

St John's Upper Holloway CE Primary School



Complaints policy

June 2019

Complaints Procedure and Policy

Date approved by staff and Governors: June 2019

Review: June 2020

Date: June 2019

Review: June 2021

Our Vision

Jesus said: 'Love each other as I have loved you'. John 15:12

As we are loved, so we shall love.

As we are taught, so we shall teach.

As we are nurtured, so we shall flourish.

Our Mission

- St John's is a small, caring Church of England Primary School. It is committed to supporting our pupils to be happy, successful and fulfilled throughout their lives. We believe that everyone is unique and valued by God. We aspire to be a high achieving school that provides an outstanding education:
 - ❖ promoting the highest standards of teaching and learning, with excellent leadership
 - ❖ being inclusive, celebrating diversity and valuing all religions, faiths, cultures and backgrounds
 - ❖ providing a rich and stimulating curriculum that will inspire and challenge
 - ❖ being a happy, healthy and safe place
 - ❖ providing excellent care, guidance and support with a strong partnership between school, parents and the community.

We seek to promote six Christian values of creativity, thankfulness, truthfulness, friendship, perseverance and courage, each linked by our core value of love. We believe these help to prepare our children for a successful and fulfilling life, so being:

- considerate and respectful with excellent manners
- confident, happy, independent and self-motivated
- co-operative and collaborative
- honest and trustworthy
- resilient, hardworking and determined
- highly principled with moral, spiritual, cultural and social awareness, including shared British Values.

Background

This guidance, including a model policy, is issued to NAHT members to complement the guidance that has recently been issued by the Secretary of State. It conforms to the same framework of principles. The adoption of any particular procedure is a matter for individual Governing Bodies so members may wish to recommend adoption of the NAHT model in their schools or else Branch Secretaries may seek to persuade LEAs to incorporate the NAHT model in their local guidance to schools.

The Local Situations

Currently, some Governing Bodies adopt ad hoc procedures, while others have formally adopted procedures, the contents of which cover an enormous spectrum. Some of these formal procedures allow for adversarial hearings and/or numerous appeal stages up to and including LEA level. As a result our members are not infrequently faced with protracted and often spurious complaints. These generate enormous additional workload [100+ hours is not unusual] and tremendous personal stress, particularly where the complainants are aggressive/accusatory. Many of these protracted procedures actually mitigate against complaint resolution as the focus becomes one of blame allocation and retribution rather than concentrating on taking steps to rectify an error/oversight or preventing a recurrence.

Legal Framework

Section 409 of the 1996 Education Act allows an LEA to make arrangements for the consideration or disposal of any complaint about the unreasonable action of the LEA or of a Governing Body in relation to a statutory duty or power. This would include Admissions, the provision of an appropriate curriculum, SEN, and Exclusions Appeals. Complaints of a more general nature fall outside the remit of this section.

Section 39 of the 1998 Act requires Governing Bodies, in accordance with regulations, to establish procedures for dealing with non-statutory complaints and to publicise those procedures. No such regulations were published.

The 2002 Education Act includes the eventual repeal of sec.39 of the 1998 Act, in accordance with provision made by the Secretary of State by Order and its replacement with a similarly worded section [29(1)] which extends complaints to those about the provision by the Governing Body of community facilities etc...as described by section 27. In establishing and publicising these procedures the Governing Body shall have regard to Guidance given by the Secretary of State.

Section 496 of the 1996 Act allows a person to complain to the Secretary of State that a Governing Body [or LEA] has acted, or is proposing to act, unreasonably with respect to any power conferred or duty imposed by that Act.

In relation to a non-statutory complaint, there is no statutory right of appeal by a complainant to a LEA or Diocesan Board.

General Principles

1. The procedure is designed to ensure that, wherever possible, an informal resolution is attempted.
2. All stages of the complaints procedure should be investigatory rather than adversarial.
3. The procedure is intended to be extended to those persons who may have a legitimate complaint relating to the school and where any complaint may not be pursued through a statutory complaints procedure. It is anticipated that, primarily, these persons will be parents, as defined by Section 576 of the Education Act 1996, and those with parental responsibility, as defined in the Children Act 1989.

