

# Complaints Policy

2017



**ORCHARD ACADEMY  
TRUST**

## **Orchard Academy Trust Complaints Procedure**

**Our schools are committed to providing the very best education for our young people and want our pupils to be healthy, happy and safe and to do well. We recognise the importance of establishing and maintaining good relationships with parents, carers and the wider community. We are aware that there may be occasions where people have concerns or complaints and the following procedure sets out the steps that should be followed in order to resolve these as quickly and informally as possible.**

**School governing bodies are required under Section 29 of the Education Act 2002 to have in place a procedure for dealing with complaints relating to the school, other than those covered by separate legislation and formal procedures and are covered by other policies and guidance. These include:**

- **Admissions**
- **Exclusions**
- **Special Educational Needs**
- **Staff Grievances / Discipline**
- **Child Protection**
- **Whistleblowing**

**It is expected that all complaints will be referred to the school in the first instance and that all stages will be pursued before considering a referral to the Secretary of State for Education (DfE Complaints Unit) if a complainant feels that their complaint has not been dealt with appropriately or remains unresolved.**

**Complainants are encouraged to follow through each stage of the procedure, as appropriate, in order to resolve their concerns.**

### **Defining a concern or complaint**

There will be many contacts with school about parental concerns, most of which are routinely dealt with through contact with, for example, a secretary or class teacher. Very often these concerns will be easily resolved at this level and not reach the stage of a formal complaint. There will be other occasions when a judgement needs to be taken whether the degree of dissatisfaction reaches the level of a formal complaint. The formal procedures will need to be invoked when initial attempts to resolve the issue are unsuccessful and the person raising the concern remains dissatisfied and wishes to take the matter further.

**Concern:** “Something that makes you anxious or worried”

**Complaint:** “a statement that something is unsatisfactory or unacceptable”

It is important to consider, when making a complaint, the time period that has elapsed since the incident. The school can only be reasonably expected to deal with, and address an issue, that has occurred within the last school term ( old school term) That doesn't exempt a complaint being made outside of this timeframe, but any subsequent investigation could be difficult due to the passage of time.

Wherever possible every effort should be made to resolve concerns and issues at the informal stage. (Stage 1)

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## Aims and principles of the policy

This policy aims to:

- Encourage the resolution of concerns and complaints by informal means wherever possible
- Ensure that concerns are dealt with quickly, fully and fairly within defined time limits wherever possible
- Provide effective and appropriate responses to concerns and complaints
- Maintain good relationships between the school and all those involved

Key principles of this policy are:

- **Accessibility** – the policy will be available on the school's website, the Trust website and also can be requested from the schools' office. It will be in a useable format, free from jargon and will assume no specialist knowledge
- **Good communication** – the school will be happy to explain the process for dealing with concerns and complaints
- **Timescales**- there will be clear timescales which the school will make every effort to adhere to. Where timescales have to change, we will ensure complainants are advised of the delay and reasons for this and are given clear revised timescales.
- **Clarity** – over roles and responsibilities of those involved in the process and clarity around the desired outcome for the complainant
- **Confidentiality**- appropriate confidentiality will be maintained by all those involved (including and school staff and governors).

The governing body will appropriately monitor the nature of the complaints received over each academic year to inform practice and potential improvements to procedures and policies within the school.

## Upholding or not upholding complaints

At each stage of the complaints procedure the conclusion will be either:

- That the complaint is upheld (in part or in full) and where appropriate, some form of action is taken or recommendation made **OR**
- That the complaint is not upheld and reason(s) for this, where appropriate, are clearly given

The complainant may choose to take no further action or take their complaint to the next stage.

## The Stages of the Complaints Process

*(flowchart of process at appendix 2)*

### Stage 1 – Informal Complaint

Please start by telling the class teacher about your concern. This is usually the best and quickest way of resolving issues. In some cases the class teacher may feel it more appropriate to refer you to a more senior or experienced member of staff who will try to resolve the concern informally.

