Mundy C of E Junior School

Complaints Procedure

For External Complaints

Advice, Guidance and Information

Last Reviewed	**November 2026**
Reviewed By	**Full Board of Governors**
Next Review Date	**November 2029**

Date Last Updated	Confirmed Current
Dec 2021	Sept 2025

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ADVICE, GUIDANCE AND INFORMATION

Introduction

From 1 September 2003, Governing Boards of all Local Authority maintained schools and maintained nursery schools in England are required, under Section 29 of the Education Act 2002, to have in place a procedure to deal with complaints relating to the school and to any community facilities or services that the school provides. A guidance document for parents on making complaints does not satisfy the legislative requirement. A separate and distinct policy must be in place. It is recommended that the Governing Board ensures that any third-party providers, offering community facilities or services through the school premises or using school facilities, have their own complaints procedure in place. The law also requires the school's complaints procedure to be publicised. This document provides additional Advice, Guidance and Information to assist schools in the day-to-day operation of the Complaints Procedure adopted by Mundy C of E Junior School and is not intended to be distributed more widely. The Governing Board needs to formally adopt the procedure. It is essential to adopt the procedure in its entirety and follow the requirements set out in the Advice, Guidance and Information which provides more detail of the process as well as guidance to Governing Boards in respect of external complaints.

It is the responsibility of a school's Governing Board to resolve a complaint received by a school and it is, therefore, important to have a procedure for doing so which is clear and available to Governors, employees, parents, carers and members of the public. Complainants are not limited to parents or carers of pupils registered at the school; members of the public may make a complaint about any provision of facilities or services that the school provides, unless separate statutory procedures apply.

A chart showing the types of complaint which are not within the scope of this procedure is shown on page 7 of this document.

Mundy C of E Junior School may wish to appoint a School Complaints Co-ordinator, who may be the Headteacher. Whether or not a formal role is designated, it will be important for the school to have mechanisms to track, collate and record complaints received.

The Headteacher is strongly requested to consult with the Local Authority, through the Children's Services Complaints Co-ordinator, for advice on the appropriate procedure for dealing with a complaint that may fall into one of the 'out of scope' categories.

It is very helpful to identify at an early stage any complaint where the Authority may still have a role in the process of resolution and for specialist advice to be offered where the issues are of considerable complexity or demand particular expertise.

The LA should investigate a complaint where the pupil has an education and Health Care (EHC) Plan, ***and*** *the complaint is related to the EHC plan or the conduct of any centrally employed authority staff responsible for the provision made through the EHC plan. Complaints concerning the provision for children with special educational needs and/or learning difficulties should be discussed with the Local Inclusion Officer, before investigation and response by the school.*

The Local Authority (LA) does not have a formal role in relation to the investigation and adjudication of school complaints that are within the scope of the policy. However, advice from appropriate LA sections is available to provide guidance to Headteachers and Chairs of Governors in responding to complaints, concerning matters of procedure and substance. **In the first instance schools are requested to contact the Complaints Co-ordinator for Children's Services through the Complaints Administrator who will be able to signpost where the most appropriate source of advice may be found.**

Depending on the nature of the complaint, the relevant sections of the LA where advice may be sought include:

Governor Support Service
Children's Services HR Advice and Guidance
Education Improvement Service
Special Educational Needs
Health and Safety
Student Services
Safeguarding

For Church of England Voluntary Aided and Controlled Schools advice and guidance may be available from the Diocese.

Any complaint that leads to a disciplinary investigation will be subject to a separate specific procedure. The details of such investigations and any sanction applied are confidential but there will be a report back to the complainant giving as much feedback as is possible.

This document provides advice and guidance on how schools should respond to external complaints. **It is important to note that anonymous complaints cannot be dealt with under this procedure.**

Note: Derbyshire Information, Advice and Support Service for Special Educational Needs and Disability - (formerly the Derbyshire Parent Partnership Service) - offers free confidential help, advice and support for parents/carers of children with special needs or at risk/have been excluded from the school. (Contact number 01629 533668, children/young people and parents can leave a message or email the service at www.derbyshireiass.co.uk.

The model Complaints Procedure reflects the Best Practice Advice for School Complaints Procedures 2019 issued by the Department for Education (DfE). ***It is important that schools also take on board the following more detailed version describing the actions to be carried out at each stage and considerations to be taken into account, when implementing the process in particular circumstances. Step by step implementation of the procedure is expanded from page 10 of this Advice, Guidance & Information document.***

This non statutory guidance was designed to share best practice with school leaders and Governing Bodies in LA maintained schools, LAs and Dioceses. It was not designed for use by academies, free schools or independent schools. However, the model policy provided by the LA is recommended to all schools purchasing the LA HR Advisory Service traded service.

