

## Complaints Policy

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Date Approved by Board:	18 July 2018
Date of Review:	July 2021
Responsible Department:	Wellspring Trust
Policy Applies to:	Wellspring Trust and all Academies within the Trust

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*The Equality Act 2010 requires public bodies, in carrying out their functions, to have due regard to the need to:*

- *eliminate discrimination and other conduct that is prohibited by the Act*
- *advance equality of opportunity between people who share a protected characteristic and people who do not share it*
- *foster good relations across all characteristics - between people who share a protected characteristic and people who do not share it.*

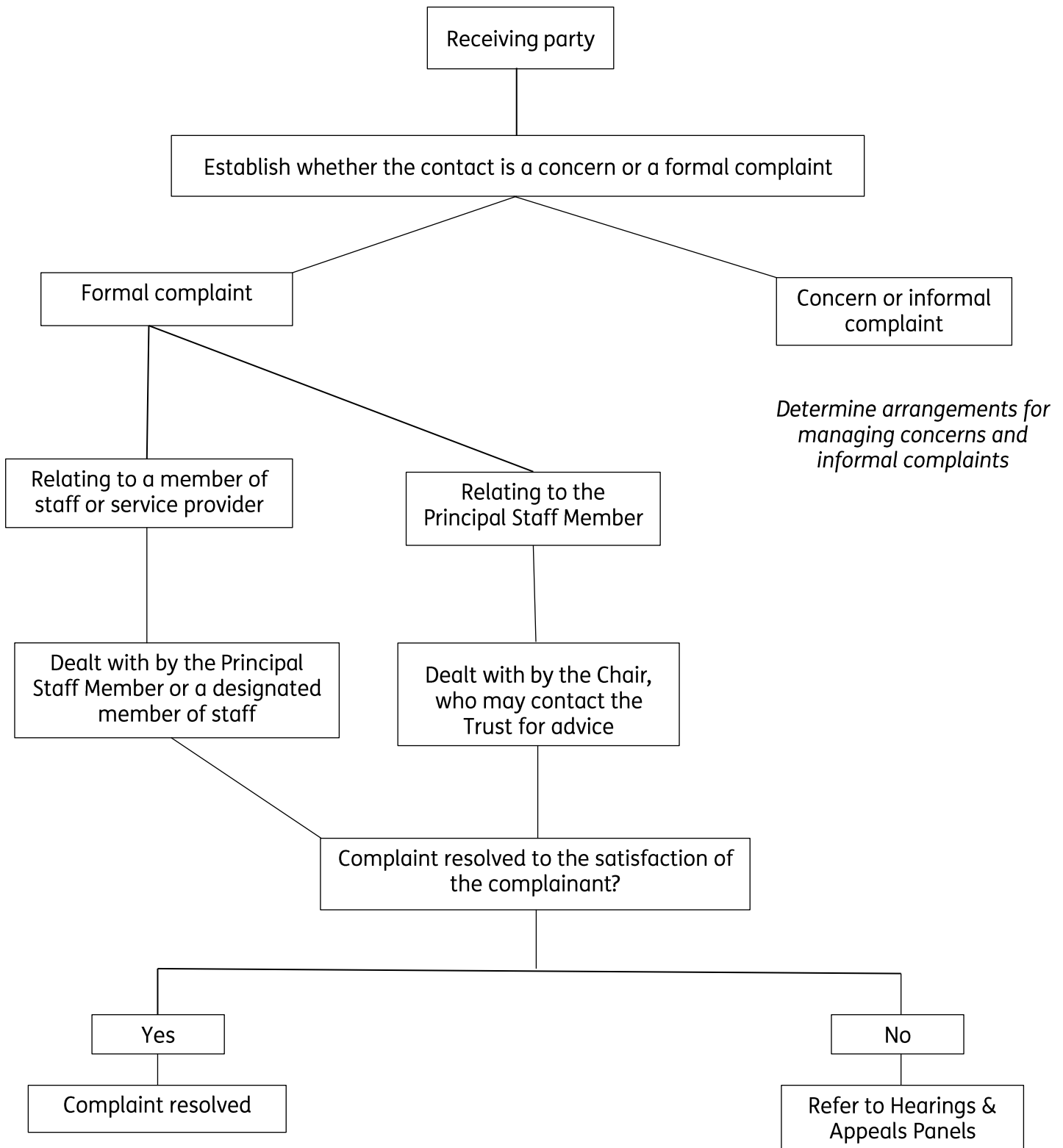
*In the development of this policy due regard has been given to achieving these objectives.*

