

December 2018



Complaints Policy

Approved By: The Trust Board

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Adopted by Trust Board on: 04/12/18

Review Frequency: Annual

Rationale:

All academies must have a complaints procedure which must meet the standards set out in the Education (Independent Schools Standards (England) Regulations 2014. The Complaints policy puts in place a procedure to deal with complaints relating to the school and to any community facilities or services that the school provides. These procedures must be in writing, be made available to parents on the school website and set out clear timescales for the management of the complaint. A flowchart summarising the procedure at Horncastle Education Trust can be found in Appendix D. All complaints (excluding those relating to admissions and exclusions) will be dealt with in the following manner:-

1. Stage 1: Informal Stage:

- 1.1. Complaints should be taken up informally in the first instance with the member of staff concerned or with the Headteacher. At this informal stage, the Headteacher would act as a facilitator between the complainant and the member of staff. Where the complaint is about the Headteacher, it will be dealt with by the Chair of the Local Governing Body (LGB) in conjunction with the Chief Executive Officer (CEO) and by the Chair of the Trust Board if the complaint is about the CEO.
- 1.2. It would be expected that most complaints are dealt with satisfactorily at this level. Guidance on best practice investigating and resolving complaints is in Appendix F.

2. Stage 2: Formal Complaint to the Headteacher:

- 2.1. If attempts to settle the complaint informally have been unsuccessful, the complainant may then submit a formal complaint to the Headteacher. The complainant must do so in writing, making clear that it is a formal complaint and specifying its nature as exactly as possible.
- 2.2. If, for some reason, the complainant is unable to provide written details of the complaint, then the Clerk to the LGB will listen to the concern and help put together a written statement which the complainant can sign. The Trust may use a recording device to facilitate gaining an accurate record of a complainant's account. Appendix E contains an example of the information that the complainant may wish to include.
- 2.3. The Headteacher will respond as quickly as possible bearing in mind the urgency of the situation, in any event the Headteacher should acknowledge in writing receipt of the complaint. After due consideration, within 10 working school days, the Headteacher will inform the complainant in writing of:
 - a) the decision reached and the reason for it;
 - b) any action taken or proposed, including details of any request made to those complained against to take particular actions to resolve the complaint

3. Stage 3: Formal Complaint to the LGB:

- 3.1. If the complainant is dissatisfied with the Headteacher's response, the complainant may refer the matter to the LGB in conjunction with the CEO via the Clerk to the LGB.
- 3.2. The Clerk will acknowledge the complaint and explain how the LGB in conjunction with the CEO will consider it. If, for some reason, a complainant is unable to provide written details of the complaint, then the Clerk will listen to the concern and help put together a written statement which the complainant can sign. The Trust may use a recording device to facilitate gaining an accurate record of the complainant's account. Annex C contains an example of the information that the complainant may wish to include.
- 3.3. The complainant may be dealt with by the Chair of the LGB alone or the CEO with the Chair or it might require a meeting of a Complaints Panel drawn from the LGB.
- 3.4. **The composition of the panel:**

The panel cannot be made up solely of governors but must contain at least one member who is independent of the management and running of the multi academy trust. It is a matter for the Trust Board to identify a suitably independent individual who can fulfil the role and responsibility of being an independent member. The remainder of the panel will be drawn from the LGB.
- 3.5. **Timescale:**
 - 3.5.1. Normally a meeting of the panel will take place within 20 school working days (when school is in session) of receipt of the complaint. However, the Clerk can convene a meeting of Complaints Panel to consider a complaint within 12 school working days of receipt of the complaint if the complaint appears urgent.
 - 3.5.2. In either event, the Clerk will give the complainant a minimum of 7 ordinary days' notice of the date, time and place of the meeting; any reasonable request made by the complainant for an alternative date should result in a mutually convenient date being set at the earliest possible time.

3.5.3. Individual complaints would not be heard by the entire LGB at any stage, as this could compromise the impartiality of any panel set up for a disciplinary hearing against a member of staff following a serious complaint.

3.5.4. The roles and responsibilities of the Clerk, CEO, Chair of LGB and Chair of a Complaints Panel are outlined in Appendix A along with guidance for members of a Complaints Panel.

