

Complaints Procedure

**Equality and Diversity at Over Hall Community School.**

We believe that a greater level of success from pupils and staff can be achieved by realising the uniqueness of individuals. Creating a prejudice-free environment where individuals feel confident and at ease is a commitment of the school. This environment will be achieved by:

• Being respectful.

• Always treating all members of the school community fairly.

• Developing an understanding of diversity and the benefits it can have.

• Adopting an inclusive attitude.

• Adopting an inclusive curriculum that is accessible to all.

• Encouraging compassion and open-mindedness.

**KEY PRINCIPLES**

Summary

This document has been produced to assist the academy in meeting its obligations under Section 29 of the Education Act 2002, to have in place a procedure to deal with complaints. It is read and understood by all School Staff and Trustees who may receive or have cause to deal with complaints as part of their role.

The Complaints Procedure consists of four main stages, which include the following:

**Stage 1:** Informal Resolution

**Stage 2:** Formal Complaint

**Stage 3:** Governing Body Investigation & Appeal Hearing

**Stage 4:** Appeal to the Education and Skills Funding Agency, ESFA.

Each of these stages will usually occur in the above order and there will usually be no return to previous stages. Experience suggests that in the vast majority of cases, complaints are usually resolved at Stage 1 via informal means.

**Aims and Objectives of the Procedure**

* To ensure that complaints are dealt with appropriately and within relevant timescales
* To provide parents with information about the Complaints Procedure
* To ensure that parents understand what they can complain about and how to complain
* To provide the Senior Leadership with guidance about how to respond to complaints
* To provide Trustees with guidance about how to address and respond to complaints
* To provide Trustees with advice about conducting complaints appeal hearings

**Legal Context**

Since September 2003 Governing Bodies of all schools in England have been required, under Section 29 of the Education Act 2002, to have in place a procedure to deal with complaints.

The ESFA now undertakes the scrutiny role, although the school may seek informal advice, guidance and support for individuals, headteachers, and school governing bodies in dealing with complaint related matters.

**Types of complaint covered by this procedure**

Bullying

Unfair treatment of pupil by staff

Behaviour and Discipline

Pupil Safety

Handling of Concerns

Communication with Parents

Temporary Exclusions

Extra-Curricular activities

School Uniform

School Policy or Working practices

**Circumstances under which this procedure should not be used**

The School Complaints Procedure should not be used to investigate and deal with matters relating to the following areas below, which should be dealt with via other procedures:

* National Curriculum
* Collective Worship
* Religious Education
* Hate Crime
* Safeguarding
* Non-approved external qualifications
* Withdrawal of pupils from the national curriculum
* Pupil Admissions
* Pupil Exclusions
* Special Educational Needs
* Staff Grievance & Capability Financial Impropriety

If an individual raises a complaint that is specifically related to any of the above areas, then they should be informed by the school of the specific procedures will be used to investigate the issues. The school can signpost complaints relating to those listed above to the appropriate professional / relevant body.

**The difference between a concern and a complaint**

A ‘concern’ may be defined as *‘an expression of worry or doubt over an issue considered to be important for which reassurances are sought’*. A complaint may be generally defined as *‘an expression of dissatisfaction however made, about actions taken or a lack of action’*.

It is in everyone’s interest that complaints are resolved at the earliest possible stage. Many issues can be resolved informally, without the need to invoke formal procedures. Schools should take informal concerns seriously and make every effort to resolve the matter as quickly as possible.

There are occasions when complainants would like to raise their concerns formally. In those cases, the school’s formal procedure should be invoked through the stages outlined within their procedure.

**Who is allowed to complain?**

This procedure should be used for guidance by anyone who has a concern or complaint about any aspect relating to a school, including other organisations or contractors providing services on behalf of the school. This generally includes parent/carers of the school’s pupils, but may also include local residents, who may live within close proximity of the school.

**Monitoring complaints**

A formal record of complaints that are received and dealt with at the formal stages is documented and filed accordingly. Complaints are reviewed on a regular basis by the School and the Governing Body. The following information about the complaint should be recorded:

* Name and contact details of the complainant
* Date and time at which complaint was made
* Details of the complaint
* Desired outcome of the complainant
* How the complaint is investigated (including written records of interviews held)
* Results and conclusions of investigations
* Any actions taken
* The complainant’s response (satisfaction or further pursuit of complaint)

The Headteacher will for the most part, adopt the role of complaints officer, although this role may be delegated to another senior member of staff, who would be named by the school. If a complaint relates to the Headteacher then the Chair of Trustees should adopt the role of Complaints Officer to deal with the matter. Depending upon the nature of the complaint, the Chair may decide to delegate the role to another Governing Body member.

