

HEMLINGTON HALL ACADEMY



Complaints Policy

Overview

1. Since 2003, Governing Bodies (GBs) of all maintained schools and maintained nursery schools in England have been required, under Section 29 of the Education Act 2002, summarised in Annex A, 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. The law also requires the procedure to be publicised.
2. The majority of schools already have a complaints procedure in place, generally based on Local Authority (LA) or Diocesan Board models. This document is intended to help schools draw up a complaints procedure if they have not already done so, or to review their existing procedure if they wish. A framework of principles can be found at paragraph 8. LAs are already required to set up a procedure for dealing with certain types of complaints, for example, complaints about the curriculum or collective worship in a school. The GB's complaints procedure does not replace the arrangements made for those types of complaint. In addition, there are certain complaints which fall outside the remit of the GB's complaints procedure, for example, staff grievances or disciplinary procedures. It is recommended that the governing body 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.
3. When schools draw up their procedure it is recommended that local teacher associations and LAs be involved. An example of a procedure, which schools might find helpful, is at Annex B.

This note does not represent Statutory Guidance issued by the Secretary of State.

Part 1: General Principles of complaints

Dealing with Complaints – Initial concerns

4. Schools need to be clear about the difference between a concern and a complaint. Taking informal concerns seriously at the earliest stage will reduce the numbers that develop into formal complaints.
5. These key messages deal with complaints but the underlying principle is that concerns ought to be handled, if at all possible, without the need for formal procedures. The requirement to have a complaints procedure need not in any way undermine efforts to resolve the concern informally. In most cases the class teacher or the individual delivering the service in the case of extended school provision, will receive the first approach. It would be helpful if staff were able to resolve issues on the spot, including apologising where necessary.

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Dealing with Complaints – Formal procedures

6. The formal procedures will need to be invoked when initial attempts to resolve the issue are unsuccessful and the person raising the concern remains dissatisfied and wishes to take the matter further.

7. Schools might wish to nominate a member of staff to have responsibility for the operation and management of the school complaints procedure. For Hemlington Hall, the school's 'complaints co-ordinator' is the Head Teacher Mrs Edmenson.

Framework of Principles

8. 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

9. It is suggested that at each stage, the person investigating the complaint (the complaints co-ordinator), makes sure that they:

- 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.

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Resolving Complaints

10. 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.

11. 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.

12. 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

13. 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.

Time Limits

14. 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.

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Part 2: The Formal Complaints Procedure

The Stages of Complaints

15. An efficient school complaints procedures will have well-defined stages. A flow chart of suggested stages can be found in Annex C. At each stage it would be helpful to clarify exactly who will be involved, what will happen, and how long it will take. There may, on occasion, be the need for some flexibility; for example, the possibility of further meetings between the complainant and the member of staff directly involved and further investigations may be required by the headteacher after a meeting with the complainant. Both of these examples could be included.

16. Three school-based stages are likely to be sufficient for most schools:

- Stage one: complaint heard by staff member (though not the subject of the complaint);
- Stage two: complaint heard by head teacher;
- Stage three: complaint heard by GB's complaints appeal panel;

In very small schools it may be necessary to go straight to stage 2.

17. Regardless of how many stages the school chooses, an unsatisfied complainant can always take a complaint to the next stage. Some procedures may allow for an additional stage if the LA, Diocese Body (DB) or other external agency provides an independent appeal or review.

18. An effective procedure will specify how a complaint will be dealt with if it concerns the conduct of the headteacher or a governor or where a headteacher or governor has been involved in the issue previously.

19. An example of a complaints procedure can be found in Annex B.

Part 3 – Managing and Recording Complaints

Recording Complaints

20. It would be useful for schools to record the progress of the complaint and the final outcome. A complaint may be made in person, by telephone, or in writing. An example of a complaint form can be found in Annex D. 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.

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21. The complaints co-ordinator could be responsible for the records and hold them centrally.

Governing Body Review

22. The GB can monitor the level and nature of complaints and review the outcomes on a regular basis to ensure the effectiveness of the procedure and make changes where necessary. Preferably, complaints information shared with the whole GB will not name individuals.

23. As well as addressing an individual's complaints, the process of listening to, and resolving complaints will contribute to school improvement. When individual complaints are heard, schools may identify underlying issues that need to be addressed. The monitoring and review of complaints by the school and the GB can be a useful tool in evaluating a school's performance.

