

# Scarborough Pupil Referral Service



## General Complaints Procedure

Drafted by:	Ratified by Management Committee:	Amendments made:		Review Date:
NYCC	29/11/2016			November 2019
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Scarborough Pupil Referral Service

**GENERAL COMPLAINTS  
PROCEDURE**

**AUGUST 2016**

**Procedures for Schools**

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**This document is for school and Governing Boards use only and not recommended to be handed out to Complainants. Please use the “Leaflet for Complainants” or consider writing one for your own school.**

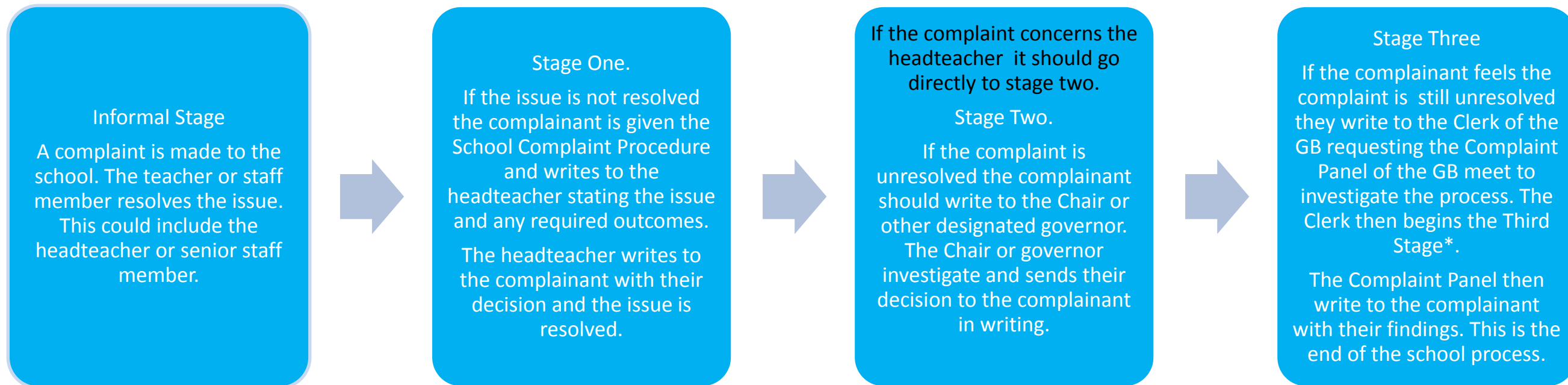
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Complaint about Full Governing Board
This document should be read and used in conjunction with the two accompanying documents “Leaflets for Complainants” and “Governing Board Policy”

The document includes information from the DFE toolkit 2014 which was withdrawn in January 2016 and replaced by “Best Practice Advice for School Complaints Procedures 2016”.

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/489056/Best\\_Practice\\_Advice\\_for\\_School\\_Complaints\\_2016.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/489056/Best_Practice_Advice_for_School_Complaints_2016.pdf)

Schools may also find the DFE website <https://www.gov.uk/complain-about-school> has some useful guidance.

SCARBOROUGH PUPIL REFERRAL SERVICE - COMPLAINTS PROCEDURES – SUMMARY GUIDANCE



**\*In some circumstances the governing board may feel that in the interest of all parties (and under provisions of “The constitution of governing bodies of maintained schools. Statutory guidance for governing bodies of maintained schools and local authorities in England, part 6. March 2015”) that the panel may be made up of governors from another school or have additional governors from another school making up the panel. This is likely to happen when it becomes apparent that governors have received information about the complaint and therefore cannot be seen to act impartially. The DFE “Best Practice” Advice (Jan. 16) allows for the complainant to request an independent panel if they believe there is likely to be a bias in the proceedings. Schools should consider the request but ultimately, the decision is made by the governors.**

If the complaint is about a Governor, the complainant should write to the Clerk of the Governing Board and this will be investigated by the Chair or designated governor at stage two and can progress to stage three if necessary.

If the complaint is about the whole governing board the complainant should write to the Clerk of the Governing Board. Please see Complaint about Full Governing Board.

If the complainant remains unsatisfied after the third stage they may refer the matter to the Secretary of State, The Schools Complaints Unit (SCU) DFE, Piccadilly Gate, 2<sup>nd</sup> Floor, Manchester. M1 2WD.

See details on <https://www.gov.uk/complain-about-school>

## HANDLING COMPLAINTS – GUIDANCE FOR GOVERNORS

### Background

Complaints are an everyday fact of life and every organisation needs to have procedures for handling them. Schools are no different but governors probably find dealing with complaints relating to the school the most difficult to deal with. Governors may feel that they are caught between their loyalty to the school and the expectations of the complainant to have their complaint dealt with fairly. The notes in this section are intended to guide governors faced with having to deal with a complaint.

Tensions are likely to occur because:

- on the one hand complainants may see governors as having the authority to directly resolve their complaint whereas the reality is that governors must work within the adopted complaints policy of the school and remain entirely independent;
- on the other hand, complainants generally have an expectation that governors, particularly parent governors, are there to help them.

It is important therefore that governors fully acquaint themselves with the adopted complaints policy of the school and abide by that policy. This does not mean that a governor cannot listen to a complaint if approached by a complainant (although this may preclude the governor from being involved formally at any later stage in the complaints process). If approached by a complainant with a complaint it is important to:

- recognise that for the person concerned the issue is of serious concern (even if it appears trivial);
- LISTEN but avoid commenting on the pros or cons of the complaint;
- point out that as an individual governor you have no power to act;
- check whether the complainant has raised their complaint with the school;
- if not, advise them to do so and refer them to the school's complaints procedure which should be on the school's website;
- consider whether it is appropriate to draw the matter to the attention of the head teacher 'for information' in a totally non-judgmental way, making it clear that this does not indicate siding with the complainant.

