

v2b - as approved by Trustees 1st April 2020

Introduction

This guidance, developed in consultation with stakeholders, is intended to be a good practice guide that will apply to most general complaints received by schools. The aim of this procedure is to seek a resolution to any complaint and to restore positive relationships. In the case of parental complaints the aim should be to arrive at a resolution that is in the best interests of the pupil.

The 2002 Education Act placed a duty on school governing bodies to establish procedures for handling general complaints about their school. Schools must ensure these procedures are publicised to parents and others. It is the responsibility of the school to manage its own complaints.

Introduction (continued)

These types of complaint are subject to other statutory procedures that are separate from this general complaints procedure:

Complaint by a Member of School Staff	School Grievance Procedure. For further information contact the school.
Pupil Exclusion	Right to make representations about fixed term exclusion to Governors' Pupil Discipline committee. Where there is an unresolved dispute regarding a fixed term exclusion involving an allegation of disability discrimination the complainant has the further right of appeal to First-Tier Tribunal (Special Educational Needs and Disability, (SENDIST)). Right of review to independent panel for permanent exclusion. For further information contact the Exclusion and Reintegration Advisory Service via the Surrey County Council Contact Centre on 03456 009 009.
Admission to School	Surrey County Council's policy on school admissions with right of appeal to independent panel if admission refused. For further information contact the School Admissions Team via the Surrey County Council Contact Centre on 03456 009 009.
Child Protection/Safeguarding	Surrey Safeguarding Children Board procedures apply. For further information contact the Surrey County Council Contact Centre on 03456 009 009.

Statements of Special Educational Needs (SEN) / Education, Health and Care Plans (EHCPs)	Surrey County Council's statutory assessment procedures apply. For more information contact the SEN Management Team via the Surrey County Council Contact Centre on 03456 009 009.
Freedom of Information and Data Protection	Where a complainant seeks an internal review of a response to a Freedom of Information or Data Protection Act request, Stage 3 only of the complaints procedure should be completed (see page 26). This will ensure that the complainant has access to further action via the Information Commissioner's Office (www.ico.org.uk) within appropriate timescales.
<p>Complaints regarding discrimination and harassment based on protected characteristics as defined in the Equality Act 2010.</p> <p>Protected Characteristics are:</p> <ul style="list-style-type: none"> • Disability • Gender reassignment 	<p>The complaints procedure applies, but complainant has further right of appeal to SENDIST for complaints about disability discrimination or to the County Court for all other unresolved disputes regarding protected characteristics.</p> <p>The complaints procedure and the First-Tier Tribunal</p>

General principles

- The aim of these guidelines is to explain the rights and responsibilities of pupils, parents and school staff and to recognise that responsibilities rest with each of these.
- All complaints should be treated seriously and courteously and given the time necessary for the complainant to feel that the matter has been dealt with properly. It is important that the complainant has confidence in these procedures and knows that the matter will be investigated impartially and dealt with as quickly as possible.
- The school must publicise its complaints procedure and it should be easily accessible, e.g. via the school office and website.
- To comply with equalities legislation schools should be sensitive to the individual needs and circumstances of the complainant. No-one should be excluded from the complaints system because of any difficulties they may have in representing themselves.
- Schools should recognise that some people will need help in pursuing their complaint and consideration should be given to putting complainants in touch with a suitable agency which can help them, e.g. Surrey Parent Partnership; Race Equality and Minority Achievement Team; Area Schools Support Service, Citizens Advice Bureau.
- If at any time a child protection concern becomes apparent, the child protection process will take precedence over the complaints process, which will be halted until the child protection matter is resolved.

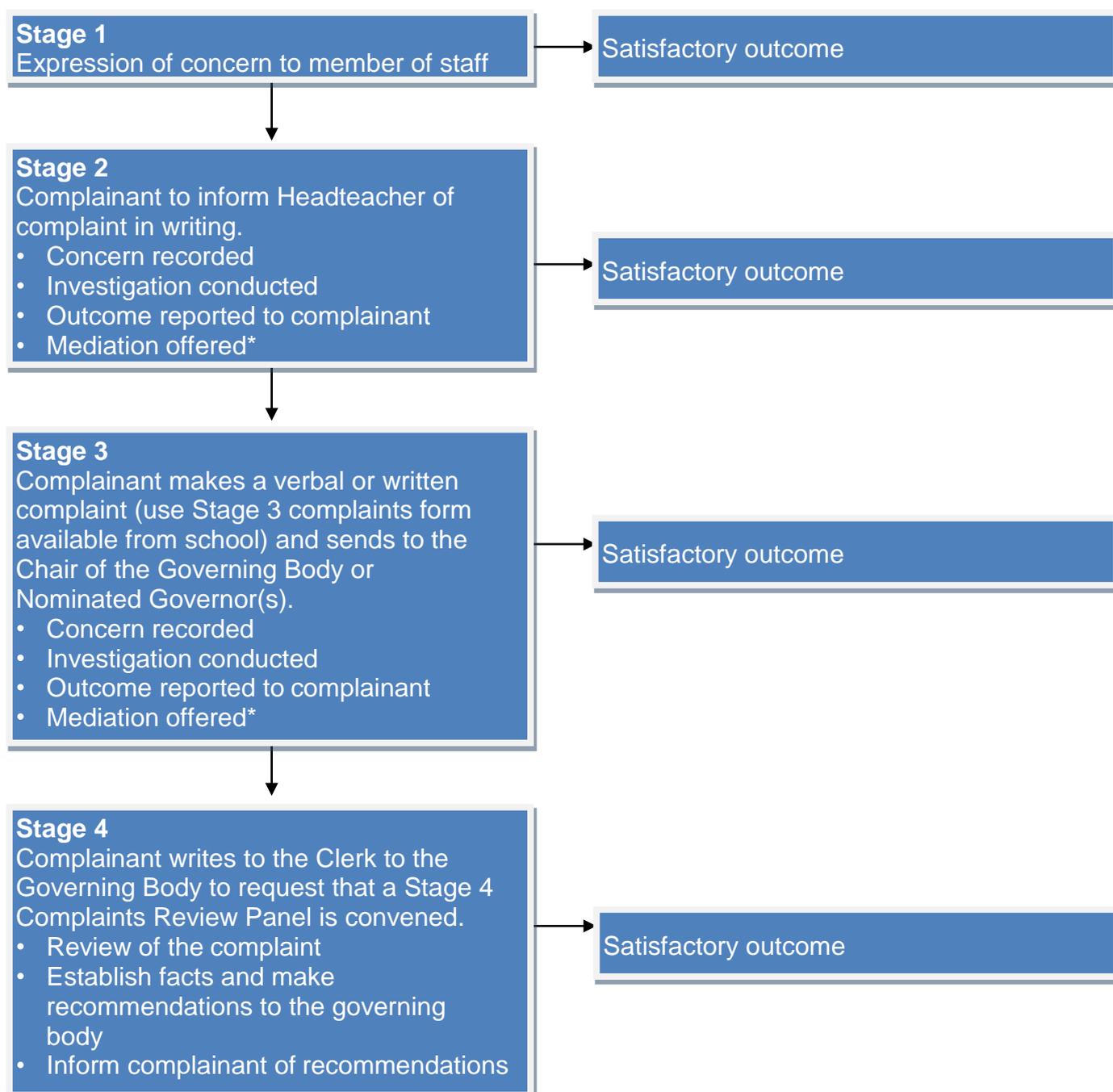
- The investigation of a complaint will not deal with staff disciplinary matters. If, however, during the course of considering a complaint, it is concluded that disciplinary procedures should be initiated, the governing body will consider this as a separate action.
- Confidentiality must be maintained at all times by all concerned. All conversations and correspondence must be treated with discretion. All parties to a complaint will need to accept that some sharing of information will be inevitable if the complaint is to be investigated fully and fairly. Parents must feel confident a complaint will not disadvantage their child.
- Schools should be mindful of the Data Protection Act and not disclose personal information relating to third parties, e.g. pupils, parents, staff etc.
- Staff and governors should take part in training to raise awareness of the school's procedures and to develop their skills in dealing with complaints. Please contact the Area Schools Support Service for further information.
- All complaints should be recorded, monitored and evaluated by the school. The frequency and type of complaints should be presented to the governing body in the Headteacher's report. However, this should not contain details of individual complaints.
- Further guidance on dealing with complaints can be provided by the Area Schools Support Service as part of their traded service to schools.
- Anonymous complaints, whilst difficult to manage and resolve, should be recorded and referred to the Headteacher or Chair of the Governing Body in the same way as other complaints. The fact that a complaint is from an anonymous source should not in itself justify a decision not to pursue the matter; nor should it rule out referral to other procedures as appropriate, e.g. child protection.
- Headteachers and governors must be prepared to investigate and review complaints up to six months after the event and even after a pupil has left the school.
- In cases where parents/carers have raised concerns about the school on social networking sites (eg Facebook), the Headteacher may wish to refer to the Surrey County Council guidance Dealing with Adverse Comments and Complaints against Schools on Social Networking Sites, Summer Term 2014.
- A written record will be kept of all complaints where the parent is not satisfied with the response to the complaint made in Stage 1 (informal), and—
 - (i) whether they are resolved following a formal procedure, or proceed to a panel hearing; and
 - (ii) action taken by the school as a result of those complaints (regardless of whether they are upheld); and

