



NORTH TYNESIDE COUNCIL GOVERNOR SERVICES - LAW AND GOVERNANCE

Guidance for Governing Bodies

COMPLAINT PROCEDURE

Adopted by Governors November 2016

Burnside Business & Enterprise College Complaints Procedure

Adopted by Governors

Date approved: 15th November 2016

Introduction

This guidance is based on the principle that, where at all possible, complaints will be dealt with informally between the school staff and the complainant.

Where this has been tried and been unsuccessful, the more formal procedures will give the complainant a route to ensuring the issue is appropriately considered. Since September 2003, governing bodies of all maintained schools and maintained nursery schools in England have been required, under Section 29 of the Education Act 2002, to have a procedure in place to deal with complaints relating to the school and to any community facilities or services that the school provides. In October 2009, the Human Rights Act came into force, and schools should be mindful to consider Article 6, 'The Right to a Fair Trial'.

Where concerns are raised the school intends for these to be dealt with:

- Fairly
- Openly
- Promptly
- Without Prejudice

It is a legal requirement for the complaints procedure to be publicised. It is for the governing body to decide how to fulfill this requirement but details of the complaints procedures **could** be included in:-

- The school website;
- School prospectus;
- Information given to new parents when their children join the school;
- Information given to children themselves;
- Bulletins or newsletters;
- Documents supplied to community users;
- A specific complaint leaflet which includes a form on which a complaint can be made;
- Posters displayed in public areas of the school;
- The school website.

There are certain complaints that fall outside the remit of the governing body's complaints procedure. They include:

- Matters which are the responsibility of the local authority;
- Conduct or performance of staff at the school (Staff grievance, capability or disciplinary);
- Content of a statutory statement of special educational needs;
- Pupil admissions;
- Pupil exclusions;

- Where the complaint concerns a third party used by the school;
- The national curriculum and related issues, including religious education and sex education, where this relates to the local authority's powers or functions;
- Child protection.
- Subject Access Requests or Freedom of Information Requests

All of the above are dealt with under their own specific procedures and the local authority (or Diocese) can provide advice on how to make a complaint regarding any of the above.

The governing body has approved the following procedure which explains what you should do if you have any concerns about the school. All members of staff will be familiar with the procedure and will be able to assist you.

Raising concerns

The majority of concerns can be dealt with without resorting to the procedure. Where you have a concern about any aspect of the school or your child's education or wellbeing, raise this with your child's class teacher via the phone or in person. Ideally, they will be able to address your concerns on the spot, or can arrange a meeting with you to discuss the issue. Complaints relating to the curriculum or sex education can be considered by the governing body in the first instance, however, where the complaint relates to the local authority's powers or functions, this would only be considered by the local authority and not the governing body.

All concerns will be dealt with confidentially, although the staff member may need to take notes if they feel that the matter may need to be taken further or it may arise again in the future. Any such notes will be kept in accordance with the principles of the Data Protection Act 1998. However, such notes would be able to be used to as evidence if further investigation was required, or if the concern became a formal complaint.

General complaints about the school, but not specifically against any person, would usually be addressed as complaints against the management of the school and therefore addressed as a complaint against the Headteacher.

Safeguarding

Wherever a complaint indicates that a child's wellbeing or safety is at risk, the school is under a duty to report this immediately to the local authority. Any action taken will be in accordance with the school's safeguarding policy.

Confidentiality

Complaints should be treated in confidence and information only given on a need to know basis. It is **not** advisable for details of a complaint to be discussed at full governing body meetings as this may prejudice any involvement of governors at a later stage. However, governing bodies may be required to consider recommendations that come out of a complaint process.

Additionally, complainants should also refrain from jeopardising a fair and impartial process by breaching confidentiality or by making public comments, which could be detrimental to the professional reputation of a member of staff.

Social Media

In order for complaints to be resolved as quickly and fairly as possible, we request that complainants do not discuss complaints publically via social media such as facebook and twitter. Complaints will be dealt with confidentially for those involved, and we expect complainants to observe confidentiality also.

