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Circular Letter No 32/12/13

To: Headteachers and Chairpersons
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Dear Colleague

SCHOOL COMPLAINTS PROCEDURE

Please find attached a revised version of the document: Complaints Against the School (January 2013).

Following the commencement of section 45 of the Education Action 2011, complaints about maintained schools not resolved by the school that would have been considered by the Local Government Ombudsman or the Local Authority can now be sent to the Secretary of State by the parent.

In view of this change, references in the previous version to the Local Authority becoming involved in complaints have been deleted.

Yours sincerely

Steve Brailsford
Assistant Head of Service

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Document Type: Guidance and
Procedure

COMPLAINTS AGAINST THE SCHOOL



BARNSLEY
Metropolitan Borough Council

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INTRODUCTION

Section 29(1) of the Education Act 2002 requires that the governing body of a maintained school must have in place a procedure for dealing with complaints. The nature of the complaint can relate to any aspect of the school, employees or any community facility or service that the school provides.

It is in everyone's interest that complaints are resolved as quickly as possible within a clearly defined procedure.

The school website should contain an explanation of the procedure for parents contacting the school to raise a complaint and the school must have available a copy of the complaints procedure to give to parents who decide to make a formal complaint.

Where the complaint is not from a parent e.g. a member of the public, the same procedure must be followed as that for a parent. Therefore, in this document any reference to a parent also includes any other person making a complaint.

All school staff should be aware of the school complaints procedure and should be able to give information and assistance to parents on how to raise a concern or make a formal complaint.

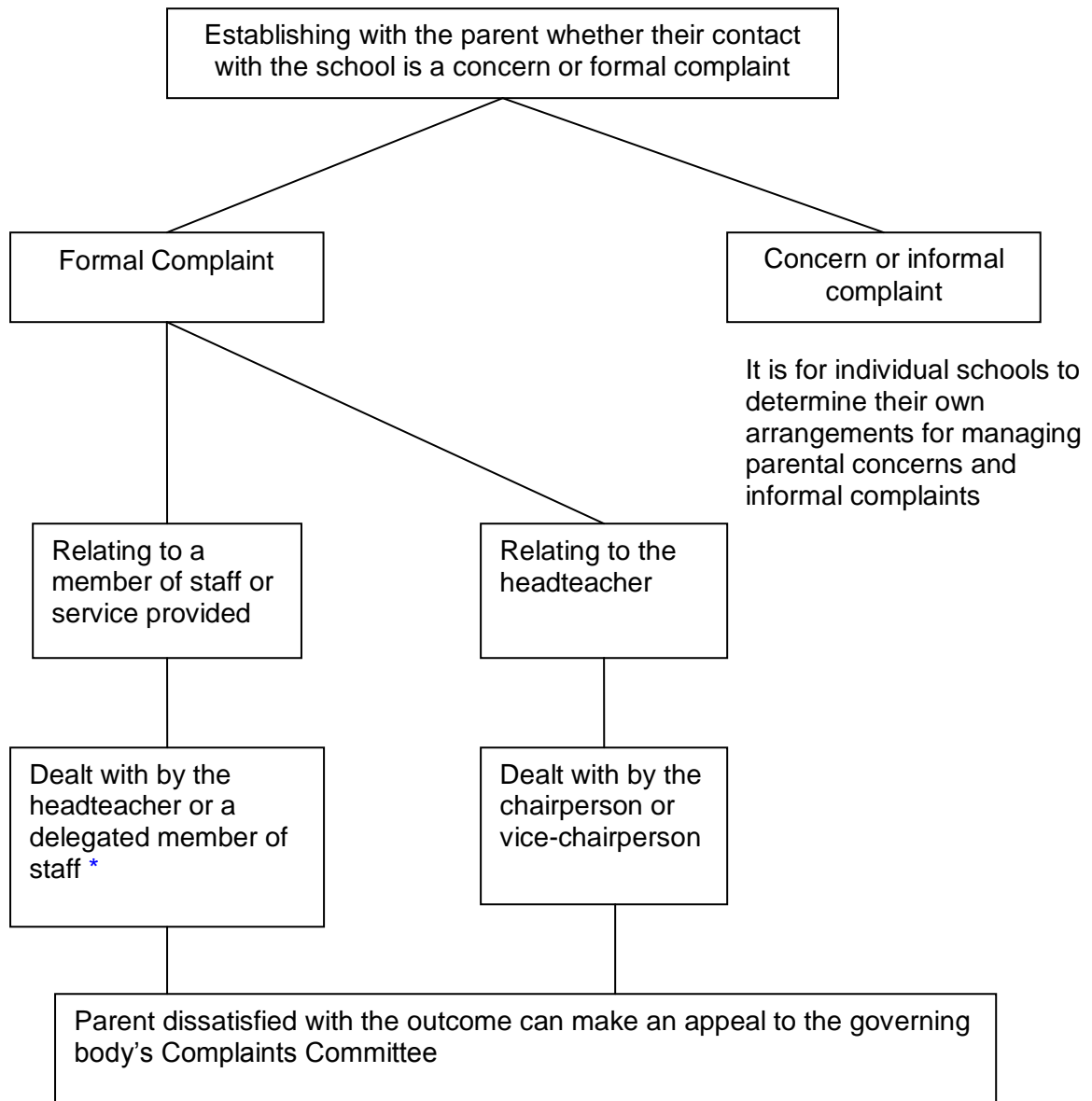
A school complaints procedure is not intended to apply to complaints of financial impropriety, criminal activity or disciplinary and grievance matters for which other procedures are in force.

