the first time they have experienced such a scenario and will be overawed by the occasion. The headteacher who leads the academy and members of staff who are named in the complaint will feel that their professionalism, and in some cases their honesty and integrity, are under attack. Panel members should be reminded the aim of the meeting is to find a just resolution to the complaint.

Special care must be taken if the complainant is a child or if children are called as witnesses. Children should be accompanied by a responsible adult of their choice. It is important to note that children's evidence may not be as articulate as that given by adults but nevertheless must be given equal consideration. If a parent has complained on behalf of a child it is up to the parent to decide which parts of the meeting the child attends.

The complainant and any person who is the subject of a complaint may be accompanied by a friend at the meeting.

The clerk should arrange for appropriate support where the complainant does not use or understand English sufficiently or has special needs.

The order of the meeting

Welcome, introduction and explanation of the meeting by the chair.

The chair reminds all parties that this is the final stage in the procedure and the decision made is final. There is no provision for further redress or appeal.

The complainant is invited to explain the complaint.

The headteacher may question the complainant.

The panel may question the complainant.

If there are any witnesses for the complainant, each one is invited into the hearing in turn and invited to speak. The headteacher may then question them. The panel may question them. In each case the witness must leave after giving their "evidence".

The headteacher is invited to explain the academy's actions.

The complainant may question the headteacher.

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The panel may question the headteacher.

If there are any witnesses for the academy they are treated in exactly the same way as witnesses for the complainant.

When the chair is sure all parties have been able to present what they intended and have asked all they need to, the complainant is invited to sum up their complaint.

The headteacher is then asked to sum up the academy's actions and responses to the complaint.

The chair asks all parties if they feel they have had a fair hearing and reminds them that this is the final stage of the procedure.

The chair explains that they will consider impartially all the submissions and documentation presented at the meeting and will inform the complainant and the academy of their decision, in writing, within five calendar days.

Both parties are invited to leave the meeting at the same time.

If an LA advisor is present she/he may advise the panel at this stage and leaves the meeting before the panel comes to its decision.

The panel must consider all the submissions made and may:

- dismiss the complaint in whole or in part;
- uphold the complaint in whole or in part;
- decide on the appropriate action to take in order to resolve the complaint;
- recommend changes to the academy's systems, policies or procedures to ensure that problems of a similar nature do not recur.

After the hearing the chair and clerk agree the wording of the letter to both parties. The letter should be sent to both parties, using first class post, at the same time within five calendar days of the meeting.

The clerk writes up notes of the meeting and gives a copy to the chair of the panel.

The clerk ensures that any recommendation to change systems, policies or procedures is put on the agenda for the next full Academy Trust meeting.

The role of the clerk

The clerk will:

- confirm in writing to all parties the date, time and location of the meeting enclosing details of the order of the meeting;
- receive, copy and distribute any documentation to be read before the meeting;
- record the proceedings;
- notify all parties of the panel's decision within five calendar days of the meeting in wording agreed with the chair of the panel;
- write up notes of the hearing and send a copy to the chair of the panel.

The role of the chair of the panel

The chair will:

- ensure that procedures are followed correctly;
- explain the procedures for the hearing to all parties;
- ensure that all parties are able to put forward their case without undue interruption;
- ensure that the issues are addressed adequately and impartially;
- make every effort to put all parties at their ease, especially those who may not be accustomed to speaking at such a hearing;
- manage proceedings so they are kept as informal as possible and that everyone treats each other with respect and courtesy;
- ensure that the panel operates and is seen to operate in an open-minded and independent way;
- ensure that reasonable time is given to all parties to present their case;
- ensure that all parties are given adequate time to consider "new evidence";
- make every effort to ensure all parties have been given a fair hearing.

The chair of the panel needs to ensure that the complainant is notified of the panel's decision, in writing. The panel's response (including the reasons for the decision) must be sent to both parties within the deadline set by the academy's complaints procedure. The letter needs to explain if there are any further rights of appeal and if so to whom they should be addressed. This may be the LA or Diocese. The final stage of appeal is the Secretary of State for Education and the Education Funding Agency that acts on his behalf. The complainant must be made aware of this.

The Education Funding Agency (EFA)

Complainants may write to the Academy Central Unit (Academy Complaints) at

Education Funding Agency
Earlsdon Park
53-55 Butts Road
Coventry
CV1 3BH

or by e-mail to academyquestions@efa.education.gov.uk

The EFA's role will be to ensure that the academy has followed its own complaint's policy and that the policy adheres to education legislation but has the power to investigate some complaints.

The EFA will not investigate complaints about:

- Examination results or curriculum content
- A child or young person's Statement of Special Educational Need where there is another route for appeal
- Matters that are the subject of legal action
- Complaints that are more than twelve months after the decision or action has been taken, except the complainant has good reason for the delay in making the complaint.
- Will reserve the right not to investigate complaints considered to be vexatious or malicious.

The EFA will investigate complaints about:

- Undue delay and non-compliance with an Academy's own complaints procedure
- Allegations that the Academy has failed to comply with a duty imposed on it under its Funding Agreement with the Secretary of State
- Allegations that the Academy has failed to comply with any other legal obligation placed on it, except in cases where there is another body or organisation that is, in the view of the EFA, better placed to consider and if necessary, take further action with the issue

Appendix 5

Vexatious complainants

If a good complaints procedure is followed, there should be limited cases where the number of complaints becomes protracted. If having followed the complaints procedures, a complainant remains dissatisfied and tries to reopen the same issue, the chair of the academy trust is able to inform them in writing that the procedure has been exhausted and the matter is now closed. If the complainant writes again on the same issue, then the correspondence may be recognised as vexatious and there is no obligation on the part of the academy to respond.