- Correspondence, statements and records relating to individual complaints are to be kept confidential except where the Secretary of State or a body conducting an inspection under section 109 of the 2008 Act requests access to them.
- N.B. Throughout this guidance, when numbers of days are specified, this refers to school working days.

Flow chart

Model procedure for dealing with general complaints

If at any time a child protection concern becomes apparent, the child protection process will take precedence over the complaints process, which will be halted until the child protection matter is resolved.



* Mediation is offered to schools that purchase the Area Schools Support Service

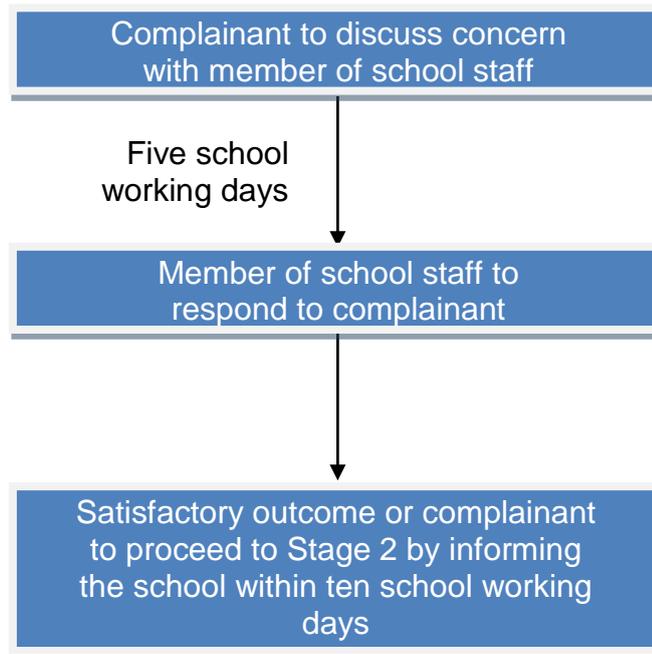
Stage 1

Discuss concern with member of school staff

Stage 1 - Discuss concern with member of school staff

1.1 Flow chart

Discuss concern with member of school staff



1.2 Guidelines

- 1.2.1 The vast majority of concerns and complaints can be resolved informally, often straight away by the class teacher or appropriate senior leader, e.g. Head of Year, Deputy Headteacher or the Headteacher. Where complainants approach a governor at this stage, the governor should refer them to the most appropriate member of staff and inform the Headteacher.
- 1.2.2 Parents/carers must feel able to raise concerns with members of staff without any formality, either in person, by telephone or in writing. On occasion it may be appropriate for someone to act on behalf of a complainant and schools should be sensitive to the needs of individuals. At first it may be unclear whether the complainant is asking a question or expressing an opinion rather than making a complaint. A complainant may want a preliminary discussion about an issue to help decide whether he/she wishes to take it further.
- 1.2.3 To ensure confidentiality concerns should be heard in private at an appropriate time and not where pupils, staff or parents can overhear.
- 1.2.4 Where there are concerns about abuse, threats or violence from a complainant towards school staff, the school will have recourse to the Surrey County Council guidance *Keeping Schools Safe* (available from the Area Schools Support Service).

Stage 1 - Discuss concern with member of school staff

1.3 Procedure

- 1.3.1 Complainants need to be given an opportunity to discuss their concerns with the appropriate member of staff who can clarify the nature of their concern and reassure them that the school wants to hear about it. The member of staff may explain to the complainant how the situation arose. It may also be helpful at this point to identify the sort of outcome the complainant is seeking.
- 1.3.2 The member of staff should respond appropriately, taking into account the seriousness of the complaint. In many cases this will lead to immediate resolution of the issue.
- 1.3.3 If the member of staff first contacted cannot deal immediately with the matter, or if he/she needs to refer the matter to someone else, he/she will need to make a clear note of the date, name and contact address/phone number of the complainant. In either case the member of staff should subsequently ensure that appropriate action is taken to deal with the matter speedily - usually within five school working days.
- 1.3.4 Where the concern relates to the specific actions of the Headteacher, the complainant should be given the opportunity to meet with the Headteacher, if appropriate, to resolve the problem. In some circumstances the complainant may prefer to contact the Chair of the Governing Body; this should be respected.
- 1.3.5 Where the concern relates to the conduct of a school governor a recommended protocol is available in section 6 of this guidance.
- 1.3.6 The staff member dealing with the complaint should make sure that the complainant is clear what will happen next. This should be put in writing only if it seems the best way of making the outcome clear.
- 1.3.7 Where a response has been received but is considered to be unsatisfactory, then the complainant should inform the Headteacher within ten school working days that they wish their concern to be considered further. The Headteacher should advise them how to proceed with their complaint and about any independent advice available to them.
- 1.3.8 At this stage, the school may wish to consult their Area Schools Support Service for advice on how to proceed.