Sometimes the concern/complaint will have implications for school policy or procedures. If so these should normally be picked up during the investigation of the complaint, if not, it may be appropriate to raise the general issue at a governing Board meeting. However, this should not be done until the complaint has been dealt with fully. To do otherwise may seriously prejudice dealing with the complaint in accordance with the complaints procedure and any action that might flow from the investigation of the complaint e.g. staff disciplinary matters.

## HOW TO LISTEN TO COMPLAINTS – GUIDANCE FOR GOVERNORS AND STAFF including Headteachers.

A natural reaction when listening to a complainant is to be defensive, but this is usually counterproductive. When you realise that you are listening to a complaint, try to remember the following:

Say who you are	If you are unknown to the person, introduce yourself.
Ask for their name and use it	Anonymous complaints are acceptable only where there are special circumstances.
Be courteous and patient	Be sympathetic and helpful, but do not blame other colleagues.
Stay cool and calm	Do not argue - be polite and try to find out exactly what the person thinks is going wrong, or has gone wrong.
Don't 'pass the buck'	Do not keep transferring the complainant from one place to another. Make sure you know the contact person for anything you cannot deal with yourself. If necessary offer to make enquiries and arrange for the correct person to contact the complainant.
Treat every complaint individually	Even if you have already received several similar complaints the same day, it is probably the complainant's first chance to have their say.
Treat all complaints seriously	However small or trivial it may seem to you, the complaint will be an important problem for anyone who takes the trouble to complain.
Take time to find out exactly what the problem is	It is easy for someone to forget to tell you an important detail, particularly if they are upset or annoyed.
Don't take the complaint personally	To an angry or upset person, YOU are the school, and the only one they can put their feelings to right now.

Don't rush	Take your time. Let people have their say, and let off steam if they need to. Listen carefully and sympathetically to their problems before replying and attempting to find a solution or offer a next step.
Check you are being understood	Make sure that the person understands what you are saying. Do not use jargon - it can cause confusion and annoyance to someone 'not in the know' or for whom English is a second language.
Check that you have understood the complaint	It is important to ensure that you have understood the complaint. Check with the complainant that you have understood them correctly and confirm any points that might be unclear or confused.
Write down what you have been told	To avoid any possible misunderstanding it is useful to write down what you have been told and if necessary provide a copy of your note to the complainant and ask them to confirm that it is accurate.
Do offer the School's Complaints Procedure to the complainant	Trying to deal with a complaint and not making them aware of the complaints procedure can cause confusion and make matters worse and result in "old ground" having to be covered twice.
Consider any Learning Outcomes	Complaints may inform better practice/service and this should be viewed as a positive outcome of managing complaints.

### Background Information and Principles

#### Background

The Education Act 2002 requires Governing Boards of schools to have a procedure to deal with complaints about the school and any facilities or services that the school provides. The procedure must also be publicised. From 31 July 2012 under section 45 of the Education Act 2011 the duty on Local Authorities to consider complaints about the curriculum, sex education and religious worship in maintained schools was removed. Also, from 1 August 2012 complaints about maintained schools not resolved by the school that would have been considered by the Local Government Ombudsman or the local authority should now be addressed to the Secretary of State for Education. The school has accordingly adopted a complaints procedure in accordance with the following principles:

## Publicising the Procedure

There is a legal requirement for the Complaints Procedures to be publicised. It is up to the GB to decide how to fulfil this requirement but details of the Complaints Procedures could be included in:

- the school prospectus;
- any report/communication from the governors to parents;
- the information given to new parents when their children join the school;
- the information given to the children themselves;
- the home-school agreement;
- home school bulletins or newsletters;
- documents supplied to community users including course information or letting agreements;
- a specific complaints leaflet which includes a form on which a complaint can be made;
- posters displayed in areas of the school that will be used by the public, such as reception or the main entrance;
- the school website

## Definition of a Complaint

A complaint is any expression of dissatisfaction about the school and any community facilities or services that the school provides. This may come to the school in a variety of ways. It may not always be obvious that the person is complaining, e.g. a letter may come into school and be sent to the whole of the Governing Board without being headed "Complaint" but obviously containing information which requires investigation. It is very important that if a letter or verbal report may be interpreted as a complaint that the Headteacher seeks clarification from the person who has written the letter before any further action is taken.

If it is looking like the letter will be interpreted as a complaint it is vital that it is NOT read by all governors as the governing Board will not be able to carry out the complaints procedure in the correct manner and may be subject to criticism by the DFE at the end of the process. Complaints should NEVER be discussed at the full Governing Board for this reason.

## Framework of Principles

An effective Complaints Procedure will:

- encourage resolution of problems by informal means wherever possible;
- be easily accessible and publicised;
- be simple to understand and use;
- be impartial;
- be non-adversarial;
- allow swift handling with established time-limits for action and keeping people informed of the progress;
- ensure a full and fair investigation by an independent person where necessary;
- respect people's desire for confidentiality;



- address all the points at issue and provide an effective response and appropriate redress, where necessary;
- provide information to the school's senior management team so that services can be improved.

### Investigating Complaints

It is suggested that at each stage, the person investigating the complaint (the designated governor or Headteacher), makes sure that they:

- acknowledge the complaint letter in writing within 5 working days;
- establish what has happened so far, and who has been involved;
- clarify the nature of the complaint and what remains unresolved;
- meet with the complainant or contact them (if unsure or further information is necessary);
- clarify what the complainant feels would put things right;
- interview those involved in the matter and/or those complained of, allowing them to be accompanied if they wish;
- conduct the interview with an open mind and be prepared to persist in the questioning;
- keep notes of the interview.

