



## **NWAT & St Martin's Academy**

### **Complaints Policy**

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<b>Contents</b>	<b>2</b>
1. Policy Aim and Statement	4
2. Application	4
3. The Rules of Natural Justice	4
4. Equality Act 2010	5
5. Terms Used	5
6. Procedure	6
7. Time Limits	6
8. Complaints against the Head of School	6
9. Complaints against the Principal	7
10. Complaints against the Executive Principal	7
11. Complaints against the Chair of Governors	7
12. Late Complaints	7
13. Persistent or Serial Complaints	8
14. Anonymous Complaints	8
15. Data Protection Act 2018 and Freedom of Information Act 2000	8
16. Resolution Principles	9
17. Outcome Principles	9
18. Retention of Records	9
19. Confidentiality	10
20. Publication and Review	10
21. Stage 1: Concerns and Difficulties	10
22. Unresolved Concerns and Difficulties	11
23. Record of Concerns and Difficulties	11
24. Stage 2: Formal Complaint to the Head of School	11
25. Stage 3: Review by the Chair of Governors	12
26. Stage 4: Complaint Panel Hearing	13
27. Referral to the Education Skills Funding Agency	18
28. Appendix 1 – Formal Complaint Form	19

## **1. Policy Aim and Statement**

This Complaints Policy is to ensure that a concern, difficulty or complaint is managed sympathetically, efficiently and at the appropriate level and resolved as soon as possible. Doing so is good practice, fair to those concerned and helps to promote parents' and pupils' confidence in the Trust's ability to safeguard and promote welfare. The Trust and the academies within it will try to resolve every concern, difficulty or complaint in a positive way with the aim of putting right a matter which may have gone wrong and, where necessary, reviewing systems and procedures in the light of the matters raised.

We need to know as soon as possible if there is any cause for dissatisfaction. We recognise that a concern or difficulty which is not resolved quickly and fairly can soon become a cause of resentment, which can be damaging to the relationship between the Academy and the parent and pupil, and can also have a detrimental effect upon the Trust or academy's ethos and culture. Those raising a complaint should never feel – or be made to feel – that raising a concern, difficulty or complaint will adversely affect their/or their child's future at an academy within **the North West Academies Trust**, or disadvantage them in any way.

## **2. Application**

The North West Academies Trust is a Multi Academy Trust and is therefore governed by the Education (Independent School Standards) Regulations 2014 (as amended) ("the Regulations"). This Complaints Policy has been formulated to comply with Schedule 1, Part 7 of the Regulations (as well as equality legislation and the rules of natural justice). In the case of any variance between the procedure outlined in this Complaints Policy and the Regulations, the procedure outlined in the Regulations will apply.

This Complaints Policy applies to all concerns and complaints of the parents of students at an academy within the Trust, other than those involving child protection issues, or relating to admissions, exclusions and SEN, for which there are separate statutory procedures. Where a complaint is made against a member of staff, depending upon the nature and seriousness of the complaint, the matter may be dealt with under separate HR procedures which are strictly confidential, rather than under this Complaints Policy.

This Complaints Policy distinguishes between a concern or difficulty, which can usually be resolved informally, and a formal complaint which will require further investigation.

## **3. The Rules of Natural Justice**

Simply put, the rules of natural justice relate to fairness. NWAT and St Martin's Academy will ensure that all concerns, difficulties or complaints are dealt with in accordance with the following principles:

- All parties will be provided with all information and documentation pertinent to the matters raised;
- All parties will be given the opportunity to prepare and present their case and respond to the other parties involved;
- All persons investigating and making decisions in relation to the matters raised will be impartial and will do so without bias (or apparent bias) to any party involved;
- All decisions made will be made on a balanced and considered assessment of the information before him or her only;
- All decisions made will be based upon logical conclusions, and not based on mere speculation or suspicion;
- All decisions made will be supported by detailed reasons which will be disclosed to all parties involved.

## 4. Equality Act 2010

NWAT and St Martin's Academy will deal with concerns, difficulties and complaints in accordance with its duty under the Equality Act 2010 to have due regard to the need to:

- Eliminate discrimination, harassment, victimisation and other conduct prohibited by the Equality Act 2010;
- Advance equality of opportunity between those who share a relevant protected characteristic and those who do not, by having regard to the need to:
  - remove or minimise disadvantages connected to a relevant protected characteristic; and
  - take steps to meet the different needs of those sharing a relevant protected characteristic; and
  - encourage those who share a relevant protected characteristic to participate in school life and activities in which participation is disproportionately low;
- Foster good relations between those who share a relevant protected characteristic and those who do not, by having regard to the need to: tackle prejudice; and promote understanding;