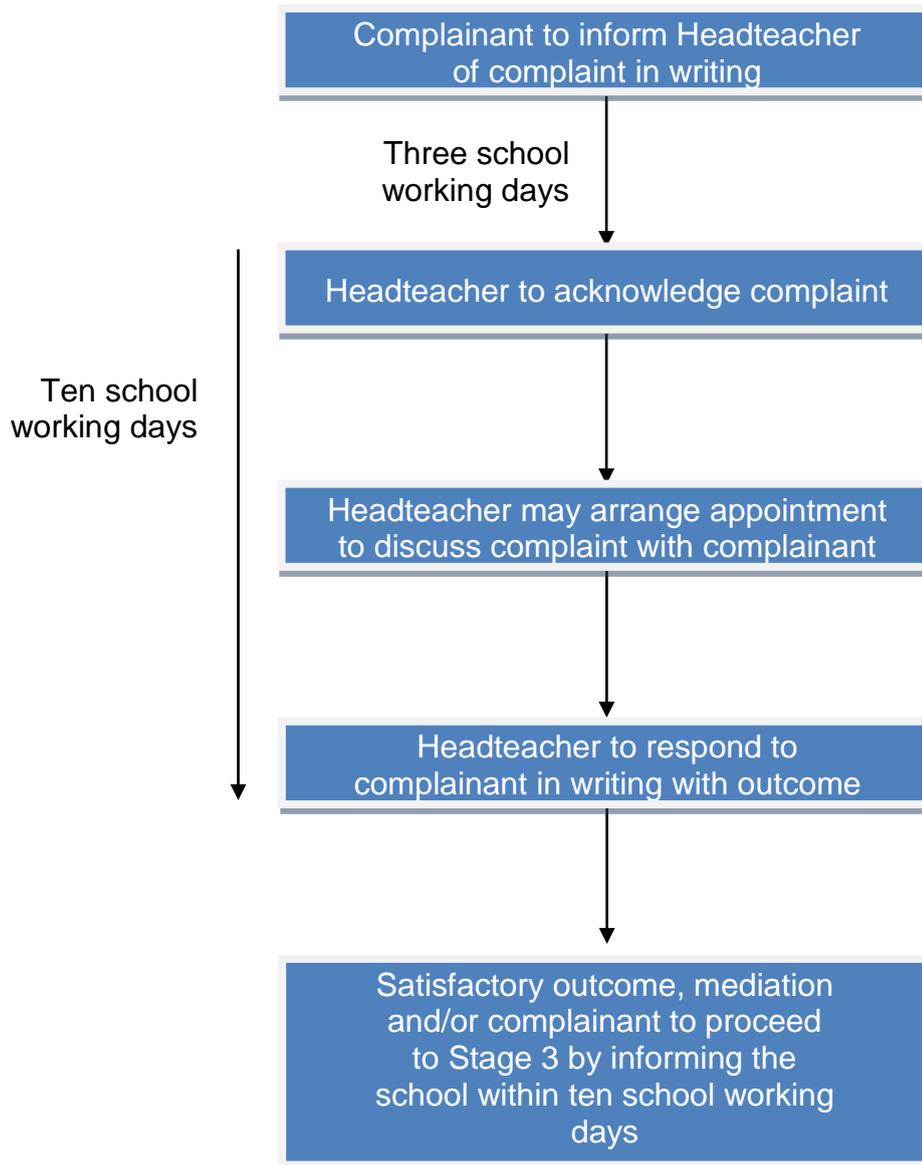
Stage 2

Consideration by the Headteacher

Stage 2 - Consideration by the Headteacher

2.1 Flow chart

Consideration by the Headteacher (or other appropriate person)



Stage 2 - Consideration by the Headteacher

2.2 Guidelines

- 2.2.1 As Headteachers have responsibility for the day-to-day running of their schools they have responsibility for the implementation of the complaints procedure, including decisions about their own involvement at the various stages. One of the reasons for having the various stages in a complaints procedure is to reassure the complainant that more than one person is hearing their complaint.
- 2.2.2 Headteachers will need to make arrangements to ensure that their involvement does not predominate at every stage of a particular complaint. For example, arrangements may be made for other staff to deal with concerns at Stage 1, while the Headteacher makes contact with complainants at Stage 2. Even at this stage the Headteacher may delegate another member of staff to collect some of the information from the various parties involved.
- 2.2.3 The Area Schools Support Service may be consulted for advice by both the school and the complainant.

2.3 Procedure

- 2.3.1 Where the complaint is against the Headteacher, the matter should be referred to the Chair of the Governing Body to deal with at Stage 3.
- 2.3.2 Stage 2 complaints should be in writing unless the complainant is unable to express the complaint in written form (advice is available from the Area Schools Support Service).
- 2.3.3 The complainant's letter should be acknowledged in writing within three school working days of receiving the Stage 2 complaint. The acknowledgement will give a brief explanation of the school's complaints procedure and a target date for providing a response to the complaint. This will usually be within ten school working days. Where this is not possible, a letter should be sent to the complainant explaining the reasons for the delay and giving a revised target date.
- 2.3.4 The Headteacher (or designated member of staff) should offer an opportunity for the complainant to meet with him/her to supplement any of the information provided previously. It is recommended that the Headteacher meet the complainant with another member of staff present (not a governor) to record the discussion. It will need to be made clear to the complainant that they can, if they wish, be accompanied to any meeting by a friend, relative, representative or advocate who can speak on their behalf. They must, however, inform the school whom they intend to bring to the meeting. The school should facilitate interpreting facilities, if required - the Area Schools Support Service may be able to advise on this point.
- 2.3.5 Headteachers should note that if they choose to involve a governor at this stage it

Stage 2 - Consideration by the Headteacher

would preclude that governor being involved at a later stage of the complaints process.

- 2.3.6 The Headteacher will establish the relevant facts by interviewing and requesting written statements (which should be signed and dated) from those involved. It should be noted that any written information could subsequently be requested under the Freedom of Information Act/Data Protection Act. If the complaint centres on a pupil, the pupil should also be interviewed. When pupils are interviewed in a formal situation, the pupil's parents should be invited to be present. If this is not possible then a member of staff who is known and trusted by the pupil should be invited to attend. Depending on the age of the pupil(s), written statements may also be requested.

N.B. If the complaint relates to a child protection concern there is a different set of procedures, which MUST be followed (Surrey Safeguarding Children's Board Procedures).

2.3 Procedure (continued)

- 2.3.7 Once all relevant facts have been established, the Headteacher will then produce a written response to the complainant and he/she may wish to meet the complainant to discuss/resolve the matter directly. A written response will include a full explanation of the decision and the reasons for it. Where appropriate, this will include what action the school will take to resolve the complaint. Where it is considered that disciplinary action may be required (either for a pupil or a staff member), the complainant should be informed that this information will remain confidential to the school and cannot be disclosed to them.
- 2.3.8 Should the complaint not be resolved mediation may be helpful. This can be arranged through the Area Schools Support Service, and will be impartial and objective.

Obtaining Witness Statements - notes for Headteachers

When taking a statement it is desirable that the witness writes this him/herself using their own words. If this is not possible a scribe can be used but the statement should be read back to the witness. Statements should be signed and dated.