4. The responsibility for dealing with General Complaints lies solely with the school. The procedures of LEAs, Diocesan Boards and other agencies are expected to reflect existing legislation and ensure that any non-statutory complaint received by them will be redirected to the school immediately and that the complainant be informed accordingly.
5. Any procedure should include provision that “An anonymous complaint will not be investigated under this procedure unless there are exceptional circumstances.” These would include serious concerns such as Child Protection issues or bullying allegations, where the school would either involve appropriate external agencies or else conduct its own internal review to test whether there is any corroborative evidence which might trigger a formal investigation.
6. There should be a mechanism for terminating spurious complaints and those brought by vexatious complainants. Model letters are included in annex 3 to the procedure.
7. In advising complainants of the outcome of their complaint it is important to be most circumspect in the details provided. To do otherwise may prejudice the ability of any employee complained about to continue in post. The release of certain information might be an obstacle to the fair application of disciplinary/capability procedures or otherwise contravene the employee’s employment rights. Sample responses are included in annex 3 to the procedure.
8. In the event that a complainant believes that the appropriate procedures have not been followed, by the person dealing with their complaint, the complainant may make request that the Governing Body review the process that has been followed in order to verify whether the procedure has been adhered to. Any review request that is based solely on dissatisfaction with the outcome, rather than any identified failure to deal with a complaint according to procedure, should not be accepted.
9. Any Governors involved in the process should receive prior training for their role.
10. Members need to be aware of the possibility that, if the complainant believes that the school is acting unreasonably, they may make a complaint to the Secretary of State under sections 496 or 497 of the 1996 Act.
11. It is important that any potential complainant is aware of the correct channel through which to pursue their complaint. This will reduce the likelihood of letters of complaint being fired off with a scattergun approach to, the LEA, Secretary of State, Councillors, MP, local paper, individual Governors, the Diocese, the Bishop etc... . Therefore it is essential that reference to is made, to the existence of the General Complaints Procedure, in the school prospectus. [A model paragraph is included in annex.4]
12. Some existing procedures include a “hearing” stage, where the subject of the complaint is questioned in the presence of the parent or by the parent. The absence of such a stage in this procedure is deliberate as its inclusion creates an opportunity for confrontation, which runs counter to the resolution of any complaint. This is strictly in accord with the principle stated in the DfES Guidance that the procedure be non-adversarial.
13. It may be helpful to place a limit on the time after which a complaint will **normally** not be considered [e.g. Complaints must be raised within 3 months of the event being complained of, save in exceptional circumstances]

14. Schools should include an indication of the time scale within which the school will process the complaint. e.g. Investigation of any complaint or review request shall begin within 5 school days of receipt of the same, save in exceptional circumstances. The investigation shall be completed as soon as reasonably practicable.
15. The matter of keeping a record of the complaint and its investigation could be addressed. [It would not be appropriate to keep this in the child's record as the parent may request access] The issue of taking notes/minutes may also be addressed.
16. The procedure should be designed to facilitate resolution of concerns with the minimum of conflict. Therefore, it is important that the procedure adopted carries the confidence of all interested parties so that its use secures "closure". This is more likely to be the case if the procedure adopted has been the subject of wide consultation.
17. The use of well designed "Complaints" and "Review Request" Forms may assist the process by focusing the complainant on the importance of being specific about the nature of their complaint and the need to provide evidence or at least to be able to cite relevant incidents. Model letters and forms are provided in Annex 3 of this document.

Vexatious Complainants

It is clear from the information provided by our members that the vast majority of complaints are resolved by informal contact. Problems arise where the complainants are unreasonable and are not seeking to have a situation remedied but are determined to extract retribution for some real or imagined wrong.