There are different arrangements for complaints about:

- admissions procedures;
- exclusion of individual pupils;
- provision for individual pupils with special educational needs;
- religious education or the religious character of a school.

Anonymous complaints need not be dealt with.

STRUCTURE FOR A COMPLAINTS PROCEDURE



* Most schools undertake this in a single stage. Some schools have a two stage process in which a first investigation is carried out by a member of staff with the option that the Headteacher can carry out a further investigation if necessary.

ROLE OF THE GOVERNING BODY

The role of the governing body is to establish a procedure for dealing with complaints, to ensure that the procedure is published and to establish a complaints committee to hear appeals at the final stage of the complaints procedure.

There is a legal requirement for the School's Complaints Procedure to be publicised and it is up to the Governing Body to decide how to fulfil this requirement.

Individual complaints must not be heard by the whole governing body at any stage as this would compromise the impartiality of any panel set up for a disciplinary hearing against a member of staff following a serious complaint.

Establishing the Complaints Committee will require three resolutions:

- (1) to establish the Complaint Committee;
- (2) to approve the Constitution and Terms of Reference;
- (3) to appoint Governors to the Committee

Governors, other than the chairperson or vice-chairperson investigating a complaint, have no individual role in the complaints procedure.

Where a governor receives a complaint they must refer the complainant to the headteacher of the school (or if the complaint concerns the headteacher to the chairperson) and have no further involvement in the matter.

An example of the Constitution and Terms of Reference for a Complaints Committee is provided at Annex 1 and the Committee Meeting procedure at Annex 2.

Where the governing body did not wish to establish a separate committee to deal with complaints appeals, then an option would be to amend the Terms of Reference of an existing committee to include:

- to hear appeals from parents together with representations from the headteacher and/or chairperson
- to notify in writing, to the parent, the outcome of the appeal.

There are areas of school management which involve professional decisions which only the headteacher is qualified to make. Such matters would not fall to the governing body to overturn. However, it would be a reasonable expectation that the headteacher would brief governors on their decisions.

The Governing Body should monitor the level and nature of complaints and review their outcomes on a regular basis to ensure the effectiveness of the school complaints procedure and make changes where necessary. Underlying issues that need to be addressed may be identified. Complaints information shared with the whole governing body should not name individuals.

INFORMAL COMPLAINTS OR CONCERNS

It is in everyone's interest that complaints are resolved at the earliest possible stage.

Where the complaint is made in person or by telephone it is preferable, if possible, to seek to resolve the complainant's concerns at that time on an informal basis.

Even some written complaints, which can be resolved simply and speedily, by a quick response, can be classed as informal complaints.

Where a parent raises an issue with a school it is important to establish whether the parent has a concern regarding a particular issue which they are seeking to have resolved or whether the parent has a complaint which they want investigating and responded to formally.