Statements should be produced as soon after the event as possible to provide a clear recollection of the matter. Witnesses should not be asked leading questions in order to stimulate a particular response from them; however, open questions may be used to obtain sufficient detail from a witness, if they are unable to provide a full written account.

Witnesses who are providing statements should not be allowed to corroborate their accounts of an event. It is desirable for them to be kept apart prior to the production of statements.

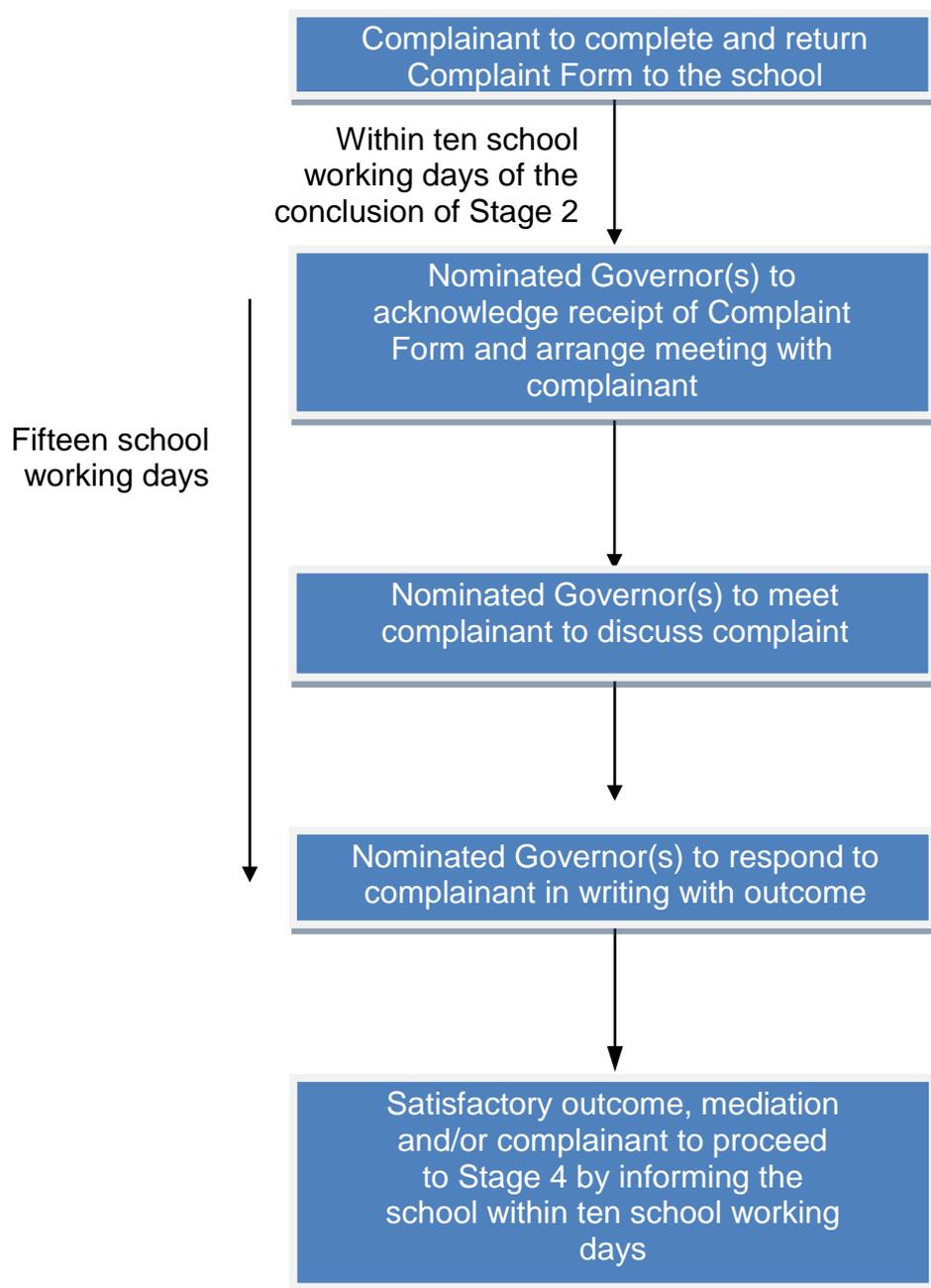
Some parents/carers may be reluctant for their child to provide a witness statement in certain circumstances and it is suggested that Headteachers use their discretion and check this with parents/care beforehand.

Stage 3

Consideration by the Nominated Governor(s)

Stage 3 - Consideration by the Nominated Governor(s)

3.1 Flow chart



Stage 3 - Consideration by the Nominated Governor(s)

3.2 Guidelines

- 3.2.1 If a complaint is against the actions of the Headteacher, or if the Headteacher has been unable to resolve the issues to the satisfaction of the complainant, the complainant should complete the Stage 3 Complaint Form supplied by the school. This form should be made available from the school office and/or website.
- 3.2.2 It is in the interest of all parties concerned to try and resolve the complaint at this stage. If a decision is taken to move to Stage 4 the process inevitably becomes more adversarial.
- 3.2.3 The Chair of the Governing Body must decide who will investigate the complaint at Stage 3. He/she may choose to delegate the management of the complaint to the Nominated Governor(s). This person will be precluded from hearing the complaint at Stage 4. There are a number of reasons why the Chair of the Governing Body may delegate the matter to the Nominated Governor(s). For example they may be unable to give the necessary time to the complaint due to other commitments, or having the Nominated Governor(s) at this stage may reassure the complainant that an impartial person is carrying out the investigation.
- 3.2.4 The Area Schools Support Service may be notified of any complaint reaching this stage. This is to ensure that the school receives appropriate guidance, to reduce the risk of litigation against the school. Support and procedural advice can also be offered to the Nominated Governor(s) by the Area Schools Support Service for schools that purchase the service.
- 3.2.5 The Nominated Governor(s) must be in a position to prioritise the investigation at this stage to ensure its timely resolution. The Nominated Governor(s) have a responsibility for implementation of the school's complaints procedure and are acting on behalf of the governing body in this regard.
- 3.2.6 The Nominated Governor(s) are reminded that this is a confidential process and information should not be shared with parties other than those directly involved with the complaint - this includes other governors who may have to be involved at a later stage. The Nominated Governor(s) must be mindful of the Data Protection Act and not disclose personal information relating to third parties, e.g. pupils, parents and staff.
- 3.2.7 Where a complainant seeks an internal review of a response to a Freedom of Information or Data Protection Act request, Stage 3 is the final stage of the complaints procedure. It is recommended that two governors, with no previous involvement in the matter, undertake the internal review and ensure that the complainant is provided with details of next steps i.e. that if the complainant remains dissatisfied following the internal review; they have access to further action via the Information Commissioner's Office website (www.ico.org.uk).