3.6. The Complaints Panel Hearing:

3.6.1. At the meeting the complainant and the Headteacher make representations and each can choose to be accompanied by a friend or representative. If the complainant does not wish to attend the hearing, the complaint can be presented in writing. The complainant must submit any such documents to the Clerk no later than 2 school working days before the hearing. A checklist for the Panel Hearing is provided in Appendix B.

3.6.2. The Panel Hearing will follow the set order of proceedings and then decide whether:

- Dismiss the complaint in full or in part
- Uphold the complaint in full or in part
- Decide on the appropriate action to be taken to resolve the complaint including undertaking further investigation
- Recommend changes to the school's systems or procedures to ensure that problems of a similar nature do not recur.

3.6.3. The Clerk will inform the complainant and Headteacher in writing within 5 working school days of the meeting, the decision reached and the reasons for it. If the complaint was upheld, any action taken or proposed, including details of any request made to those complained against to take particular actions to resolve the complaint. Where the governors decide to investigate the complaint further, the Clerk will inform the complainant of the steps taken and the progress made. Any subsequent meeting of the Complaints Panel will be subject to the provisions of the above as far as they are relevant.

4. Stage 4: The Appeal:

4.1. If the complainant remains dissatisfied with the outcome they can submit an appeal to the Governance Clerk of the Trust within five working days of the date of the letter they have received detailing the stage 3 outcome.

4.2. The Governance Clerk will arrange a panel made up of Members and /or Trustees to convene. The appeal panel is the last stage of the Trust's Complaints Procedure and allows for an independent, impartial review of the case. The aim of the appeal hearing is to resolve the complaint and achieve reconciliation between the Trust and the complainant.

4.3. The complainant can attend the panel meeting and they may be accompanied. Further details of the process can be found in appendix B.

4.4. The complaints appeal panel will review the evidence and previous outcomes and can:

- Dismiss the complaint in full or in part
- Uphold the complaint in full or in part
- Decide on the appropriate action to be taken to resolve the complaint including undertaking further investigation
- Recommend changes to the Trust or school's systems or procedures to ensure that problems of a similar nature do not recur.

4.5. The panel will establish findings and recommendations in relation to the complaint and these will be confirmed in writing to the complainant, the Headteacher, the CEO and, where appropriate, the person the complaint is lodged against.

4.6. Records of complaints will be retained, alongside associated actions where a concern or complaint has been investigated and resolved.

4.7. The principles of GDPR and data protection will be adhered to.

4.8. Where a complainant tries to re-open an issue once the internal processes have been exhausted, the Chair of the Trust Board can inform the complainant that the matter is closed, providing them with information regarding the external escalation processes, should the complainant wish to address their complaint externally.

5. Referring matters to the Secretary of State:

- 5.1. If a complaint has exhausted the Trust's Complaints Procedure and the complainant remains dissatisfied, they have the right to refer their complaint to the Secretary of State.
- 5.2. The Secretary of State has a duty to consider all complaints raised but will only intervene where the LGB or Trust Board has acted unlawfully or unreasonably and where it is expedient or practical to do so. The School Complaints Unit (SCU) will look at whether the Complaints Procedure and any other relevant statutory policies were adhered to.
- 5.3. The SCU also looks 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 the Trust.
- 5.4. The SCU will not overturn a Trust decision about a complaint except in exceptional circumstances where it is clear the Trust has acted unlawfully or unreasonably.
- 5.5. If the SCU finds that the Trust has not handled a complaint in accordance with its procedure, it may request that the complaint is looked at again.
- 5.6. If legislative or policy breaches are found, the SCU will report them to the Trust and the complainant, and where necessary, ask for corrective action to be taken.
- 5.7. 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.
- 5.8. The Trust may wish to contact the SCU for advice on whether they have acted reasonably; for example: in closing down a complaint from a serial complainant before the local procedure has been completed.
- 5.9. 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 for Education School Complaints Unit 2nd Floor, Piccadilly Gate, Store Street Manchester M1 2WD

