



Managing complaints

A guide for academy trusts

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Introduction

This guide should be used alongside the complaints procedure for your trust and [best practice guidance](#) from the Education and Skills Funding Agency (ESFA). It is intended to support staff, headteachers, governors, trustees and governance professionals involved in managing complaints at the following three stages.

1. **Informal complaints** – raised verbally with school staff and resolution sought through dialogue.
2. **Formal complaints** – submitted in writing and investigated (usually by the headteacher unless the complaint is about the headteacher).
3. **Complaints panel** – convened if the formal stage does not achieve resolution and a panel made up of governors/trustees decides whether or not the complaint is upheld.

Multi academy trusts (MATs) should consider how to take advantage of the layers of governance within the organisation when delegating complaints procedure responsibilities. See our [checklist on reviewing your complaints procedure](#) for more information.

Complaints about the entire trust board

Such complaints are rare and handling these will depend on the nature of complaint and type of trust. For a single academy trust (SAT), this may involve sourcing an independent investigator to complete the formal stage (followed by suitable individuals from another school for any subsequent panel hearing).

For an academy in a MAT, this may involve the trust board investigating the complaint and holding any subsequent panel hearing.

Stage one: informal complaints

The complaints procedure should encourage resolution of concerns and complaints on an informal basis without recourse to formal stages of the procedure. It should also include a point of contact for raising informal concerns/complaints (typically the member of staff directly involved) and state the trust's commitment to addressing issues raised in a timely way.

There is no requirement for informal concerns and complaints to be made in writing. However, those responding at the informal stage should keep a written record of the issues raised and action taken. The procedure should state whether or not it is a requirement to provide the complainant with a written summary.

Informal concerns and complaints present an opportunity for staff to learn and [engage positively with stakeholders](#). Members of the governing board should avoid becoming involved in the first instance as this may prevent them from considering the complaint at a later stage.

Stage two: formal complaints

Inevitably there are instances where individuals wish to make a formal complaint.

A list of complaints for which there are separate statutory procedures should be included in your policy. These are detailed in [ESFA guidance](#). Examples include:

- [pupil suspension and exclusion](#)
- [school admissions](#)
- staff [grievance](#) and [disciplinary](#) procedures
- [whistleblowing](#)

The procedure should explain how to submit a formal complaint and who is responsible for investigating and providing a response. Ideally, the procedure should also encourage those submitting formal complaints to clearly set out the issues and the outcome they are seeking.

Receipt of formal complaints should be acknowledged in writing within the timescale set out in the procedure. The written acknowledgement should describe in broad terms how the complaint will be investigated both thoroughly and impartially as well as when the complainant should expect to receive a full response according to the timescale set out in the complaints procedure.

The written acknowledgement also provides an opportunity to request any further information required to support investigation and resolution. For example, requesting a meeting with the complainant and/or distinguishing between separate requests (such as subject access requests) and processes (such as pupil exclusions) that are linked to the complaint.

Investigating complaints

The investigation of a formal complaint can be carried out either by the individual responding on behalf of the school or trust, or delegated to someone else who has relevant experience but no prior knowledge of the complaint. For example, the headteacher may ask a member of the school's senior leadership team to investigate a complaint on their behalf. Schools often commission the services of an independent investigator because they deem this to be a more robust and impartial way of managing the process.

Those conducting investigations should:

- **Establish clear terms of reference** (the scope for what is and is not being investigated) and timescale for completion to avoid scope creep and delays.
- Determine **who they need to meet with** as witnesses to establish the facts and ensure the investigation is fair and balanced.
- **Maintain a written record** of any meetings with witnesses and other parties, along with other evidence/findings which can be referred to if required at a complaints panel hearing.
- **Allow witnesses to be accompanied** to any meetings that take place during the investigation if they wish and make reasonable adjustments where required.
- Be clear that any **witness statements could be disclosed** to other relevant parties who should be permitted to challenge this as part of the investigation.

This will allow the investigator to present their findings, reach a conclusion and recommend to the decision-maker (where the investigation has been delegated) whether the complaint is upheld, upheld in part or dismissed.

The recommendation should be based on the established facts or, where facts are not clear or disputed, the balance of probability (the most likely scenario based on the evidence available). Irrespective of their recommendation, it is reasonable for those investigating complaints to highlight issues that could have been handled differently or better and what can be learned.

It is good practice for the investigating officer to provide a written summary of their findings, conclusions and recommendations rather than rely on giving verbal feedback. However, it may not be deemed necessary for them to provide a formal report – this should be determined in advance. Where a formal report is provided, the complainant should be made aware of this and whether or not they will receive a copy.

In all cases, the complainant should be notified of the decision and given a full explanation in writing within the required timescale. Written notification should also advise the complainant on how they can progress the complaint to stage two should they wish to.

Stage three: complaints panel hearings

Most procedures require the governance professional (clerk to the board) to acknowledge a written request for a complaint to be heard by a panel and confirm that the panel will be convened within the timescale set out in the complaints procedure.

Depending on the circumstances, it may be helpful for the written acknowledgement to also request further information from the complainant to clarify why they are dissatisfied with the response offered at stage two and the outcome they are seeking.

The governance professional is also responsible for convening the complaints panel.