It is important for schools to use and respond accurately to the terminology utilised in the procedure. There is a difference between a 'legal requirement' and 'good practice'. The policy should use 'must' where a school has a duty, but use 'can' where schools have a power but not a duty, under statutory or common law. Where 'should' is used this reflects advice on good practice. Where a procedure states that a school 'should' do something which they then choose not to do, if escalated to the DfE for further consideration, the school may be asked to provide a written explanation for the reasons why they deviated from best practice. Therefore, if schools do not, on occasion, adhere to a part of the procedure which 'should' be followed they are advised to minute the reasons why.

1. Context

Governing Boards are legally required to publicise their Complaints Procedure. The Governing Board must decide how to fulfil this requirement, but details of the Complaints Procedure could be included in:

- The school website;
- The school prospectus;
- Any report/communication from the governors to parents;
- Information given to new parents when their children join the school;
- Information given to the children themselves;
- The home-school agreement;
- 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 the main entrance or reception area of the school and other areas used by the public.

2. Managing Complaints

An effective Complaints Procedure will:

- encourage resolution of problems by **informal** means wherever possible *(active listening, discussion, seeking agreement on way forward)*;
- be easily **accessible** and **publicised**;
- enable anyone to make a complaint about any provision of facilities or services that the school provides unless other statutory procedures apply
- be **simple** to understand and use;
- avoid using ambiguous language (*wherever possible stating what the school "will "do rather than "should" or "may"*)
- be **impartial**;
- be **non-adversarial;**

- allow **swift** handling with established **time-limits** for action and keeping people informed of progress;
- ensure a full and **fair** investigation*, (by an independent person where necessary);*
- Provide the opportunity to complete the complaints procedure in full
- respect people's desire for **confidentiality;**
- ask the complainant at the earliest stage what they think might resolve the issue
- address all the points at issue and provide an **effective** response and **appropriate** redress, where necessary;
- Advise the complainant of any escalation options at each stage of the procedure
- provide **information** to the school's senior management team so that services can be improved.

3. Investigating Complaints at the Formal Stage

The investigator's role is to provide a comprehensive, open, transparent and fair consideration of the complaint. The person investigating the complaint should have no prior involvement with the circumstances of the complaint, and undertaking this role should be appropriate to their position, status and remit. The investigator should make sure that they:

- clarify the nature of the complaint and what remains unresolved;
- meet with the complainant or contact them (if unsure whether further information is necessary);
- carry out sensitive and thorough interviewing of the complainant to establish what has happened and who has been involved;
- effectively liaise with the complainant and complaints co-ordinator to clarify what the complainant feels would put things right;
- interview relevant individuals separately from others involved in the matter (including children/young people where appropriate) and/or those complained of, allowing them to be accompanied if they wish;
- consider all appropriate / relevant information, specific to the complaint;
- conduct interviews with an open mind (to find out facts not judgements) and, within reason, be prepared to persist in the questioning;
- analyse the information assembled;
- provide an assessment of whether the complaint should be upheld in full or in part or not at all;
- identify solutions and recommended courses of action to resolve problems;
- are mindful of timescales for presenting a response,
- respond in plain and clear language; and
- keep notes of all interviews or arrange for an independent note taker to record minutes of the meeting(s). Share notes of interviews with interviewees in order to agree accuracy.

[See best practice tips for interviewing in accompanying document, 'Top Tips for Headteachers and Governors'.]

Complaints should be treated separately. Where there are overlapping complaints submitted by different stakeholders the responses should be tailored for each recipient and not include additional detail relevant to an issue raised by another complainant.

4. Resolving Complaints

It is important to be aware from the outset of the ways in which a complaint can be resolved. It might be sufficient to acknowledge that the complaint is valid in whole or in part, or not at all. 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.

Even if the complaint is not upheld it is useful to encourage complainants to indicate 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. In this respect it may be necessary to make complainants aware of the range of reasonable and appropriate outcomes in relation to the specific nature of their complaint, in order to manage expectations.

It is important to identify areas of agreement between the parties and clarifying any misunderstandings that might have occurred can also create a positive atmosphere in which to discuss any outstanding issues.

5. Remit of The Complaints Panel

Governors sitting on the Complaints Panel need to be aware, and have a copy, of the Complaints Procedure. The school should ensure that arrangements have been made for the hearing to be minuted by the clerk to governors or other appropriate person. They should determine who will chair the meeting and distribute an agenda. (Procedure of hearing is included in the paragraph detailing Formal Stage 3 of the process, commencing on p14 below). No governor may sit on the panel if they have had a prior involvement in the complaint or the circumstances surrounding it. In deciding the make-up of the panel, the governors need to try and ensure that there is a cross section of the categories of governor and that there is sensitivity to the issues of race gender and religious affiliation.

The aim of the hearing is to resolve the complaint. The Complaints Panel should:

- Consider the complaint in an independent and impartial way and must be seen to do so.
- Consider the complaint in private and confidentially.
- Resolve the complaint and achieve reconciliation between the school and the complainant.
- Recognise the complainant might not be satisfied with the outcome if it does not find in their favour.