**Procedure of investigation**

An investigation of a complaint will, where appropriate:

* Approach all parties involved informing them of the complaint and the requirement for investigation
* Request a written report relating to the complaint
* Judgement to be reached regarding all evidence
* Report given to Complainant explaining judgement made
* Report shared with Chair of Trustees

**Upholding or not upholding complaints**

At each stage of the School Complaints Procedure, schools should always indicate whether a complaint has been upheld (in part or in full) and what action is to be taken, or whether the complaint is not upheld and reasons for this are clearly given.

In any situation in which a complaint is upheld (in part or full), the school’s response should incorporate the following as appropriate:

1. An apology

2. An explanation of the school’s overall position in response to the complaint

3. An explanation of the steps that have been taken to prevent a recurrence

When schools do not uphold a complaint, a complainant could choose to take no further action concerning the matter or opt to progress the complaint to the next relevant stage.

**Communication of Complaints Procedure to parents & carers**

Over Hall Community School has a legal requirement to publicise their Complaints Procedure. Therefore it is published on the school web site and available in hard copy from the School Office upon request.

**Confidentiality**

Over Hall Community School ensures that complaints are dealt with confidentially. All conversations and correspondence are treated with discretion. Complainants have the right to know what use will be made of personal information held and, accordingly, personal information should only be shared between relevant staff on a ‘need to know’ basis.

**Equal Access, Accompaniment and Representation**

Individuals wishing to raise concerns or submit a complaint have the right to be accompanied or represented by a friend or relative at any discussions or hearings. In situations where a particular individual may experience difficulties in terms of accessing a particular venue for instance, the school will aim to assist the matter by providing an appropriate venue.

There is an expectation that equal respect is granted to individuals involved within the process and that differences between people are respected and understood at all times.

**Progression through the Complaints Procedure**

The stages within the Complaints Procedure should normally occur consecutively, although it is not always necessary for each stage to immediately follow the last. The nature of the complaint will determine what stage the complaint begins at and how it progresses through the stages.

**Changes to time limits and deadlines**

Over Hall Community School aims to adhere to the procedure time scales when addressing and responding to complaints. In certain circumstances, the school may extend response deadlines when they are not able to address and respond to a complaint within the relevant time frame.

Over Hall Community School only extends any response deadlines when there are reasonable grounds to do so. Reasonable grounds may include school holidays, the complexity of the complaint, the need to gather further information about the complaint, and the availability of certain individuals for decision-making purposes.

If and when it becomes necessary to alter the time limits and deadlines in the procedures, the complainant should always be informed and given an explanation as to why this is the case.

**Appeals**

Individuals who have made a complaint and received a response that they are unhappy with have the right to appeal the decision and to progress their complaint to the next relevant stage in the procedures. Individuals should always be informed of their rights to appeal any decision and provided with the details about how to do this and by when.

Individuals should explain the reasons why they are unhappy with a complaint response or outcome and these reasons should always be included in any appeal.

**Unreasonable and/or Vexatious Complaints**

Over Hall Community School will on certain occasions receive complaints, which are vexatious in nature. Examples of unreasonable or vexatious behaviour may include:

* Having insufficient or no grounds for a complaint or making the complaint only to annoy
* Refusing to co-operate with the complaints investigation process
* Refusing to accept that issues are not within the remit of the Complaints Procedure
* Making groundless complaints about the staff dealing with the complaints
* Seeking to have staff dismissed or replaced on totally unreasonable grounds
* Making an unreasonable number of contacts
* Making persistent and unreasonable demands or expectations of staff
* Harassing or verbally abusing staff dealing with their complaint
* Use of foul or inappropriate language or by the use of offensive and racist language
* Raising subsidiary or new issues whilst a complaint is being addressed that were not part of the complaint at the start of the complaint process
* Introducing trivial or irrelevant new information whilst the complaint is being investigated and expect this to be taken into account and commented on
* Changing the substance or basis of the complaint without reasonable justification whilst the complaint is being addressed
* Denying statements he or she made at an earlier stage in the complaint process
* Recording meetings and conversations without prior knowledge and consent of persons
* Refusing to accept the outcome of the complaint process after conclusion, and repeatedly arguing points, and/or denying that an adequate response has been given
* Schools can refuse to consider a complaint if there is strong evidence that the individual making the complaint is consistently acting in an unreasonable and vexatious manner.