It is these latter circumstances that can lead a school, which is acting very reasonably, to being sucked into an interminable saga with letters flying back and forth with each reply demanding more and more answers to more and more questions. Often an attempt to clarify the situation will trigger a multitude of questions, none of which possible answers serve any constructive purpose. It is these vexatious complainants from which schools need protection.

A model letter for use in such circumstances is included in annex 3.

Alternative Models

As it is not uncommon for existing procedures to include provision for several appeal stages and/or for active LEA involvement as of right, it may be considered expedient by Branches when negotiating with LEAs, to agree to the inclusion in the locally recommended procedure of a single LEA "appeal" stage whereby an LEA officer conducts a "paper review" to verify that the school has indeed followed their own procedure. The outcome of any such "appeal" would be purely advisory.

Annex 1: Procedure at St John's

Purpose: To establish a procedure for dealing with complaints relating to the school, as required by section 29(1)(a) of the Education Act 2002.

Scope: All matters relating to the actions of staff and application of school procedures where they affect the individual pupils concerned, except matters [relating to the curriculum, exclusion, admissions etc...] which are subject to separate procedures.

General Principles:

- An anonymous complaint will not be investigated under this procedure unless there are exceptional circumstances.
- To allow for a proper investigation, complaints should be brought to the attention of the school as soon as possible. Any matter raised more than 3 months after the event being complained of will not be considered, save in exceptional circumstances.
- Investigation of any complaint or review request will begin within 5 school days of receipt of the same, save in exceptional circumstances. The investigation will be completed as soon as reasonably practicable.

Part A) Complaining about the actions of a member of staff other than the Head Teacher.

1) Informal Stage

The complainant is normally expected to arrange to communicate directly with the member of staff ¹ concerned. This may be by letter, by telephone or in person by appointment. Many concerns can be resolved by simple clarification or the provision of information and it is anticipated that most complaints will be resolved by this informal stage. [In the case of serious concerns it may be appropriate to address them directly to the Head Teacher ²] An unreasonable refusal to attempt an informal resolution may result in the procedure being terminated forthwith. [Any dispute in relation to the "reasonableness" may be determined through the review process]

2) Formal Stage

If the complaint is not resolved at the informal stage the complainant must put the complaint in writing and pass it to the Head Teacher², who will be responsible for its investigation.^{3,4}

The complainant should include details which might assist the investigation, such as names of potential witnesses, dates and times of events, and copies of relevant documents. In addition the Head Teacher² may meet with the complainant to clarify the complaint.⁵

The Head Teacher² will collect such other evidence as he/she deems necessary. Where this involves an interview with a member of staff, who is the subject of the complaint, that member of staff may be accompanied by a friend or representative if they wish.

The investigation will begin as soon as possible and when it has been concluded, the complainant, and the member of staff concerned, will be informed in writing of the outcome. This may be to the effect that:

- There is insufficient evidence to reach a conclusion, so the complaint cannot be upheld
- The concern is not substantiated by the evidence
- The concern was substantiated in part or in full. [some details may then be given of action the school may be taking to review procedures etc... but details of the investigation or of any disciplinary procedures will not be released]
- The matter has been fully investigated and that appropriate procedures are being followed, which are strictly confidential. [e.g. Where staff disciplinary procedures are being followed]

The complainant will be told that consideration of their complaint by the head teacher is now concluded.

If the complainant is not satisfied with the manner in which the process has been followed, the complainant may request that the Governing Body review the process followed by the Head Teacher² in handling the complaint. Any such request must be made in writing within 2 weeks of receiving notice of the outcome from the Head Teacher, and include a statement specifying any perceived failures to follow the procedure. The procedure described in Part C) will be followed. If the complainant considers that the decision of the Head Teacher is perverse, or that the Head Teacher has acted unreasonably in considering the complaint, then the complainant may bring a complaint against the Head Teacher under part B of this procedure. This will provide an opportunity for the evidence to support such a complaint to be investigated.