### Resolving Complaints

At each stage in the procedure schools will want to keep in mind ways in which a complaint can be resolved. It might be sufficient to acknowledge that the complaint is valid in whole or in part. In addition, it may be appropriate to offer one or more of the following:

- an apology;
- an explanation;
- an admission that the situation could have been handled differently or better;
- an assurance that the event complained of will not recur;
- an explanation of the steps that have been taken to ensure that it will not happen again;
- an undertaking to review school policies in light of the complaint.

It would be useful if complainants were encouraged to state what actions they feel might resolve the problem at any stage. An admission that the school could have handled the situation better is not the same as an admission of negligence.

An effective procedure will identify areas of agreement between the parties. It is also of equal importance to clarify any misunderstandings that might have occurred as this can create a positive atmosphere in which to discuss any outstanding issues.

### Vexatious Complaints

If properly followed, a good complaints procedure will limit the number of complaints that become protracted. However, there will be occasions when, despite all stages of the procedures having been followed, the complainant remains dissatisfied. If the complainant tries to reopen the same issue, the chair of the GB is able to inform them in writing that the procedure has been exhausted and that the matter is now closed. Remember it is the complainant

who may be vexatious not the complaint so new complaints should be investigated in the usual manner.

#### Time-Limits

Complaints need to be considered, and resolved, as quickly and efficiently as possible. An effective complaints procedure will have realistic time limits for each action within each stage. However, where further investigations are necessary, new time limits can be set and the complainant sent details of the new deadline and an explanation for the delay.

Monitoring – the Head teacher will keep records of all complaints and will report to the Governing Board on a regular basis.\*

#### Recording Complaints

The school should record the progress of the complaint and the final outcome. A complaint may be made in person, by telephone, or in writing. At the end of a meeting or telephone call, it would be helpful if the member of staff ensured that the complainant and the school have the same understanding of what was discussed and agreed. A brief note of meetings and telephone calls can be kept and a copy of any written response added to the record.

#### Review

This Policy shall be reviewed by the Governing Board every three years or sooner pending the introduction of new legislation.

\* This will be for monitoring purposes only and will present an overview of the types of complaints and data in terms of numbers etc. No details should be given in respect of names or other identifying features.

## MODEL COMPLAINTS PROCEDURE

### Exceptions to the Procedure

This procedure does not cover those areas of school life for which other procedures exist including:

	For further information contact:-
(a) staff grievance and capability procedures	Human Resources
(b) staff disciplinary procedures	
(c) child protection investigations	
(d) admission appeals <sup>1</sup>	Strategic Services
(d) exclusion appeals <sup>2</sup>	Behaviour Support Service
(e) Statutory assessments of Special Educational Needs (SEN) and appeals against the decisions of the LA about a child's special educational needs and provisions	SEN Officer
(f) School re-organisation proposals	Strategic Services
(g) Complaints about services provided by other providers who may use school premises or facilities.	Providers should have their own procedure and be contacted directly.

Complaints involving the following areas:	
(f) Human Rights	Schools are recommended to seek advice from Legal Services at County Hall.
(g) Race Relations	
(h) Sex Discrimination	
(i) Disability Discrimination	
(j) Age Discrimination	

<sup>1</sup> In Foundation and Voluntary Aided Schools, complaints should be sent to the school's governing Board.

<sup>2</sup> In Foundation and Voluntary Aided Schools, complaints should be sent to the school's governing Board.

## PROCEDURE

### a) Informal Stage

Anyone with a concern about any aspect of the school is encouraged to raise their concern, either personally or through someone else, with their child's class teacher, a senior member of staff or with the Headteacher. Everything possible should be done at this stage to resolve the matter.

Guidance from the DFE Toolkit 2014:

#### Informal Stage: Complaint Heard by Staff Member

It is in everyone's interest that complaints are resolved at the earliest possible stage. The experience of the first contact between the complainant and the school can be crucial in determining whether the complaint will escalate. To that end, if staff are made aware of the procedures, they know what to do when they receive a complaint.

It would assist the procedure if the school respected the views of a complainant who indicates that he/she would have difficulty discussing a complaint with a particular member of staff. In these cases, the complaint can be referred to another staff member including the head teacher.

Similarly, if the member of staff directly involved feels too compromised to deal with a complaint, the school may consider referring the complainant to another staff member. The member of staff may be more senior but does not have to be. The ability to consider the complaint objectively and impartially is crucial.

Where the first approach is made to a governor, the next step would be to refer the complainant to the appropriate person and advise them about the procedure. It would be useful if governors did not act unilaterally on an individual complaint outside the formal procedure or be involved at the early stages in case they are needed to sit on a panel at a later stage of the procedure.

- If the concern cannot be resolved by informal means then the person expressing the concern will be told of the option of pursuing a formal complaint and be provided with a copy of the school's procedure and complainant leaflet.

### b) Formal Complaint – Stage One (See Appendix letters D and F) Investigation by a designated member of staff/Headteacher

- Formal complaints must be detailed in writing (a complaints form is attached for this purpose). To ensure that the complaint is properly investigated it must be as clear as possible. If necessary clarification will be sought from the complainant about any aspect of the complaint which is unclear.

- The Headteacher or designated staff member should make every effort to resolve the issue as quickly as possible. See above “Resolving Complaints”.
- If a complainant requires help to put their complaint in writing then they will be offered the opportunity to meet with the designated member of staff/Headteacher who will make a written note of the complaint and agree it with the complainant;
- The designated member of staff/Headteacher will send an acknowledgement letter **within 5 working days** of receiving the written complaint and will confirm:
  - ✓ details of the complaint to be investigated;
  - ✓ who will be investigating the complaint;
  - ✓ **that a substantive response to the complaint will be given within 20 working days of receipt.** If this timescale cannot be met an explanation will be given with a revised timescale;
- The complaint will be recorded including date;
- The designated member of staff/Headteacher will investigate the complaint in accordance with the principles of the Complaints Policy;
- **The designated member of staff/Headteacher will write to the complainant within 20 days of receipt of the complaint (or by date given in the acknowledgement letter) and advise him/her of the outcome of the investigations in writing.**
- If the complaint is upheld the complainant will be informed accordingly and given an indication of the steps that will be taken to put matters right. The school will seek guidance from Legal Services at County Hall before making any admissions which may lead to a legal claim. If, on the basis of the information available, it is not possible to arrive at a definitive decision on the complaint the complainant will be informed accordingly with the reasons why.
- The complainant will also be informed that if they are dissatisfied with the outcome of the investigation then they have the right to appeal against the outcome to the Chair of the Governing Board and how to do it.