6. Complaints about the Trust Board:

- 6.1. Complaints about individual Trustees should be referred to the Clerk to Trust Board for the Chair of Trust Board to look into and to respond to the complainant. If the complaint is about the Chair of Trust Board, then the Vice Chair will deal with it and may seek assistance from the Members.
- 6.2. Please note that special procedures exist to deal with appeals against non-admission and appeals against permanent exclusions or exclusions that extend beyond five school days in any term; further details are available from the school.
- 6.3. This policy should be reviewed annually

7. Unreasonable Complainant Behaviour:

- 7.1. Staff, Governors and Trustees are keen to ensure that all genuine complaints are dealt with fairly and promptly and in accordance with our agreed procedures. We would again emphasise that most matters can be resolved by discussing issues with our staff at the informal stages of our procedure.
- 7.2. Regrettably, there are times when complainants raise issues with or about staff in ways which are unacceptable. This can cloud the concern at the heart of the complaint, which may result in the delay or hindrance of a resolution. It can also have an adverse effect on pupils, staff and the effective running of the school. Examples of behaviours that we consider to be unacceptable are as follows:
 - Using abusive or threatening language and/or behaviour.
 - Making excessive demands on staff time and resources in pursuit of a complaint, whether in person, by phone, email or letter.
 - Harassing individual staff members in a way which appears intended to cause personal distress rather than to find a resolution.
 - Refusing to cooperate with the complaints procedure as set out in this policy.
 - Persisting in repetitious complaints when these have been previously determined under the school complaints procedure.

- Changing the basis of the complaint as the consideration proceeds and/or making unjustified complaints about those trying to deal with the complaint.
- Pursuing unreasonable outcomes which are disproportionate to the nature of the matters in hand.
- Electronically recording meetings, telephone calls and conversations without the prior knowledge and consent of the other persons involved.

7.3. The Trust expects that any person wishing to raise a concern or complaint will:

- Follow the Trust's complaints procedure.
- Treat all members of the school community with courtesy and respect.
- Recognise the time constraints that staff operate under and allow them a reasonable amount of time in which to respond/address any issues.
- Where a complainant raises a complaint in a manner which the school feels is unreasonable, actions may be taken to remedy this. The actions will be proportionate to the nature of the behaviour and may include:
 - An informal approach to inform the person that the behaviour is unacceptable and needs to be modified.
 - A formal written communication advising the person that the behaviour is unacceptable and appropriate action may be taken if the behaviour is not modified.
- Setting limitations on the method and frequency of contact with staff/Trustee personnel.
- Refusing to register and process further complaints about the same or similar subject matter where the matter has already been determined, or where complaints are vexatious, or where complaints are personally harassing and deliberately targeted at one or more members of staff without good cause.
- Setting limitations on the person's access to both school sites.

7.4. It should be noted that parents/carers and members of the wider community do not have an automatic right to enter either school grounds and may be banned from entering either school site with immediate effect after an incident where behaviour has been verbally and/or physically aggressive.

7.5. Any restrictions placed on a person as a result of this policy will be time limited, with a specified date as to when the restrictions will be reviewed and potentially lifted.

Again, we would emphasise that the Headteacher, Local Governing Body and Trustees are committed to ensuring a full and fair consideration of all legitimate complaints and we recognise that the majority of parents/carers and members of the wider community will conduct themselves in accordance with this policy. However, we reserve the right to take any necessary actions under this policy in those rare cases where a person does not.

APPENDICES

APPENDIX A: Roles and Responsibilities

The Role of the Clerk:

The Complaints Panel considering complaints should be clerked. The clerk would be the contact point for the complainant and be required 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;
- notify all parties of the panel's decision.

The Role of the Chair of the LGB or the CEO:

- check that the correct procedure has been followed;
- if a hearing is appropriate, notify the clerk to arrange the panel;

The Role of the Chair of the Panel:

The Chair of the Panel has a key role, ensuring that:

- the remit of the panel is explained to the parties and each party has the opportunity of putting their case without undue interruption;
- the issues are addressed;
- key findings of fact are made;
- parents and others who may not be used to speaking at such a hearing are put at ease;
- the hearing is conducted in an informal manner with each party treating the other with respect and courtesy;
- the panel is open minded and acting independently;
- no member of the panel has a vested interest in the outcome of the proceedings or any involvement in an earlier stage of the procedure;
- each side is given the opportunity to state their case and ask questions;
- written material is seen by all parties. If a new issue arises it would be useful to give all parties the opportunity to consider and comment on it.