Part B) Complaining about the actions of the Head Teacher

1) Informal stage

The complainant is usually expected to arrange to speak directly with the Head Teacher. [In the case of serious concerns it may be appropriate to raise them directly with the Chair of the Governing Body⁶] Many concerns can be resolved by simple clarification or the provision of information. If the matter is not resolved, if both parties agree, then a third party may be invited to act as a mediator at a further meeting. A refusal, unreasonably, to attempt an informal resolution may result in the procedure being terminated forthwith.

2) Formal Stage

If the complaint is not resolved at the informal stage the complainant must put the complaint in writing and pass it to the Chair of the Governing Body⁶ who will determine which of the agreed procedures to invoke^{3,4}. If it is determined that the complaint is "General", the Chair⁶ will arrange for its investigation.

The complainant should include details which might assist the investigation, such as names of potential witnesses, dates and times of events, copies of relevant documents etc... . In addition the complainant will be invited to meet with the Chair⁶ to present oral evidence or to clarify the complaint.⁵

The Chair⁶ will collect such other evidence as is deemed necessary. This may include the interviewing of witnesses and others who may provide relevant information.

The Head Teacher will be provided with a copy of the complaint and any additional evidence presented by the complainant or collected by the Chair⁶. Once there has been an opportunity for the Head Teacher to consider this, he/she will be invited to meet separately with the Chair⁶, in order to present written and oral evidence in response. The Head Teacher may be accompanied at this meeting by a friend or representative.

When the investigation has been concluded, the complainant and the Head Teacher will be informed in writing of the outcome. The complainant will not be informed of any disciplinary/capability action.

The complainant will be told that consideration of their complaint by the Chair⁸ is now concluded. If the complainant is not satisfied with the manner in which the process has been followed, or considers that the decision of the Chair⁸ is perverse, or that the Chair⁸ has acted unreasonably in considering the complaint, then the complainant may request that the Governing Body review the handling of the complaint by the Chair⁸. Any such request must be made in writing within 2 weeks of receiving notice of the outcome from the Chair⁸, and include a statement specifying any perceived failures.

Part C) Review Process

Any review of the process followed by the Head Teacher² or the Chair⁶ shall be conducted by a panel of 3 members of the Governing Body.

The review will normally be conducted through a consideration of written submissions, but reasonable requests to make oral representations should be considered sympathetically.

The panel will first receive written evidence from the complainant.

The panel will then invite the Head Teacher² or the Chair⁶, as appropriate, to make a response to the complaint.

The panel may also have access to the records kept of the process followed.

The complainant, and the Head Teacher² or the Chair⁶, as appropriate, will be informed in writing of the outcome. This may be to the effect that:

- There is insufficient evidence to reach a conclusion, so the complaint cannot be upheld
- The concern is not substantiated by the evidence
- The concern was substantiated in part of in full but that the procedural failure did not affect the outcome significantly so the matter is now closed.
- The concern was substantiated in part of in full and the Governing Body will take steps to prevent a recurrence or to rectify the situation [where this is practicable]

A model letter is included in annex 3.

Notes

The complainant is not entitled to access to any details of the investigation except for any statements that may have been provided by their child. Any information relating to the application of disciplinary procedures is strictly confidential. ⁷

If a complainant believes that the Governing Body has acted illegally or arbitrarily in handling the complaint, then the complainant may make representations to the Secretary of State for Education and Skills.

Superscripts

¹ or other designated post-holder/middle manager, such as a Key-stage co-ordinator, Head of Department, Head of Year.

² or other designated member of staff on behalf of the head teacher [in such case the head must be satisfied that the process has been conducted properly and accept responsibility for the same]

³ Alternatively the complainant may be referred back to the informal stage of the procedure.

⁴ If the complaint is judged to be vexatious, then the complainant will be informed that their complaint will not be accepted and will not be investigated.

⁵ it may be appropriate to offer the complainant the opportunity to be accompanied by a friend at any such meeting.

⁶ or designated Governor responsible for investigating complaints

⁷ For the avoidance of doubt, it may be helpful to specify the persons who are allowed access to the records.