- Consider the facts of the case and make recommendations which will satisfy the complainant that the complaint has been taken seriously.
- Acknowledge that a complainant may feel nervous and inhibited in a formal setting, and that parents often feel emotional when discussing an issue that affects their child.
- Ensure that the proceedings are as welcoming as possible and that the layout of the room will ensure the setting is informal and not adversarial.
- Take extra care when the complainant is a child, so the child does not feel intimidated.
- Give the views of children equal consideration to those of adults.
- Where the child's parent is the complainant, give the parent(s) the opportunity to say which parts of the hearing, if any, their child needs to attend.

6. Time Limits

- Complaints need to be considered, and resolved, as quickly and efficiently as possible, within the time limits set within each stage of the procedure. In circumstances where further investigations are necessary new time limits can be set and the complainant should be sent details of the new timescale and an explanation for the delay.
- The Department for Education does not consider excessive time limits to be reasonable or acceptable, except in extenuating circumstances.
- It is reasonable to expect individuals to make a complaint as soon as possible after an incident arises and a time limit of three months from the incident in question is a reasonable allowance. There may be good reasons why someone has not made a complaint earlier (e.g. they did not hear about, or were not fully aware of the implications of, an incident until a later date). In the light of this, the school should indicate that they are willing to consider exceptions. Schools should not have blanket policies of refusing to consider any complaints not lodged within the stated period.

7. Recording Complaints

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

- A complaint may be made in person, by telephone or in writing.
- In order to prevent any later challenge or disagreement over what was said, brief notes of meetings and telephone calls should be kept and a copy of any written response added to the record.
- Where there are communication difficulties the school may wish to use recording devices to ensure the complainant is able to access and review the discussions at a later point (consider this adjustment in advance and seek legal advice).
- The Headteacher (or complaints co-ordinator) should arrange for a **confidential** record to be kept in a centrally held complaints file, of the nature and progress of all complaints, when they were made, and their final outcome.
- Schools should be aware that complainants have a right to copies of these records under the Freedom of Information and Data Protection Acts. Where such requests

are made schools should contact the LA for advice and individuals may wish to seek the advice of their professional association.

- The Chair of Governors should complete the record for any complaint made against the Headteacher.

The purpose of the Record is for monitoring purposes only and not as a source of information for future staff references or other issues. Where a number of complaints involving a particular staff member are received, this should not affect the approach to the investigation of a further complaint. (i.e. there should be no assumptions made)

8. The Role of the Governing Board

If a School Governor is directly approached by a complainant, it is important that the Governor clarifies that they can only give general advice about how their complaint might be dealt with. The Governor should encourage the complainant to contact the school where arrangements will be made to attempt to resolve the complaint informally in the first instance. The Governor should also inform the Headteacher and Chair of Governors about the complaint as soon as possible. If it becomes clear that the complaint is about the Headteacher, the complainant should be advised to contact the Chair of Governors.

It is important to note that when a Governor becomes involved in this way they cannot take part in any of the formal procedures which may follow. It may, however, be appropriate for them to accompany the complainant to a planned meeting with a member of staff or the Headteacher. This would normally only be necessary if the complainant appears uncomfortable about attending a meeting with the member of staff or Headteacher.

Complaints should not be shared with the whole Governing Board, except in very general terms, in case an appeal panel needs to be arranged. Governing Boards can monitor the level and nature of complaints and review the outcomes on a regular basis, to ensure the effectiveness of their procedure, making changes where necessary. Information about complaints presented to the Governing Board for monitoring purposes should not name individuals in case an appeal panel needs to be set up.

The monitoring and review of complaints by the school and the Governing Board can be a useful tool in evaluating a school's performance and contribute to school improvement. As well as addressing an individual's complaints, the process of listening to, and resolving, complaints may identify underlying issues that need to be addressed and ensure more effective school management and routines, e.g. reviewing the anti-bullying policy.

The frequency with which the school complaints procedure must be reviewed is determined by the Governing Board (GB). Every two or three years is quite typical. Responsibility for reviewing the procedure may be delegated to a committee of the Governing Board or the Headteacher. If projected review dates are published on the policy document, they should be adhered to. Failure to do so could constitute a failure to adhere to a policy. Reviews should also be considered in the event that new guidance or legislative changes are introduced by the Department for Education.

If the school does not adopt the model policy provided by the Local Authority, it will be necessary to consult all stakeholders and negotiate an alternative Complaints Policy with the relevant trade unions and professional associations

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Complaints Procedure

What follows is a detailed description of the actions to be taken, time frames, relevant communications and considerations relevant to particular circumstances, at each stage of the procedure. It is strongly advised that school leaders familiarise themselves with this guidance and refer to it whenever the procedure needs to be implemented, together with the Complaints Procedure for External Complaints as adopted by the school.

1. **How will complaints be handled**?

Informal Stage

It is important to be clear about the difference between a concern and a complaint. The school will take informal concerns seriously at the earliest stage. In most cases concerns are successfully resolved informally through discussions with the Headteacher or, if appropriate, with the staff member. **Heads/Complaints Co-ordinators should not arrange for concerned individuals to meet with staff without their specific agreement.** The initial contact with the school may be by telephone, email or in writing, to make appropriate arrangements. The sharing of concerns at this stage will reduce the numbers that develop into formal complaints. It is anticipated that most concerns will be handled without the need for formal procedures.