*"Relevant protected characteristics" includes sex, race, disability, religion or belief, sexual orientation, gender reassignment, pregnancy and maternity and (in the case of persons who are not students) age.*

In addition, NWAT and St Martin's Academy will comply with its duty to make the following reasonable adjustments for persons with a disability:

- Where a provision, criterion or practice places a disabled person at a substantial disadvantage compared to a person who is not disabled, reasonable steps must be taken to avoid that disadvantage;
- Where a disabled person would, but for the provision of an auxiliary aid, be placed at a substantial disadvantage compared with a person who is not disabled, reasonable steps must be taken to provide the auxiliary aid. An auxiliary aid can be a piece of equipment or a service.
- If a Complainant or other person involved in the complaints procedure requires an interpreter, a signer or any other assistance at meetings or at a Complaint Panel Hearing, they should let the Academy know immediately.

Further details can be found in the Trust's Equality Policy.

## 5. Terms Used

For the purpose of this Complaints Policy, a "parent" includes the natural or adoptive parent of a student, irrespective of whether they are or ever have been married, whether they are separated or divorced, whether the student lives with them, whether the father has parental responsibility for the student or whether they have contact with the student.

A "parent" will also include a non-parent who has parental responsibility for a student, an adult non-parent with whom the student lives, and an adult who is involved in the day-to-day care of the student (for example, collecting or dropping off the student from school).

Any reference to a "student" will also include a prospective or former student of an academy within NWAT and St Martin's Academy

A person making a complaint will be referred to as a "Complainant" throughout this Complaints Policy.

## **6. Procedure**

NWAT and St Martin's Academy's complaints procedure consists of four stages:

Stage 1 – Concerns and difficulties, dealt with informally;

Stage 2 – Complaints formally investigated by the Head of School (or designate); Stage 3

– Complaints formally reviewed by the Chair of Governors (or designate); Stage 4 –

Complaint Panel Hearing.

## **7. Time Limits**

NWAT and St Martin's Academy aims to resolve concerns, difficulties and complaints in a timely manner. Time limits for each stage of the procedure are set out under each individual stage. For the purposes of this Complaints Policy, a "school day" is defined as a weekday during term time, when the Academy is open to children. The definition of "school day" excludes weekends, school holidays and bank holidays. For the avoidance of doubt, term dates are published on each academy's website, and information about term dates is made available to parents and students periodically.

Although every effort will be made by NWAT and St Martin's Academy to comply with the time limits specified under each stage of the procedure, it may not always be possible to do so, for example due to the complexity or number of matters raised, or due to the unavailability of the Complainant to attend a meeting, if offered. In all cases, **where a time limit cannot be complied with, the academy will write to the Complainant within the specified time limit, setting out the reasons why the time limit cannot be complied with, and confirming the new time limit which will apply.**

## **8. Complaints against the Head of School**

If a complaint is about the conduct of the Head of School, the Chair of Governors will notify the Trust HR Officer who will appoint a suitable external investigator to investigate the complaint on behalf of the Chair of Governors under **Stage 2** of this Complaints Policy. The external investigator will present a report on their findings to the Chair of Governors. The Chair of Governors will use the report to decide on the appropriate course of action. The Vice-Chair of Governors will review the complaint under **Stage 3** of this Complaints Policy instead of the Chair of Governors.

## **9. Complaints against the Head of School (with Executive Headteacher in post)**

If a complaint is about the conduct of the Head of School, the Executive Headteacher will investigate the complaint under Stage 2 of this Complaints Policy. The Chair of Governors will review the complaint under Stage 3 of this Complaints Policy.

## **10. Complaints against the Executive Principal**

If a complaint is about the conduct of the Executive Head Teacher/Principal, the Trust Chief Executive Officer will investigate the complaint under Stage 2 of this Complaints Policy. The Chair of the Executive Governing Body will review the complaint under Stage 3 of this Complaints Policy.

## **11. Complaints against the Chair of Governors**

If a complaint is about the conduct of the Chair of Governors, the Head of School will consider the complaint under **Stage 2** of this Complaints Policy as normal, and the Vice-Chair of Governors will review the complaint under **Stage 3** of this Complaints Policy instead of the Chair of Governors.

## **12. Late Complaints**

Where a complaint is submitted more than six (6) months after an incident or event (or where the complaint relates to a series of incidents or events, more than six months from the date of the latest incident or event), NWAT and St Martin's Academy reserve the right to refuse to investigate the complaint under this Complaints Policy **if it appears reasonable and fair to do so, having regard to the circumstances surrounding the complaint.**

Where it is decided that a complaint will not be investigated where it falls outside the time limit, the academy will write to the Complainant notifying them of the decision within **five (5) school days** of the complaint being received.