Convening a complaints panel

- The complaints panel should consist of at least three people with no prior connection to the complaint, at least one of whom must also be independent of the running of the school (not someone who is employed or governs there, including trustees and trust members in a MAT).
- NGA advises that the independent panel member has no association with the trust altogether. Many schools meet the requirement to have an ‘independent’ member of the panel through an arrangement with another school/trust to provide a suitably trained governor/trustee.
- It is possible to appoint panel members who are not governors or trustees (provided that the individuals are suitably impartial), however, the majority of panel members will likely be local governors or SAT trustees (as appropriate). Panel members chosen should be suitably skilled to undertake the complaints process and where appropriate, [undertake training](#).
- Complainants can request a fully independent panel if they believe there is likely to be bias in the proceedings. However, the ESFA generally considers governors/trustees with no prior exposure to the complaint to be suitably impartial.
- Consider who might chair the meeting – the panel chair helps to ensure that the meeting is conducted in the correct procedural manner; they may also need to mediate between parties.

Attendance at the panel hearing

- The complainant may be accompanied by a companion at the panel hearing. However, ESFA guidance recommends that neither the complainant nor the school brings legal representation. The panel hearing is a mechanism for conflict resolution and reconciliation; any attempts to frame it in a legalistic way should be resisted.
- The complainant must be given reasonable opportunities to attend but they are not required to attend and can request for the complaint to be heard in their absence.
- If reasonable attempts have been made to accommodate complainants and they refuse or are unable to attend, a meeting can be held and a decision reached in their absence.
- If a meeting is convened in the absence of the complainant, the panel should proceed on the basis of written submissions from both parties to ensure fairness.
- Parties who are the subject of the complaint can also attend but are not required to (this is a matter for them to decide). Where they do not attend, the panel should consider how they could contribute effectively, for example by using a written statement, ensuring they still respond to any questions the complainant wishes to ask them.
- The panel may also invite any persons who could provide relevant information relating to the complaint and/or its handling at the previous stage of the procedure (notably the person who investigated it).
- Where the complaint relates to a pupil at the school and their attendance is requested by the panel, parental permission must be sought if they are under the age of 18. You should also consider how the pupil could be supported to attend, for example by being accompanied by an unconnected staff member.

Remote access considerations

- Do all parties have an appropriate space, free from other distractions, to enable them to participate fully in a remote access meeting?
- Do all parties have adequate internet connection? Where one party has intermittent service or slow speed, meetings should be held in person.

Where a remote meeting has been agreed, you should:

- Provide clear instructions about joining the meeting and circulate the instructions in a timely manner ahead of the meeting.
- Ensure that the chair of the panel explains the agenda at the start of the meeting and explains how the meeting will be run. This includes information on how participants should indicate they wish to speak, how any 'chat' functions should be used and what to do if they experience technical difficulties.

Arranging the hearing

- The governance professional should offer dates and times for the hearing within the timeframe outlined in the procedure that are convenient to the complainant, making any reasonable adjustments necessary. Remote access is a possibility, but this must not compromise fairness and transparency.
- Any further written material should be submitted within an agreed timeframe and circulated in advance along with all other evidence. At this point it should be made clear that the panel will not review any new complaints or consider evidence unrelated to the complaint under consideration.
- An evidence pack, suitable agenda and list of attendees should be circulated to all parties in advance of the meeting in accordance with timescales outlined in the procedure (at least five school days in advance is reasonable). The evidence in the pack will vary but should include all relevant records such as the original complaint, witness statements, decisions made with rationales at previous stages, correspondence between the complainant and the school.
- In terms of data protection, staff personal data created as part of their role does not need to be redacted. However, the personal data of pupils and parents should be redacted where appropriate and replaced with a consistent reference.

Procedure for the hearing

The panel's role is to give fresh scrutiny of the complaint and the previous stages of the process. This will lead to the panel deciding whether the complaint should be upheld, upheld in part or dismissed as well as recommending remedial action as appropriate.

The hearing provides the panel with the opportunity to look at the evidence, establish facts and hear from relevant parties through the following procedure:

1. Complainant and school's representative enter the room together, chair introduces all parties and outlines the process.
2. Complainant explains their complaint and answers questions from the panel, including any further questions from the school's representative (usually the headteacher).
3. Any witnesses for the complaint give their account and answer questions.
4. School's representative makes their case and answers questions from the panel, including any further questions from the complainant.
5. Any witnesses for the school give their account and answer questions.
6. Complainant sums up their case.
7. School's representative sums up their case.
8. Parties leave for the panel to deliberate and make its decision. The clerk remains with the panel during its deliberations to clarify any issues and to take notes that will be used to draft the decision letter.

While the procedure is structured to ensure fairness, the approach taken should be informal and non-adversarial. Sufficient time should be given for all parties to speak. However, it is reasonable for the chair to intervene and move the meeting on if they feel this is necessary and in the interests of all concerned.

During deliberation, the panel should revisit what was discussed and the responses to questions asked, referring back to the notes taken by the clerk if needed, to reach conclusions and inform their decision.

Having reached a decision, the panel should consider carefully and seek the advice of the clerk on the wording of the letter to the complainant and relevant parties, notifying them of the decision and the basis upon which it was reached. If the complaint is upheld in whole or in part, then the letter should set appropriate action/s recommended by the panel to resolve the complaint and/or prevent similar issues in the future – for example, changes to relevant policies or practices. Note that recognising issues and apologising is not an admission of liability in a legal sense and panels are not required to engage with legal arguments.

The final decision letter must also include details of how the complainant can contact the ESFA if they are unhappy with the way their complaint has been handled.

[Download an example decision letter](#)

Minutes of the hearing

It is recommended that the minutes of the panel hearing, approved by the chair of the panel, are provided to the complainant.

The minutes produced by the clerk do not have to be verbatim. However, they should provide a record of the information and evidence considered by the panel, what was asked and discussed, and how decisions were reached, including at the deliberation stage.

Using recording devices

Recording devices may be required as a reasonable adjustment where there are communication difficulties, in order for the complainant to access and review the discussions at a later point (provided that the recording remains confidential).

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