Stage 3 - Consideration by the Nominated Governor(s)

3.3 Procedure

- 3.3.1 The complainant should complete the school's Stage 3 Complaint Form which is available from the school. This is helpful in clarifying the individual aspects of the complaint and/or to highlight any outstanding issues unresolved at Stage 2, as well as indicating the complainant's desired outcome. The form must be sent to the Chair of the Governing Body who will either investigate the complaint or nominate a governor to do so. If the complainant requires assistance in completing the form this must be facilitated.
- 3.3.2 For complex complaints, the school may find it helpful to record the progress of the complaint using a log or timeline.
- 3.3.3 The Nominated Governor(s) will acknowledge receipt of the form in writing to the complainant within **five school working days** and give a target date for providing a response. This will usually be **within fifteen school working days** of receipt of the complaints form, although more complex complaints may take longer to investigate. Where the target date cannot be met a letter should be sent to the complainant explaining the reasons for the delay and revising the target date.
- 3.3.4 It is advisable for the Nominated Governor(s) to offer to meet with the complainant. The aim of this meeting is to clarify aspects of the concern, seek further information, and identify desired outcomes before embarking on an investigation (see page 32 for advice on investigation). For schools purchasing the Area Schools Support Service it is advised that the Nominated Governor(s) consults with the Area Schools Officer at this stage.
- 3.3.5 It is good practice to have a clerk/ note taker at the meeting to make a written record of the key points. This would be useful evidence should the complaint escalate to Stage 4.
- 3.3.6 The Nominated Governor(s) should remember that the complainant could, if they wish, be accompanied to any meeting by a friend, relative, representative or advocate. The school should support the complainant in seeking interpreting or advocacy services if they are required. The Area Schools Support Service may be able to advise on this point.
- 3.3.7 It is important for the Nominated Governor(s) to remain objective whilst conducting the investigation.
- 3.3.8 Any correspondence or written statements relating to the complaint should be made available to the Nominated Governor(s). The Nominated Governor(s) should then discuss the issues with the Headteacher and/or other members of staff. On the basis of the written evidence and discussions the Nominated Governor(s) may require the Headteacher to obtain further evidence or written statements from staff or pupils.

3.3 Procedure (continued)

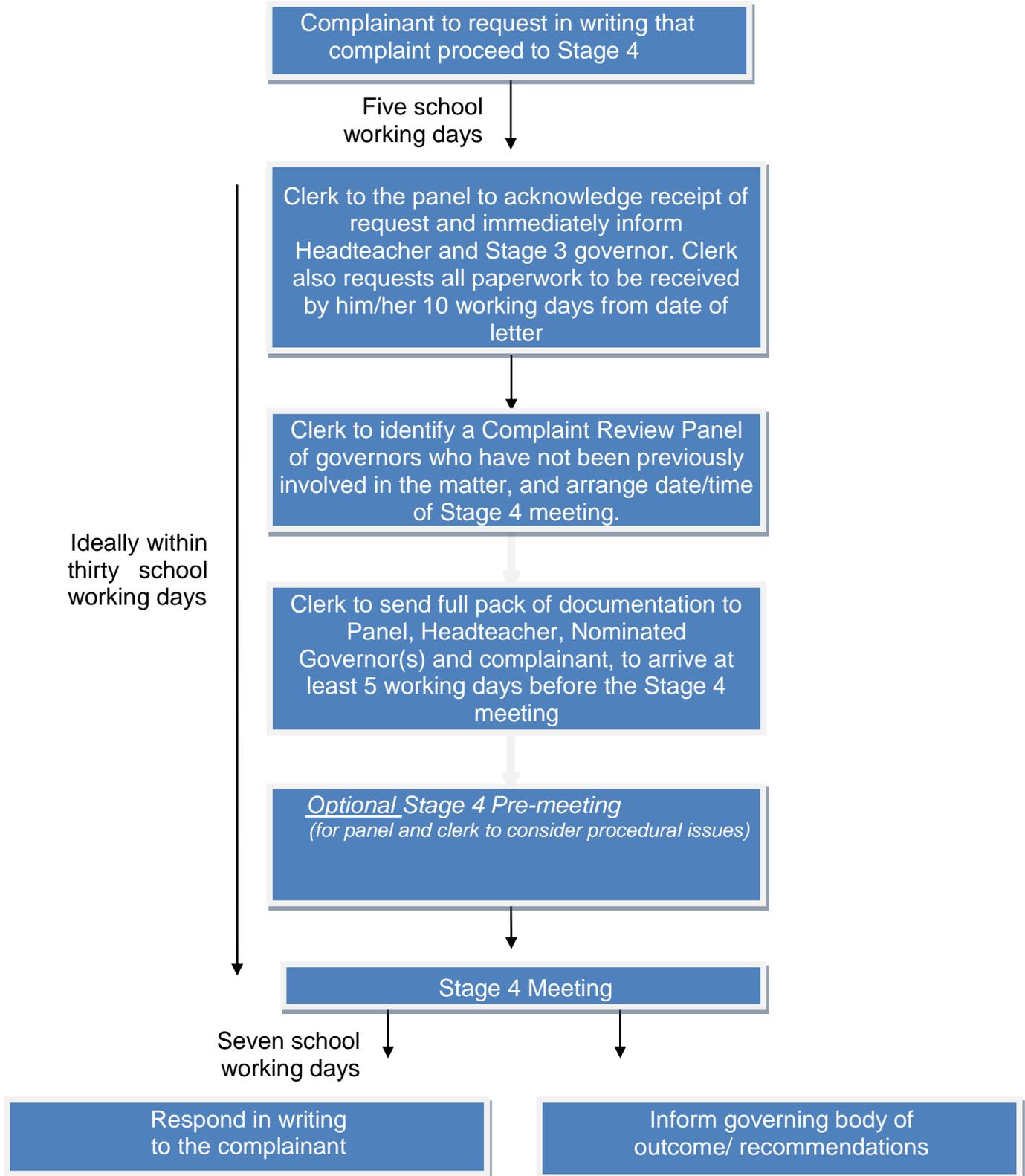
- 3.3.9 Once all of the relevant facts have been established the Nominated Governor(s) should produce a written response to the complainant. The written response must include a full explanation of the decision and the reasons for it; where appropriate this will include the action the school will take to resolve the complaint. However, if a disciplinary process is indicated this information must not be shared with the complainant. The only information that can be shared is that “appropriate action has or will be taken”. The Area Schools Support Service can advise on a written response.
- 3.3.10 Headteachers and governors may wish to consider whether it may be helpful to an independent mediation service as part of the outcome of a Stage 3 complaint in order to restore positive relations between the complainant and the school.