If the Complainant is unhappy with the decision not to investigate a complaint which is outside of the stated time limit, the Complainant may write to the Chair of Governors at the Academy asking for the decision to be reviewed. The Chair of Governors will review the decision of the Academy after considering all documentation relating to the complaint, together with the letter from the Academy to the Complainant. The Chair of Governors will **not** investigate the complaint itself during this review. In exceptional circumstances, the Chair may delegate his authority to undertake a review to the Vice Chair of Governors.

Following due consideration, the Chair of Governors will confirm the outcome of their review to the Complainant in writing no later than **ten (10) school days** after the receipt of the letter from the Complainant seeking a review, and provide the Academy with a copy of the letter.

In the event that the Chair of Governor's review indicates the decision not to investigate the complaint should be quashed, the complaint will be referred to the appropriate staff member to be dealt under this Complaints Policy in the usual way.

In the event that the Chair's review indicates that the decision not to investigate the complaint should be upheld, the Complainant may refer their concern or complaint to the Education Skills Funding Agency using the procedure identified at Section 25.

### **13. Persistent or Serial Complaints**

There may be occasions when, despite a complaint being considered under all stages in this Complaints Policy, the Complainant persists in making the same complaint to the Academy. There may also be occasions when a Complainant raises unreasonable persistent complaints or raises complaints about matters which do not affect them. There may also be occasions when a complaint is made about a matter which is clearly so trivial that it would be a poor use of the Academy's resources to deal with it under the formal stages of the procedure.

In all of these cases, NWAT and St Martin's Academy reserves the right to regard the complaint as persistent or serial and to refuse to investigate it under the procedure in this Complaints Policy, **if it appears reasonable and fair to do so, having regard to the circumstances surrounding the complaint.**

Where it is decided that a complaint is persistent or serial and will not be investigated, we will write to the Complainant within **five (5) school days** of the complaint being received to notify them of the decision.

If the Complainant is unhappy with the decision not to investigate a persistent or serial complaint, they may write to the Chair of Governors to ask for the decision to be reviewed. The Chair of Governors will review the decision not to investigate the complaint after considering all documentation relating to the complaint, together with the letter from the Academy to the Complainant. The Chair of Governors will **not** investigate the complaint itself during the review. In exceptional circumstances, the Chair of Governors can delegate the authority for the review to the Vice-Chair of Governors.

Following due consideration, the Chair of Governors will confirm the outcome of their review to the Complainant in writing within **ten (10) school days** after the receipt of the letter from the Complainant seeking a review.

In the event that the Chair of Governor's review indicates that the decision not to investigate the concern or complaint should be quashed, it will be referred to the appropriate staff member to be dealt with under the procedure in this Complaints Policy in the usual way.

In the event that the Chair of Governor's review indicates that the decision not to investigate the concern or

complaint should be upheld, the Complainant may refer the concern or complaint to the Education Skills Funding Agency using the procedure identified at Section 25.

#### **14. Anonymous Complaints**

NWAT and St Martin's Academy will not investigate anonymous complaints under the procedure in this Complaints Policy. Proper investigation may be impossible if we cannot obtain further information from the complainant. It is also more difficult to establish whether any complaints are credible. Anonymous complaints will be referred to the Head of School who will decide what, if any, action should be taken.

#### **15. Data Protection Act 2018 and Freedom of Information Act 2000**

Complaints sometimes include requests for information or documentation. Such requests will either be a "subject access request" under the Data Protection Act 2018 ('DPA 2018') (where the information requested relates to an identifiable individual) or a request under the Freedom of Information Act 2000 ('FOI Act')(where the information is general and not related to an identifiable individual).

Subject access requests under the DPA 2018 must be responded to within one (1) calendar month, and requests under the FOI Act must be responded to within twenty school days or 60 calendar days (whichever is soonest). NWAT and St Martin's Academy will aim to respond to a request under the FOI Act as soon as practicable (where the request is valid and the Complainant is lawfully entitled to the information or documentation).

Further details can be found in the Trust's Data Protection Policy and Freedom of Information Publication Scheme. Any complaint that relates to a previous Subject Access Request or FOI Request will be dealt with in accordance with this policy and the Data Protection or FOI Publication Scheme.

#### **16. Resolution Principles**

It is in everyone's interest that concerns, difficulties and complaints are resolved to the satisfaction of all parties at the earliest possible stage. The way in which the concern, difficulty or complaint is dealt with after the matter is first raised by the Complainant can be crucial in determining whether the complaint will escalate. Members of staff will be periodically made aware of the procedure in this Complaints Policy, so that they are able to handle a concern, difficult or complaint effectively and efficiently.