- Where the staff member has agreed to a meeting, if the concerned individual feels that they would have difficulty discussing the matter with the particular member of staff, arrangements will be made by the Complaints Co-ordinator/Headteacher for another, probably more senior, staff member to hear the concerns. Similarly, the member of staff involved may not wish to deal with the issue themselves and ask for a referral to another staff member.
- Where the matter is clearly a complaint, rather than a concern then the complainant should refer it to the Complaints Co-ordinator/Headteacher.
- Complaints concerning Data Protection and Freedom of Information should be directed in the first instance to the Data Protection Officer. Who will determine the most appropriate course of action depending on the nature of the complaint.
- Where the first approach is made to a governor, the next step would be to refer the complainant to the Complaints Co-ordinator/Headteacher and advise them of the procedure. It is important for governors to be aware that they should not act unilaterally outside the formal procedure or be involved in the early stages of a complaint.
- Where a complaint concerns the Headteacher, the matter will be referred to the Chair of Governors.
- Complaints against the Chair of Governors or any individual governor should be made in writing to the Clerk to the Governing Board. The clerk will then arrange for the complaint to be heard. This could be done by a suitably skilled and impartial member of the Governing Board (stage 1) and then a committee of members of the Governing Board (stage 3). Alternatively. it might be appropriate to refer to the complaint to an independent governor for investigation and response and if required at stage 3, can be heard by a committee of co-opted governors from other schools.

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- Complaints against the entire Governing Board or complaints involving both the chair and vice chair should be sent to the clerk, who, in will notify the LA who will then determine the most appropriate course of action. This will depend on the nature of the complaint. This may involve sourcing an independent investigator to complete stage 1 and co-opted governors from other schools to hear the complaint at stage 3.

Formal Stage

There are normally at least two stages to a formal complaints procedure. The model below contains three stages. The stages of this model Complaints Procedure are outlined in detail in the flowchart - Appendix 1 of the Complaints Procedure.

If the complaint is:

- jointly about the Chair and Vice Chair or
- the entire Governing Board or
- the majority of the Governing Board

there will be two stages. Stage 1 will be considered by an independent investigator appointed by the Governing Board or (<insert Diocese details if appropriate>) in consultation with the Local Authority. At the conclusion of their investigation, the independent investigator will provide a formal written response and stage 3 will be heard by a committee of co-opted governors from other schools.

FORMAL STAGE 1 (Complaint heard by Headteacher)

If unresolved through informal discussion with the Headteacher or relevant staff member offered by the school, the complainant may submit their concerns formally in writing to the Complaints Co-ordinator (*enter name here where one is appointed or designate the Headteacher to receive complaints*), using the form attached to the Complaints Procedure as Appendix 2. This may be by email, but consideration should be given to the confidentiality of the email address.

It is important that the form or any other correspondence includes name, contact details, nature of complaint and any suggested resolution to the complaint. Where there is any reason that that the complainant does not wish to submit their complaint in writing, they should approach the school to request that should arrangements are made to take down the required information and details on their behalf.

The School Complaints Co-ordinator (where one is appointed) will refer the complaint to the Headteacher who may delegate an appropriate staff member to collect and collate the information, but the Headteacher will make the decision on the action to be taken.

A meeting with the complainant should be offered, as part of the investigation, in order to ascertain whether they have further information to offer.

Clarification should be sought as to what the complainant feels would put things right. The investigation may have to respond to a complainant's dissatisfaction with the way their complaint was handled at the informal stage as well as the initial complaint. The Headteacher will report back to the complainant and inform the School Complaints Co-

ordinator (where applicable) of the outcome. If actions are agreed with the complainant, in response to the concerns raised, the Headteacher will inform any other relevant staff members. Where appropriate, arrangements to keep the complainant informed of progress will be made.

The School Complaints Co-ordinator should liaise with the Headteacher to ensure that:

- The complaint is acknowledged within three working days.
- The investigation takes place (probably including a meeting with the complainant) and a decision is made on how best to resolve it within a further fifteen working days unless they have informed the complainant that further time will be needed, in the circumstances.
- The complainant receives a response in writing clearly explaining the outcome of the investigations and conclusions so that the complainant can understand the rationale for the decision and the Headteacher may meet with them (as appropriate to the situation) to provide their findings and the outcome of the complaint.
- They receive a note of the findings/outcome of the complaint, for the record and in case the complaint progresses further through the procedure.
- The complainant is advised that if they are dissatisfied with the outcome, they may refer their complaint to the Chair of Governors at Formal Stage 2.
- The Chair of Governors is informed that a Formal Complaint has been received and what action has been taken to provide a response, without discussing the nature of the complaint at this stage.