c) Formal Complaint – Stage Two

The Chair of the Governing Board or other designated governor. (See Appendix letters F and G)

- Requests for a stage two investigation must be in writing and addressed to the Chair of the Governing Board or other designated governor (DG);

- The Chair or DG will send an acknowledgement letter within 5 working days of receiving the request and tell the complainant that a substantive response to the complaint will be given within 20 working days of receipt. If this timescale cannot be met an explanation will be given with a revised timescale;
- The request will be recorded including date;
- The Chair or DG will investigate the complaint in accordance with the principles of the Complaints Policy and make every effort to resolve the complaint at this stage (see above “Resolving Complaints”)
- The Chair or DG will write to the complainant within 20 days of receipt of the complaint (or by date given in the acknowledgement letter) and advise him/her of the outcome of the investigations in writing.
- The Chair or DG should make every effort to resolve the issue by meeting with the Headteacher, complainant and any other interested persons.
- If the complaint is upheld the complainant will be informed accordingly and given an indication of the steps that will be taken to put matters right. The Chair will seek guidance from Legal Services at County Hall before making any admissions which may lead to a legal claim. If, on the basis of the information available, it is not possible to arrive at a definitive decision on the complaint the complainant will be informed accordingly with the reasons why.
- The complainant will also be informed that if they are dissatisfied with the outcome of the investigation then they have the right to appeal against the outcome to the Complaints Appeals Panel and how to do it.

d) Formal Complaint – Stage Three (See appendix letters A, B, C.)  
Complaints Appeals Panel Hearing

- Requests for a stage three hearing must be in writing and addressed to the Clerk to the Governing Board at the School;
  - ✓ the Clerk will acknowledge the request in writing within 5 working days of receiving the request
  - ✓ the Clerk will set a date for the Panel within 20 working days of receiving the request.\*
- The Clerk will ask the investigator at Stage 2 to attend the hearing to present the school’s case.

- ✓ if written submissions are to be made by the Headteacher or complainant they should be submitted to the Clerk **at least 10 working days** before the hearing to enable copies to be provided to the committee, the complainant, the Head teacher and any other relevant parties.
- **At least 7 working days** prior to the meeting the clerk will:
  - ✓ notify all parties of the date, time and place of the hearing;
  - ✓ provide all parties with a copy of any written representations submitted;
  - ✓ provide all parties with details of the format of the hearing;
  - ✓ ask the parties whether they have any particular needs for the meeting e.g. induction loop, translator etc;
  - ✓ confirm who will be in attendance at the hearing or whether they wish to rely upon written submissions.
- **Within 5 working days following the hearing the clerk shall:**
  - ✓ inform all the parties concerned in writing of the decision(s) of the Panel;
  - ✓ the complainant will also be informed that if he/she remains dissatisfied then they may write to the Department for Education, 2<sup>nd</sup> Floor, Piccadilly Gate. Manchester. M1 2WD. or go to
  - ✓ <https://www.gov.uk/complain-about-school> for more details.

**This ends the process for the school.** The school (head teacher) must keep all paper work and details concerning the complaint and be prepared to submit them to the DFE if requested. It is important that the school submits the full policy document for scrutiny as well as the Complainants Leaflet.

#### **What will the DFE do?**

If a complaint has exhausted the local procedures, SCU (School Complaint Unit) will examine if the complaints policy and any other relevant policies were followed in accordance with the provisions set out. SCU also examines policies to determine if they adhere to education legislation. However, the department will not re-investigate the substance of the complaint. This remains the responsibility of the school.

If legislative or policy breaches are found, SCU will report them to the school and the complainant and, where necessary require remedial action to be taken. Failure to carry out remedial actions could ultimately result in a formal Direction being issued by the Secretary of State.\*

(\*taken from the DFE Toolkit August 2014)

(See also Governing Board Policy for dates)

## THE COMPLAINTS APPEALS PANEL

### Governing Board meeting autumn term 1st meeting

#### The Complaints Appeals Panel - Establishment

##### General (Procedure)

At the first meeting in the autumn term the Governing Board will establish a panel whose role is to determine appeals against stage 2 decisions on formal complaints made under the school's complaints procedure. The panel will only hear those complaints which have reached stage 3 of the procedure i.e. after the complaint has already been investigated by the Headteacher/Chair of Governors/DG. Membership of the panel may be reviewed pending a potential conflict of interest.

##### Constitution

Whilst it is for the Governing Board to determine the constitution of the panel it is strongly recommended that this should be any three governors, apart from staff governors and associate members, as available at the time of the appeal. Because of the need to provide confidence in the impartiality of the panel staff governors should not be appointed to the panel. Equally, associate members should not be appointed to the committee because they may not vote on a range of issues including the budget, financial commitments of the governing Board, admissions and pupil discipline and may therefore find their effectiveness curtailed if any of these issues form part of the complaint.

##### Terms of reference

The terms of reference suggested for the panel are:

“to consider appeals in respect of complaints made pursuant to the school's complaints procedure including full delegated authority to:

- dismiss the appeal in whole or in part;
- uphold the appeal in whole or in part;
- decide on the appropriate action to be taken to resolve the complaint;
- recommend changes to the school's systems or procedures to ensure that problems of a similar nature do not recur.”

##### Delegation

The panel should be given full delegated authority to act.