### **1. Introduction**

- 1.1. This policy relates to complaints relating to Academies or to the Trust itself.
- 1.2. It is in everyone's interest that complaints are resolved as quickly as possible within a clearly defined procedure.
- 1.3. All staff should be aware of the complaints procedure and should be able to give information and assistance on how to raise a concern or make a formal complaint.
- 1.4. Anonymous complaints will be risk assessed by the receiving party before a decision is made whether or not to progress them.

*Cont'd*

## 2. Complaints procedure



### **3. Receipt of complaints or concerns**

- 3.1. It is in everyone's interest that complaints are resolved at the earliest possible stage.
- 3.2. Complaints should, where possible, be resolved in a timely manner and on an informal basis.
- 3.3. Even some written complaints can be resolved simply and speedily by a quick response. Taking concerns seriously at the earliest stage will reduce the number that develop into formal complaints.
- 3.4. Where a complainant raises an issue with it is important to establish whether the complainant has a concern regarding a particular issue or has a complaint which they want investigating and responding to formally.
- 3.5. Irrespective of the reasonableness in responding to concerns, the complainant may be dissatisfied with the outcome and wish to make a formal complaint.
- 3.6. 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.
- 3.7. Complainants need to be advised that complaints are treated seriously and managed by a formal process involving evidence and investigation.
- 3.8. A complaint must be made in writing or by e-mail.
- 3.9. Where a person makes a complaint by telephone or in person, they should be advised to submit the complaint in writing in order for it to be considered.

### **4. Complaints procedure**

- 4.1. Where a person wishes to make a complaint it will be treated seriously and managed in a formal procedure:
  - They must submit their complaint in writing. The letter (or email) should contain as much detail as possible.
  - The complaint will be acknowledged in writing within 5 working days, stating who will be investigating the complaint (ie, the investigating officer).
  - Within a further 20 working days an investigation will be undertaken.
  - Within 5 working days of completing the investigation the complainant will be notified of the decision of the Principal Staff Member (or the designated member of staff), or the Chair of Governors (or Chair of the Board) where applicable. Alternatively, they may be informed that further investigation is required. If the Investigating Officer decides to undertake a further investigation the complainant will be notified of this and be given a date by which it will be completed (normally a further 10/15 working days).
  - The complainant has the right of appeal to a Hearings and Appeals Panel if they are dissatisfied with the outcome of the complaint.
  - In such instances a Hearings and Appeals Panel meeting will be held within 15 working days of receipt of the complainant indicating that they wish to appeal.
  - The decision of the Panel will be sent to the complainant in writing on the working day following the meeting.
- 4.2. Variations to this procedure may occur in exceptional circumstances which will be explained to the complainant.
- 4.3. The decision of the Hearings and Appeals Panel is final.
- 4.4. With regard to complaints to Academies, the complainant can submit a complaint to the Trust only on the grounds that the published procedure was not followed.

## **5. Investigating and resolving complaints**

- 5.1. The person investigating the complaint should:
  - Record all information.
  - Establish exactly the nature of the complaint, ie: what happened, who was involved, when it happened and where.
  - Investigate, with a view to finding witnesses/evidence.
  - Interview, where necessary, those complained of, allowing them to be accompanied if they wish.
  - Produce a report containing findings regarding the complaint.
- 5.2. Any report is produced in the name of the Principal Staff Member (or Chair, where applicable) 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.
- 5.3. The report must be sent to the complainant with the Principal Staff Member's (or Chair's) findings.
- 5.4. 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 an Academy policy if this is appropriate.