- *It is recommended that you make an appointment to speak to the class teacher as soon as possible as this will give both parties the opportunity to talk about the issue without being interrupted*
- *It is important to recognise that schools are busy organisations and may not be able to offer an appointment straight away*
- *The purpose of this meeting should be to establish the nature of the concern and to seek a resolution to the problem*
- *It is good practice for the class teacher to make a brief written record of the concerns raised and any actions agreed*

**Stage 2 – Formal Written Complaint** (non- parental complaints are likely to go straight to this stage)

If you feel dissatisfied with the outcome of discussions with the class teacher, you should then contact the Head of School (*or member of the Senior Leadership Team*) either by arranging an appointment to see them or by putting your complaint in writing. *You may use the form attached as appendix 1 to do this.*

If you are not using the form, your letter should set out clearly the concern and why you feel the issue has not been resolved through informal channels. It is also helpful if you can set out what resolution you are seeking.

- The Head of School will consider the complaint and in doing so will:
  - Establish what has happened so far, and who has been involved;
  - Meet or contact you if they need further information;
  - Clarify what you feel would put things right if this has not been set out in your letter or included on your form;
  - Interview those involved in the matter and those complained of, allowing them to be accompanied if they wish;
  - Conduct any interviews with an open mind;
  - Keep notes of any interview for the record
  
- The Head of School will keep in mind ways in which the complaint can be resolved. It may be sufficient to acknowledge that the complaint is valid in whole or in part. In addition, it may be appropriate to offer one or more of the following:
  - an apology
  - an explanation
  - an admission that the situation could have been handled differently or better (please note this is not an admission of negligence)
  - an assurance that the event complained of will not recur
  - an explanation of the steps that have been taken to ensure that it will not happen again
  - an undertaking to review policies and practice in light of the complaint

It may also be the case that the complaint may not have any substance and is therefore considered to be unfounded or unsubstantiated.

The Head of School will discuss the outcome of their consideration of your complaint with you and should send a detailed response within a maximum of 20 school days. Where this proves to be unrealistic, you will be informed in writing and given an estimate of how long it will take to provide a detailed response.

Where you are unhappy about the decision the Head of School has made about your complaint, this does not become a complaint about the Head of School. However, if your complaint is about the conduct of the Head of School and you feel that it has not been resolved at the informal stage, then you should move directly to **Stage 3** of the procedure and write to the Chair of Governors.

### **Stage 3 – Governor Review Panel<sup>1</sup>**

If you are not satisfied with the response of the Head of School, or you have a concern or complaint that is specifically about the Head of School which has not been resolved informally, then you must write a formal letter of complaint to the

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Chair of Governors. The school will provide you with the Chair of Governors name, or you can find it on the school's website. You should either complete the complaints form or write to the Chair of Governors at the school address, marking any envelope "urgent, private and confidential".

- *The Chair of Governors or Clerk to the Governing Body will acknowledge receipt of the letter within 5 school days. The acknowledgement will inform the complainant that three members of the school's governing body will hear the complaint within 20 working days of receiving the complaint. The letter will invite the complainant to attend also explain that the complainant has the right to submit any further documentation relevant to the complaint. The complainant may bring a friend or someone else for support.*
- *For complaints specifically about the Head of School, the Chair of Governors will arrange for the complaint to be investigated, either by him/herself or by an appropriate independent investigator.*
- *A meeting of the Governors Complaints Panel will be convened. No governors with prior involvement in the issues complained about will be included on the panel and it may be necessary to use reserves (previously agreed by the Governing Body) to ensure the Panel can meet within the set time. An experienced governor will chair the panel meeting. The chair/clerk of the complaints panel will contact the complainant with the arrangements.*
- *Once the panel has been held, the complainant and the school will be informed of their decision within five school working days. If it is not possible to meet these timescales then the chair of the panel will contact both parties to discuss a mutually convenient date. Further information on how the panel operates and the process is attached at appendix 3.*

#### **Stage 4 – Escalation to Secretary of State for Education**

If the complainant remains unsatisfied by the outcome of the governor's panel, they will be advised to contact the Secretary of State for Education. The Secretary of State has a duty to consider all complaints raised but will only intervene where the governing body has acted unlawfully or unreasonably.