## Procedure

### The Complaints Appeals Panel

#### STAGE 3

##### Receipt of complaint by the Clerk to the Governing Board

Clerk checks the school has followed the complaints procedure up to this point.

The Complaints Appeals Panel will only become involved after the complaint has been investigated at Stage 2 of the procedure.

The complainant should have written to and told the Clerk to the Governing Board that he/she remains dissatisfied with the Stage 2 decision and now wishes the matter to be considered by the committee at Stage 3.

##### Procedure

- ✓ **The Clerk should acknowledge receipt of the complainant's letter within 5 working days of its receipt.** See sample letter 'A'.

##### Arranging the hearing

**The Clerk will make the necessary arrangements for the hearing to take place within 20 working days** taking into account the following matters:

- ✓ check that 3 governors on the Appeal Panel are not previously involved in the complaint and remain available, remembering not to include staff governors or associate members;
- ✓ if the complaint is against a member of staff ensure that the members of the panel are not also members of the Staff Dismissal Committee (or Staff Dismissal Appeals Committee);
- ✓ is the preferred date and time of the hearing convenient to all the parties involved?
- ✓ is the school an appropriate place for the hearing or would a more neutral venue be preferable?
- ✓ is the chosen venue readily accessible to all?
- ✓ do the seating arrangements strike the right balance between the formality of the hearing and the need to create a more relaxed atmosphere?
- ✓ will water or soft drinks be available for people during the hearing?
- ✓ do any of the parties have any special requirements for the hearing? e.g. Induction loop, translator etc; keep a record of you asking the complainant.
- ✓ are separate rooms available if any of the parties wish to discuss any relevant matters in private either before or during the hearing? Do you need anyone to act as "host" and facilitate the process?

The Clerk should inform every one of the arrangements made giving at least 7 clear working days notice and provide everyone with the agenda setting out the format for the hearing. See the sample agenda under Sample Forms and Letters.

#### Who should be invited to the hearing?

- The complainant (not forgetting that he/she may be accompanied by a friend);
- The Panel;
- The Headteacher, Chair of Governors or designated governor, whoever investigated the complaint at Stage 2. The Headteacher (with a friend if they so wish) should make every effort to attend the hearing but if he/she declines to attend it should be borne in mind he/she will not be able to answer questions from the complainant or the panel and this might be unhelpful to the panel in reaching its decision.
- Any witnesses that any of the parties may wish to call to give evidence.
- A host who could help with proceedings or take care of witnesses etc. may be useful.

When advising every one of the arrangements for the hearing remind the complainant and the Headteacher that written submissions must be submitted to the Clerk **not less than 10 working days prior to the hearing** to enable the Clerk to provide copies in advance to everyone concerned.

Written representations when received should be sent by first class post to all the parties concerned or by email where all parties agree.

#### The Hearing

The Clerk should arrive early to ensure that the arrangements for the hearing are in order.

The Appeal Panel should take its place in the hearing room without the complainant, Headteacher or witnesses being present and the clerk should take the opportunity to:

- clarify any procedural points with the Panel; and
- elect a Chair for the hearing.

The Clerk should check that all parties have received a copy of all papers to which they are entitled. It may be helpful to number the pages. If anyone has not received any of the papers they should be provided with a copy and given time to read them and if they request it they should be allowed to do this in private and if necessary confer with their friend.

Ideally, no party should feel the need to be represented by lawyers/union representatives etc. at the review Panel. The purpose of the Panel is to consider the complaint and wherever possible, work towards a resolution. It is

not a quasi-judicial process and the presence of lawyers can work against the spirit of openness and problem-solving. However, the complainant and HT have the right to bring a representative to speak on their behalf if they so desire.

The complainant, the Headteacher and their friends or advisers (but not witnesses) should then be invited in to the hearing. The complainant or the Headteacher, Chair of governors or designated member of staff/governor (and friends or advisers or witnesses) should not be left alone with the Panel at any time. The Clerk should remain in the room with the Panel to ensure all procedures are followed in a fair and equitable manner.

The host could remain with any witnesses and act as a support to the clerk if for any reason there is a need for a recess or any other issues arise which could lead to a situation where the Panel could be compromised in any way. It is recommended that the host does not go into the hearing.

The Chair should open the hearing by introducing him/herself and the members of the Panel. He/she should inform every one of the role of the Panel and stress that the Panel has had no prior involvement in the complaint and that it will look afresh at all the issues involved and arrive at its own decision on the matter(s). Also, that the decision(s) of the panel is final insofar as the school is concerned. The Chair should then invite everyone else present to introduce themselves and their role in the proceedings.

The Chair should confirm with everyone that they have received a copy of all relevant papers to which they are entitled (ideally the Clerk should do this prior to the meeting and provide a copy of any missing papers – this would help prevent delays at the hearing, see above).

The meeting should then follow the format set out in the agenda (see under Sample Forms and Letters). If either of the parties wish to have a recess then the Chair should facilitate that, if at all possible, however the decision to allow a recess is entirely at the discretion of the Chair. If a recess is allowed there should be no discussion on the matters heard thus far and the complainant, the Headteacher, Chair of governors or designated member of staff (or witnesses/friends/advisors) should not be left alone with the Panel.

Where necessary, witnesses should be invited in to the hearing when it is their turn to give evidence. After giving evidence and answering questions witnesses should be invited to leave the hearing if they wish. Alternatively they may remain in the hearing but they should not be allowed to take any further part in the proceedings. **Ideally it should not be necessary to invite witnesses as the investigations will include any witness statements.**

At the conclusion of the hearing the Chair of the Panel should thank everyone for their contributions and inform the complainant and the Headteacher that the Panel will make its decision in private and that they will be notified of the outcome **by the Clerk within 5 working days of the meeting**. Everyone, with the exception of the Panel and the Clerk, should then leave the meeting whilst the Panel deliberates in private. It might be appropriate to ask the complainant, the Headteacher, the Chair of Governors or designated member of staff and

any witnesses to stay behind for a short while in the event that the Panel needs clarification on any point or to give the parties the option to wait to hear the decision in person if the Panel expects to reach one within a reasonable length of time. In either of the above circumstances it will be necessary for ALL the parties concerned to be present.