Complaints that result in staff capability or disciplinary

If at any formal stage of the complaint it is determined that staff disciplinary or capability proceedings are necessary in order to resolve the issue, the details of this action would remain confidential to the Headteacher and/or the individual's line manager. The complainant is entitled to be informed that action is being taken and the eventual outcome of any such action, but they are not entitled to participate in the proceedings or receive any detail about them.

Complaints about the Headteacher or the governors

Where a complaint regards the Headteacher, the complainant should first directly approach the Headteacher in an attempt to resolve the issue informally. If the complainant is not satisfied with this outcome they should notify the clerk to the governors. The Stage 2 process will then commence, and the Chair of Governors will be the individual responsible for the investigation rather than the Headteacher.

Where a complaint regards a governor, the same process applies as for the Headteacher. Where a complaint concerns the Chair of Governors, the individual should contact the clerk to the governors. Informal resolution will be sought, but where this fails, the complaints procedure at Stage 3 will take immediate effect. The vice chair or an independent investigator will mediate any proceedings.

Unreasonable complaints

Where a complainant raises an issue that has already been dealt with via the school's complaints procedure, and that procedure has been exhausted, the school will not reinvestigate the complaint except in exceptional circumstances, for example where new evidence has come to light.

If the complainant tries to reopen the same issue, the Chair of the governing body or their designate, is able to inform them in writing that the procedure has been exhausted and that the matter is now closed.

While parents/carers/guardians of children should have the opportunity to raise issues about emerging problems, all members of the school community have a right to expect that their school is a safe place in which to work and learn. Therefore, violence, threatening or aggressive behaviour, repeated harassment or racially aggravated behaviour, or abuse against school staff or other members of the school community will not be tolerated.

Unreasonable complaints include the following scenarios:

- The complainant refuses to co-operate with the school’s relevant procedures.
- The complainant changes the basis of the complaint as the complaint progresses.
- The complainant seeks an unrealistic outcome
- Excessive demands are made on the time of staff and school governors and it is clearly intended to aggravate.
- The complainant acts in a way that is abusive or offensive.

The Headteacher will use their discretion to choose not to investigate these complaints.

Where they decide to take this course of action, they must inform the chair of governors that they have done so, explaining the nature of the complaint and why they have chosen not to investigate.

If the chair deems it appropriate to, they can redirect the Headteacher to investigate the complaint. The full complaints procedure will commence from stage one on this direction.

If the chair upholds the Headteacher’s decision not to look into the complaint and the complainant deems this decision to be so unreasonable that no other rational body in the same position would have made that decision, then the complainant may write to the Department for Education (*see the contact details at the end of the document*).

Anonymous complaints

The governing body **will not** consider anonymous complaints.

Procedure

If you need to raise an issue in the first instance, please do so with the relevant member of staff who will be happy to talk to you and seek to establish a solution. If you are not satisfied with this response and believe the issue has not been resolved, please use the following procedure as detailed below.

Timeline

Raising concerns	Informal and immediate addressing of issues by relevant staff member	5 school days
Stage 1	Informal investigation by member of staff or Headteacher <i>Where dissatisfied with outcomes, progress to Stage 2</i>	15 school days
Stage 2	Formal investigation by Headteacher or Chair of Governors <i>Where dissatisfied with the outcome progress to Stage 3</i>	25 school days
Stage 3	Formal appeal to panel of governors <i>This is the final stage of the school’s complaints procedure. Where dissatisfied with outcomes, contact the Department for Education</i>	25 school days

We will endeavour to abide by timeframes stated for each stage however where further investigations are necessary or other delays are experienced, new time limits can be set and the complainant made aware of the new deadline and given an explanation for the delay.

The suggested time limits in this procedure refer to school days, i.e. excluding school holidays and weekends.

We reserve the right not to investigate complaints that have been made three months after the subject of the complaint took place, except in exceptional circumstances. What is meant by exceptional circumstances is where new evidence has come to light, where the complaint is of an especially serious matter or where there is reasonable justification for why the complainant has been unable to raise the complaint before this time. The Headteacher will review the situation and decide whether or not to enact the complaints procedure, informing the chair of governors of the decision.