In the event the complaint is about the way in which the school has dealt with a complaint or the complaint is about the Headteacher, the Complaints Co-ordinator will refer the written complaint submission, preferably on the form provided, to the Chair of Governors. It will be dealt with directly at Formal Stage 2. *(If the Headteacher is the Complaints Co-ordinator, please make this clear in the procedure and clarify that the form should be submitted directly to the Chair, when the complaint concerns the Headteacher.)* The Chair will need to complete the record of the complaint in these circumstances, rather than the Complaints Co-ordinator.

The Headteacher should assess whether the situation surrounding the complaint is affecting members of staff adversely and put in place measures to mitigate this, including use of in-school mentor, advising contact with trade union representatives, referrals to occupational health and directing to available counselling, as appropriate.

FORMAL STAGE 2 (Complaint heard by Chair of Governors)

If the complainant is unsatisfied with the response and wishes to pursue the matter further, through the procedure, the complainant should write to the Chair of Governors within 10 days and that letter should include:

- Their name
- The nature of their complaint
- Where appropriate, the reasons why they were unhappy with the Headteacher's decision
- Any resolution they seek
- How they can be contacted

The letter should not be sent to other governors or to the clerk to governors to be submitted to a Governing Board Meeting. This is because other governors may be needed if the complaint is progressed further through the formal procedure. To fulfill such a role, they must not have had prior involvement in the complaint

The Chair of Governors should:

- Acknowledge the letter within three working days of receipt. (Complainants need to be aware that governors are not employees and may not receive the communication immediately. Envelopes marked 'private & confidential' will not be opened in their absence.) The Chair may nominate another governor to investigate, for personal or contextual reasons. Apart from the 'nominated governor', the Chair must not involve any further governors or report any detail to the Governing Board at this stage. **They should first contact the complainant to ascertain whether it is necessary to meet with them in order to fully understand their complaint.**
- Review the investigation conducted at stage 1 and carry out further enquiries if required. Where the Chair/nominated governor receives a complaint, they will investigate and speak to everyone involved as soon as practicable. The investigation will usually be completed within fifteen working days. (It is important to remember that governors are volunteers and may have their own work commitments.) If the complaint is about the Headteacher, this will be the first formal investigation of the complaint, as it will have been directly referred to the Chair.
- Provide a written response with the outcome of the complaint, this should clearly explain the outcome and the conclusions of the investigation so that the complainant can understand the rationale for the decision. This should be within a further five working days, unless additional time is arranged.
- Advise the complainant that if they are dissatisfied with the outcome, they may refer the complaint to the Complaints Panel of the Governing Board at Formal Stage 3.

The timescales indicated in the Complaints Procedure are those which are expected in normal circumstances. Where the complaint is detailed and/or requires an extensive investigation the timescales may be increased. The complainant should be informed in writing of any variations to the timescales indicated and given a revised timetable for resolving their complaint.

FORMAL STAGE 3 (Complaint heard by Governors' Complaints Panel)

If the complainant is dissatisfied with the outcome of the Chair of Governor's investigation, they should write to the Clerk to the Governing Board, within 10 working days of receiving the response, stating why, and request that their complaint be referred to the Complaints Panel of the Governing Board.

The Complaints Panel will comprise three Governors who have not previously been involved in the complaint and/or do not have a personal or pecuniary interest. It will not usually be appropriate for the Complaints Panel to include teacher or staff Governors. If there are insufficient available governors to form a panel without including staff member(s), the Chair of Governors may take advice (LA Governor Support helpline 01629 535769) and determine whether: -

- Inclusion of staff governors is appropriate given the substance of the complaint, their pecuniary interest and willingness to join the panel. If inclusion of a staff

governor is proposed, the agreement of the complainant and any member of staff who is the subject of the complaint must also be secured.

- The panel will comprise only 2 members, in this instance. In such cases, if the panel disagrees on their judgment of the case, the decision of the Chair of the Complaints Panel would prevail. The robustness of a panel with only 2 members would be strengthened if the school had secured an officer of the LA to advise the panel.
- Experienced Governor(s) of other similar schools may be sought to serve on the panel. Where the school is a Church of England Voluntary Aided or Controlled school, the Diocese may be able to suggest suitable individuals. For community schools, the Governor Support Service may be able to help with access to experienced Local Authority governors.

Where the complainant is a child extra consideration will be given to the atmosphere of the proceedings, aiming to ensure that the child does not feel intimidated. The views of the child need to be given equal consideration to those of adults. The Chair should ensure that the proceedings are as welcoming as possible. The layout of the room should be designed to be as informal as possible in the circumstances and not adversarial.