### The Decision process

The Panel should consider in private all the evidence submitted. If the Panel requires clarification on any point then all the parties should be invited back in to the hearing only whilst the Panel seeks the necessary clarification. Remember also that this is not an opportunity for anyone to re-open the hearing.

**The Panel may decide to seek legal advice or clarification from HR at this stage.** It is acceptable to adjourn at this point and agree to reconvene when any further guidance has been received. **This must comply with the 5 day timescale or the complainant and head teacher should be informed of any delay in the process.**

Remember the Panel's terms of reference:

The panel will "consider appeals in respect of complaints made pursuant to the school's complaint procedure including full delegated authority to:

- dismiss the appeal in whole or in part;
- uphold the appeal in whole or in part;
- decide on the appropriate action to be taken to resolve the complaint;
- recommend changes to the school's system or procedures to ensure that problems of a similar nature do not recur."

After arriving at its decision the clerk should confirm with the Panel that his/her understanding of the decision is correct.

**If the decision of the Panel is thought likely to lead to further action by the complainant e.g. a claim for damages, the Panel should consult with Legal Services at County Hall before reaching a final conclusion.**

### After the hearing

The clerk should prepare a draft of the letter setting out the decision. This should be approved by the Chair of the Panel and signed by him/her prior to being sent to the complainant and the Headteacher within the agreed 5 working days. See sample letters B&C to be signed by the Chair of the Panel **and remember to include the information for taking the complaint onto the DFE.** At this stage guidance can be sought from the Legal Team regarding appropriate wording of the letter.

### Minutes and reporting to the Governing Board

Draft minutes of the hearing should be prepared and once they have been agreed with the Panel the minutes should be signed by the Chair of the Panel. They should not be submitted to the Governing Board nor should a detailed resume of the hearing be given to the Governing Board. All that should be

reported is that a hearing was held and the decision. The reason for this is that there may be issues arising from the complaint that may require further investigation and which may lead to disciplinary action against a member of staff. To give a detailed account of the proceedings of the hearing may be prejudicial to any disciplinary or other proceedings.

It is good practice to inform the Governing Board that a complaint has been dealt with under the Complaints Procedure. This information could form a useful part of the school's improvement procedures and governor monitoring of the school.

### Records

The records of the complaint should be kept securely in school and retained in accordance with the requirements of the Schools' Information Governance Toolkit.

For further information on storage see:

CYPS.info and follow the file path:

- Organisation and management
- Information and data management
- Record Retention

Or speak to Veritau Information Governance Team at County Hall for further advice.

This is the responsibility of the head teacher.

### Stage 3 Critical Timescales

Item	Action
Letter referring complaint to Panel	Acknowledge within 5 working days
Hearing	Within 20 working days
Despatch of Agenda	At least 7 clear working days before the hearing
Receipt of written submissions from complainant and Head	At least 10 working days before the hearing
Send out written submissions (if any)	As soon as possible after receipt
Letter to complainant giving decision of Panel.	Not more than 5 working days following the hearing

\*It may be that under certain circumstances the Chair (or Designated Governor) and the Clerk have evidence that the school governing board cannot provide three governors who have no knowledge of the case. In these circumstances the school could ask governors from other schools to sit on the panel and hear the case at stage three.

**Please note, once a complaint has been reviewed at Stage 3, this would mark the end of the process. Should the complainant not be satisfied they can refer their complaint to the Secretary of State who will review the way the matter has been handled. Complaints should now be**

**addressed to the Secretary of State, The Department of Education, 2<sup>nd</sup> Floor, Piccadilly Gate, Manchester. M1 2WD.**

### **Complaints about the Full Governing Board.**

Very rarely, a complaint is made about the Full Governing Board. If the Clerk receives a complaint they should contact the Governor Support team as soon as possible. The Clerk should acknowledge the complaint within 5 working days.

The Local Authority (LA) will assist in finding an external investigator to undertake the second stage investigation. This report will be completed within the 20 working days timescale.

If the complainant is still not satisfied they must write to the Clerk and request a panel hearing. The Clerk will then contact the LA Governor Support team who will assist in finding a panel of governors from other schools who will hear the third stage appeal within 20 working days. The process will follow the procedures as laid out above for the appeal panel. Please note that the sample letters and agendas will need to be altered accordingly. This will be the end of the process as far as the school is concerned.

If the complainant is still not satisfied they have the option of writing to the DFE and will be informed of this in the third stage reply.

The LA will continue to provide support, advice and guidance on procedural matters to both schools and complainants. Support for Governors on legal, HR, financial and other matters will remain. If any assistance is required please contact the Governor Support Unit on:

## GOVERNOR SUPPORT – CONTACT DETAILS 2016

Name	Designation	Tel	e-mail
Alison Johnston	Governance Manager	01609 532160	<a href="mailto:Alison.Johnston@northyorks.gov.uk">Alison.Johnston@northyorks.gov.uk</a>
Margaret Burton	Governance Officer	01609 532465	<a href="mailto:Margaret.Burton@northyorks.gov.uk">Margaret.Burton@northyorks.gov.uk</a>
Rachel Morris	Governance Officer	01609 797402	<a href="mailto:Rachel.morris2@northyorks.gov.uk">Rachel.morris2@northyorks.gov.uk</a>
Chrissy Richardson	Clerking Service Manager	01609 535735	<a href="mailto:Chrissy.Richardson@northyorks.gov.uk">Chrissy.Richardson@northyorks.gov.uk</a>
Governance admin team.		01609 532377	<a href="mailto:Governor.Support@northyorks.gov.uk">Governor.Support@northyorks.gov.uk</a>

Sample Forms and Letters

Complainant Form



Scarborough Pupil Referral Service  
Valley bridge Parade  
Scarborough  
North Yorkshire  
YO11 2PG

It will help us if you use this form to make your complaint but please write a letter if you prefer, covering all the points on the form. Please continue your answers on a separate sheet if there is not enough space on this form. Do remember that you will need to tell us what needs to happen to resolve your complaint. When you have filled in the form, send it to The Head teacher or Chair of the Governing Board if the complaint is about the Headteacher, Pupil Referral Service, Valley Bridge Parade, Scarborough, YO11 2PG, if you need any help completing this form please contact the school. If this is a complaint about a governor please send it to the Clerk to the Governing Board.