Stage 4

Consideration by a review panel of governors

Stage 4 - Consideration by a review panel of governors

4.1 Flow chart



Stage 4 - Consideration by a review panel of governors

4.2 Guidelines

- 4.2.1 Complaints rarely reach this stage, however it is important that governing bodies are prepared to deal with them when necessary. At this stage schools may seek advice from the Area Schools Support Service.
- 4.2.2 All complaints that reach this stage will have done so because the complainant has not been satisfied by the Headteacher's response at Stage 2 or the investigation by the Nominated Governor(s) at Stage 3.
- 4.2.3 This may be the last chance for a solution or compromise to be reached; so every effort should be made to reach agreement through conciliation or mediation. The advice and expertise of the Area Schools Support Service may be helpful at this stage.
- 4.2.4 It is important that the Complaint Review Panel should not only be independent and impartial, but **that it is seen to be so**. As such at least one member of the panel must be independent of the management and running of the school and only governors who have had no prior involvement in the case should be members of the Complaint Review Panel. Governors taking part in panels need to be able to consider the complaint in an objective manner. Prior knowledge of the complaint, or of the general situation leading up to the complaint, need not preclude a governor from being an unbiased panel member. The ability to remain objective is a matter for both the individual governor and the governing body to decide.
- 4.2.5 It is important that individual governors do not become involved with complaints at an earlier stage because of potential prejudice. If governors are approached about a complaint they should not respond but should refer the complainant to the complaints procedure and/or the appropriate member of school staff.
- 4.2.6 The complaint at this stage should normally be communicated to the school in a written format. Some complainants may require assistance, as at previous stages. The school should facilitate services to provide appropriate assistance and support if required.
- 4.2.7 The parent may attend the panel hearing of a complaint and be accompanied at a panel hearing if they wish.
- 4.2.8 The panel is to make findings and recommendations and a copy of those findings and recommendations will be—
- (i) provided to the complainant and, where relevant, the person complained about; and
 - (ii) available for inspection on the school premises by SESSET and the headteacher;

Stage 4 - Consideration by a review panel of governors

4.3 Procedure

Following a request from a complainant to proceed to Stage 4, the procedures outlined below must be followed:

4.3.1 Before the Stage 4 Complaint Review Panel Meeting:

- a) The Clerk to the Complaint Review Panel (normally the Clerk to the Governing Body) will write to the complainant to acknowledge receipt of the written request **within five school working days**. The acknowledgement will inform the complainant that a Complaint Review Panel of three members, at least one of which will be independent, will consider the complaint **ideally within thirty school working days** of receiving the request, unless there are exceptional circumstances. The acknowledgement will also ask if there is any further paperwork that the complainant wishes to submit, and give a deadline of 10 school working days from the date of the letter for this.
- b) The Clerk to the Complaint Review Panel will also write to the Headteacher and Stage 3 Nominated Governor(s), to inform them of the complainant's request to proceed to Stage 4. Within this letter the Clerk will also ask if there is any paperwork that the Headteacher and/or Stage 3 Nominated Governor(s) wish to submit, and give a deadline of 10 school working days from the date of the letter for this.
- c) The Clerk to the Complaint Review Panel will then convene a panel consisting of three governors at least one of which must be independent. The governors selected should have had no prior involvement with the complaint, or potential conflict of interest, and due regard should be given to equalities and diversity issues. The Headteacher or other member of staff may not be a member of the Complaint Review Panel. Once convened the panel should elect a Chair of the Complaint Review Panel.
- d) The Clerk to the Complaint Review Panel will then write a further letter to the complainant and a further letter to the Headteacher and Stage 3 Nominated Governor(s). These letters will give details of the date and venue of the meeting. The date, time and venue should be set at a mutually convenient time for all parties. Three possible dates should be offered (if required) to the complainant, but if these all fail to be suitable then the meeting may be conducted in private by the Complaint Review Panel.

Stage 4 - Consideration by a review panel of governors

4.3 Procedure (continued)

- e) The Clerk to the Complaint Review Panel will then write a further letter to the complainant, Headteacher and Stage 3 Nominated Governor(s), enclosing a full pack of documentation and a guidance document outlining the conduct of a Stage 4 Complaint Review Panel Meeting (see Page 51). This information should be received **at least five school working days** prior to the meeting. Only in exceptional circumstances will new evidence be accepted after this time and this is at the discretion of the Chair of the Complaint Review Panel.
- f) It is advisable for the Complaint Review Panel and the Clerk to meet in advance of the Stage 4 Complaint Review Panel Meeting itself. The Complaint Review Panel may wish to invite the Area Schools Officer to attend this pre-meeting, in order to offer procedural advice and guidance. At this pre-meeting, the Complaint Review Panel may consider whether it would be helpful to invite members of staff and/or other adult witnesses directly involved in matters raised by the complainant to produce a written report (if this has not already been done), or to attend the meeting.

4.3.2 During the Stage 4 Complaint Review Panel Meeting:

- a) The procedure for conduct of the meeting will be communicated to all parties.
- b) It is the responsibility of the Chair of the Complaint Review Panel to ensure that the Clerk to the Complaint Review Panel properly minutes the meeting and that minutes are distributed to all parties involved at Stage 4. The minutes are the property of the governing body.
- c) The aim of the meeting will be to review how the school has managed the complaint. This will include reviewing evidence and outcomes from Stages 1 to 3, and evaluating whether the school has followed its policies and procedures. Consideration should also be given to achieving reconciliation between the school and the complainant. However, it has to be recognised that sometimes it may only be possible to establish facts and make recommendations as to future action that will satisfy the complainant that his/her complaint has been taken seriously.
- d) The governors should remember that some complainants are not used to dealing with groups of people in formal situations and may feel inhibited when speaking to the Complaint Review Panel. It is, therefore, recommended that the Chair of the Complaint Review Panel ensures that the proceedings are as informal as the situation allows.

Stage 4 - Consideration by a review panel of governors

4.3 Procedure (continued)

- e) At the conclusion of the meeting the Chair of the Complaint Review Panel should explain that the panel will consider its decision and write to all parties with the outcome **within seven school working days**.
- f) The meeting then closes. The Complaint Review Panel will remain to consider its decision. This should cover:
- Findings on the substantive complaint;
 - Any appropriate action to be taken by the school or advice to the complainant;
 - Where appropriate, any recommended changes to the school's policies or procedures to ensure that problems of a similar nature do not happen again.

The Area Schools Support Service representative may remain to offer procedural advice.

g) **Consideration of the complaint in private by the Complaint Review Panel**

This would occur in exceptional circumstances such as failure to identify a mutually convenient date, or where the complainant declines to attend. It entails a detailed consideration of all the paperwork relating to the complaint but would not involve dialogue with the complainant, Headteacher or the Stage 3 Nominated Governor(s). The Clerk to the Complaint Review Panel should be present to advise on procedure, record the discussion and decision; and should also produce the final letter to the complainant. A representative of the Area Schools Support Service may also be present, if invited by the Complaint Review Panel, to provide additional expertise and witness the fairness and rigour of the process.

4.3.3 After the Stage 4 Complaint Review Panel Meeting:

- a) A letter outlining the decision of the Complaint Review Panel must be sent to the complainant and Headteacher with a copy to the Area Schools Support Service. If disciplinary action is to be considered against a member of staff or pupil then, to protect his/her rights, only the phrase "appropriate action has or will be taken" should be used.
- b) A report and any recommendations should be made to the school's governing body at the next full meeting.
- c) The Chair of the Complaint Review Panel should ensure that a copy of all relevant information relating to the complaint is kept at the school in a secure, confidential file, separate from staff and pupil records. ***This information should be retained in line***

- d) *with guidance from the Information and Records Management Society***
(www.irms.org.uk). The complainant should be informed that this will be done.
- e) Schools should note that personal injury claims, as well as covering physical injuries, may include retrospective claims of negligence e.g. for failure to stop bullying or failure to recognise a Special Educational Need such as dyslexia
- f) It is good practice for the Headteacher to report termly to governors on compliments and complaints received, together with the outcome of each.