Schools will always make reasonable efforts to resolve any complaint and will not simply label a received complaint as vexatious from the outset to avoid simply dealing with it.

Schools can seek further advice and guidance about whether any specific complaints can be considered of an unreasonable and/or vexatious nature. If the school decides that it has grounds to refuse to deal with a complaint, the Chair of Trustees will write to the individual and inform them of the reasons why.

**1.0 STAGE 1: Informal Resolution**

**1.1 Introduction**

The vast majority of concerns and complaints can be dealt with informally. There are many occasions where concerns are resolved straight away without the need to submit a formal complaint.

**1.2 Who to speak to informally**

Individuals may raise concerns initially with a member of the School Administrative Staff, Teaching Staff, School Trustees, or the Headteacher depending on the nature of the issues they have or want to discuss.

**1.3 Monitoring**

It is not necessary to record or monitor complaints at this level, although staff are encouraged to do so as a measure of good practice.

**1.4 Timescales**

Staff will take reasonable steps to deal with emerging issues as quickly and effectively as possible. They will acknowledge the received complaint within seven school days of receipt and inform the Complainant that the complaint will be investigated, and a response will be provided within fifteen school days from the date of acknowledgement.

**1.5 Response**

The individual who raised the issue should be informed of any action to be taken to address and resolve the issues in question. If appropriate, this might be confirmed in writing to the individual.

**1.6 Options for complainant**

If the individual is dissatisfied with the manner in which the matter is being dealt with at this stage of the process then they have the right to make a formal complaint. The staff should provide the individual with a copy of the School Complaints Procedure and depending upon the nature of the complaint inform the individual whether the complaint is best directed to either the Headteacher or the Chair of the School Governing Body.

**2.0 STAGE 2: Formal Complaint**

**2.1 Introduction**

This is the first stage of the formal complaints process. All communications between parties need to be carefully recorded as set out in the ‘monitoring complaints’ section of this document.

**2.2 Informal discussion with Headteacher**

Before proceeding with a formal investigation, the Headteacher may decide to meet with the individual and discuss the concerns and make a final attempt to reach an informal resolution. If this is not possible, the Headteacher will decide whether the complaint will be dealt with by this procedure, or another statutory procedure and advise them on what they need to do.

**2.3 Submitting a Formal Complaint**

The Complainant must submit their complaint formally in writing to the Headteacher. The written complaint should be clear, factual, and contain the following information:

• Name and contact details

• Date

• Details of the complaint

• Outcomes Sought

• Signature

• Any supporting evidence

**2.4 Complaints involving the Headteacher**

If the complaint is related to the Headteacher, then the Chair of Trustees will either investigate the complaint personally or ask an experienced governor to investigate the matter on his/her behalf. The Complainant will be informed who will be investigating the complaint. Dependent upon the nature of the issues raised, the matter will either continue to be dealt with via the School Complaints Procedure, or by other procedures such as the Disciplinary or Safeguarding Procedures. If this happens the complainant will be informed of this fact.

**2.5 Acknowledgement and time scales**

The Headteacher will formally acknowledge the received complaint in writing within five school days of receipt, and inform the Complainant that the complaint will be investigated, and a response will be provided within fifteen school days. Time scales may be extended in special circumstances that are beyond the control of the school/investigating officer. In such circumstances the Complainant will be informed in writing.

**2.6 The Investigation**

The Headteacher will investigate the issues, review evidence before making the decision on how to respond. Depending upon the nature of the complaint, the Headteacher may interview witnesses and take statements from those involved. If the complaint centres on a pupil, the pupil will also usually be interviewed.

All individuals have the right, at this or any other stages, to be accompanied or represented by a friend, relative, or colleague at discussions and hearings. This includes the right of teachers to be accompanied by a representative from their Trade Union. When pupils are interviewed, an additional adult should always attend.