Appendix B: The Remit of The Complaints Appeal Panel

The panel can:

- Dismiss the complaint in full or in part
- Uphold the complaint in full or in part
- Decide on the appropriate action to be taken to resolve the complaint including undertaking further investigation
- Recommend changes to the Trust or school's systems or procedures to ensure that problems of a similar nature do not recur.

There are several points which any Governor /Trustee / Member sitting on a complaints panel needs to remember:

- a. It is important that the appeal hearing is independent and impartial and that it is seen to be so. No Trustee may sit on the panel if they have had a prior involvement in the complaint or in the circumstances surrounding it. In deciding the make-up of the panel, Trustees need to try and ensure that it is a cross-section of Trustees and sensitive to the issues of race, gender and religious affiliation and that there is one member of the panel who is independent of the management and running of the multi academy trust.
- b. The aim of the hearing, which needs to be held in private, will always be to resolve the complaint and achieve reconciliation between the Trust and the complainant. However, it has to be recognised 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.
- c. An effective panel will acknowledge that many complainants feel nervous and inhibited in a formal setting. Parents often feel emotional when discussing an issue that affects their child. The panel chair will ensure that the proceedings are as welcoming as possible. The layout of the room will set the tone and care is needed to ensure the setting is informal and not adversarial.
- d. Extra care needs to be taken when the complainant is a child. Careful consideration of the atmosphere and proceedings will ensure that the child does not feel intimidated. The panel needs to be aware of the views of the child and give them equal consideration to those of adults. Where the child's parent is the complainant, it would be helpful to give the parent the opportunity to say which parts of the hearing, if any, the child needs to attend.
- e. The Governors / Trustees / Members sitting on the panel need to be aware of the complaints procedure.