5 - Further action after all 4 stages are complete

- 5.1 If the complainant continues in their dissatisfaction following the outcome of the review by a panel of governors they should be advised to write to the Education and Skills Funding Agency (ESFA) which will check whether the complaint has been dealt with properly by the school.

The ESFA will consider complaints that fall into any of the following three areas:

- where there is undue delay or the academy did not comply with its own complaints procedure when considering a complaint;
- where the academy is in breach of its funding agreement with the Secretary of State;
- where an academy has failed to comply with any other legal obligation.

The ESFA will not overturn a governors; review panel decision about a complaint. However, if it is found that the school did not deal with a complaint properly the ESFA will request that the complaint is looked at again and procedures meet the requirements set out in the Regulations.

If the school's complaints procedure does not meet the Regulations, the ESFA will ask the school to put this right and may seek to enforce the decision under the terms of the funding agreement on behalf of the Secretary of State, if appropriate.

The Education and Skills Funding Agency

Cheylesmore House, 5 Quinton Road, Coventry, CV1 2WT.

- 5.2 A complaint may be made to the Secretary of State for Education if a person believes that a governing body or Surrey County Council is acting unreasonably or is failing to carry out its statutory duties properly. The Department can only consider a complaint if all local procedures have been exhausted.

The Secretary of State

www.education.gov.uk/schools/leadership/schoolperformance/b00212240/guidance-on-making-a-complaint-about-a-school

The Secretary of State
Department for Education
Castle View House
East Lane Runcorn WA7 2GJ

5 - Further action after all 4 stages are complete

- 5.3 Ofsted has specific powers (under sections 11 A-C of the Education Act 2005 (as amended)) to investigate certain complaints about schools, known as qualifying complaints. Generally, the complainant must have followed the school's own complaints procedure before referring to Ofsted. Ofsted will only consider complaints about whole school issues and not those regarding individual pupils.

Ofsted

www.ofsted.gov.uk

Ofsted Piccadilly
Gate Store Street
Manchester
M1 2WD

6 – Complaints about Governors or Trustees

6.1 Guidelines

- 6.1.1 Complaints about individual governors or trustees are relatively rare but can be difficult to resolve. They generally relate to the conduct of a governor or trustee within a school, or whilst on school business; they may include breaches of policy or confidentiality. As with complaints about members of staff, every opportunity for the governor to receive support and training should be explored prior to any disciplinary action being taken.
- 6.1.2 Complaints about the conduct of governors and trustees outside of a school, in a private capacity, do not fall within the remit of this policy.
- 6.1.3 The same good practice principles, already set out in this guidance, apply to the management of complaints about individual governors and trustees. A two stage procedure is recommended and this should be managed by the Chair of the Governing Body in the case of a complaint about a governor or the Chair of Trustees in the case of a trustees. In the event of the complaint being about the Chair of the Governing Body or Trustees, the matter will be dealt with by the Vice Chair of the Governing Body or trustees.
- 6.1.4 The Chair of the Governing Body/Trustees must be impartial, objective and rigorous in their investigation of complaints about a fellow governor and demonstrate this to be the case. It is important that detailed notes are kept and timescales are adhered to. Notes may be subject to subsequent Freedom of Information requests.
- 6.1.5 The Clerk to the Governing Body or Trustees is responsible for the administrative support and general advice, as with other school complaints. In addition the Area Schools Support Service can assist and provide specialist advice to the Chair of the Governing Body in this process, providing the school has purchased the Area Schools Support Service.

6 - Managing complaints about school governors

6.2 Procedure

- 6.2.1 The complaint should be presented either verbally or in writing to the Chair of the Governing Body or Trustees. If the complainant requires assistance this must be facilitated.
- 6.2.2 The Chair of the Governing Body/Board of Trustees will acknowledge receipt of the complaint **in writing within three school working days** and provide a target date for providing a response.
- 6.2.3 The Chair of the Governing Body/Trustees should offer to meet with the complainant to clarify aspects of their concern and to seek further information before embarking on their investigation (see section 3 of this guidance for advice on investigations). The Chair of the Governing Body/Trustees should take advice from the Clerk to the Governing Body/Trustees and/or the Area Schools Support Service. Meeting notes should be taken either by the Clerk to the Governing Body/Trustees, the Area Schools Support Service team representative or the Chair of the Governing Body/Trustees. These notes may be seen at a later stage by the complainant so they must be clearly presented and accurate.
- 6.2.4 The Chair of the Governing Body/Trustees will then begin their investigation of the key issues. This investigation must be rigorous, objective and impartial. All key witnesses must be interviewed, and witness statements obtained. The Chair of the Governing Body/Trustees should not rely on a single person's interpretation of events. The context of the complaint will be relevant and any documentation, policies or guidance should be consulted. The school will follow the advice of Surrey County Council that in the course of investigating complaints, pupils are not interviewed by governors.
- 6.2.5 The Chair of the Governing Body/Trustees will report their findings and any recommendations to the complainant in writing (and verbally if they feel this is necessary); this will usually be **within ten school working days**. The Chair of the Governing Body/Trustees should give reasons for the decision to uphold, partially uphold the complaint or overturn the complaint. If there is good reason for any delay the Chair of the Governing Body/Trustees will notify the complainant, giving them a revised target date for the completion of their investigation. The Area Schools Support Service can provide advice on the written response.
- 6.2.6 If the complainant is not satisfied with the Chair of the Governing Body/Trustees' response they should request a review of how the complaint has been managed within **ten school working days** of receipt of the response.
- 6.2.7 The Clerk to the Governing Body/Trustees will write to the complainant to acknowledge receipt of the written request within **five school working days**. The acknowledgement will inform the complainant that a Complaint Review Panel of three SESSET trustees will consider the complaint within **thirty school working days** of receiving the request, unless there are exceptional circumstances.

6 - Managing complaints about school governors

6.2 Procedure (continued)

- 6.2.8 It is important that the Complaint Review Panel should not only be independent and impartial, but **that it is seen to be so**. As such, only trustees who have had no prior involvement in the case should be members of the Complaint Review Panel and at least one member of the panel should be independent. Governors/Trustees taking part in panels need to be able to consider the complaint in an objective manner. Prior knowledge of the complaint, or of the general situation leading up to the complaint, need not preclude a trustee from being an unbiased panel member. The ability to remain objective is a matter for both the individual trustee, the school's governing body and the Board of Trustees to decide. In exceptional circumstances where all available trustees have been involved previously or if there are likely to be questions regarding their objectivity, it is permissible for the governing body or Board of Trustees to approach up to two governors from another school to sit on the Complaint Review Panel.
- 6.2.9 A further letter will explain to the complainant the right of all parties to submit documentation relevant to the complaint. Three possible dates (if required) should be offered to the complainant, but if these fail to be suitable then the meeting may be conducted in private by the Complaint Review Panel. The Clerk to the Complaint Review Panel (the Clerk to the Governing Body/Trustees) should be present to advise on procedure, record the discussion and record the decision; the Clerk to the Complaint Review Panel will also produce the final letter to the complainant, under instruction from the panel.
- 6.2.10 If the Chair of the Governing Body/Trustees or the Complaint Review Panel upholds the complaint, and feels that further action against a governor is required, this will be discussed within the full governing body as a confidential item (Part Two Business) and appropriate sanctions will be implemented. This matter will be subject to the Data Protection Act and will not be reported in the public domain. In these circumstances, the complainant will be told that "appropriate action has been/will be taken".
- 6.2.11 The School Governance Regulations provide for governors to be suspended or removed in certain circumstances. The Board of Trustees has the authority to remove governors from post. The Members of the Trust have the authority to remove trustees. There is also the possibility of verbal sanctions for governors. It will be a matter for the Chair of the Governing Body/Chair of Trustees, and ultimately the full governing body or Board of Trustees, to decide on the appropriate course of action.