Policy approved by staff _____ (head) on _____ (date)

Policy approved by governors _____ (chair of CSW) _____ (date)

Annex 2: Investigation Procedure

Carrying out an Investigation into a Formal Complaint

The investigation of an allegation or a complaint should always be carried out thoroughly and responsibly, irrespective of whether the complaint appears to be trivial or serious. The outcome of such an investigation will have significance not only for the complainant but also for the member of staff against whom the complaint has been made.

Any procedure should include provision that "An anonymous complaint will not be investigated under this procedure unless there are exceptional circumstances." These would include serious concerns such as Child Protection issues or bullying allegations, where the school would either involve appropriate external agencies or else conduct its own internal review to test whether there is any corroborative evidence which might trigger a formal investigation.

Where the Head Teacher² or Chair of Governors⁶ receives a complaint, it should be acknowledged formally and a commitment made that the complaint will be investigated and the outcome of the investigation notified to the complainant in due course.

The member of staff against whom the complaint has been made, should be notified that a complaint has been received, provided with a copy of the complaint and be informed that an investigation will be carried out.

It is essential that there is a clear understanding of the complaint. Where necessary the nature of the complaint should be confirmed with the complainant.

Once the complaint has been confirmed the investigator should establish who they wish to interview and what documentation they will need to review.

Arrangements should be agreed so that accurate notes can be taken of all interviews and the outcome of the investigation be accurately recorded.

The complainant and the member of staff should be given the opportunity to offer documentation and to identify potential witnesses or sources of evidence.

The member of staff subject to the complaint should be advised that they may be accompanied by a friend or trade union representative when invited to be interviewed.

Where children are potential witnesses, discretion should be exercised over their involvement. Pupils should only be interviewed when the nature of the complaint is sufficiently serious to warrant it and adult witnesses are not available. Only in extreme circumstances will younger pupils be interviewed.

Any interviews should be conducted as soon as possible to ensure that recollections are as fresh as possible and to minimise the possibility that evidence will become tainted through witnesses discussing alleged incidents with other persons.

In conducting interviews, the investigator should prepare the questions to be asked prior to the interview. These can always be supplemented during the interview. The investigator should allow the interviewee to answer in their own way. Their responses should be listened to attentively. Any temptation to cut an interviewee short or to seek to "lead" them must be resisted. The interviewee should be given the opportunity of providing other relevant information at the end of the interview.

Interviewees should, however, be advised that their responses must be confined to the substance of the complaint. Any attempt by the interviewee to introduce information relating to other members of staff or to issues unrelated to the complaint should be resisted.

The investigator should avoid reaching conclusions or passing judgement until the investigation has been completed.

A summary of the process undertaken and the outcome of the investigation should be provided to both the complainant and the member of staff against whom the complaint has been made. Caution must be exercised in reporting back to the complainant as revealing certain details may prejudice the ability of the employee to continue in post.

Any recommendations should also be shared with the parties, unless there is good reason not to do. Wherever possible, recommendations should be constructive and not punitive.

The complainant should be advised that he/she may, if they are not satisfied that the appropriate procedure has been followed, request a review of that process by the Governing Body.

The Governing Body should invite the LEA to express a view on the retention of records of any complaints procedure. The most extreme stance would be that: "All documentation relating to the complaint and its investigation and outcomes should be stored securely for a period of six years. [Where the complaint is on behalf of a child, then the school may wish to retain the documentation until 6 years after the child has attained the age of 18]"

Annex 3: Model Letters

St John's Upper Holloway School Complaint Form

Please complete this form and return it to Head Teacher / Clerk to Governing Body, who will acknowledge its receipt and inform you of the next stage in the procedure.

Your name:

Relationship with school [e.g. parent of a pupil on the schools roll]:

.....

Pupil's name [if relevant to your complaint]:

.....

Your Address:

Daytime telephone number:

Evening telephone number:

Please give concise details of your complaint, [including dates, names of witnesses etc...], to allow the matter to be fully investigated.:

You may continue on separate paper, or attach additional paperwork, if you wish.