Concerns ought to be handled, if at all possible, without the need for formal procedures. Taking concerns seriously at the earliest stage will reduce the numbers that develop into formal complaints.

All schools must have a procedure for managing parental concerns. Such a procedure will be informal in its style and reflect the relationship between the school and parents.

Sometimes parents may use the term complaint when in fact they have a concern so consequently it can be dealt with in a less formal manner.

Resolving parental concerns swiftly can prevent concerns becoming formal complaints. However, it is recognised that, irrespective of the school's reasonableness in responding to the parent's concerns, sometimes they will be dissatisfied with the outcome and wish to make a formal complaint.

FORMAL COMPLAINTS

Formal complaints procedures will need to be invoked when initial attempts to resolve issues informally are unsuccessful and the person concerned remains dissatisfied and wishes to take the matter further.

Parents need to be advised that complaints are treated seriously and managed by a formal process involving evidence and investigation.

A complaint must be made in writing or e-mail.

Where a parent makes a complaint by telephone or in person, they must be advised to submit the complaint in writing in order for it to be considered.

Parents may find it easier to complete a School Complaint Form. A copy is provided at Annex 3.

Where a person comes onto the school premises and makes a complaint in a threatening manner, the headteacher must deal with that person in accordance with the Local Authority's procedure set out in: Work Related Violence to Employees at School – A Guide for all School Staff.

WHO DEALS WITH COMPLAINTS

Parents should be encouraged to speak informally with the appropriate member of staff as soon as they have a concern in accordance with the school's procedure. The parent should be advised to raise more serious concerns with the Headteacher.

Most concerns are dealt with informally to everyone's satisfaction. But failing this, complainants need to know about the formal stages of the process.

All formal complaints relating to the school must be referred to the headteacher who can decide:

- (i) to deal with it themselves; or
- (ii) delegate to a member of staff.

Where a complaint involves or relates to the headteacher, it must be referred to the chairperson of the governing body. In the absence of the chairperson then the vice-chairperson would be expected to deal with the complaint.

Where the parent makes a formal complaint regarding a school policy the matter should be referred to the chairperson for the governing body to deal with.

Schools may wish to nominate a member of staff to have responsibility for the operation and management of the school complaints procedure. In smaller schools however, this role is likely to be undertaken directly by the headteacher.

Where a complaint is delegated to a member of staff this must be made known to the complainant. The member of staff must be independent and possess the appropriate skills and authority to deal with other colleagues as part of the complaints process.

INVESTIGATING AND RESOLVING COMPLAINTS

The following points are an example of good practice for investigating a complaint.

1. Record all information.
2. Establish exactly the nature of the complaint; what happened, who was involved, when it happened and where.
3. Check out the complaint with a view to finding witnesses/evidence.
4. Interview where necessary those complained of, allowing them to be accompanied if they wish.
5. Produce a report containing findings on the complaint.

Any report is produced in the name of the headteacher (or chairperson) and it is up to them to determine whether the complaint is upheld, wholly or in part, or whether there is no substance to the complaint.

The report must be sent to the complainant with the headteacher's (or chairperson's) finding with an offer to meet to discuss the outcome.

The purpose of such a meeting is to explain what has been found out not to amend the report and hopefully to resolve the issue.

Where a complaint has been upheld, the intention should be to put the complainant in the position they would have been in if things had not gone wrong. This will be dependent on the individual circumstances of the case but will usually be achieved by the following:

- offering an apology and full explanation for what went wrong;
- an admission that the situation could have been handled differently or better;
- taking steps to remedy the situation if appropriate;
- taking action to ensure that the problem is not repeated, including amending a school policy if this is appropriate.

APPEAL TO COMMITTEE OF GOVERNING BODY

Where the complainant remains dissatisfied they must be advised that they can make an appeal to the governing body Complaints Committee.

The purpose of the appeal is not to reinvestigate the complaint, it is to ensure that the complaints procedure was implemented correctly and every issue within the complaint thoroughly investigated. It may only be possible to establish the facts and make recommendations which will satisfy the complainant that the complaint has been taken seriously.

It is important to note that professional decisions that are made in school are the responsibility of the headteacher. This means that even if the Complaints Committee does not agree with the headteacher's decision, they cannot substitute their own decision.