7 - Unreasonably persistent complainants and unreasonable behaviour

7.1 Guidelines

7.1.1 The majority of people with complaints or concerns about schools behave reasonably in pursuing their complaint. This means that they:

- Treat all school staff with courtesy and respect;
- Respect the needs of pupils and staff within the school;
- Do not use violence (including threats of violence) towards people or property;
- Recognise the time constraints under which members of staff work and allow the school a reasonable time to respond to a complaint;
- Recognise that resolving a specific problem can sometimes take some time;
- Follow the school's complaints procedure

7.1.2 However, a small number of complainants may be deemed “**unreasonably persistent complainants**”.

7.1.3 Definitions:

For the purposes of this guidance an “**unreasonably persistent complainant**” is defined as follows:

An unreasonably persistent complainant is a person who repeatedly complains about issues, either formally or informally, or frequently raises issues that s/he considers to be within the remit of the school and whose behaviour is unreasonable.

Such behaviours may be characterised where complainants display some or all of the following:

- Persist in pursuing a complaint where the school's complaints procedure has been fully and properly implemented and exhausted at all stages (e.g. where several responses have been provided).
- Change the substance of a complaint or continually raise new issues or seek to prolong contact by continually raising further concerns or questions upon receipt of a response. Care must be taken not to discard new issues which are significantly different from the original complaints. These should be addressed as separate complaints.
- An insistence upon pursuing unmeritorious complaints and/or unrealistic or unreasonable outcomes; and/or an insistence upon pursuing meritorious complaints in an unreasonable manner. For example, complainants who are unwilling to accept documented evidence of action or who are unwilling to accept that the governing body has reached a final decision on a chosen course of action.

7 - Unreasonably persistent complainants and unreasonable behaviour

7.1 Guidelines (continued)

- Do not clearly identify the precise issues which they wish to be investigated, despite reasonable efforts to help them specify their concerns.
- Continue to seek to pursue the complaint where the concerns identified are not within the remit of the governing body to investigate.
- Focus on a trivial matter to an extent which is out of proportion to its significance and continue to focus on this point. It is recognised that determining what a 'trivial' matter is can be subjective and careful judgements must be used in applying this criteria.
- Have in the course of addressing a complaint, had an excessive number of contacts with the school, placing unreasonable demands on staff time. Advice from Surrey County Council's Legal Services should be sought about what would constitute "excessive".
- Make unreasonable demands and fail to accept that these may be unreasonable, for example, insist on responses to complaints or enquiries being provided more urgently than is reasonable or within the complaints procedure or normal recognised practice.

For the purposes of this guidance, "**harassment**" is defined as follows:

Harassment is the unreasonable pursuit of the actions listed above in such a way that they:

- Appear to be targeted over a significant period of time on one or more members of school staff;
- and/or cause ongoing distress to individual member(s) of school staff;
- and/or have a significant adverse effect on the whole/parts of the school community;
- and/or are pursued aggressively.

7.1.4 Complainants should be aware that threatening behaviour or the use of physical violence towards staff at any time may cause personal contact with the complainant and/or their representatives to be discontinued and the complainant will, thereafter, only be contacted through written communication. The school reserves the right to refer to the police if threatening behaviour/physical assault has taken place.

7.1.5 Recordings of meetings or telephone conversations should only occur when all parties have agreed to the recording. Circulation of such recordings to third parties without the prior knowledge and consent of other parties involved constitutes a breach of confidence.

7 - Unreasonably persistent complainants and unreasonable behaviour

7.2 Procedure

- 7.2.1 Only the Headteacher, with the agreement of the Chair of the Governing Body, may deem a complainant 'unreasonably persistent'.
- 7.2.2 The Headteacher will ensure that there is sufficient evidence available to justify the decision. S/he will consult with Surrey County Council's Legal Services to confirm that the evidence is sufficient.
- 7.2.3 The Chair of the Governing Body will write to the complainant to explain the decision and the way that future complaints will be dealt with. Any restrictions imposed will be appropriate and proportionate.
- 7.2.4 Some or all of the following actions may be taken, depending on the particular circumstances of the case:
- Insisting that no member of staff should meet the complainant on his/her own;
 - Restricting responses to telephone calls and emails from the complainant to specified days and times;
 - Requiring that all future contacts with the school are in writing, except in emergencies; this includes contacts with members of the governing body, who should only be contacted at the school address;
 - Merely acknowledging correspondence from the complainant that raises issues that have already been dealt with;
 - Banning the complainant from the school premises where the complainant's behaviour constitutes a nuisance or disturbance, with any appointments with staff to be agreed in writing via the Headteacher.
- 7.2.5 All correspondence from the complainant will be considered and any new and substantive issues will be addressed and a reply sent to the complainant.
- 7.2.6 New complaints from people who have been deemed unreasonably persistent complainants in the past will be treated on their merits.
- 7.2.7 If a complainant is deemed to be unreasonably persistent this will not reflect on the school's treatment of his/her child.
- 7.2.8 Once a complainant has been determined as persistent and/or unreasonable, such status needs to be regularly reviewed, and, where appropriate, withdrawn at a later date. Such action may be appropriate where a complainant subsequently demonstrates a more reasonable approach or submits a further complaint for which the normal complaints procedures would appear appropriate.

7.2 Procedure (continued)

- 7.2.9 A panel of three governors should review their decision to categorise a complainant as persistent and/or unreasonable every six months.
- 7.2.10 The panel on review may either withdraw the categorisation of a person as persistent and/or unreasonable or amend the strategy being applied to that person.
- 7.2.11 If the panel considers it appropriate to withdraw the status of persistent and/or unreasonable, normal contact with the complainant will be resumed. The complainant will be given notice of this decision as soon as practicable.
- 7.2.12 Copies of all decisions relating to the categorisation of a person as persistent and/or unreasonable will be sent to the Clerk to the Governing Body who will hold and maintain a central register of such decisions.
- 7.2.13 The Headteacher's report to the governing body should outline the number of complainants, if any, who are categorised as persistent and/or unreasonable to enable the governing body to monitor this.
- 7.2.14 Nothing in this guidance affects an individual's statutory rights.

8 – Timescale for making a complaint

8. Timescale for making a complaint

Headteachers and governors must be prepared to investigate and review complaints up to six months after the event and even after a pupil has left the school. Surrey County Council in its guidance to complainants urges them to raise matters of concern at the earliest opportunity in order to facilitate a thorough examination of the evidence while it is 'fresh'.