At each stage of the complaints procedure, the investigator will consider the most suitable resolution of the complaint. In considering how a complaint may be resolved, the investigator will give due regard to the seriousness of the complaint. It **may** be appropriate in order to bring the complaint to a resolution for the investigator to offer:

- An explanation;
- An apology;
- Reassurance that steps have been taken to prevent a recurrence of events which led to the complaint;
- Reassurance that the Academy will undertake a review of its policies and procedures in light of the complaint.

None of the above will constitute an admission of negligence or an acceptance of liability on behalf of NWAT and St Martin's Academy.

## **17. Outcome Principles**

Examples of outcomes following complaint investigation include:

- There was insufficient evidence to reach a conclusion, so the complaint cannot be upheld;
- The investigation did not substantiate the matters raised, so the complaint cannot be upheld;
- The complaint was substantiated in part or full. A description should be given of the remedial action being taken as a consequence of the complaint. **Details of any disciplinary action or sanctions to be taken against a member of staff are strictly confidential and cannot be disclosed.**
- The matter has been fully investigated and, as a consequence, further confidential procedures are being pursued. **Details of any disciplinary action or sanctions to be taken against a member of staff are strictly confidential and cannot be disclosed.**

## **18. Retention of Records**

A full written record will be kept of all complaints, how they were resolved and any action that was taken by the school as a result of the complaint (regardless of whether they were upheld). This will be maintained in accordance Trust's Data Retention Policy.

For complaints relating to pupils, complaint records will be destroyed when the pupil concerned reaches the age of twenty-five years or, in the case of a student with a statement of special educational needs, until the student reaches the age of thirty years.

## **19. Confidentiality**

All correspondence, statements and records relating to individual complaints will be kept confidential except where access is requested by the Secretary of State, a school inspector, or under another legal authority.

## **20. Publication and Review**

This Complaints Policy has been ratified by the NWAT and St Martin's Academy Finance & Resources Committee, and will be reviewed every two (2) years. It will be published on the Trust and each academies website and provided to parents and students on request. A copy of this Complaints Policy will be provided to a Complainant when a concern, difficulty or complaint is first raised.

## **21. Stage 1: Concerns and Difficulties**

### **Concerns**

NWAT and St Martin's Academy expects that most concerns and difficulties, where a parent or student seeks intervention, reconsideration or some other action to be taken, can be resolved informally. Examples might include dissatisfaction about some aspect of teaching or pastoral care, allocation of privileges or responsibilities, a timetable clash, an issue with the Academy's systems or equipment, or a billing error.

### **Notification**

The concern or difficulty should be raised as follows:

**Education issues** – if the matter relates to the classroom, the curriculum or special educational needs, the Complainant should speak to the a senior teacher, Director of Studies or Head of School as appropriate.

**Pastoral care** – for concerns relating to matters outside the classroom, the Complainant should speak to a senior teacher, Pastoral Director or Head of School as appropriate.



**Disciplinary matters** – a problem over any disciplinary action taken or a sanction imposed should be raised with the member of staff who imposed it in the first instance. If not resolved, the Complainant should speak to a senior teacher, Pastoral Director or Head of School as appropriate.

**Financial and administrative matters** – a query relating to fees, extras or other administrative matters should be raised by the Complainant with the Office Team or Head of School

**An issue with a specific member of staff** – often, the best way to resolve an issue with a specific member of staff is to raise it with that member of staff directly, so that they are given the opportunity to address and resolve the concern or difficulty before it becomes a formal complaint. If the Complainant feels uncomfortable doing this, however, the issue should be raised with a senior teacher, Pastoral or Academic Director or Head of School as appropriate.

Should a concern or difficulty be raised with a member of staff who feels that they are not the best person to be dealing with it, they will refer it to a senior teacher, Pastoral or Academic Director or Head of School as appropriate.

If a concern or difficulty is raised with a member of staff who feels that it raises serious issues which should be dealt with as a formal complaint immediately, the member of staff will tell the Complainant that they should put their complaint in writing to the Head of School under Stage 2 of this Complaints Policy. If the Complainant would prefer to complete a form instead of writing a letter, the Complainant can complete the Complaint Form contained in Appendix 1 of this Complaints Policy to submit their complaint formally.

## **22. Unresolved Concerns and Difficulties**

NWAT and St Martin's Academy will aim to resolve a concern or difficulty within **fifteen (15) school days** of the date that it was raised. Where a concern or difficulty has not been resolved by informal means within this stated time the Complainant has the right to submit the matters raised as a formal complaint under Stage 2 of this Complaints Policy.