**2.7 Written Response**

The Headteacher should provide the Complainant with a full written response within fifteen school days of receiving the complaint. The response deadline may be extended to twenty school days depending on the nature and complexity of the complaint. If it is likely that the fifteen-day response deadline will not be met, then the Headteacher should inform the complainant of this fact.

**2.8 Options for complainant**

If the Complainant remains unhappy with the outcome then they are entitled to progress the complaint to the next stage in the procedure. The Complainant should be referred to the School’s Complaints procedure of how to move on to the next stage.

**3.0 STAGE 3: Governing Body Review**

**3.1 Introduction**

Complaints rarely reach this formal level, but it is important that governing bodies are prepared to deal with them should they do so. Upon receiving a formally submitted complaint at this stage the Chair of Trustees should arrange for the Governing Body Complaints Panel Hearing to be convened to hear the complaint.

**3.2 The Complaints Panel**

At least three Trustees should be appointed to the Complaints Panel for any Hearing. The Complaints Panel will be required to consider the complaint and its members should not have had any involvement with the complaint at earlier stages.

One of the panel members will be independent and will not be involved in the management and running of the Academy.

The meeting will additionally have a Clerk in attendance. The Clerk may be a member of the school staff, Governor or any third party appointed by the Governing Body.

The school may seek advice and guidance for the Clerk, the Chair of Trustees and/or the members of the Complaints Panel on the procedural issues relating to the Panel Hearing from an appropriate professional body, but will not participate in reviewing the complaint.

In preparation for the hearing, the panel may meet before the hearing date to discuss the procedure and roles.

The School Governing Body will annually agree five Trustees from whom the school will be able to form a complaints panel if required at any point.

**3.3 Requesting a Complaints Committee Hearing**

The Complainant must submit a written request to the Chair of Trustees for their complaint to be considered by the School’s Complaints Panel. This should be done within ten days of receiving a response to their complaint at the previous stage. The Complainant should make it clear to the Chair of Trustees that they wish to call witnesses, providing their details in order to be contacted requesting their attendance.

**3.4 Acknowledgement and time scales**

The Chair of Trustees will acknowledge receipt of this request within five school days if possible but no more than ten days at most by writing to the Complainant. This letter will inform them that the Complaints Panel will hear their complaint within twenty school days.

**3.5 Preparation for Complaints Panel Hearing**

The School should ask the Clerk to make arrangements. The Clerk should convene a meeting of the Complaints Panel. The membership of the Complaints Panel should be confirmed, and a date and time arranged for the Hearing and all relevant documentation should be given to the appointed Complaints Panel members. Witnesses may be called by any party upon request to the appointed Clerk no later than ten days before the hearing, providing appropriate notice.

The Clerk should then write to the Complainant, the Headteacher and any other relevant Staff or

Witnesses and inform them of:

* Date, time and venue of the hearing
* Aims and objectives of the hearing and how it will be conducted
* Requesting documentation, they wish the panel to consider to be presented to the Clerk no later than seven school days before the hearing takes place
* The rights to bring along someone to provide support or act as a representative
* How and when the panel will reach their decision in writing

It is the responsibility of the Clerk to ensure that all parties are clear of and in receipt of all relevant documents at least five school days before the date of the hearing so as to allow individuals to familiarise themselves with the evidence. Any information/documentation received after may not be considered.

If the Complainant is unable to make the appointed date without due notice and /or reason, the hearing will not be held.

**3.6 Format of the Hearing**

The Complaints Panel Hearing should allow each party to explain their understanding or interpretation of events and provide the opportunity for the other parties to question them. The Complaints Panel Hearing should follow the suggested format provided below:

1. The Chair of the meeting will introduce all parties to one another and explain the principles, objectives and format of the hearing.

2. The Complainant will be given the opportunity to explain their complaint. Following this, the Headteacher and the Complaints Panel members may ask the complainant questions.

3. The Headteacher will then be given an opportunity to explain the School’s official response, interpretation or view about the complaint. Following this the complainant and panel will be allowed to question the Headteacher.

4. Each party will be given the opportunity to call any witnesses and question witnesses called by the other parties.

5. The Headteacher and the Complainant will be given the opportunity to give final statements in relation to the matter.

6. The Chair of the meeting should bring the hearing to conclusion.

Where required and with the agreement of the Chair, a short withdrawal may be sought by any of the parties. Upon the agreement of this, all parties will be requested to leave the room. If the Complainant was not to return to the meeting, the panel will then have to consider what they agree to be appropriate next steps.