Publicising the Procedure

24. 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;
- the governors' report 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.

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Annex A

Section 29 of the Education Act 2002 requires that:

- (1) The governing body of a maintained school (including a maintained nursery school) shall –
 - (a) establish procedures for dealing with all complaints relating to the school or to the provision of facilities or services under section 27, other than complaints falling to be dealt with in accordance with any procedures required to be established in relation to the school by virtue of a statutory provision other than this section, and
 - (b) publicise the procedures so established.
- (2) In establishing or publicising procedures under subsection (1), the governing body shall have regard to any guidance given from time to time (in relation to England) by the Secretary of State.

Section 39 of the Education Act 2002 provides the following:

“maintained school” means a community, foundation or voluntary school, a community or foundation special school or a maintained nursery school;

“maintained nursery school” means a nursery school which is maintained by a local education authority and is not a special school;

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Annex B

Hemlington Hall Complaints Procedure

Stage One: 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 complaints co-ordinator can refer the complainant to another staff member. Where the complaint concerns the headteacher, the complaints co-ordinator can refer the complainant to the chair of governors.

Similarly, if the member of staff directly involved feels too compromised to deal with a complaint, the complaints co-ordinator 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.

Stage Two: Complaint Heard by Head teacher

The head teacher's influence will already have shaped the way complaints are handled in the school. At this point, the complainant may be dissatisfied with the way the complaint was handled at stage one as well as pursuing their initial complaint. The head may delegate the task of collating the information to another staff member but not the decision on the action to be taken.

Stage Three: Complaint Heard by Governing Bodies Complaints Appeal Panel

The complainant needs to write to the Chair of Governors giving details of the complaint. The Chair, or a nominated governor, will convene a GB complaints panel.

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The governors' appeal hearing is the last school-based stage of the complaints process, and is not convened to merely rubber-stamp previous decisions. Individual complaints would not be heard by the whole GB at any stage, as this could compromise the impartiality of any panel set up for a disciplinary hearing against a member of staff following a serious complaint. The governing body may nominate a number of members with delegated powers to hear complaints at that stage, and set out its terms of reference. These can include:

- drawing up its procedures;
- hearing individual appeals;
- making recommendations on policy as a result of complaints.

The procedure adopted by the panel for hearing appeals would normally be part of the school's complaints procedure. The panel can be drawn from the nominated members and may consist of three or five people. The panel may choose their own chair.

The Remit of The Complaints Appeal Panel

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.

There are several points which any governor sitting on a complaints panel needs to remember:

a. It is important that the appeal hearing is independent and impartial and that it is seen to be so. No governor may sit on the panel if they have had a prior involvement in the complaint or in the circumstances surrounding it. In deciding the make-up of the panel, governors need to try and ensure that it is a cross-section of the categories of governor and sensitive to the issues of race, gender and religious affiliation.

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

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c. An effective panel will acknowledge that many complainants feel nervous and inhibited in a formal setting. Parents often feel emotional when discussing an issue that affects their child. The panel chair will ensure that the proceedings are as welcoming as possible. The layout of the room will set the tone and care is needed to ensure the setting is informal and not adversarial.

d. Extra care needs to be taken when the complainant is a child. Careful consideration of the atmosphere and proceedings will ensure that the child does not feel intimidated. The panel needs to be aware of the views of the child and give them equal consideration to those of adults. Where the child's parent is the complainant, it would be helpful to give the parent the opportunity to say which parts of the hearing, if any, the child needs to attend.

e. The governors sitting on the panel need to be aware of the complaints procedure.

Roles and Responsibilities

The Role of the Clerk

The Department strongly recommends 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 that the dates are convenient to all parties and that the venue and proceedings are accessible;
- collate any written material and send it to the parties in advance of the hearing;
- meet and welcome the parties as they arrive at the hearing;
- record the proceedings;
- notify all parties of the panel's decision.

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

The nominated governor role:

- check that the correct procedure has been followed;
- if a hearing is appropriate, notify the clerk to arrange the panel;

The Role of the Chair of the Panel

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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 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;
 - the hearing is conducted in an informal manner with each party treating the other with respect and courtesy;
 - the panel is open minded and acting 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 procedure;
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- each side is given the opportunity to state their case and ask questions;
 - written material is seen by all parties. If a new issue arises it would be useful to give all parties the opportunity to consider and comment on it.