## **23. Record of Concerns and Difficulties**

The member of staff dealing with a concern or difficulty will make a written record of the issues raised, the action taken and, if applicable, the resolution reached, which will be retained in a central record. Further information in relation to the retention of records can be found in the Trust Data Retention Policy.

## **24. Stage 2: Formal Complaint to the Head of School**

### **Notification**

A concern or difficulty raised under Stage 1 of this Complaints Policy which remains unresolved after **fifteen (15) school days**, or a serious matter which requires formal investigation from the outset, should be set out in writing and sent to the Head of School at the Academy. Should a formal written complaint be received by another member of staff, they will immediately be passed on to the Head of School.

The Complainant should clearly set out the matters in dispute, the relevant dates, the full names of the persons involved and what the Complainant believes should be done to resolve the complaint. Any documentation relied upon by the Complainant should be attached to the formal complaint.

### **Acknowledgement**

The formal complaint will be acknowledged in writing within **five (5) school days** of receipt. The acknowledgement letter will confirm the date that the formal complaint was received, the action to be taken and the specified time limit for the final response.

### **Investigation**

The Head of School will be provided with the records of the Stage 1 informal procedure (if applicable) within **five (5) school days** of receipt of the formal complaint, and will then proceed to investigate the complaint. This will involve obtaining and considering all documentation held by the Academy which is relevant to the complaint. If further information is required from the Complainant, this may be requested from them over the telephone or in writing.

The Head of School will speak to the persons who were involved in the matters raised by the Complainant. Students will only be spoken to with an independent member of staff present to support them. Where there is an issue about the conduct of a member of staff, that member of staff will be offered the option of having another member of staff present. Other members of staff will be spoken to alone. A written record of the conversation will be made, and the student or member of staff spoken to will be asked to read, sign and date the written record to confirm that it is accurate. In the case of students, the accompanying independent member of staff will also be asked to sign and date the record of the conversation.

If the Head of School deems it to be appropriate in relation to the matters raised, the Complainant will be offered a meeting to discuss the issues raised. This may take place at the beginning of the investigation to clarify any matters which are unclear, or after the investigation has taken place with the aim of reaching an amicable resolution.

### **Outcome**

The Head of School will write to the Complainant confirming the outcome of the investigation within **twenty school days** from the date that the complaint was received. The letter will set out the individual matters raised by the Complainant, the findings made by the Head of School during the course of the investigation, and the conclusion reached.

The letter will inform the Complainant that, if they are unsatisfied with the outcome of the Stage 2 investigation, they should write to the Clerk to the Governors within **five (5) school days** of receipt of the letter asking for their complaint and the Stage 2 investigation to be reviewed by the Chair of Governors under Stage 3 of this Complaints Policy.

Where the complaint was received during a school holiday or within twenty school days from the end of a term or half term, the Head of School will endeavour to expedite the investigation wherever possible.

### **Delegation**

In appropriate cases, the Head of School may delegate the complaint to a member of the Senior Leadership Team to deal with in accordance with the procedure outlined above.

## **25. Stage 3: Review by the Chair of Governors**

### **Notification**

If the Complainant is unsatisfied with the outcome of the complaint under Stage 2 of this Complaints Policy, the Complainant may write to the Clerk to the Governors asking for the complaint to be reviewed by the Chair of Governors, within **five (5) school days** of receiving the letter confirming the outcome following Stage 2.

The Complainant should not repeat the matters raised in their original letter or attach documentation already provided, but should clearly set out how and why the Complainant does not accept the findings made under Stage 2.

### **Acknowledgement**

The Complainant's letter will be acknowledged within **five (5) school days** of receipt. The acknowledgement letter will confirm the date that the formal complaint was received, the action to be taken and the specified time limit.

### **Review**

The Chair of Governors will be provided with all documentation relating to the complaint **within five (5) school days** of receipt of the letter requesting a review under Stage 3, including the record of the Stage 1 informal procedure (if applicable), the original letter of complaint or Complaint Form, any documentation provided by the Complainant with their complaint, all investigation records under Stage 2, and the letter of outcome under Stage 2.

The Chair of Governors will review all of the documentation received and consider the matters raised in the complaint and the investigation carried out under Stage 2. The Chair of Governors will only speak to the persons involved in the matters raised to clarify matters which were not confirmed during the Stage 2 investigation, if believed necessary. Where the Chair of Governors does speak to a student or a member of staff whose conduct is in issue, they will be accompanied as outlined under Stage 2.

If the Chair of Governors deems it to be appropriate, the Complainant will be offered a meeting to discuss the issues raised. A meeting where deemed appropriate, will usually take place after the Chair's review has been completed with the aim of reaching a mutually acceptable resolution.