The Committee members should consider their final decision and write to both parties within five school days informing them of the outcome of the Hearing in writing.

**3.7 After the Complaints Committee Hearing**

The Complaints Panel members should consider the complaint and all the evidence presented by both parties and then begins the process of consideration. After all the evidence has been weighed up on both sides the Complaints Panel members will either:

* Reach a unanimous, or at least a majority decision, on the complaint outcomes
* Decide upon the appropriate action(s) (if any) to be taken
* Suggest changes to, or request a review of, the School’s existing Policy or Procedures to ensure that problems of a similar nature do not happen again.

The Complaints Panel will decide together whether the complaint outcomes sought are upheld in full, partially upheld, or irresolvable. The Complaints Panel will then write to the Headteacher and the Complainant and inform them of the outcome.

**3.8 Options for Complainant**

If the Complainant remains dissatisfied with the outcome of the investigation and would like to take their complaint further, they should be referred to the School’s Complaints Procedure and informed how to progress their complaint to the next stage of the process.

**STAGE 4: Appeal to the Educating and Skills Funding Agency, ESFA**

**4.1 Introduction**

Individuals have the right to contact the ESFA with regards to the way their complaint has been handled if they are unhappy with the outcome reached after a Governing Body Appeal. Note: The ESFA will usually not consider any complaints until the schools complaint procedure has been exhausted.

**4.2 Complaining to the ESFA**

Complainants have a right of appeal to the ESFA under sections 496 or 497 of the 1996 Education Act if they feel that the School Governing Body has acted unreasonably in terms of how they have dealt with a complaint.

If the ESFA agrees that a complaint is justified, the Department for Education has the power to take actions including issuing instructions to School Governing Bodies, although in practice this would be very rarely exercised.

**4.3 Contacting the ESFA**

Further information is available on the website [www.gov.uk](http://www.gov.uk) for guidance upon procedures for dealing with complaints about academies.

Complaints about academies should be sent:

* via the Department for Education’s schools complaints online form available as a link via the above website
* by post to Ministerial and Public Communications Division Department for Education Piccadilly Gate Store Street Manchester M1 2WD

**5 APPENDIX 1: Complaint Scenarios**

This annex provides further information about some of the potential scenarios that the school may have to deal with in relation to complaints. The information below provides a summary as to what should be done in each situation, but it is always advisable for schools to seek further advice and guidance if unclear how to handle a particular situation.

**5.1 Complaints received in the form of Solicitors letter**

The Chair of Trustees should investigate the complaint as per Complaints Procedures. The Governing Body should be kept informed at subsequent governor meetings that the complaint has been received. The school should seek legal advice throughout the process and should be consulted in preparing the response to the solicitor.

**5.2 Complaints relating to the Headteacher**

The Chair of Trustees should investigate relating to the actions, maladministration or conduct of the Headteacher as per the Complaints Procedures. Advice and guidance should be sought as and when required.

**5.3 Complaints Committee Hearings**

The Complaints Committee should conduct Complaints Committee appeal hearings as per the Complaints Procedures. The Complaints Committee requires three members, one of whom must be a parent governor with a child in full time education. The Chair of Trustees should not serve on the committee. The Clerk of Trustees should attend any hearings and take minutes.

**5.4 Complaints relating to the Chair of Trustees**

The Vice Chair of Trustees should deal with complaints relating to the actions or conduct of the Chair of Trustees, as per the Complaints Procedures. Depending on the nature of the complaint, further advice should be sought.

**5.5 Complaints relating to Trustees**

The Chair of Trustees should deal with complaints relating to the actions or conduct of school Trustees as per the Complaints Procedures. Depending on the nature of the complaint, further advice should be sought.

**5.6 Complaints made directly to the Secretary of State**

In rare cases, a complainant may complain directly to Ofsted or the ESFA rather than attempt to make the complaint and achieve a resolution with the school. If the school receives notification of the complaint from the ESFA, the matter should be directed to the Chair of Trustees for consideration.

The complaint should be addressed as a Stage 2 formal complaint and the school should seek to comply with the requirements for acknowledging and responding to the complaint given by the ESFA.

The school can seek advice on handling such complaints if required.