The School Complaints Unit considers complaints relating to local authority maintained schools in England on behalf of the Secretary of State. They will look at whether the school's complaints policy and other relevant statutory policies were adhered to. They will also check whether the school's policy adheres to education legislation. However the unit will not re-investigate the substance of the complaint. This remains the responsibility of the school. If the Schools Complaints Unit finds that the school has not handled a complaint in accordance with its procedure, the unit may request that the complaint is looked at again.

The School Complaints Unit can be contacted by calling the national helpline on 0370 000 2288 or by going online at: [www.education.gov.uk/help/contactus](http://www.education.gov.uk/help/contactus) or by writing to:

Department for Education  
School Complaints Unit  
2<sup>nd</sup> Floor, Piccadilly Gate  
Store Street  
Manchester  
M1 2WD

## Policy for unreasonable complainants

Our school is committed to dealing with all complaints fairly and impartially, and to providing a high quality service to those who complain. We will not normally limit the contact complainants have with the school. However, we do not expect our staff to tolerate unacceptable behaviour and will take action to protect staff from that behaviour, including that which is abusive, offensive or threatening.

The school defines unreasonable complainants as *'those who, because of the frequency or nature of their contacts with the school, hinder our consideration of their or other people's complaints'*.

### **Examples: A complaint may be regarded as unreasonable when the person making the complaint:**

- refuses to articulate their complaint or specify the grounds of a complaint or the outcomes sought by raising the complaint, despite offers of assistance;
- refuses to co-operate with the complaints investigation process while still wishing their complaint to be resolved;
- refuses to accept that certain issues are not within the scope of a complaints procedure;
- insists on the complaint being dealt with in ways which are incompatible with the adopted complaints procedure or with good practice;
- introduces trivial or irrelevant information which the complainant expects to be taken into account and commented on, or raises large numbers of detailed but unimportant questions, and insists they are fully answered, often immediately and to their own timescales;
- makes unjustified complaints about staff who are trying to deal with the issues, and seeks to have them replaced;
- changes the basis of the complaint as the investigation proceeds;
- repeatedly makes the same complaint (despite previous investigations or responses concluding that the complaint is groundless or has been addressed);
- refuses to accept the findings of the investigation into that complaint where the school's complaint procedure has been fully and properly implemented and completed including referral to the Department for Education;
- seeks an unrealistic outcome;
- Makes excessive demands on school time by frequent, lengthy, complicated and stressful contact with staff regarding the complaint

in person, in writing, by email and by telephone while the complaint is being dealt with.

**A complaint may also be considered unreasonable if the person making the complaint does so either face-to-face, by telephone or in writing or electronically:-**

- maliciously;
- aggressively;
- using threats, intimidation or violence;
- using abusive, offensive or discriminatory language;
- knowing it to be false;
- using falsified information;
- Publishing unacceptable information in a variety of media such as in social media websites and newspapers.

Complainants should limit the numbers of communications with a school while a complaint is being progressed. It is not helpful if repeated correspondence is sent (either by letter, phone, email or text) as it could delay the outcome being reached.

Whenever possible, the Head of School or Chair of Governors will discuss any concerns with the complainant informally before applying an 'unreasonable' marking.

If the behaviour continues the Head of School will write to the complainant explaining that their behaviour is unreasonable and asking them to change it. For complainants who excessively contact the school causing a significant level of disruption, we may specify methods of communication and limit the number of contacts in a communication plan. This will usually be reviewed after 6 months.

In response to any serious incident of aggression or violence, the concerns and actions taken will be put in writing immediately and the police informed. This may include banning an individual from school premises.

## **Barring from the School Premises**

Although fulfilling a public function, schools are private places. The public has no automatic right of entry. Schools will therefore act to ensure they remain a safe place for pupils, staff and other members of their community.