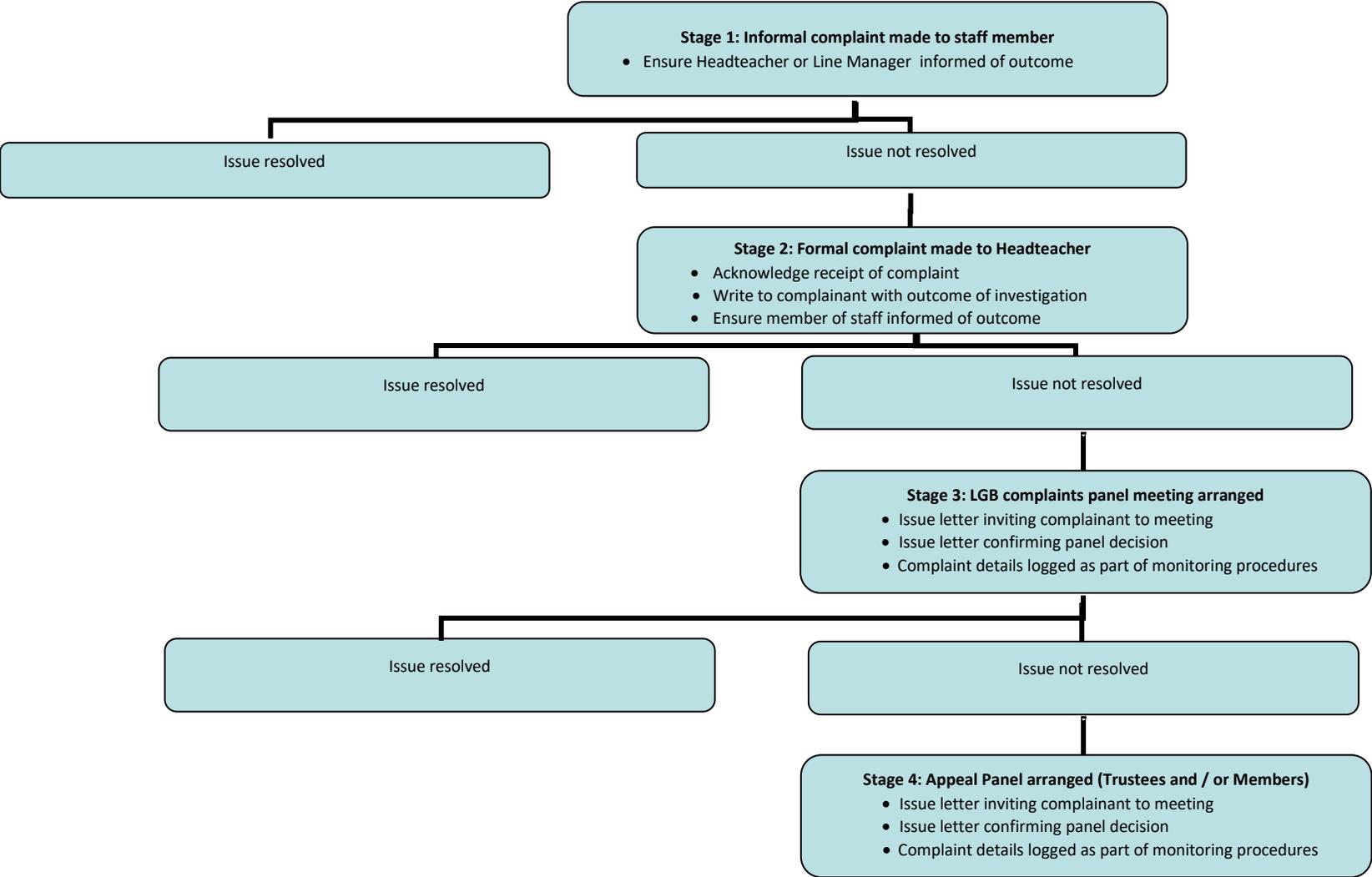
APPENDIX: C

Checklist for a Panel Hearing

The panel needs to take the following points into account:

- The hearing is as informal as possible.
- Any witnesses are only required to attend for the part of the hearing in which they give their evidence.
- After introductions, the complainant is invited to explain their complaint, and be followed by their witnesses.
- The headteacher may question both the complainant and the witnesses after each has spoken.
- The headteacher is then invited to explain the school's actions and be followed by the school's witnesses.
- The complainant may question both the headteacher and the witnesses after each has spoken.
- The panel may ask questions at any point.
- The complainant is then invited to sum up their complaint.
- The headteacher is then invited to sum up the school's actions and response to the complaint.
- Both parties leave together while the panel decides on the issues.
- The Chair explains that both parties will hear from the panel within a set time scale.

Flowchart



APPENDIX E

Making a Complaint: Information to Include

Your name:

Student's name:

Your relationship to the pupil:

Your Home Address:

Postcode:

Day time telephone number:

Evening telephone number:

Your email contact:

Please give details of your complaint; include dates and times where possible.

What action, if any, have you already taken to try and resolve your complaint.

(Who did you speak to and what was the response)?

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

Are you attaching any paperwork? If so, please give details.

Ensure that signatures are included of the complainant and the recorder if you are making a written record where a complainant, for whatever reason, is unable to do so and that the document is dated.

Investigating & Resolving Complaints: Best Practice Guidance

It is suggested that at each stage, the person investigating the complaint makes sure that they:

- establish **what** has happened so far, and **who** has been involved;
- clarify the nature of the complaint and what remains unresolved;
- contact the complainant or meet with them (if unsure or further information is necessary);
- clarify what the complainant feels would put things right;
- interview those involved in the matter and/or those complained of, allowing them to be accompanied if they wish;
- conduct the interview with an open mind and be prepared to persist in the questioning;
- keep notes of the interview.

Resolving Complaints

At each stage in the procedure keep in mind ways in which a complaint can be resolved. It might be sufficient to acknowledge that the complaint is valid in whole or in part. In addition, it may be appropriate to offer one or more of the following:

- an apology;
- an explanation;
- an admission that the situation could have been handled differently or better;
- an assurance that the event complained of will not recur;
- an explanation of the steps that have been taken to ensure that it will not happen again;
- an undertaking to review school policies in light of the complaint.

It is useful if complainants are encouraged to state what actions they feel might resolve the problem at any stage. An admission that the school could have handled the situation better is not the same as an admission of negligence.

An effective procedure should identify areas of agreement between the parties. It is also of equal importance to clarify any misunderstandings that might have occurred as this can create a positive atmosphere in which to discuss any outstanding issues.