The Clerk will convene a meeting of the Complaints Panel within 15 working days of the request, or as soon as is reasonably practicable.
At least 5 working days before the meeting, members of the Complaints Panel, Headteacher/Chair and complainant will be provided with all papers to be considered at the hearing, which should include, as appropriate:

- A copy of the original complaint
- A copy of the outcome at Formal Stage 1
- A copy of the letter to the Chair of Governors from the complainant expressing their dissatisfaction with the outcome at Formal Stage 1 and stating that they wish to proceed to Stage 2
- A copy of the letter sent to the complainant about the outcome at Formal Stage 2
- A copy of the letter from the complainant expressing their dissatisfaction with the outcome at Formal Stage 2 and requesting that the complaint is heard by the Complaints Committee

The complainant should be invited to attend the meeting to state their case and should be offered the opportunity to be accompanied by a friend or other adult if they wish. Normally children should not attend. (The Complaints Panel may decide that it would be inappropriate for the child to attend the meeting having regard to their age, maturity and the nature of the complaint and may request that representations are submitted by a different method i.e. through written submission in advance or made on their behalf by parents.) If the Complaints Panel thinks that it would be helpful for a child to be present the Governors will be required to seek the permission of the parents. The complainant does not have to attend the meeting in which case the Complaints Panel will consider the documentary evidence provided by the complainant.

Witnesses may not need to be invited as their information will have been included in the Headteacher/Chair's investigation report. However, if the complainant or the headteacher feel that the presence of a witness is particularly crucial, to confirm the detail of the information they have provided, this may be arranged.

The Headteacher and/or Chair of Governors should be invited to attend the meeting to state their case. They do not have to attend a meeting in which the Complaints Panel will consider the documentary evidence relating to any investigation(s) the Headteacher or Chair of Governors carried out.

The role of the panel is to consider the complaint afresh and may consider new evidence presented by either the school or the complainant. If new evidence is presented by either the school or the complainant, the panel will take it into consideration if they decide it is reasonable to do so.

The aim of the hearing will always be to resolve the complaint and achieve reconciliation between the school and the complainant.

The panel needs to take the following points into account:

- The hearing is as informal as possible.
- Witnesses should only attend for the part of the hearing in which they give their evidence.
- After introductions, the remit of the panel should be confirmed.
- Clarification of time allocation/constraints and any potential for adjournment
- Check all parties have all documentation.
- Complainant is invited to explain their complaint and be followed by their witnesses.
- The Headteacher may question both the complainant and the witnesses after each has spoken.
- The Headteacher is then invited to explain the school's actions and be followed by the school's witnesses.
- The complainant may question both the Headteacher and the witnesses after each has spoken.
- The panel may ask questions at any point.
- The complainant is then invited to sum up their complaint.
- The Headteacher is then invited to sum up the school's actions and response to the complaint.
- Complainant and Headteacher leave together while the panel decides on the issues.
- The chair of the panel explains that both parties will hear from the panel within five working days (or a set timescale where there are reasons that more time will be needed)

Advice on conducting a complaint hearing may be sought from the Local Authority Governor Support Service. In exceptional circumstances the Chair may wish to request the attendance of an appropriate LA officer to provide advice and guidance to the panel. Attendance by an appropriate officer would be part of the authority's traded services and subject to availability. That person would not have any role in deciding the outcome but would advise on procedure.

The chair of the panel should arrange for notes, to aid the panel's decision, to be taken during the hearing. Schools may wish to seek the services of their clerk to governors in such circumstances.

In the event that there are further questions the panel needs to ask in relation to the information presented and if this is not possible at the time, the meeting may be adjourned and re-convened at a mutually convenient time. The panel will determine whether only they need to reconvene, having asked for the answers to be submitted in writing, or whether all parties should again be present in order to conclude the hearing. This should be as quickly as possible and, wherever practicable, within five working days.

The panel can:

- dismiss the complaint in whole or in part;
- uphold the complaint 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.

The panel may determine an alternative outcome to the complaint, based on the same information, where appropriate.

The aim of the hearing is always to resolve the complaint and achieve reconciliation between the school and complainant. However, it is recognised that the complainant may not be satisfied with the outcome, if the hearing does not find in their favour. It may only be possible to establish the facts and make recommendations which will satisfy the complainant that his or her complaint has been taken seriously

The decision of the panel is the end of the school-based process.

If the complaint is:
• jointly about the Chair and Vice Chair or
• the entire Governing Board or
• the majority of the Governing Board

Stage 3 will be heard by a committee of independent governors**.**

If a complaint panel meeting is arranged on an ad-hoc, informal basis, governors will need to be sourced who are:

- suitably skilled & trained
- can demonstrate their independence

You can approach governors from any:

- category of governor
- associate member of another Governing Board

Maintained schools can ask governors in academies to serve on a complaints panel and vice versa.

The exception to this is when a maintained school wishes to appoint a standing committee to hear all the complaints they receive under the committee's tenure. To appoint governors from another school onto the Complaints Committee, you must enter into a formal collaborative arrangement with another maintained school.

If appropriate, the clerk could ask for support from the governor services team at the local authority/diocese.

The Role of the Local Authority

The LA has no statutory role in resolving complaints other than those listed as not in scope of the procedure identified in the table contained in the Complaints Procedure. The authority is not able to review the school's response to a complaint and is not an appeal body.

