



Layfield Primary School

Procedures for Dealing with Complaints

November 2019

Review date: November 2020

1. Introduction

At Layfield Primary School we all work very hard to build positive relationships with everyone within the community. Our aim is to deal with issues and problems before they become a formal complaint. This document sets out the procedures that should be followed by school staff or governors in the event that a concern or complaint is received.

This document aims to reassure staff dealing with a concern or complaint. It provides guidance to support them in dealing with any issues raised in a fair, open and responsive way with the aim of achieving a speedy and satisfactory resolution.

2. Policy

It is important that this document is read in conjunction with the Complaints Policy. This describes the process to be followed at each stage of the procedure. The complainant and the person dealing with the complaint must adhere to this procedure at all times.

3. Dealing with a concern or complaint

At stages 1-3 of the procedure, the person dealing with the concern or complaint should make 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 in writing or by phone (if unsure or further information is necessary);
- clarify what the complainant feels would put things right;
- if necessary, 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;

At stage 3 if the complainant is about the headteacher the Chair of Governors will:

- establish **what** has happened so far
- clarify the nature of the complaint
- meet with the complainant or contact them in writing or by phone (if unsure or further information is necessary);
- clarify what the complainant feels would put things right;
- meet with the headteacher, allowing them to be accompanied if they wish;
- conduct the procedure with an open mind and be prepared to persist in the questioning;

It is important to maintain a written record of concerns and complaints as these may be needed at a later stage to provide evidence. This includes information regarding the points described above and content should be factual and objective.

It may be appropriate for the person dealing with the concern or complaint to arrange for an independent note taker to record these notes.

All records should be passed to the Headteacher. Records are held securely in school.

At the end of any discussions about concerns or complaints it is good practice to ensure that the complainant and the school have the same understanding of what has been agreed and discussed.

At each stage in the procedure all parties should keep in mind ways in which a concern or

complaint can be resolved. It might be sufficient to acknowledge that the concern or 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.

There may be times when the person dealing with the concern or complaint feels that they are not the most appropriate person to support the complainant. In these cases, the complainant should be referred to another staff member.

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

4. Concerns or complaints raised with a Governor

Where the first approach is made to a governor, the next step must be to refer the complainant to the appropriate person and advise them about the procedure. Should the process reach Stage 3, the Chair should be advised that this procedure has been followed without providing details of the substance of the potential complaint. This ensures that the governor concerned does not play any part in any subsequent investigation. It is essential to prevent governors becoming aware of the details of a complaint. Otherwise they may become 'compromised' and this would cause difficulties at later stages of the complaints procedure.

Should a concern be shared with the entire governing body, arrangements should be made to convene an independent panel via the local authority or diocese. Academy chains or trusts should have similar arrangements.

5. The Governors Appeal Committee

The Clerk will convene a GB complaints committee. The committee can be drawn from the nominated members of the Governing Body and consists of three or five people. If it is not possible to convene a committee from the schools own Body, the LA will support in the selection of Governors from other schools as necessary. The committee will choose their own Chair.

No governor may sit on the committee if they have had a prior involvement in the complaint or in the circumstances surrounding it. In deciding the make-up of the committee, 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.

The aim of the meeting is to review whether the Complaints Policy and procedures have been followed. It has to be recognised that the complainant might not be satisfied with the outcome if the committee does not uphold the appeal in their favour. It may only be possible assure the complainant that all reasonable steps have been taken to establish the facts and that their appeal has been taken seriously.

An effective committee 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

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.

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 committee 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.

Any committee considering an appeal needs to be clerked.

All governors who are on the Appeal Committee should be fully briefed about the appeal, evidence, Complaints Policy and Procedures prior to the meeting.

6. Roles and Responsibilities

The Role of the Complainant

The complainant or person who makes the complaint will receive a more effective response to the complaint if he/she:

- co-operates with the school and governors in seeking a solution to the complaint;
- expresses the concern/complaint/appeal in full as early as possible in accordance with policy;
- responds promptly to requests for information or meetings or in agreeing the details of the concern/complaint/appeal;
- asks for assistance as needed;
- treats all those involved in the concern/complaint/appeal with respect.

The Role of the Complaints Co-ordinator

The Complaints Co-ordinator should:

- ensure that the complainant is fully updated at each stage of the procedure;
- ensure that all people involved in the procedure are aware of the legislation around complaints, including the Equality Act 2010, data Protection Act 1998 and Freedom of Information Act 200, as necessary;
- liaise with staff members, headteacher, Chair of Governors and Clerk to ensure smooth running of the procedures;
- keep records;
- be aware of issues regarding:-
 - sharing third party information
 - additional support, for example interpretation support.

The Investigator

The Investigator is the person involved in Stages 1 -3 of the procedure. The Investigator's role can include:-

- providing a comprehensive, open, transparent and fair consideration of the complaint through:-
 - sensitive and thorough interviewing of the complainant to establish what has happened and who has been involved;
 - consideration of records and other relevant information;
 - interviewing staff and children/young people and other people relevant to the concern or complaint;

- analysing information;
- effectively liaising with the complainant and the complaints co-ordinator as appropriate to clarify what the complainant feels would put things right;
- identifying solutions and recommending courses of action to resolve problems;
- being mindful of the timescales to respond; and
- responding to the complainant in plain and clear language.

The person investigating the concern or complaint should make sure that they:

- conduct interviews with an open mind and be prepared to persist in the questioning;
- keep notes of interviews or arrange for an independent note taker to record minutes of the meeting.