Notification of the Panel's Decision

The chair of the panel needs to ensure that the complainant is notified of the panel's decision, in writing, with the panel's response; this is usually within a set deadline which is publicised in the procedure. The letter needs to explain if there are any further rights of appeal and, if so, to whom they need to be addressed.

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Checklist for a Panel Hearing

The panel needs to take the following points into account:

- The hearing is as informal as possible.
- Witnesses are only required to attend for the part of the hearing in which they give their evidence.
- After introductions, the 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.
- Both parties leave together while the panel decides on the issues.
- The chair explains that both parties will hear from the panel within a set time scale.

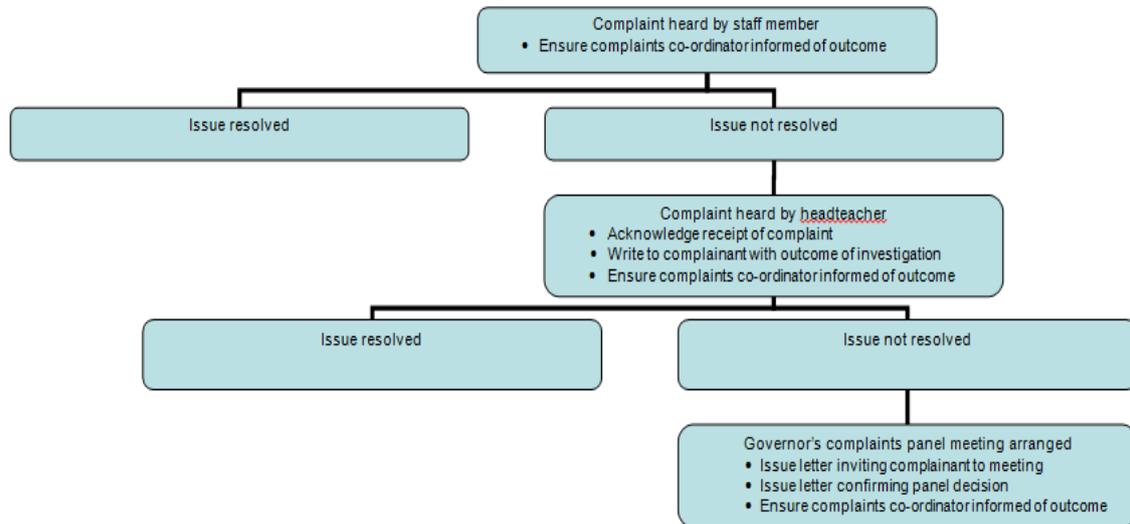
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Annex C

Flowchart

Summary of Dealing with Complaints



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Annex D

Hemlington Hall Complaint Form

Please complete and return to Mrs Karen Edmenson (Head Teacher) who will acknowledge receipt and explain what action will be taken.

Your name:

Pupil's name:

Your relationship to the pupil:

Address:

Postcode:

Day time telephone number:

Evening telephone number:

Please give details of your complaint.

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

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

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

Signature:

Date:

Official use

Date acknowledgement sent:

By who:

Complaint referred to:

Date:

Please add any other details that you feel are relevant to this Complaint.

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ANNEX E

GOVERNING BODY OF HEMLINGTON HALL ACADEMY

Procedures for Dealing With a Complaint Against a Governor

The following approach is recommended to governing bodies.

It should be noted that a governor must be disqualified if one of the disqualification criteria applies (available separately).

Recommended approach

1. Informal stage

The Chair of Governors and an impartial witness/minute taker (e.g. senior member of staff or L.A Rep), will discuss the difficulty or dispute with the governor concerned. If possible, the issue will be resolved with whatever guidance, warning or rebuke is necessary. The discussion should be minuted by a third party, the minutes checked and the 3 in attendance to sign / date as a true record.

If the issue has not been resolved informally, or is thought to be sufficiently serious that the informal stage is inappropriate **or no action taken**.