The Role of the Complainant

The person making the complaint will receive a more effective response if he/she: -

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

The Role of the Complaints Co-ordinator (or Headteacher)

The Complaints Co-ordinator/Headteacher should: -

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

It is advised that consideration is given to whether the subject of the complaint needs/would like support. While the Complaints Procedure is not a staff management policy in the same category as Disciplinary or Managing Allegations procedures, it may still be appropriate to suggest that the staff member may want to consult their trade union/professional association for advice and/or support.

The Role of the Chair of the Governing Board or Nominated Governor

The nominated governor role:

- Check that the correct procedure has been followed

- Investigate and produce a response, where the complaint reaches Formal Stage 2
- If a hearing is requested, notify the clerk to arrange the panel.

The Role of the Chair of the Panel

The Chair of the panel has a key role, ensuring that:

- the remit of the panel is explained to the parties, and each party has the opportunity of putting their case without undue interruption;
- the meeting is minuted;
- the issues are addressed;
- key findings of fact are made;
- parents and others who may not be used to speaking at such a hearing are put at ease (particularly important if the complainant is a child/young person);
- the hearing is conducted in an informal manner with each party treating the other with respect and courtesy;
- the layout of the room sets the right tone – care taken to ensure the setting is informal and not adversarial;
- the panel is open minded and acts independently;
- no member of the panel has a vested interest in the outcome of the proceedings or any involvement in an earlier stage of the process;
- both the complainant and the school are given an opportunity to state their case and seek clarity;
- written material is seen by all parties provided it does not breach confidentiality or any individual's rights to privacy under the DPA 2018 or GDPR. If a new issue arises it would be useful to give all parties the opportunity to consider and comment on it. This may require a short adjournment of the hearing.

The panel chair should liaise with the Clerk and Complaints Co-ordinator to ensure arrangements and communication are robust.

The Chair of the panel should liaise with the Headteacher to ensure that feedback is provided to any member of staff involved with a complaint and learning points communicated, where relevant. Likewise, learning for school leaders to take on board in managing and developing staff should be discussed.

The Role of the Panel Clerk (This could be the Clerk to the Governors or Complaints Co-ordinator)

It is strongly recommended that any panel or group of governors considering complaints be clerked. The clerk would be the contact point for the complainant and be required to;

- set the date, time and venue of the hearing, ensuring the dates are convenient to all parties and that the venue and proceedings are accessible;
- collate any written material and send it to all parties in advance of the hearing (recommended at least 5 working days in advance);
- meet and welcome the parties as they arrive at the hearing;
- record the proceedings;
- notify all parties of the panel's decision,
- liaise with the Complaints Co-ordinator.

As best practice the Clerk should share copies of the meeting minutes with all parties involved in the hearing, providing a reasonable opportunity for the minutes to be agreed and if necessary, challenged. It is not unknown for complainants to raise additional complaints because they do not agree with the record of the meeting.

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Checklists

Informal Stage

- ☐ Concerns (as opposed to formal complaints) referred to relevant staff members
- ☐ Complaint (as opposed to concerns above) referred to Complaints Co-ordinator (who may be Headteacher)
- ☐ Receipt of Complaint recorded and dated
- ☐ Complaint referred to relevant member of staff (or Chair)
- ☐ Complaints Co-ordinator receives notification that matter has been dealt with and records, with date

Formal Stage 1

- ☐ Complaint received in writing (including by email) by Complaints Co-ordinator, use of form encouraged
- ☐ Complaint record opened
- ☐ Check with LA, Children Services complaints co-ordination (*enter contact)* for guidance, where necessary (& contact made with specialist officer where appropriate)
- ☐ Complaint acknowledged in writing within 3 school working days
- ☐ Investigation delegated to appropriate staff member/independent investigator.
- ☐ Contact made with complainant to check whether meeting is required
- ☐ Timescale for response agreed if more than 15 school working days needed
- ☐ Written response sent to Complainant, meeting offered if appropriate
- ☐ Resolution reported to Complaints Co-ordinator and recorded
- ☐ Complainant is advised of how to progress their complaint if unsatisfied
- ☐ Chair of Governors informed, formal complaint has been dealt with

Formal Stage 2

- ☐ Referral (received within 10 school working days) of complaint to Chair of Governors is reported to Complaints Co-ordinator for record. (If Complaints Co-ordinator is subject of complaint they can still make this administrative record)
- ☐ Chair determines whether to investigate or nominate another governor
- ☐ Complaint acknowledged within 3 school working days
- ☐ Investigation at Stage 1 reviewed
- ☐ Need to meet with Complainant considered – agree timescale for response

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- ☐ Carry out own investigations
- ☐ Provide written response within 15 school working days
- ☐ Complainant informed of how to progress their complaint if unsatisfied, within 10 days of receipt of response.
- ☐ Complaints Co-ordinator informed of response, records and dates