Number of Additional pages attached =

What action, if any, have you already taken to try to resolve your complaint? [i.e. who have you spoken with or written to and what was the outcome?]

What actions do you feel might resolve the problem at this stage?

Signature:

Date:

School use:

Date Form received:

Received by:

Date acknowledgement sent:

Acknowledgement sent by:

Complaint referred to:			
Date:			

Model Response to spurious complainant

Dear

Following receipt of your communications and careful consideration of the same, I regret that I am unable to deal with this matter under the Governing Body's General Complaints Procedure as:

- You have not identified any specific actions of which you might complain
- Your concerns are presented as conclusions rather than specific actions of which complain.
- The concerns that you identify relate to historical actions and any evidence which might have enabled an objective investigation of your complaint is no longer available.
- The substance of your complaint has been addressed under this procedure already.
- The concerns that you raise do not fall within the scope of this procedure.
- You have not identified any potential sources of evidence which might allow the matter to be investigated.
- The school offered to resolve the matter informally and in my judgement you refused unreasonably to take advantage of this.

If you wish my decision to be reviewed then you may take advantage of the procedure outlined in Annex 3, by writing to the Clerk to the Governing Body.

Yours sincerely,

Head Teacher
Or Chair of Governing Body

Model letter of
NOTIFICATION OF DECISION REGARDING GENERAL PARENTAL COMPLAINT

Dear

Following receipt of your complaint and careful consideration of all the available relevant evidence, I have concluded that:

- There is insufficient evidence to reach a conclusion, so the complaint cannot be upheld. If you are able to provide additional evidence forthwith I/we will reconsider this decision.

OR

- The concern is not substantiated by the evidence in that

OR

- The concern was substantiated in part/in full, as The school will review its practices/procedures..... with the intention of avoiding any reoccurrence. Parents will be informed in due course of any policy changes.

OR

- In order to address fully the matters investigated, the school has initiated appropriate internal procedures. Due to the nature of these procedures, their outcome must remain strictly confidential. We are confident, however, that the circumstances that gave rise to your complaint should not recur.

I hope that we may now put this matter behind us and work together for the benefit of your child's progress.

Yours truly

Head Teacher / Chair of Governing Body

c.c. Head Teacher

Model REVIEW OUTCOME NOTIFICATION

Dear

Having carefully considered your representations in the context of the relevant evidence, the Governing Body Complaints Review Panel has concluded that the General Complaints Procedure was followed appropriately in respect of your complaint in that

Therefore, the matter is now closed as far as the school is concerned.

Or

Having carefully considered your representations in the context of the relevant evidence, the Governing Body Complaints Review Panel has concluded that the Head Teacher/ Chair of Governors followed the General Complaints Procedure except

Therefore, the following action will be taken

Once this action has been completed the school will consider the matter to be closed.

Or

Having carefully considered your representations in the context of the relevant evidence, the Governing Body Complaints Review Panel has concluded that the Head Teacher/ Chair of Governors followed the General Complaints Procedure except that

We have determined that this procedural failure did not affect the outcome of the consideration of your complaint so, while we regret this error, we will now consider this matter to be closed as far as the school is concerned.

Yours truly

Chair of Complaints Review Panel

c.c. Head Teacher
Chair of Governors

Annex 4: Model Paragraph for inclusion in School Prospectus

Raising Concerns and Resolving Complaints

From time to time parents, and others connected with the school, will become aware of matters which cause them concern. To encourage resolution of such situations the Governing Body has adopted a "General Complaints Procedure".

The procedure is devised with the intention that it will:

- Usually be possible to resolve problems by informal means
- Be simple to use and understand
- Be non-adversarial
- Provide confidentiality
- Allow problems to be handled swiftly
- Address all the points at issue
- Inform future practice so that the problem is unlikely to recur.

Full details of the procedure may be obtained from the School Office or from the Clerk to the Governing Body.