Stages of the Complaint

Stage 1- Informal investigation by staff member

Where as a result of raising a concern the complainant still feels that the issue has not been addressed, or where the outcome has been that the complaint needs further investigation than can be resolved briefly, they may progress by making an informal complaint. In doing so, the following steps will be followed:

1. Complainant contacts the relevant member of staff or Headteacher.
2. The complainant must explain in writing
 - An overview of the complaint so far
 - who has been involved
 - why the complaint remains unresolved
 - action they would like to be taken to put things right.
3. The staff member will respond within 5 school days of having received the written complaint. They will explain what action they intend to take.
4. Where the complaint is about a member of staff or a governor, the staff member will arrange an informal mediation meeting between the two parties to see if a resolution can be come to.
5. The staff member will provide a written confirmation of the outcome of their investigation within 10 school days of having sent confirmation of the intended action. Where the complainant is not satisfied with the outcome, they are able to progress to stage 2 of the complaints process, and launch a formal written complaint.

6. The staff member will make a record of the concern and the outcomes of the discussion which will be held centrally for twelve months, in line with the principles of the Data Protection Act 1998.

Stage 2 – formal investigation by Headteacher or Chair of Governors

1. The complainant may submit a formal complaints form to the Headteacher (or if the complaint is about the Headteacher, then the Chair of Governors). Contact details for the Headteacher and Chair of Governors can be found near the end of this document.
2. A written response will be sent within 10 school days of the date of receipt of the complaint to acknowledge receipt of the complaint and explain what action will be taken, giving clear timeframes.
3. A log of all correspondence in relation to the complaint will be kept in accordance with the Data Protection Principles.
4. The Headteacher or Chair of Governors will consider all relevant evidence; this may include but is not limited to:
 - a statement from the complainant,
 - where relevant a statement from an individual who is the subject of the complaint
 - any previous correspondence regarding the complaint
 - any supporting documents in either case
 - interview with anyone related to the complaint.
5. The Headteacher or Chair of Governors may decide to have a meeting with the complainant (and where relevant, the subject of the complaint) if they feel that it would be appropriate for the investigation.
6. After considering the available evidence, the Headteacher or Chair of Governors can:
 - Uphold the complaint and direct that certain action be taken to resolve it
 - Reject the complaint and provide the complainant with details of the stage three appeals process
 - Uphold the complaint in part: in other words, the Headteacher may find one aspect of the complaint to be valid, but not another aspect. They may direct for certain action to be taken to resolve the aspect that they find in favour of the complainant.
7. The Headteacher or Chair of Governors must inform the complainant of their decision in writing within 15 school days of having issued written acknowledgement of the receipt of the complaint. They must explain clearly why they have come to the decision that they made. They must detail any agreed

actions as a result of the complaint. Finally, they must provide the complainant with details of how to progress the complaint to stage three if they are not satisfied, providing them with the contact details of the clerk to the governors (see the end of the procedure for these).

Stage 3 – Appeal – Review by a Panel of the Governing Body

If the complainant wishes to appeal a decision at stage 2 of the procedure, or they are not satisfied with the action that the Headteacher or Chair of Governors has taken in relation to the complaint, the complainant is able to appeal this decision.

They must write to the clerk to the Governing Body as soon as possible after receiving notice of the Headteacher or Chair of Governor's decision, briefly outlining the content of the complaint and requesting that a complaints appeal panel is convened.

The clerk (or nominated person) will fulfil the role of organising the time and date of the appeal hearing, inviting all the attendees, collating all the relevant documentation and distributing this 5 days in advance of the meeting, recording the proceedings in the form of minutes, and circulating these and the outcome of the meeting.