### **Outcome**

The Chair of Governors will write to the Complainant confirming the outcome of the review within **twenty (20) school days** from the date that the request for a review was received. The letter will set out whether the Chair of Governors agrees with the findings and conclusion under Stage 2, and give reasons, as well as responding to any criticism of the Stage 2 investigation.

The letter will inform the Complainant that, if they are unsatisfied with the outcome of the Stage 3 review, they should write to the Clerk to the Governors within **five (5) school days** of receipt of the letter requesting a Complaint Panel Hearing under Stage 4 of this Complaints Policy.

### **Delegation**

In appropriate cases, the Chair of Governors may delegate the authority to review to the Vice-Chair of Governors to deal with in accordance with the procedure outlined above.

## **26. Stage 4: Complaint Panel Hearing**

### **Notification**

If the Complainant is unsatisfied with the outcome of the review under Stage 3 of this Complaints Policy, the Complainant may write to the Clerk to the Governors requesting a Complaint Panel Hearing. The Complainant should write to the Clerk to the Governors within **five (5) school days** of receiving the letter confirming the outcome following Stage 3.

The Complainant should not repeat the matters raised in their original letter or attach documentation already provided, but should clearly set out how and why the Complainant does not accept the findings made under Stages 2 and 3.

Where the request for a Complaint Panel Hearing is received during a school holiday or within twenty (20) school days from the end of a term or half term, the Chair of Governors will endeavour to expedite the review wherever possible.

### **The Complaint Panel and factors to consider**

The Complaint Panel will consist of three (3) persons appointed by or on behalf of the Academy by the Clerk to the Governors. None of the three Complaint Panel members will have been involved in the matters which gave rise to the complaint, have been involved in dealing with the complaint previously or have any detailed

prior knowledge of the complaint. Two of the Complaint Panel members may (but do not have to) be Governors. The third Complaint Panel member will be independent of the management and running of the Academy, i.e. they will not be a member of staff or a Governor, and will not be linked to the Academy in another way, for example as a parent of a student at the Academy. The independent Complaint Panel member will be the Chair of the Complaint Panel.

The Clerk to the Governing Body will ensure that Complaint Panel members are appointed in accordance with the Department for Education guidance as follows:

*Whilst we do not wish to be prescriptive about who schools should appoint as an independent person, our general view is that people who have held a position of responsibility and who are used to analysing evidence and putting forward balanced arguments would be suitable. Examples of persons likely to be suitable are serving or retired business people, civil servants, heads or senior members of staff at other schools, people with a legal background and retired members of the police force. Schools will of course have their own views.*

The aim of the Complaint Panel Hearing, which must be held in private, will always be to resolve the complaint and achieve reconciliation between the Academy and the Complainant. However, it has to be recognised that the Complainant may not be satisfied with the outcome if the Complaint Panel does not find wholly 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.

An effective Complaint 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 Chair of the Complaint Panel will ensure that the Complaint Panel Hearing is as welcoming as possible, while ensuring that it is procedurally fair to all parties. The layout of the room will set the tone and care is needed to ensure the setting is informal and not substantially adversarial.

Extra care needs to be taken when the Complainant is a child, or there are child witnesses present. Care should be taken to ensure that the child does not feel intimidated. The Complaint Panel should be aware of the views of the child and give them equal consideration to those of the adults present. Where the child's parent is the Complainant, it would be helpful to give the parent the opportunity to suggest which parts of the hearing, if any, the child should attend, with the Chair retaining discretion.

The Complaint Panel should ensure that they are familiar with the complaints procedure in advance of the Complaint Panel Hearing.

The Chair of the Complaint Panel will play a key part at the Complaint Panel Hearing, ensuring that:

- The remit of the Complaint Panel is explained to the parties and each party has the opportunity of making representations without undue interruption;
- All of the issues raised in the complaint are addressed;
- Key findings of fact are made, on a balance of probabilities;
- Each party treats the other with respect and courtesy;
- The Complaint Panel is open minded and acts independently of the Academy;
- No member of the Complaint Panel has a vested interest in the outcome of the proceedings;
- Each side is given the opportunity to state their case and ask questions;
- All written material is seen by all parties. If a new issue arises during the course of the Complaint Panel Hearing, it would be useful to give all parties the opportunity to consider and comment on it.

### **Attendance**

The Complainant may attend the Complaint Panel Hearing, and may be accompanied by another person ('Complainant's supporter'). For the avoidance of doubt, the Complainant's supporter will be present for moral support only and will not play any part in the proceedings, unless invited to do so by the Chair of the Complaint Panel, entirely at his or her discretion and for a good reason. The Complaint Panel Hearing is **not** a legal hearing and it is therefore not appropriate for either the Complainant or the Academy to be legally represented.