If a parent's behaviour is a cause for concern, a school can ask him/her to leave school premises. In serious cases, the Head of School or the local authority can notify them in writing that their implied licence to be on school premises has been temporarily revoked subject to any representations that the parent may wish to make. Schools should always give the parent the opportunity to formally express their views on the decision to bar in writing. The decision to bar should then be reviewed, taking into account any representations made by the parent, and either confirmed or lifted. If the decision is confirmed the parent should be notified in writing, explaining how long the bar will be in place.

Anyone wishing to complain about being barred can do so, by letter or email, to the Head of School or Chair of Governors. However, complaints about barring cannot be escalated to the Department for Education. Once the school's own complaints procedure has been completed, the only remaining avenue of appeal is through the Courts; independent legal advice must therefore be sought.

### **Vexatious Complaints**

If properly followed, a good complaints procedure will limit the number of complaints that become protracted. However, there will be occasions when, despite all stages of the procedures having been followed, the complainant remains dissatisfied. If the complainant tries to reopen the same issue, the Chair of Governors is able to inform them in writing that the procedure has been exhausted and that the matter is now closed.

Habitual and / or vexatious complainants can be a problem for School staff and Governors. The handling of such complaints can place a strain on time and resources. Whilst the School endeavors to respond with patience and sympathy to the needs of all complainants there are times when there is nothing further which can reasonably be done.

Each case will be viewed individually and decided on its merits. However, a complainant (and / or anyone acting on his or her behalf) may be deemed to be habitual or vexatious if previous or current contact shows that they may meet any or all of the following criteria, dependent upon degree.

On the occasion where complainants:

- a) Persist in pursuing a complaint where the school's complaints procedure has been fully and properly implemented and exhausted (e.g. where several responses have been provided);
- b) 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 may need to be addressed as separate complaints.**

- c) Are unwilling to accept proper and reasonably documented evidence of action.
- d) Are unwilling to accept that the Governing body has reached a final decision on a chosen course of action.
- e) Deny receiving an adequate response in spite of correspondence specifically answering their questions.
- f) Persist in pursuing a matter when they have already exhausted other statutory routes of appeal.
- g) Do not clearly identify the precise issues which they wish to be investigated, despite reasonable efforts to help them specify their concerns.
- h) Continue to seek to pursue a complaint where the concerns identified are not within the remit of the Governing body to investigate
- i) 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 in determining what is a 'trivial' matter can be subjective and careful judgments must be used in applying this criterion.
- j) Have, in the course of addressing a complaint, had an excessive number of contacts with the School placing unreasonable demands on staff time. A contact may be in person or by telephone, letter, e-mail or fax.
- k) Discretion must be used in determining the precise number of 'excessive contacts' applicable under this section, using judgment based on the specific circumstances of each individual case.
- l) Have threatened or used physical violence towards staff at any time – this will, in itself cause personal contact with the complainant and / or their representatives to be discontinued and the complaint will, thereafter, only be continued through written communication. All such incidences will be documented.
- m) Have harassed or been either personally abusive or verbally aggressive on more than one occasion towards staff dealing with the complaint. Staff recognise however, that complainants may sometimes act out of character in times of stress, anxiety or distress. They will document all instances of harassment, abusive or verbally aggressive behaviour.
- n) Are known to have recorded meetings or face-to-face / telephone conversations without the prior knowledge and consent of other parties involved.
- o) Make unreasonable demands on the complaint procedure and fail to accept that these may be unreasonable (e.g. insist on responses to complaints or enquiries being provided more urgently than is reasonable within the complaints procedure or normal recognised practice)

## **Strategy for Dealing with Habitual or Vexatious Complainants**

Where complainants have been identified as habitual or vexatious under this policy, taking account of the above criteria, the Head and Chair will determine what action to take. In all cases the Area Education Officer will be notified and the course of action will be discussed in consultation with them. The complainant will be notified in writing of the reasons why he or she has been classified as habitual or vexatious, what action will be taken and of the review procedure detailed in the next section.