Decisions of the Complaints Committee

The decision of the Complaints Committee will depend upon the nature of the complaint and generally be in two parts.

Part A

(i) That the complaint was managed and investigated correctly;

or

(ii) That the complaint was not managed and investigated correctly.

The Committee would then proceed to make a decision upon the outcome of the complaint under point (i) above.

Part B

That the Committee:

- uphold the decision on the complaint; or
- uphold the decision on the complaint in part; or
- dismiss the complaint.

Following the Committee's two part decision they will need to consider the appropriate action to be taken to resolve the complaint and what response to make to the parent. The following are examples:

- (i) an explanation as to why they consider the complaint has been dealt with properly and fairly;
- (ii) acknowledge the school is at fault and offer an apology;
- (iii) an admission that the situation could have been handled differently but this would not have affected the outcome;
- (iv) an assurance that the event complained of will not happen again and what actions are being undertaken by the school;
- (v) a review of the policy/procedure in light of the complaint.

Following the meeting of the Complaints Committee the Clerk must write to the complainant setting out the decision of the Committee and giving reasons for their decision.

The Committee may also recommend changes to the school's systems or procedures to ensure that problems of a similar nature do not happen again

Vexatious complaints

When all the stages of the complaints procedure have been followed there may be an occasion when the complainant remains dissatisfied and attempts to continue the complaint. In such a case the chairperson should write to the complainant and inform them the matter has been to appeal and therefore is now closed.

ROLE OF THE LOCAL AUTHORITY

Where a parent contacts the Local Authority regarding a complaint against a school they will be advised to request a copy of the school's complaints procedure from the school and either raise their concerns informally or submit a written complaint to the headteacher of the school. Where permission is given notification of this contact will be sent by e-mail to the headteacher.

Where appropriate and permission is given, details of the concern may also be passed to other officers within the service so that they can provide support, for example Education Welfare, Behaviour Support. If there are possible safeguarding issues, information will be passed on to the relevant agencies.

The parent will be advised of the procedures for schools' complaints and informed that the Local Authority will not investigate their complaint. In the case where a parent has followed their complaint to the end of the school's procedure the matter is concluded.

Under section 45 of the Education Act 2011, the Local Authority's duty to consider complaints about the curriculum, sex education and religious worship in maintained schools has ceased.

Complaints about maintained schools not resolved by the school should be addressed to the Secretary of State for Education and not the Local Authority.

ROLE OF OFSTED

Ofsted have the power to consider some complaints made in writing about schools. Such complaints can be made by parents or carers of children registered at a school.

Ofsted will not usually consider a complaint if the parent/carer has not first followed the School's and Local Authority's complaints procedure.

Ofsted can consider complaints where it affects the school as a whole e.g.

- the school not providing a good enough education
- the pupils are not achieving as much as they should, or their differing needs are not being met
- the school is not well led and managed, or is wasting money
- the pupils' personal development and well being are being neglected.

Ofsted will not normally investigate cases to do with individual pupils.

Ofsted cannot consider complaints when there are other statutory ways of pursuing them.

Examples include complaints relating to:

- admissions procedures
- exclusion of individual pupils
- provision for individual pupils with special educational needs
- religious education or the religious character of a school
- temporary changes to the curriculum

Ofsted are not in a position to:

- investigate incidents that are alleged to have taken place
- judge how well a school investigated or responded to a complaint
- mediate between a parent and a school to resolve a dispute.

Where a complaint is made to Ofsted, which falls within their power to investigate, it may decide to bring forward an inspection or conduct an immediate inspection.

Complaints about childcare and social care provision

Ofsted can take more extensive action on receiving a complaint about childcare and social care providers should the information they receive suggest that providers are not meeting minimum standards, are putting children at risk or are providing services without appropriate registration. This will apply to schools where they are registered with Ofsted for the provision of these services.