The same complainant may raise an entirely separate complaint, it must be responded to in accordance with the academy's complaints procedure. It is the correspondence and not the complainant who is vexatious.

Anonymous complaints

Any anonymous complaint which raises safeguarding concerns must be dealt with under the appropriate policy. Anonymous complaints should not be investigated as it is not possible for an investigator to interview both parties.

Appendix 6

Unreasonable complainants

According to the Local Government Ombudsman the following are examples of unreasonable actions and behaviours.

- Refusing to specify the grounds of a complaint, despite offers of help.
- Refusing to cooperate with the complaints investigation process.
- Refusing to accept that certain issues are not within the scope of a complaints procedure.
- Insisting on the complaint being dealt with in ways which are incompatible with the adopted complaints procedure or with good practice.
- Making unjustified complaints about staff who are trying to deal with the issues, and seeking to have them replaced.
- Changing the basis of the complaint as the investigation proceeds.
- Denying or changing statement he or she made at an earlier stage.
- Introducing trivial or irrelevant new information at a later stage.
- Raising many detailed but unimportant questions, and insisting they are all answered.
- Covertly recording meetings and conversations.
- Submitting falsified documents from themselves or others.
- Making frequent, lengthy, complicated and stressful contact with staff regarding the complaint in person, in writing and by telephone.
- Repeatedly making the same complaint and refusing to accept the findings of the investigation into that complaint, repeatedly arguing the point and complaining about the decision.
- Combinations of some or all of these behaviours.

Considerations prior to taking action against unreasonable complainant's behaviour

Before deciding whether the complainant's behaviour is unreasonable the academy should be satisfied that:

That complaint is being or has been properly investigated;

- Any decision reached on it is the right one;
- Communications with the complainant have been adequate;
- The complainant is not providing any significant new information that might affect the academy's view on the complaint; and
- Any circumstances that relate to the complainant's mental health, age, gender, sexual orientation, religious belief, language or disability have been considered.

If the academy is satisfied on these points it will consider whether further action is necessary prior to taking the decision to designate the complainant's behaviour as unreasonable. Examples might be;

- If no meeting has taken place between the complainant and academy, and provided the academy knows nothing about the complainant which would make this unadvisable, consider offering a meeting with a member of the Senior Leadership team who has not dealt with the complaint. Sometimes meetings can dispel misunderstandings and move matters towards a resolution.
- If the complainant has special needs, arrange for an independent advocate to assist.

It is important that all attempts are made to maintain effective communication and relationships with complainants. Before classifying the complainant's behaviour as unreasonable, the academy should be satisfied that the complaint is/has been addressed and the complaints procedure fairly applied and the complainant must be notified by phone, in writing or e-mail of the concerns and include a warning of potential action the Academy may take if the problems persist.

The options available will depend on the status of the complaint and the circumstances of the individual case. The designation of a complainant's behaviour as unreasonable should be a last resort and all other options should be explored to manage issues and ensure the complainant is addressed.

Ultimately the decision on whether the complainant is unreasonable will be taken by the Vice chair or his/her nominated trustee (who is not a member of the Academy Trust Complaints Panel and not the Chair of the Academy Trust)

Options for Action

There are likely to be very few complainants whose behaviour would fall within that which could be classed as unreasonable. If the persistence of the complainants adversely affects the academy's ability to carry out its work, the academy may need to manage their unacceptable behaviour by restricting their contact with the academy's staff.

Any restrictions applied will be appropriate and proportionate to the nature of the complainant's contacts with the academy at the time. The following are examples of the types of restriction(s) which may be used:

- Placing time limits on telephone conversations and personal contacts.
- Restricting the number of telephone calls that will be taken (for example, one call on specified morning/afternoon of any week).
- Limiting the complainant to one medium of contact (telephone, letter, email) and /or requiring the complainant to communicate only with one named governor or senior leader.
- Requiring any personal contacts to take place in the presence of a witness.
- Refusing to register and process further complaints about the same matter.
- Where a decision on the complaint has been made, providing the complainant with acknowledgement only of letters, faxes, or e-mails, or ultimately informing the complainant that future correspondence about the same matter will be read and placed on the file but not acknowledged.

In deciding which restrictions are appropriate, careful consideration should be given to balancing the rights of the individual against those of other complainants and the need for the academy to provide its services.

Operating action against an unreasonable complainant.

If a decision is taken to classify someone as an unreasonable complainant, (the vice chair or nominated trustee will write to inform the complainant within 10 school days

- Why the restriction has been imposed
- What it means for his/her contact with the academy
- How long any restriction will remain in place

Records

Adequate records will be kept of all contacts with unreasonably persistent complainants. This information will be treated as confidential and shared only with those who may be affected by the decision.

Key information recorded includes;

- When a decision is taken to apply (or not to apply) the procedure following a request to do so by a member of staff or to make an exception to the procedure once it has been applied.
- When a decision is taken not to put a further complaint from such a complainant through the complaints procedure; or
- When a decision is taken not to respond to further correspondence, make sure any further letters, faxes or email from the complainant are checked to pick up any significant new information.

Review of decisions under this procedure

All cases will be reviewed 3 months after a decision to restrict contact to ensure that the action remains appropriate and proportionate.

The complainant will be notified of the outcome of the review.

Future complaints by the same Complainant

When an unreasonable or unreasonably persistent complainant makes complains about new issues the complaint should be treated on their merits, and a decision will need to be taken on whether any restrictions which have been applied before are still appropriate and necessary.

Appeals against the decisions.

Appeals or reviews of the decision to restrict a complainant's contact should be made in writing to a nominated trustee (different from the one who sent out the letter). The name of the nominated trustee must be included in the letter sent to the complainant.

Appendix 7 Local Government Ombudsman Guidance note on management of unreasonable complainant behaviour – July 2014 . (see attached)