2. Formal stage

- a) The Chair of Governors should seek information in writing from the governor about the difficulty or dispute and the reasons for it. The governor should be given an opportunity to respond in writing to any allegation. The issue may be able to be closed at this point, with guidance, a warning or rebuke, either orally or in writing depending on the seriousness of the issue.
- b) If the Chair of Governors is not satisfied with the response, then an investigation should be held. The Chair of Governors should appoint an Investigating Officer. This should be someone impartial and not involved in the difficulty or dispute in any way; it could be a member of staff, another governor or a member of Governor Support, but need not be anyone associated with the school.
- c) The Investigating Officer to investigate the issue, taking evidence from ALL interested parties. As interviews are likely to be a part of this process another person should accompany the Investigating Officer. The investigation should be documented in full, including notes of interviews that should be checked back for accuracy with the interviewee, then signed/dated as a true record. If a child is involved, the child should not be interviewed without a parent/carer also being present.
- d) The Investigating Officer should report back in writing to the Chair of Governors.

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e) The Chairman of Governors to decide on the appropriate course of action. This could be:

(i) guidance, warning or rebuke, either orally or in writing depending on the seriousness of the issue.

(ii) Recommend to the governing body suspension for a period of up to six months. Suspension can only be made if one or more of four grounds apply (see Annex). Any motion to suspend must be specified as an agenda item of a governing body meeting for which at least seven days notice has been given. Before the governing body votes to suspend the governor, the governor proposing the suspension must give their reasons for the suspension. The governor who is proposed for suspension must be given the opportunity to make a statement in response before s/he withdraws from the meeting and a vote is taken. The DfE state that a vote to suspend should only be taken as a last resort.

In the case of appointed governors and in exceptional circumstances only:

(iii) Recommend to the governing body that, in the case of:

- a community (co-opted) governor, the governor be removed.
- an appointed governor, (normally Authority or Foundation), a recommendation be made to the appointing body to remove the governor.

In either case, the governing body must pass resolutions to remove him or her at two separate meetings. These meetings must be at least 14 days apart. Seven days' notice of each meeting must be given. Recommendation for the removal of the governor must be a specific agenda item on the agenda for both meetings. At least one-half of the members of the governing body must be present at both meetings. Before the vote at the second meeting, the governor proposing the recommendation for removal of the governor must state the reason for the proposal, and the governor who is proposed for removal must be given the opportunity to make a statement in response.

In the case of an appointed governor, if the proposal is agreed then the recommendation for removal is to be made to the appointing body. The appointing body will consider the recommendation within their policy and determine whether or not removal be agreed. This decision will be communicated to the governing body.

This power must be used 'reasonably and lawfully'

ANNEX: Grounds for **action/suspension**

The governing body can only suspend a governor if one of the following grounds apply:

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1. The governor is paid to work at the school and is the subject of disciplinary proceedings in relation to their employment; or
 2. The governor is the subject of any court or tribunal proceedings, the outcome of which may be that s/he is disqualified from continuing to hold office as a governor under schedule 6 of the Constitution Regulations; or
 3. The governor has acted in such a way that is inconsistent with the schools' ethos **or code of conduct** and has brought or is likely to bring the school or the governing body or his office of governor into disrepute;
 4. The governor is in breach of its duty of confidentiality to the school or to the staff or to the pupils.

NB:

- a) A governor who has been suspended must be given notice of any meetings and must be sent agenda, reports and papers for any meetings during their suspension.
- b) The period of suspension of up to six months may be extended, but only after the process has been repeated.

Source: based upon The School Governance (Procedures)(England) Regulations 2003

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ANNEX F

SUMMARY OF COMPLAINTS PROCEDURE

If a Parent or visitor to the school has any concerns or problems regarding a member of staff or the school, we would hope that they were able to speak with the appropriate person and / or Mrs Edmenson (the Head Teacher) to resolve the issue. If it was felt that the issue had not been addressed to a satisfactory conclusion or concerns had escalated, then the School has a Complaints Policy, a copy of which can be accessed in the School Office.

The following information is a summary of the school's Complaints Procedure:

- The hearing is as informal as possible.
- Witnesses are only required to attend for the part of the hearing in which they give their evidence.
- After introductions, the 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.
- Both parties leave together while the panel decides on the issues.
- The chair explains that both parties will hear from the panel within a set time scale.

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Reviewer: Full Governing Body

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