The Academy will be represented at the Complaint Panel Hearing by the person who dealt with the complaint under Stage 3, which will usually be the Chair of Governors. This person will be referred to as the "Academy's Representative" for the purposes of Stage 4.

The Complaint Panel Hearing will be minuted by the Clerk to the Complaint Panel, who will usually be the Clerk to the Governors.

### **Convening the Complaint Panel Hearing**

After selecting the Complaint Panel members, the Clerk to the Governors will write to the Complainant within **five (5) school days** informing them of the names of the Complaint Panel members. If the Complainant objects to any of the named persons being appointed to the Complaint Panel, they should notify the Clerk to the Governors within **three school days** of receipt of the letter. Fair consideration will be given to any bona fide objection to a particular member of the Complaint Panel.

The Clerk to the Governors will liaise with the Complaint Panel, the Complainant and the Academy's Representative to agree a mutually convenient date for the Complaint Panel Hearing, which will usually take place within **twenty school days** of receipt of the Complainant's request, unless there are exceptional circumstances.

The Clerk to the Governors will write to the Complainant confirming the date of the Complaint Panel Hearing within **five school days** of the date that the acknowledgement letter was sent (or the date that the new Complaint Panel member was selected, if an objection was received and upheld). If the Complaint Panel Hearing will not take place within **twenty school days** of receipt of the Complainant's request, the letter will set out the exceptional circumstances involved.

### **Documentation**

The Clerk to the Governors will forward a copy of all paperwork relating to the complaint (consisting of the record of the Stage 1 informal procedure (if applicable), the original letter of complaint or Complaint Form, any documentation provided by the Complainant with their complaint, all investigation records under Stage 2 with the letter of outcome, all review records under Stage 3 with the letter of outcome, and the Complainant's letter requesting a Complaint Panel Hearing and accompanying documents) to the Complainant, the Academy's Representative and the three Complaint Panel members. All documents will be sent recorded delivery.

The names of individuals other than the Complainant, the Complainant's family, members of the Academy's staff and Governors, will be redacted and replaced with a letter relevant to that particular individual (for example "Jane Brown" will be replaced with "A" throughout, "John Jones" will be replaced with B throughout) unless the individual(s) have provided their written consent for their name to be disclosed.

If the Complainant wishes the Complaint Panel to consider any additional information, they should forward this documentation to the Clerk to the Governors to arrive **at least five (5) school days** before the Complaint Panel Hearing, to enable the Clerk to the Governors to forward it to the Academy's Representative and the Complaint Panel members.

### **Witnesses**

The Chair of the Complaint Panel will decide, at his or her absolute discretion, which witnesses will be permitted to attend the Complaint Panel Hearing to give a verbal statement rather than the Complaint Panel relying on a written statement or record of meeting by the witness.

If the Complainant wishes to rely on the account of a witness, they should ask the witness to record their account of events in writing, and send a signed and dated copy to the Clerk to the Governors **at least five (5) school days** before the Complaint Panel Hearing, to enable the Clerk to the Governors to forward it to the Academy's Representative and the Complaint Panel members.

Witnesses under the age of eighteen other than the Complainant's own family will only be allowed to attend the Complaint Panel Hearing at the discretion of the Chair of the Complaint Panel, and then only if they are accompanied by one of their parents or carers. Any written accounts provided by the Complainant relating to witnesses under the age of eighteen must be signed and dated by the witness **and** one of the witness' parents or carers.

Members of staff of the Academy involved in the matters which gave rise to the complaint will usually have provided a signed written account or have signed a note of a meeting during the previous stages, which will be forwarded to all parties along with the other complaint documentation in the usual way. Members of staff will not usually be required to attend the Complaint Panel Hearing to give a verbal statement unless their conduct is in issue or their account is contentious and the rules of natural justice dictate that the Complainant should be allowed to ask that member of staff questions.