The complainant must request an appeal panel within 10 school days of receiving the Headteacher or Chair of Governor's decision or it will not be considered, except for in exceptional circumstances. On receipt of this written notification, the following steps will be followed:

1. The clerk will write to the complainant within five school days to confirm receipt of the appeal request and detail further action to be taken.
2. The clerk will convene a panel of three school governors. Where three governors are unavailable the panel will consist of two schools governors and one independent member. All three panel members will have no prior knowledge of the content of the complaint.
3. The appeal hearing will take place within 25 school days of receipt of the date of the confirmation letter from the clerk to the complainant, confirming the appeal.
4. In addition to the panel, the following parties will be invited, where applicable:
 - the complainant
 - the Headteacher who dealt with the complaint at Stage 2
 - where the complaint regards a member of staff, the staff member who is the subject of the complaint.

The complainant is also able to bring a companion with them to the hearing if they wish. Where the subject of the complaint is a member of staff, that staff member is also able to bring a companion with them.

The companion will be a friend or a colleague. Neither party is able to bring legal representation with them. If after the hearing any party feels that legal action is necessary, please see the contact details at the end of the procedure.

5. If the attendance of any pupils is required at the hearing, parental permission will be sought if they are under the age of 18. Extra care will be taken to consider the vulnerability of children where they are present at a complaints hearing.
6. Where the complaint is about a governor, the complainant may request that the appeal is heard by an entirely independent panel. It is at the discretion of the governing body who will notify the clerk of their decision. Where an entirely independent panel is required, timescales may be affected while the school source appropriate individuals for the review.
7. The panel can make the following decisions:
 - 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.
8. All parties who attended the meeting will be informed in writing of the outcome of the appeal within 5 school days (excluding those which fall in the school holidays).
9. This is the final stage at which the school will consider the complaint. If the complainant remains dissatisfied and wishes to take the complaint further, please see the contact details at the end of the document. The school will not consider the complaint beyond this.

Contact Details

Contact details for external organisations if not satisfied with the outcomes of the complaints procedure in full.

- If the complainant feels that the governing board acted 'unreasonably' in the handling of the complaint, they can complain to the Department for Education after the complaints procedure has been exhausted. Please note that unreasonable is used in a legal sense and means acting in a way that no reasonable school or authority would act in the same circumstances.
- Ofsted will also consider complaints about schools.

Head Teacher
Burnside Business & Enterprise
College
St Peters Road
Wallsend
Tyne & Wear
NE28 7LQ

Clerk to the Governing Body
Governor Services
North Tyneside Council
Quadrant East
Cobalt Business Park
NE27 0BY

Chair of Governors
c/o Burnside Business & Enterprise
College
St Peters Road
Wallsend
Tyne & Wear
NE28 7LQ

Department for Education (DfE)
School Complaints Unit
2nd Floor
Piccadilly Gate
Store Street
Manchester
M1 2WD

Marked 'Private and Confidential'

Relevant legislation and guidance

The Equality Act 2010 <http://www.legislation.gov.uk/ukpga/2010/15/contents>

The Data Protection Act 1998
<http://www.legislation.gov.uk/ukpga/1998/29/contents>

The Education (Independent School Standards) Regulations 2014
<http://www.legislation.gov.uk/uksi/2014/3283/contents/made>

Education Act 2002 <http://www.legislation.gov.uk/ukpga/2002/32/contents>

The Department for Education *Best Practice advice for school complaints procedures*
<https://www.gov.uk/government/publications/school-complaints-procedures>

Complaints to Ofsted about schools: guidance for parents
<https://www.gov.uk/government/publications/complaints-to-ofsted-about-schools-guidance-for-parents>



Burnside Business & Enterprise College Formal Complaints Form

Name	
Name of pupil, year group and your relationship to them (where applicable)	
Contact address	
Contact telephone day	
Contact telephone mobile	
Contact email address	
Details of the complaint (<i>please continue on a separate sheet if necessary</i>)	
Action taken so far (including staff member who has dealt with it so far) or solutions offered	
The reason that this was not a satisfactory resolution for you	
What action would you like to be taken to resolve the problem?	

Signed: _____

Date: _____

<i>Official use</i> Date received:	Signed:
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