Formal Stage 3

- ☐ Referral of Complaint to Stage 3 received by Clerk to Governors within 10 school working days
- ☐ Receipt of Complaint acknowledged
- ☐ Complaints Co-ordinator informed of referral, for administrative record.
- ☐ Clerk calls meeting of Complaints Panel within 15 school working days of receipt (or asap by arrangement with complainant and other invitees)
- ☐ Complainant invited to meeting and given procedure
- ☐ All documents for meeting circulated to all parties at least 5 school working days before meeting
- ☐ Check LA advice where necessary
- ☐ Provision made for witness, if necessary
- ☐ Arrangements for venue etc. finalised
- ☐ Clerking of meeting arranged
- ☐ Meeting arrangements checked
- ☐ Brief the clerk
- ☐ Establish any time constraints
- ☐ Check all attending
- ☐ Check all parties including any witnesses are attending
- ☐ Send panel's decision to complainant with findings of fact and any actions to resolve the complaint within 5 school working days and that is end of cohort procedure but provide information on School Complaints Unit
- ☐ Inform Complaints Co-ordinator
- ☐ Ensure any actions determined by the panel are followed up

Top Tips for Headteachers and Governors

For Managing External Complaints

The suggestions below arise from the experience of Local Authority officers advising and supporting schools when responding to complaints and, particularly, when hearing from complainants who have been dissatisfied with how their complaint has been handled by a school.

They reflect the most common concerns either raised by the complainants and issues identified by officers, which hinder swift and amicable resolutions.

1. Remember the power of meeting someone with a concern/complaint, enabling them to feel they have been listened to and taken seriously. Efforts to understand and acknowledge, committed early in an issue, can often avoid the problem becoming entrenched and the complainant intractable.

2. Be clear on the timescales within which the complainant will receive contact. If more time is needed due to contextual factors or increased complexity, liaise with the complainant.

3. Try to avoid being defensive. When a Headteacher immediately assesses that the school is not likely to be 'at fault' and shows this, the complainant can feel that they have not been heard and their concern will not be looked into fairly.
   (Complainants have been known to say that Headteachers can be patronising or 'on their high horse' when receiving criticism of the school).

4. When a complaint reaches the Chair of Governors, it is important that their role at this time is one of 'employer'. It is excellent to hear how supportive most Chairs of Governors are of the Headteacher and staff of their schools, but it is important to take a neutral stance in receiving the complaint. However strong the working relationship and mutual respect, it is helpful to remember that the role of the Chair, in the Complaints Procedure, is not as the Headteacher's friend. (It is common for those approaching the LA with concerns about how their complaint is being handled to say, 'the Chair is in league with the Head, they will sweep it under the carpet').

5. It is understandable that, when a Headteacher or Governor concludes an investigation, and reaches the judgement that the school staff have behaved correctly and fairly, they completely rebut the complaint. However, it is important in re-establishing a good relationship with the complainant to acknowledge the feelings involved, to show recognition of what was at the root of their concern.

6. A better outcome often results from the school finding some area in which 'lessons can be learned', policies further improved, or regrets expressed for any negative experiences, even where the school is not substantially in error. This promotes a positive feeling that the process has been productive, and their issues understood. (The best result looks for a win-win).

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7. Follow the procedure carefully. It goes without saying but it seems that dealing with complaints is often made more difficult for schools because not enough attention was initially paid to implementing the procedure correctly.
   It may seem time consuming but conducting a thorough investigation and providing a considered response at the earliest stage is very likely to save time in the long run.

8. Keep in mind the long-term relationship with the individual/family concerned in responding to the complaint. We find that dissatisfaction with the **process** of receiving a response to their complaint tends to significantly increase the submission of further complaints and the wider expression of that dissatisfaction to other members of the school community/ external bodies.

Best Practice Tips for Interviewing

Children/Young People

- Children/young people should be interviewed in the presence of another member of staff, or in the case of serious complaints (e.g. where the possibility of a criminal investigation exists) in the presence of parents/carers. However, in such cases schools will need to first check with the Local Authority Designated Officer (LADO) and check the 'Managing Allegations' procedure to check whether the complaint should be considered under the safeguarding procedures.

- Care should be taken not to create an intimidating atmosphere.

- Children/ young people should be told what the interview is about and that they can have someone with them.

Staff/Witnesses

- Explain the complaint and your role clearly to the interviewee and confirm that they understand the Complaints Procedure and their role in in it.

- Staff are allowed to be accompanied for support at their interview (but not by a colleague who is likely themselves to be interviewed. This may include a colleague form another educational establishment).
- Use open, not leading questions.

- Do not express opinions in words or attitude.

- Ask single not multiple questions.

- Try to separate 'hearsay' evidence from fact by asking interviewees how they know a particular fact.

- Within reason, persist with questions if necessary. Do not be afraid to ask the same question twice. Make notes of each answer.

- Deal with conflicting evidence by seeking corroborative evidence. If this is not available, discuss with the Complaints Co-ordinator/Headteacher/Chair the option of a meeting between conflicting witnesses.

- Make a formal record of the interview from the written notes as soon as possible while the memory is fresh. Show the interviewee the formal record, ask if he/she has anything to add and to sign the record as accurate.