We will only process your personal data in order to respond to your complaints. In general it will be used for administrative and statistical purposes.

Your name

Mr <input type="checkbox"/> Ms <input type="checkbox"/> Mrs <input type="checkbox"/> Miss <input type="checkbox"/> Other .....
First name (BLOCK CAPITALS) .....
Surname (BLOCK CAPITALS) .....

Your address

Postcode

Daytime tel. no.

Mobile tel. no.

Email address

Do you have any special requirements, for example if English is not your first language, disabilities?



Have you contacted the school about this matter before? Yes  
 No

If yes, who did you contact, when and how?

Have you received a reply? Yes  No

If so, when was this?

Please explain your complaint.

What action, if any, have you already taken to try to resolve your complaint?  
(Who did you speak to and what was the response?)

What actions do you feel might resolve the problem at this stage?

Please use additional sheets if required.

If you have any documents to support your complaint, please send them with this form. Please tick the box if you would like them returned to you.

We will send an acknowledgement within 5 working days of receiving your communication and will tell you what is happening. If a further response is required, this should reach you within 20 working days.

FOR OFFICE USE ONLY

Complaint reference

Date

		Received	
Acknowledgement sent			
Substantive reply sent			

## SAMPLE LETTERS

Letter 'A' – Acknowledgement letter from Clerk

Dear

Your Complaint

I write to acknowledge receipt of your letter of (insert date) and write to let you know how your appeal will now be dealt with.

A hearing by the Complaints Appeals Panel will be held within 20 working days from the receipt of your complaint i.e. by (insert date). The panel is made up of 3 governors who have no prior knowledge of the details of the complaint. The role of the panel is to consider your complaint and the action taken to address the complaint to date together with any information that the Headteacher (*or Chair of Governors or designated member of staff/governor as appropriate*) wishes to put forward. The Panel will then consider in private all the information presented to it and arrive at its decision. The Panel has the authority to:

- dismiss the appeal in whole or in part;
- uphold the appeal in whole or in part;
- decide on any appropriate action to be taken to resolve the complaint;
- recommend changes to the school's systems or procedures to ensure that problems of a similar nature do not recur."

You will be notified in writing of the decision of the panel within 5 days of the meeting.

I will be acting as clerk to the panel and it is my responsibility to make all the necessary arrangements for the meeting and to take the minutes of the meeting and offer procedural guidance only. Any correspondence that you may wish to submit to the panel should be sent to me at the address shown at the head of this letter.

You are entitled to attend the meeting and to present your complaint and you may be accompanied by a friend who may speak on your behalf if you so wish. You or your friend may also submit, in advance, written representations. These will be circulated to the panel and to the Headteacher and must therefore be sent to me to arrive not less than 10 working days prior to the meeting to enable me to do that. If the Headteacher similarly submits any

written representations then you will be provided with a copy in advance of the meeting.

Ideally, no party should feel the need to be represented by others at the Panel. The purpose of the Panel is to consider the complaint and wherever possible, work towards a resolution. It is not a quasi-judicial process and the presence of advisers or others can work against the spirit of openness and problem-solving.

I will contact you again soon to discuss the date, time and venue for the meeting but in the meantime if you have any questions in connection with this matter please do not hesitate to contact me.

Yours sincerely

Clerk to the Complaints Appeals Panel of (name of school) Governing Board

Letter 'B'- letter of decision to complainant – rejecting complaint

Dear

Your Complaint – Complaints Appeals Panel Hearing– (insert date of hearing)

May I first of all thank you for attending the hearing by the Panel held on (insert date).

The Panel after carefully considering all the information presented to it has decided that no further action should be taken on your complaint for the following reasons:

Set out the reasons for the decision e.g.

- a) It is recognised that an error had occurred at the early stage of the matter the subject of your complaint. Whilst this was regrettable it is the view of the panel, that the early action taken by the Headteacher to correct the error once it was discovered was sufficient to correct the situation.
- b) Because action was taken early there was no evidence to demonstrate that you had suffered materially as a consequence;
- c) The Headteacher has already apologised to you both verbally and in writing for the error;
- d) The Governing Board will be reviewing policies and procedures to see if they can be improved.

The hearing of your complaint by the Panel brings to an end the formal procedures set out in the school's Complaints Procedure. However, if you remain dissatisfied then you may write to: The School Complaints Unit (SCU) Department for Education, 2<sup>nd</sup> Floor Piccadilly Gate, Manchester, M1 2WD.

Yours sincerely,

Chair of the Complaints Appeals Panel of (Name of school) Governing Board

Letter 'C' - letter of decision to complainant – upholding complaint

Dear

Your Complaint – Complaints Appeals Panel Hearing – (insert date of hearing)

May I first of all thank you for attending the hearing by the Panel held on (insert date).

The Panel after carefully considering all the information presented to it has decided to uphold your complaint for the following reasons:

Set out reasons e.g.

- a) It is recognised that an error had occurred at the early stage of the matter the subject of your complaint and that this error had not been identified or action taken to correct it;
- b) Because the error was not identified you had to pay twice for the music lessons;

Further the Panel has determined that the following action shall be taken to address your complaint:

Set out redress offered e.g.