The Role of the Clerk to the Appeal Committee

The clerk is the contact point for the appeal meeting and is required to:

- convene the committee;
- 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;
- circulate the minutes of the panel meeting;
- notify all parties of the panel's decision
- liaise with the complaints co-ordinator.

The Role of the Appeal Committee Chair

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

- the meeting is minuted by the clerk;
- if an appeal is appropriate, notify the clerk to arrange the meeting;
- the remit of the committee is explained to the parties and each party has the opportunity of putting their case without undue interruption;
- the issues of the appeal are addressed;
- key findings of fact about the appeal are made;
- parents and others who may not be used to speaking at such a meeting are put at ease;
- the meeting is conducted in an appropriate manner with all parties treating the other with respect and courtesy;
- the committee is open minded and acts independently;
- no member of the committee has a vested interest in the outcome of the proceedings or any involvement in an earlier stage of the procedure;
- all parties are given the opportunity to discuss the appeal with the committee and seek clarity;
- written material (the request for appeal and any other evidence submitted) is seen by all parties. There may be occasions when it is not possible to submit all of the evidence prior to the meeting. In this case, if evidence is brought to the meeting, this also needs to be shared with all parties so that everyone has the opportunity to consider and comment on it. This may require a short adjournment of the meeting;
- liaise with the clerk and complaints co-ordinator.

The Role of the Appeal Committee Members

Any governor sitting on an appeal committee needs to ensure that:

- the appeal meeting is independent and impartial and that it is seen to be so;
- they understand that the aim of the meeting is to review whether the Complaints Policy and procedures have been followed;
- all parties are treated with respect and are enabled to discuss the appeal and ask questions;
- they are fully briefed about the appeal, evidence, Complaints Policy and Procedures prior to the meeting;
- they are prepared to ask questions in order to make a decision based on the evidence available.

7. Serial an Persistent Complainants

Schools should do their best to be helpful to people who contact them with a complaint or concern or a request for information. However, in cases where a school is contacted repeatedly by an individual making the same points, or who asks them to reconsider their position, schools will need to act appropriately.

There will be occasions when, despite all stages of the complaint procedure having been followed, the complainant remains dissatisfied. It is important for schools to recognise when they really have done everything they can in response to a complaint. It is a poor use of schools' time and resources to reply to repeated letters, emails or telephone calls making substantially the same points. If a complainant tries to re-open the same issue, the Chair of Governors can inform them that the procedure has been completed and that the matter is now closed.

If the complainant contacts the school again on the same issue, then the correspondence may be viewed as 'serial' or 'persistent' and the school may choose not to respond. However, schools must be careful that they do not mark a complaint as 'serial' before the complainant has completed the procedure.

Note: The Department for Education does not itself use the term 'vexatious' when dealing with serial or persistent correspondents as it could potentially be inflammatory. However, it is a recognised term. In the context of Freedom of Information (FOI) requests, the Upper Tribunal concluded that 'vexatious' could be defined as the '*...manifestly unjustified, inappropriate or improper use of a formal procedure.*' An exemption therefore exists in Section 14(1) of the Freedom of Information Act 2000. However, this exemption can only be applied to requests themselves, and not the individuals who submit them.

More information about dealing with vexatious requests for information is available on the Information Commissioner's Office (ICO) website.

Under no circumstances should an individual be marked as serial for exercising their democratic right to refer their complaint to their local MP regardless of which stage the complaint has reached. The application of a 'serial or persistent' marking should be against the subject or complaint itself rather than the complainant.

Time to stop responding

The decision to stop responding is never taken lightly. Schools need to be able to say yes to all of the following:

- School has taken every reasonable step to address the complainant's needs;
- The complainant has been given a clear statement of the school's position and options (if any); and
- They are contacting the school repeatedly but making substantially the same points each time.

The case is stronger if the school agrees with one or more of these statements:

- The school has reason to believe the individual is contacting them with the intention of causing disruption or inconvenience - have they actually said as much in a letter, email or telephone call?
- Their letters/emails/telephone calls are often or always abusive or aggressive.
- They make insulting personal comments about or threats towards staff.

Schools should not stop responding just because an individual is difficult to deal with or asks complex questions. In most circumstances the subject matter is what you can refuse to respond to, not the correspondent.

Schools must provide parents with the information they are entitled to under The Education (Pupil Information) (England) Regulations 2005.

However, where an individual's behaviour is causing a significant level of disruption schools may wish to implement a tailored communications strategy such as restricting them to a single point of contact via an email address or by limiting the number of times they make contact; e.g. a fixed number of contacts per term.

Complainants have a right to have any new complaint heard and failure to respond at all to a complainant could mean that the school is failing to comply with its legal obligations. A school needs to ensure that they are acting reasonably and that any genuine complaint can still be heard.

If school staff find it difficult to deal direct with a complainant because of their unreasonable behaviour and other strategies are not working, they may be able to approach the governor services team at their LA to ask for assistance. If this is agreed, complainants can be advised not to contact the school, but to communicate instead with the LA who will co-ordinate any response.

Complainants who may have been restricted in their communications with the school can also be advised to ask a third party to act on their behalf, such as the local Citizen's Advice Bureau. Ultimately, if a complainant persists to the point that the school considers it to constitute harassment, legal advice should be sought as to the next steps. In some cases, injunctions and other court orders have been issued to complainants because of their behaviours.

Different procedures apply to FOI and Data Protection (DP) correspondence. You should talk to your FOI/DP advisor contact about those or approach the ICO for further advice.

Once a school has decided that it is appropriate to stop responding, they will need to let the complainant know; ideally, through a hard copy letter but an email will suffice.