## **6. Who deals with complaints?**

- 6.1. All formal complaints should be submitted to the relevant Principal Staff Member, who can decide:
  - To deal with it themselves; or
  - Delegate the complaint to a member of staff (Investigating Officer).
- 6.2. Where a complaint involves or relates to the Principal Staff Member, it must be referred to the Chair of the Governing Body (or Board). In the absence of the Chair the Vice-Chair will be expected to deputise for the Chair and fulfill their role.
- 6.3. Where the complainant makes a formal complaint regarding a policy (rather than regarding the implementation or interpretation of the policy) the matter should be referred to the Chair of the Governing Body (or Board) to deal with.

## **7. Complaints from Parents**

- 7.1 In keeping with the requirements of The Education (Independent School Standards) Regulations 2014, the following will apply in respect of Hearings or Appeals Panels relating to complaints received from parents of pupils:
  - Panels will comprise at least three people who were not directly involved in the matters detailed in the complaint, one of which is independent of the management and running of the relevant school;
  - The parent may be accompanied to the Panel meeting if they so wish;
  - Correspondence, statements and records relating to complaints will be kept confidential, except where the Secretary of State or a body conducting an inspection under section 109 of the Education and Skills Act 2008 requests access to them.

## **8. Roles of the Governing Body / Trust Board**

- 8.1. As indicated, the relevant Chair will investigate any complaints which relate to the Principal Staff Member and / or their conduct or actions. They may seek the support of the Cluster Co-ordinator or Clerk to the Board in respect of the investigation.
- 8.2. There is a legal requirement for an Academy's Complaints Procedure to be publicised. The role of the Governing Body / Trust Board is to ensure that the procedure is published and that the complaints procedure is complied with.
- 8.3. The Terms of Reference relating to Hearings and Appeals Panels will be adhered to.
- 8.4. Where a governor or Director receives a complaint they must refer the complainant to the Principal Staff Member (or to the Chair if the complaint relates to the Principal Staff Member).

## **9. Appeal to Academy's Hearings and Appeals Panel**

- 9.1. Where the complainant remains dissatisfied they must be advised that they can make an appeal to the Academy's Hearings and Appeals Panel.
- 9.2. The purpose of the appeal is not to reinvestigate the complaint; it is to ensure that the complaints procedure was implemented correctly and that every issue within the complaint has been thoroughly investigated.

## **10. Hearings and Appeals Panel**

- 10.1. The Terms of Reference of Hearings and Appeals Panels are approved by the Trust Board. These outline details of the composition of the Panels and other constitutional matters and should be viewed alongside this Policy. (*Refer to clause 7.1 in respect to Panels which consider complaints from parents*)
- 10.2. A Clerk will be appointed to support the Panel.
- 10.3. The Clerk will ensure:
  - That a minimum of 7 working days' notice of a Panel meeting is given in writing to each participant, along with the agenda for the meeting and any supporting information.
  - That the business of the meeting is recorded, including details of the decision taken by the Panel.
  - That the Panel is authorised to make decisions only in respect of those powers specifically within its Terms of Reference.
  - That outcomes are reported to the complainant in writing.

## **11. Procedure for the Hearings and Appeals Panel considering appeals**

- 11.1. The Principal Staff Member (or Chair\*) and complainant will be invited into the meeting. (\*In instances where the Chair has investigated the complaint instead of the Principal Staff Member).
- 11.2. Those present will introduce themselves.
- 11.3. The procedure for hearing the appeal against the management of their complaint will be outlined.
- 11.4. The complainant will present their complaint appeal.
- 11.5. Panel members may if they wish ask questions of the complainant.
- 11.6. The Principal Staff Member / Chair may ask questions of the complainant.
- 11.7. The Principal Staff Member / Chair will be invited to explain how the complaint was

managed and what decisions were taken on the complaint.

- 11.8. The Panel may if they wish, ask the Principal Staff Member / Chair questions.
- 11.9. The complainant may ask the Principal Staff Member / Chair questions.
- 11.10. Witnesses may be asked to provide information regarding any statements made.
- 11.11. Following summaries by the complainant and Principal Staff Member / Chair they will leave the meeting.
- 11.12. The Panel will then come to a decision on the complaint appeal.
- 11.13. Following the meeting the Clerk will write to the complainant and the Principal Staff Member / Chair, informing them of the Panel's decision.

## **12. Decisions of the Complaints and Appeals Panel**

12.1. The decision of the Complaints and Appeals Panel will be in two parts:

Part A

- That the complaint was managed and investigated correctly; or
- That the complaint was not managed and investigated correctly.