- 1) The Headteacher and the Panel offer an unreserved apology to you for the distress caused by the failure to properly address the original error;
- 2) A refund of the overpaid music lessons fee will be made to you as soon as possible;
- 3) Measures have now been put in place to prevent any further similar errors occurring.

The Panel hopes that this now brings this matter to a conclusion and thanks you for the professional and courteous way in which you dealt with the matter at the hearing.

The hearing of your complaint by the Panel brings to an end the formal procedures set out in the school's Complaints Procedure. However, if you remain dissatisfied then you may write to: The School Complaints Unit (SCU) Department for Education, 2<sup>nd</sup> Floor Piccadilly Gate, Manchester, M1 2WD.

Yours sincerely

Chair of the Complaints Appeals Panel of (Name of school) Governing Board

Letter "D" - acknowledgement letter from the Head teacher

Dear.....

Your Complaint

I write to acknowledge receipt of your letter of (insert date) and write to let you know how your complaint will now be dealt with. Please be assured that our school takes all complaints very seriously and all complaints are investigated fully.

As Headteacher/designated staff member ( delete as appropriate) I will now investigate your complaint. I would be very grateful if you could contact the school, within 5 working days, to arrange a time to meet with me to discuss your issues as raised in your letter. You could bring a support person with you if you feel that would be helpful.

I will do everything I can to resolve the issue and to this end it would be very helpful if you could be clear about what it is that would resolve the situation. I will also be meeting with the any other persons concerned with your complaint to ensure I understand the all of the issues concerned.

After I have met with you and any other relevant persons I will write to you outlining the following:

- Your complaint with each item specified;
- The resolution to each item
- Details of what you can do next if you are not satisfied with the outcome of the investigation.

This will be completed within 20 working days.

I look forward to hearing from you shortly.

Yours sincerely,

Head teacher/Designated staff member (Delete as appropriate)

Appendix “E” – Sample letter of response to complainant by Head teacher/Designated staff member.

Dear.....

Further to our meeting on (insert date) OR Further to your letter dated (insert date), I have now had the opportunity to investigate your concerns and am able to report the following:

(insert a summary or list of complaints raised, investigations and outcomes – if necessary, where there are a number of complaints, make a list, the outcomes could be any of the following:

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

I hope that you are satisfied that your concerns have been dealt with appropriately. However, if you are dissatisfied with the outcome please contact me to discuss the matter further or write to the Chair to request the complaint is investigated at the second stage (either by letter or using the form provided in the Complainants Leaflet) as soon as possible. Should you require any further details please contact the school office.

Yours sincerely,

Headteacher/Designated Governor (delete as appropriate)

Letter “F” - acknowledgement letter from the Chair of the Governing Board

Dear.....

Your Complaint

I write to acknowledge receipt of your letter of (insert date) and write to let you know how your complaint will now be dealt with. Please be assured that our school takes all complaints very seriously and all complaints are investigated fully.

As Chair of the Governing Board/Designated Governor ( delete as appropriate) I will now investigate your complaint. I would be very grateful if you could contact the school, within 5 working days, to arrange a time to meet with me to discuss your issues as raised in your letter. You could bring a support person with you if you feel that would be helpful.

I will do everything I can to resolve the issue and to this end it would be very helpful if you could be clear about what it is that would resolve the situation. I will also be meeting with the any other persons concerned with your complaint to ensure I understand the all of the issues concerned.

After I have met with you and any other relevant persons I will write to you outlining the following:

- Your complaint with each item specified;
- The resolution to each item
- Details of what you can do next if you are not satisfied with the outcome of the investigation.

This will be completed within 20 working days.

I look forward to hearing from you shortly.

Yours sincerely,

Chair of the Governing Board/Designated Governor (Delete as appropriate)



Letter “G” ” – Sample letter of response to complainant by Chair of Governors/Designated governor

Dear.....

Your Complaint

Further to our meeting on (insert date) OR Further to your letter dated (insert date), I have now had the opportunity to investigate your concerns and am able to report the following:

(insert a summary or list of complaints raised, investigations and outcomes – if necessary, where there are a number of complaints, make a list, the outcomes could be any of the following:

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

I hope that you are satisfied that your concerns have been dealt with appropriately. However, if you are dissatisfied with the outcome please contact me to discuss the matter further or write to the Clerk of the Governing Board to request the complaint is investigated at the third stage (either by letter or using the form provided in the Complainants Leaflet) as soon as possible. Should you require any further details please contact the school office.

Yours sincerely,

Chair of Governors/ Designated Governor (delete as appropriate)

## Sample Agenda

A Hearing by the Complaints Appeals Panel of (Name of School) Governing Board will be held at (insert venue) on (insert date) at (insert time)

The order of business for the hearing is set out below:

1. To elect a Chair for the hearing.
2. Introductions.
3. The Chair to outline the procedure.
4. (Name of complainant) to explain his/her\* complaint.
5. Through the Chair, the Headteacher and the Panel may ask questions.
6. Headteacher to explain the school's response.
7. Through the Chair, (Name of complainant) and the Panel may ask questions.
8. The Headteacher to make a statement in summary.
9. (Name of complainant) makes a statement in summary.
10. All, with the exception of the Panel and the Clerk to leave whilst the Panel considers its decision. Written notice of the decision will be sent to the Complainant and the Headteacher within 5 working days of the hearing.
11. The Panel will then consider the complaint in private session.

Clerk to the Committee of (Name of school) Governing Board

Enclosures: List all the enclosures to accompany the agenda e.g.:

- a) A copy of the school's Complaints Procedure;
- b) A copy of the original complaint;
- c) Copies of letters between the complainant and the school in connection with the complaint;
- d) Copy of written submissions from the complainant and the Headteacher.
- e) Any relevant guidance issued by the LA.

\* delete as appropriate