### **Procedure at the Complaint Panel Hearing**

The Complaint Panel Hearing will be conducted as follows:

- The Clerk to the Complaint Panel will greet the Complainant, the Complainant's supporter and the Academy's Representative and welcome them into the room where the Complaint Panel has convened (any witnesses will remain outside of the room until they are called in to give their account);
- The Complainant will be invited by the Complaint Panel to give an account of their complaint;
- The Academy's Representative will be invited to ask the Complainant questions, if any;
- The Complaint Panel will ask the Complainant questions, if any;
- At the discretion of the Chair of the Complaint Panel, the Complainant's first witness will be invited
  - into the room to give an account of what they saw or know;
- The Academy's Representative will be invited to ask the Complainant's witness questions, if any;
- The Complaint Panel will ask the Complainant's witness questions, if any;
- The Complainant's witness will be asked to leave the room;
- If the Complainant has any further relevant witnesses, at the discretion of the Chair of the Complaint Panel, they will be invited into the room individually to provide their accounts and be questioned as outlined above;
- The Academy's Representative will be invited by the Complaint Panel to respond to the complaint and make representations on behalf of the Academy;
- The Complainant will be invited to ask the Academy's Representative questions, if any;
- The Complaint Panel will ask the Academy's Representative questions, if any;
- At the discretion of the Chair of the Complaint Panel, the Academy's relevant first witness will be invited into the

room to give an account or what they saw or know;

- The Complainant will be invited to ask the Academy's witness questions, if any;
- The Complaint Panel will ask the Academy's witness questions, if any;
- The Academy's witness will be asked to leave the room;
- If the Academy has any further relevant witnesses, at the discretion of the Chair of the Complaint Panel, they will be invited into the room individually to provide their accounts and be questioned, as outlined above;
- The Complainant will be invited by the Complaint Panel to summarise their complaint;
- The Academy's Representative will be invited by the Complaint Panel to summarise their response to the complaint and the Academy's stance;
- The Complaint Panel Hearing will conclude and the Complainant and the Academy's Representative will be asked to leave.
- The complaints appeal panel members may decide to adjourn the hearing pending further investigation at any stage if they deem it necessary.

#### **The Complaint Panel's Decision**

The Complaint Panel will convene in private, either immediately after the Complaint Panel Hearing or on a subsequent date, and will consider all of the documentation and the verbal accounts and summaries given at the Complainant Panel Hearing:

##### *A: Findings of Fact*

The Complaint Panel will decide which facts are established to be true, on a balance of probabilities (i.e. more likely than not). If a fact is not deemed relevant, the Complaint Panel will not consider it further. The Complaint Panel will make a written record of the facts that have been established, those which have not been established and those which are not relevant, with their reasons for making these findings.

##### *B: Recommendations*

The Complaint Panel will consider the facts which they have established and will make recommendations based upon them. These recommendations may be aimed at achieving reconciliation between the parties (for example, a written apology), improving procedures or preventing a recurrence in the future. The Complaint Panel will keep a written record of their recommendations, with reasons.

#### **Notification of the Complaint Panel's Decision**

The Clerk to the Governors will write within **ten (10) school days** of the Complaint Panel Hearing to the:

- Complainant;
- the Academy's Representative;
- Any person complained about;

The letter will identify each of the issues complained about, summarise how the Complaint Panel Hearing proceeded, and confirm each of the Complaint Panel's findings of fact and recommendations, if any, with reasons. The letter will also confirm that, if the Complainant believes that this Complaints Policy does not comply with the Regulations, or that the Academy has not followed the procedure outlined in this Complaints Policy, the Complainant may refer their complaint to the Education Skills Funding Agency for further consideration.

The Clerk to the Governors will also ensure that a copy of the Complaint Panel's findings and

recommendations are made available on the Academy's premises for inspection by the Trust, the Governing Body and the Principal.

## **27. Referral to the Education Skills Funding Agency**

Once a complaint has been through all the stages of this Complaints Policy, if the Complainant believes that this Complaints Policy does not comply with the Regulations, or that the Academy has not followed the procedure in this Complaints Policy, the Complainant can refer the complaint to the Education Skills Funding Agency for consideration.

The Complainant can find further information about referring a complaint to the Education Skills Funding Agency by pasting this page into an Internet browser:

<http://www.education.gov.uk/schools/leadership/schoolperformance/b00212240/making-complaint-school/complaints-free-schools-academies>

The Complainant should be aware that the Education Skills Funding Agency will not usually investigate the complaint itself, or interfere with the findings of the Complaint Panel, unless the decision made was manifestly unreasonable.



## 28. Appendix 1 – Formal Complaint Form

Please complete and return to the Academy who will acknowledge receipt and explain what action will be taken.

Your Name:	Student's Name:
Your Relationship to Student:	Student's DOB and Form:
Address and Postcode:	Daytime Telephone Number:
	Evening Telephone Number:
Full details of complaint (including the names of all persons involved and the dates of incidents referred to):	
What action, if any, have you already taken to try and resolve your complaint (for example, 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.	
Signature:	Date:
<b>For Official Use:</b>	
Date Acknowledgement Sent:	
Name of Person Complaint Referred To:	
Signature:	Date: