



COMPLAINTS PROCEDURE POLICY

Review Date – February 2018

This policy has been written with the following in mind.

Reference Points

- Education Act 1996 (Sections 496 & 497)
- Education Act 2002 (Section 29)
- Apprenticeships, Skills, Children and Learning Act (“The Act”) 2009 (Chapter 10, Part 2, sections 206-224)
- The Education (Independent School Standards) Regulations 2010
- Education Act 2011
- ‘Complaints by Parents – Model Procedure’ (see attached appendix 1)
- Equality Act 2010
- Freedom of Information and Data Protection Acts
- Department for Education – ‘Best Practice Advice for School Complaints Procedures 2016’ January 2016

Contact Point

Schools Liaison Officer – Helen Clarke - (01522-554884)

Action Points

As a maintained school we are required to have a procedure in place for dealing with complaints relating to the school and any community facilities or services that we provide. The procedure must be published.

- Where our Governing Body is asked to respond to a complaint we will ensure that individual complaints are referred to a complaints committee or to the Chair of Governors if it is necessary to follow the school’s disciplinary procedure, and not raised at full Governing Body meetings.
- Our Governing Body and the Executive Headteacher will be advised of the outcome of the investigation into a complaint and of any recommendations made by the complaints committee arising from their investigations.
- No governor will deal with a complaint alone.

GUIDANCE for PARENTS:

Introduction

In this school all staff are dedicated to giving all children the best possible education and caring properly for their health, safety and welfare at all times. We are committed to working closely with parents and believe that school and parents must work together in partnership, each carrying out our own particular responsibilities to help pupils gain the most from their time in school.

If you feel that something is not going quite as you would like it to, that we are doing something that you are unhappy with, or not doing something that you feel we should, please tell us about it.

- **The first step:**

Please arrange to discuss any concerns with your child's class teacher, or with the particular teacher concerned. We hope that most problems can be sorted out this way.

- **The second step:**

If, after speaking to your child's teacher, you do not feel that your complaint has been properly dealt with, or if your concern is about the conduct of a particular teacher, then you should discuss the matter with the Head of School or Executive Headteacher.

In almost all cases we can sort things out satisfactorily in this way.

- **The third step:**

You should make a formal complaint to the Executive Headteacher (this can be made in person, by telephone or in writing but it must be made clear that this is a formal complaint). Notes of meetings and telephone calls will be kept and a copy of any written response will be added to the record. You should then receive a written response within 7 days. If the complaint is about the conduct of the Executive Headteacher, please see the bullet point below.

- **Taking matters further:**

If your complaint is about the conduct of the Executive Headteacher, or if you are dissatisfied with the Executive Headteacher's response to your formal complaint letter, then you will need to contact the governors.

You should send details of your complaint, with any correspondence and evidence to support your complaint, to the Clerk to the Governors at the school address. If, for some reason, you do not feel able to do so, you should contact the Clerk, via the school, who will record your complaint as a statement for you to sign.

The governors will investigate your complaint and write to advise you of the outcome.

The Role of the School Complaints Unit

If a complaint has completed the local procedures and the complainant remains dissatisfied, they have a right to refer their complaint to the Secretary of State. The Secretary of State has a duty to consider all complaints raised but will only intervene where the governing body has acted unlawfully or unreasonably and where it is expedient or practical to do so.

The School Complaints Unit (SCU) considers complaints relating to LA maintained schools in England on behalf of the Secretary of State. The SCU will look at whether statutory policies adhere to education legislation. However, the SCU will not normally re-investigate the substance of the complaint. This remains the responsibility of schools.

The SCU will not overturn a school's decision about a complaint except in exceptional circumstances where it is clear the school has acted unlawfully or unreasonably. If the SCU finds that the school has not handled a complaint in accordance with its procedure, we may request that the complaint is looked at again.

If legislative or policy breaches are found, the SCU will report them to the school and the complainant, and where necessary, ask for corrective action to be taken. The SCU normally also seeks written assurances as to future conduct. Failure to carry out remedial actions or provide written assurances could ultimately result in a formal Direction being issued by the Secretary of State in accordance with her powers under sections 496 and 497 of the Education Act 1996.

We may wish to contact the SCU for advice on whether we have acted reasonably; for example: in closing down the complaint from a serial complainant before the local procedure has been completed. However, the SCU will not be able to advise on how to resolve the complaint.

Further information can be obtained from the SCU by calling the National Helpline on 0370 000 2288 or going online at: www.education.gov.uk/help/contactus or by writing to:

Department of Education
School Complaints Unit
2nd Floor, Piccadilly Gate
Store Street
Manchester
M1 2WD

Complaints not in scope of the procedure

Our complaints procedure covers all complaints about any provision of facilities or services that we provide with the **exceptions** listed below, for which there are separate (statutory) procedures.

Exceptions	Who to contact
<ul style="list-style-type: none"> • Admissions to schools • Statutory assessments of Special Educational Needs (SEN) • School re-organisation proposals • Matters likely to require a Child Protection Investigation 	<p>Concerns should be raised direct with local authorities (LA). For school admissions, it will depend on who is the admission authority (either the school or the LA). Complaints about admission appeals for maintained schools are dealt with by the Local Government Ombudsman.</p>
<ul style="list-style-type: none"> • Exclusion of children from school 	<p>Further information about raising concerns about exclusion can be found at: www.gov.uk/school-disciplineexclusions/exclusions</p>
<ul style="list-style-type: none"> • Whistleblowing 	<p>Schools have an internal whistleblowing procedure for their employees and voluntary staff. Other concerns can be raised direct with Ofsted by telephone on: 0300 123 3155 via e-mail at whistleblowing@ofsted.gov.uk or by writing to: WBHL, Ofsted Piccadilly Gate Store Street Manchester M1 2WD The Department for Education is also a prescribed body for whistleblowing in education.</p>
<ul style="list-style-type: none"> • Staff grievances and disciplinary procedures 	<p>These matters will invoke the school's internal grievance procedures. Complainants will not be informed of the outcome of any investigation.</p>
<ul style="list-style-type: none"> • Complaints about services provided by other providers who may use school premises or facilities. 	<p>Providers should have their own complaints procedure to deal with complaints about service. They should be contacted direct.</p>

APPENDIX 2

COMPLAINTS BY PARENTS – GUIDANCE FOR GOVERNORS

Governors Complaints Procedure - refer also to flow chart at end of this section

- If a parent is not satisfied with the response from the Executive Headteacher regarding their complaint or if their complaint is about the Executive Headteacher, then he/she is entitled to take their complaint to the Governing Body.
- All complaints to the Governing Body must be in writing wherever possible (if this cannot be done, complaints can be taken in person or by telephone) and should include full details of the complaint, enclosing any supporting evidence. This should be sent to the clerk to the governors, care of the school. The clerk will then ensure the complaints process is started as soon as practicable (a complainant can request that the clerk to the governors write down the complaint on their behalf where writing a letter is difficult).
- A minimum of three governors will be selected to form a complaints committee to investigate and consider the complaint. The Chair of Governors will not be on this committee. Those governors chosen will ideally have no knowledge whatsoever of the details surrounding the complaint or of the complainant themselves.
- The Governing Body will always try to find impartial governors whenever possible.
- Once the complaints committee has been formed, they must then decide how they wish to investigate the complaint.
- As Governors of an LA maintained school we effectively have two options available. We can choose to deal with the complaint by means of an oral hearing or through written representations, but in making our decision we must be sensitive to any needs the complainant has. Wherever possible and appropriate, it will be through written representations.
- If we choose to have an oral hearing, the parent will be invited to attend a meeting where they will be able to put their complaint personally to the governors. The Executive Headteacher will also be present to respond to the complaint. Teachers will not attend. If their evidence is needed, it will either be obtained via the Executive Headteacher, or where this is not appropriate, by a governor either before or after the meeting with the parent. The governors will only make a decision about the complaint once they have heard the parent's and the school's evidence.
- The structure of such a meeting will be flexible. However, it is anticipated it will follow a similar process to exclusion or admission appeals. The complaints committee will have familiarised themselves with the written complaint before the meeting opens and will have an opportunity to ask any questions, as will the Executive Headteacher. The complaint will then be responded to by the Executive Headteacher with questions from both parties being permitted. Each party can then be asked to summarise their position. Both parties will then leave to allow the governors to make their decision in private.

- Both the complainant and Executive Headteacher are entitled to bring a representative with them if they wish. Although it would not normally be necessary, either party may bring a legal representative if they wish. Either party intending to bring a representative would be expected to contact the clerk to the governors before the hearing to notify them.
- If the governors do not wish to hold an oral hearing - that decision being at the discretion of the complaints committee - the investigation will proceed by way of written representations.
- Should the governors choose to adopt this procedure, the clerk to the governors will write to the complainant, outlining the procedure.
- The complaint will be forwarded to the Executive Headteacher who will then have 7 working days in which to respond.
- That response will then, in turn, be sent to the complainant for comment, any responses to be provided within 7 working days.
- Finally, that response will go to the Executive Headteacher who has 7 working days in which to respond to the clerk.
- A copy of the Executive Headteacher's final response will be sent to the complainant with the advice that it is only for their information and that any further response from the parent will not be considered except in exceptional circumstances.
- All the responses are then put before the complaints committee for consideration.
- For the avoidance of doubt, all communication will be through the clerk to the governors, neither party should send their response to the other directly.
- Regardless of which method is adopted, the complaints committee must take a robust approach and not simply endorse the decision of the Executive Headteacher without any consideration of the evidence.
- The complaints committee must have all the necessary evidence they feel is necessary for them to make their decision. If they are not satisfied and require further evidence from either party, they should adjourn and request that information. The complaints committee should only make their decision if they are satisfied they have sufficient evidence with which to make a final decision.
- The decision of the complaints committee will be given to the complainant in writing within 5 working days of the decision. Providing the procedures as laid down in the complaints policy are followed then there is no right of appeal following this decision.
- The decision letter will outline the nature of the complaint, the factors taken into consideration and the decision of the complaints committee. There is therefore no need for minutes to include any other information.

- Under the Data Protection Act, parents can request to have sight of all documents relating to their complaint, subject to restrictions as detailed in Section A06 of this handbook.

It is important that the complaint and the investigation papers are not attached to the child's file as they do not relate to the child. However, we will keep a central register of complaints received.

We will do our best to be helpful to people who contact us with a complaint or concern or a request for information. However, in cases where we are contacted repeatedly by an individual making the same points, or who asks us to reconsider our position, we 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 us to recognise when we really have done everything we can in response to a complaint. It is a poor use of our 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 will inform them that the procedure has been completed and that the matter is now closed.

If the complainant contacts us again on the same issue, then the correspondence may be viewed as 'serial' or 'persistent' and we may choose not to respond. However, we must be careful that we 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 will 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 will be against the subject or complaint itself rather than the complainant.

Is it time to stop responding?

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

- We have taken every reasonable step to address the complainant's needs;
- The complainant has been given a clear statement of the school's position and their 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:

- We have reason to believe the individual is contacting us 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.

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

We 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 we 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 we are failing to comply with our legal obligations. We need to ensure that we 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 our 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. We will talk to our FOI/DP advisor contact about those or approach the ICO for further advice.

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

Policy for Unreasonable Complainants

Surfleet Primary School is committed to dealing with all complaints fairly and impartially, and to providing a high quality service to those who complain. We will not normally limit the contact complainants have with the school. However, we do not expect our staff to tolerate unacceptable behaviour and will take action to protect staff from that behaviour, including that which is abusive, offensive or threatening.

Surfleet Primary School defines unreasonable complainants as *'those who, because of the frequency or nature of their contacts with the school, hinder our consideration of their or other people's complaints'*.

A complaint may be regarded as unreasonable when the person making the complaint:-

- refuses to articulate their complaint or specify the grounds of a complaint or the outcomes sought by raising the complaint, despite offers of assistance;
- refuses to co-operate with the complaints investigation process while still wishing their complaint to be resolved;
- refuses to accept that certain issues are not within the scope of a complaints procedure;
- insists on the complaint being dealt with in ways which are incompatible with the adopted complaints procedure or with good practice;
- introduces trivial or irrelevant information which the complainant expects to be taken into account and commented on, or raises large numbers of detailed but unimportant questions, and insists they are fully answered, often immediately and to their own timescales;
- makes unjustified complaints about staff who are trying to deal with the issues, and seeks to have them replaced;
- changes the basis of the complaint as the investigation proceeds;
- repeatedly makes the same complaint (despite previous investigations or responses concluding that the complaint is groundless or has been addressed);
- refuses to accept the findings of the investigation into that complaint where the school's complaint procedure has been fully and properly implemented and completed including referral to the Department for Education;
- seeks an unrealistic outcome;
- makes excessive demands on school time by frequent, lengthy, complicated and stressful contact with staff regarding the complaint in person, in writing, by email and by telephone while the complaint is being dealt with.

A complaint may also be considered unreasonable if the person making the complaint does so either face-to-face, by telephone or in writing or electronically:-

- maliciously;
- aggressively;
- using threats, intimidation or violence;
- using abusive, offensive or discriminatory language;
- knowing it to be false;
- using falsified information;
- publishing unacceptable information in a variety of media such as in social media websites and newspapers.

Complainants should limit the numbers of communications with a school while a complaint is being progressed. It is not helpful if repeated correspondence is sent (either by letter, phone, email or text) as it could delay the outcome being reached.

Whenever possible, the Executive Headteacher or Chair of Governors will discuss any concerns with the complainant informally before applying an 'unreasonable' marking.

If the behaviour continues the Executive Headteacher will write to the complainant explaining that their behaviour is unreasonable and asking them to change it. For complainants who excessively contact Surfleet Primary School causing a significant level of disruption, we may specify methods of communication and limit the number of contacts in a communication plan. This will usually be reviewed after 6 months.

In response to any serious incident of aggression or violence, the concerns and actions taken will be put in writing immediately and the police informed. This may include banning an individual from Surfleet Primary School.

Barring from the School Premises

Although fulfilling a public function, schools are private places. The public has no automatic right of entry. We will therefore act to ensure our school remains a safe place for pupils, staff and other members of our community.

If a parent's behaviour is a cause for concern, we will ask him/her to leave school premises. In serious cases, the Executive Headteacher or the local authority can notify them in writing that their implied licence to be on school premises has been temporarily revoked subject to any representations that the parent may wish to make. We will always give the parent the opportunity to formally express their views on the decision to bar in writing.

The decision to bar will then be reviewed, taking into account any representations made by the parent, and either confirmed or lifted. If the decision is confirmed the parent will be notified in writing, explaining how long the bar will be in place.

Anyone wishing to complain about being barred can do so, by letter or email, to the Executive Headteacher or Chair of Governors. However, complaints about barring cannot be escalated to the Department for Education. Once our own complaints procedure has been completed, the only remaining avenue of appeal is through the Courts; independent legal advice must therefore be sought.

Appendix 4 – Roles and Responsibilities

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 in seeking a solution to the complaint;
- expresses the complaint in full as early as possible;
- responds promptly to requests for information or meetings or in agreeing the details of the complaint;
- asks for assistance as needed;
- treats all those involved in the complaint with respect.

The Complaints Co-ordinator (or Executive Headteacher)

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 complaint procedure will be aware of the legislation around complaints including the Equality Act 2010, Data Protection Act 1998 and Freedom of Information Act 2000;
- liaise with staff members, Executive Headteacher, Chair of Governors and Clerk to ensure the smooth running of the complaints procedure;
- keep records;
- be aware of issues regarding:-
 - sharing third party information;
 - additional support - this may be needed by complainants when making a complaint including interpretation support.

The Investigator

The Investigator is the person involved in Stages 1 and 2 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 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 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 Panel Clerk (this could be Clerk to the Governors or the Complaints Coordinator)

The Clerk is the contact point for the complainant for the panel meeting and is expected 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;
- circulate the minutes of the panel hearing;
- notify all parties of the panel's decision;
- liaise with the complaints co-ordinator.

The Panel Chair

The Panel Chair has a key role in ensuring that:-

- the meeting is minuted;
- the remit of the panel is explained to the complainant and both they and the school have the opportunity of putting their case without undue interruption;
- the issues are addressed;
- key findings of fact are made;
- parents/carers and others who may not be used to speaking at such a hearing are put at ease – this is particularly important if the complainant is a child/young person;

- the hearing is conducted in an informal manner with everyone treated with respect and courtesy;
- the layout of the room will set the tone – care is needed to ensure the setting is informal and not adversarial;
- the panel is open-minded and acts independently;
- no member of the panel has an external interest in the outcome of the proceedings or any involvement in an earlier stage of the procedure;
- both the complainant and the school are given the opportunity to state their case and seek clarity;
- written material is seen by everyone in attendance – if a new issue arises it would be useful to give everyone the opportunity to consider and comment upon it; this may require a short adjournment of the hearing;
- liaise with the Clerk and complaints co-ordinator.

Panel Member

Panellists will need to be aware that:-

- it is important that the review panel 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.

- the aim of the hearing, which will be held in private, will always be to resolve the complaint and achieve reconciliation between the school and the complainant;

However, it must be recognised that 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.

- many complainants will feel nervous and inhibited in a formal setting;

Parents/carers often feel emotional when discussing an issue that affects their child. The panel chair will ensure that the proceedings are as welcoming as possible.

- extra care needs to be taken when the complainant is a child/young person and present during all or part of the hearing;

Careful consideration of the atmosphere and proceedings will ensure that the child/young person does not feel intimidated. The panel should respect the views of the child/young person and give them equal consideration to those of adults.

If the child/young person is the complainant, the panel should ask in advance if any support is needed to help them present their complaint. Where the child/young person's parent is the complainant, the panel should give the parent the opportunity to say which parts of the hearing, if any, the child/young person needs to attend.

The parent should be advised however that agreement might not always be possible if the parent wishes the child/young person to attend a part of the meeting which the panel considers not to be in the child/young person's best interests.

- The welfare of the child/young person is paramount.

Interviewing Best Practice Tips

Children/young people

- Children/young people should be interviewed in the presence of another member of staff, or in the case of serious complaints (e.g. where the possibility of criminal investigation exists) in the presence of their parents/carers. However, it might not always be possible to conduct an interview in case it prejudices a LADO or police investigation.
- Care should be taken in these circumstances not to create an intimidating atmosphere.
- Children/young people should be told what the interview is about and that they can have someone with them.

Staff/Witnesses

- Explain the complaint and your role clearly to the interviewee and confirm that they understand the complaints procedure and their role in it.
- Staff are allowed a colleague to support them at their interview. The colleague must not be anyone likely to be interviewed themselves, including their line manager.
- Use open, not leading questions.
- Do not express opinions in words or attitude.
- Ask single not multiple questions, i.e. one question at a time.
- Try to separate 'hearsay' evidence from fact by asking interviewees how they know a particular fact.
- Persist with questions if necessary. Do not be afraid to ask the same question twice. Make notes of each answer given.
- Deal with conflicting evidence by seeking corroborative evidence. If this is not available, discuss with the complaints co-ordinator/ Executive Headteacher/ Chair of Governors the option of a meeting between the conflicting witnesses.
- Make a formal record of the interview from the written notes as soon as possible while the memory is fresh. Show the interviewee the formal record, ask if s/he has anything to add, and to sign the record as accurate.

Further information**Useful Resources and External Organisations**

- National Governors Association
- Information Commissioner's Office

Other Relevant Departmental Advice and Statutory Guidance

- Section 29 of the Education Act 2002
- Governors Handbook
- Understanding and Dealing with Issues Relating to Parental Responsibility

Other Departmental Resources

- How to complain about a school - Advice for complainants
- Parental Responsibility Guidance – non-statutory advice for schools

FORMAL COMPLAINT TO GOVERNORS

This action should only be taken once the Executive Headteacher has responded in writing to a formal complaint OR if the complaint is about the Executive Headteacher.