Part B

- Uphold the decision on the complaint
- Uphold the decision on the complaint in part
- Judge that the decision was an incorrect application of the Academy Policy.

12.2. Following the Panel'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 complainant. The following are examples:

- An explanation as to why they consider the complaint has been dealt with properly and fairly.
- Acknowledge that the Academy is at fault and offer an apology.
- An admission that the situation could have been handled differently but this would not have affected the outcome.
- An assurance that the event complained of will not happen again and what actions are being undertaken by the Academy.
- A review of the policy/procedure in light of the complaint.

12.3. Following the meeting of the Hearings and Appeals Panel, they must write to the complainant setting out the decision of the Panel and giving reasons for their decision.

12.4. The Panel may also recommend changes to systems or procedures to ensure that problems of a similar nature do not happen again.

## **13. Further pursuit of a complaint**

13.1 If the complaint is not resolved, a parent may make representation to the Department of Education. If the complainant believes that there is a problem with the school's complaints procedure or if the school is not following the terms of its Funding Agreement contact can be made with the Education & Skills Funding Agency (ESFA) at <https://www.gov.uk/government/organisations/education-funding-agency>.

13.2 If a parent is still not content that the complaint has been dealt with properly, Ofsted may consider the complaint. Ofsted's contact details are as follows: [enquiries@ofsted.gov.uk](mailto:enquiries@ofsted.gov.uk) or the Ofsted Helpdesk on 08456 40 40 45. Ofsted responds to complaints within 30 working days, indicating whether or not they will investigate the matter. *Complaints may only be made to Ofsted if the complainant has already followed the school's complaints procedure.*

## **14. Unreasonable Complaints**

- 14.1. A complaint may be regarded as unreasonable where a complainant refuses to support the investigation process, changes the basis of the complaint as the investigation proceeds, or provides falsified information.
- 14.2. A complainant may be considered unreasonable if they make ongoing or unjustified complaints, seek unrealistic outcomes or use threatening, intimidating or offensive language or behaviour towards staff.
- 14.3. A complainant may also be considered unreasonable where details that pertain to the complaint or to members of staff are published or shared using social media. This list is not exhaustive.
- 14.4. Where a complaint or complainant is deemed to be unreasonable, the Principal Staff Member will write to the complainant outlining the reason and explaining why the complaint will not be investigated. Complainants may appeal this decision by writing to the Clerk to the Governing Body (or Board, where appropriate) within 10 days of receiving this letter, responding to the concerns outlined in the correspondence they have received.

## **15. Vexatious Complaints**

- 15.1. 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 Chair should write to the complainant and inform them the matter has been to appeal and therefore is now closed.

## **16. Role of the Trust**

- 16.1. Where a complainant contacts the Trust regarding a complaint against an Academy they will be advised to either raise their concerns informally or submit a written complaint to the Principal Staff Member of the Academy.
- 16.2. Where appropriate, details of the concern may also be passed to other officers within the Trust who may provide assistance regarding the matter. If there are possible safeguarding issues, information will be passed on to the relevant agencies.
- 16.3. The complainant will be advised of the complaints procedure and informed that the complaint is a matter for the Academy. The Trust will not investigate the complaint. In the case where a complainant has followed their complaint to the end of the complaints procedure the matter is concluded.

## **17. Role of OFSTED**

- 17.1. OFSTED have the power to consider some complaints made in writing about Schools/Academies.
- 17.2. OFSTED will not usually consider a complaint if the complainant has not first followed the Academy and Trust Complaints Procedure.
- 17.3. OFSTED can consider complaints where it affects the Academy as a whole, e.g.
  - The Academy 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 Academy is not well led and managed, or is wasting money.
  - The pupils' personal development and wellbeing are being neglected.
- 17.4. OFSTED will not normally investigate cases to do with individual pupils.
- 17.5. OFSTED cannot consider complaints when there are other statutory ways of pursuing them.
- 17.6. OFSTED do not:

- Investigate incidents that are alleged to have taken place.
- Judge how well an Academy investigated or responded to a complaint.
- Mediate between a complainant and an Academy to resolve a dispute.

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