COMPLAINTS COMMITTEE

CONSTITUTION

1. The Committee shall consist of 5 Governors appointed by the Governing Body excluding the Headteacher and Staff Governors
2. Where the Chairperson of the Governing Body is a member of the Committee they shall not attend any meeting where they have participated in the management of the complaint.
3. The Chairperson of the Committee shall be elected by the Committee.
4. The quorum shall consist of 3 members of the Committee.*
5. The Governing Body shall appoint a Clerk to the Committee
6. The Clerk will ensure:
 - (i) a minimum of 7 clear days notice of a meeting is given in writing to each committee member along with the agenda;
 - (ii) the minutes and decisions of the committee are recorded and made available for inclusion in the agenda papers of the next Committee meeting and/or Governing Body meeting.
7. The Committee is authorised to make decisions on behalf of the Governing Body only in respect of those powers specifically within the Terms of Reference.

TERMS OF REFERENCE

1. To hear appeals from parents together with representations from the Headteacher or Chairperson.
2. To notify in writing, to the parent, the outcome of the appeal.

** It is recommended that only 3 governors attend the meeting as 5 governors present could be rather daunting for a parent*

PROCEDURE FOR THE COMPLAINTS COMMITTEE OF THE GOVERNING BODY

1. The Headteacher (or Chairperson*) and parent/carer will be invited into the meeting.
2. Those present will introduce themselves
3. The Clerk will explain the procedure for hearing the parent's complaint.
4. The parent will present their complaint.
5. The Governors may if they wish ask the parent questions.
6. The Headteacher/Chairperson may ask questions of the parent.
7. The Headteacher/Chairperson will be invited to explain how the complaint was managed and what decisions were taken on the complaint.
8. The Governors, may if they wish, ask the Headteacher/Chairperson questions.
9. The parent may ask the Headteacher/Chairperson questions.
10. Following summaries by the parent/carer and Headteacher/Chairperson they will leave the meeting.
11. The Committee will then come to a decision on the complaint.
12. Following the meeting the Clerk will write to the parent and the Headteacher/Chairperson informing them of the Committee's decision.

Witnesses may be questioned on any statement made or evidence given.

*Where the Chairperson has investigated the complaint instead of the Headteacher

School logo

SCHOOL COMPLAINT FORM

When you have completed this form please send it or hand it in to the school.

Parent/Carer's Details	
Parent/Carer's Name	<hr/>
Pupil's Name	<hr/>
Relationship to the Pupil	<hr/>
Address	<hr/>
	<hr/>
Post Code	<hr/>
Telephone Number	<hr/>
The Complaint	
Please give details of your complaint:: (attach additional sheets if necessary)	
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What would you like the school to do to put things right?

Signature

Signature of Parent/Carer _____
Date _____

School Action

Date received in school _____
Acknowledgement Sent on: _____
by _____

SCHOOL HEADED PAPER

COMPLAINTS PROCEDURE

Our school values its relationship with pupils and parents and encourages those with concerns regarding their child's education or the service we provide to contact the school with aim of resolving the issue or concern.

However, where a parent wishes to make a complaint it will be treated seriously and managed in a formal procedure.

- 1 The parent must submit their complaint in writing or by using the School Complaint Form. Anonymous complaints will not be dealt with.

The letter/form should contain as much detail as possible
- 2 The complaint will be acknowledged in writing within 5 school days stating which member of staff will be managing the complaint.
- 3 Within a further 20 school days an investigation of the complaint will be undertaken.
- 4 Within 5 school days of completing the investigation the parent will receive a copy of the report and the headteacher's decision, or notification that the headteacher will investigate further. If the headteacher decides to undertake a further investigation the parent will be notified of this and be given a date by which it will be completed(normally a further 10/15 school days)
- 5 The parent will be invited to attend a meeting to discuss the report, if they wish, at a time convenient to them. There is no time limit to this.
- 6 Irrespective of whether the parent attends a meeting they have the right of appeal to the Governing Body Complaints Committee if they are dissatisfied with the outcome of the complaint.
- 7 A Complaints Committee meeting will be held within 15 school days of the parent informing the school they wish to appeal.

A copy of the Complaints Committee Procedure is attached.
- 8 The decision of the Complaints Committee will be sent to the parent, in writing the school day following the meeting.

The decision of the Complaints Committee is final.

The parent can submit a complaint to the Local Authority only on the grounds that the school did not follow its published procedure. The Local Authority will not investigate the parent's original complaint against the School, however the Local Authority may check that the school followed its published procedures.

Where the complaint refers to the headteacher the chairperson of the Governing Body will investigate the complaint.