This notification may be copied for the information of others already involved in the complaint or matters closely related to it. A record must be kept of the reasons why a complainant has been classified as habitual or vexatious.

It may be decided that complainants will be dealt with in one or more of the following ways:

- a) Withdraw contact with the complainant either in person, by telephone, by email, by fax, by letter or any combination of these, provided that at least one form of contact is maintained. If staff are to withdraw from a telephone conversation with a complainant there will be an agreed statement available for them to use at such times.
- b) To restrict contact to liaison through a designated officer (and alternative arrangements in that officer's absence)
- c) Notify the complainant in writing that the Governing body has responded fully to the points raised and has tried to resolve the complaint but there is nothing more to add and continuing contact on the matter will serve no useful purpose. The complainant should be notified that any form of contact, either orally or in writing, in relation to their complaint, or any further complaints relative to the same period of time, or the same or similar issues as an earlier complaint, is at an end, and that further contact received will be acknowledged but not answered.
- d) Temporarily suspend, for a period to be specified to the complainant, all contact with the complainant, provided that the Governing body shall not, withdraw or fail to provide any services which the complainant or his / her family are entitled to receive.
- e) In extreme circumstances inform the complainant that unreasonable or vexatious behaviour may result in legal action against them.

## **Review Decisions and Withdrawing 'Habitual or Vexatious' Status**

Once a complainant has been determined as habitual or vexatious, such status shall be reviewed regularly (as provided below) and if / when appropriate, withdrawn. 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.

The Head and Chair (or panel) will review their decisions to categorise a complainant as habitual or vexatious at least every six months. In addition, they will review that decision on receipt of a request to do so from the person so categorised, provided such a request has not been received in the preceding six months.

If the person categorised as habitual or vexatious is not satisfied with the decision reached they may request that the decision be reviewed by the Governing body which will appoint an appeal panel of three governors to review the decision. Such a request for a review may only be received once in any six month period. Notice of that decision will be given, as far as is practical, within 15 working days of receipt of the request.

The panel on review may either confirm or withdraw the categorisation of a person as habitual or vexatious or amend the strategy being applied to that person.

If the panel considers it appropriate to withdraw the status of a habitual or vexatious complainant, normal contact with the complainant and application of the school's complaints procedure will be resumed. Notice of that decision will be supplied to the person or persons forthwith.

Copies of all decisions relating to the categorisation of a person as a habitual or vexatious complainant will be sent to the clerk who will hold and maintain a central register of such decisions.

### **Repetitive communications**

If an individual is so persistent and vexatious against the school (e.g. with repetitive communications) they should be invited to make a complaint in respect of any issue they are raising to bring them within the complaints policy. Should they remain vexatious following the outcome of that complaints investigation or if they choose not to follow the complaints process, then the process outlined in Paragraph 4 may be applied.

If communication is so substantial that it becomes unreasonable, all communication may be directed to a Member of the Senior Leadership Team or LA Borough Solicitor who will review all communication to decide how the school should respond

### **Time Limits**

The complainant will be notified that their complaint has been received within 10 school days of receipt and detail the course of action expected. Complaints need to be considered, and resolved, as quickly and efficiently as possible. There are realistic time limits for each action within each stage. However, where further investigations are necessary, new time limits can be set and the complainant sent details of the new deadline and an explanation for the delay.

### **Follow up to any complaint**

It is important for the Head of School and staff to follow up any complaint at later stages to ensure that the issue(s) have been fully resolved and satisfaction is achieved in a sustained way.

### **Monitoring and review**

The Governing Body will monitor the level and nature of complaints and review the outcomes on a regular basis to ensure the effectiveness of the procedure and make changes where necessary. Complaints information may be shared with the whole Governing Body but individuals will not be identified.

Any outcomes may need to be reflected on the school improvement plan.

The monitoring and review of complaints may be a useful tool in evaluating the schools performance.

This policy is available on the website and how to access it is detailed in the school prospectus, home school agreement or by request at the school office.

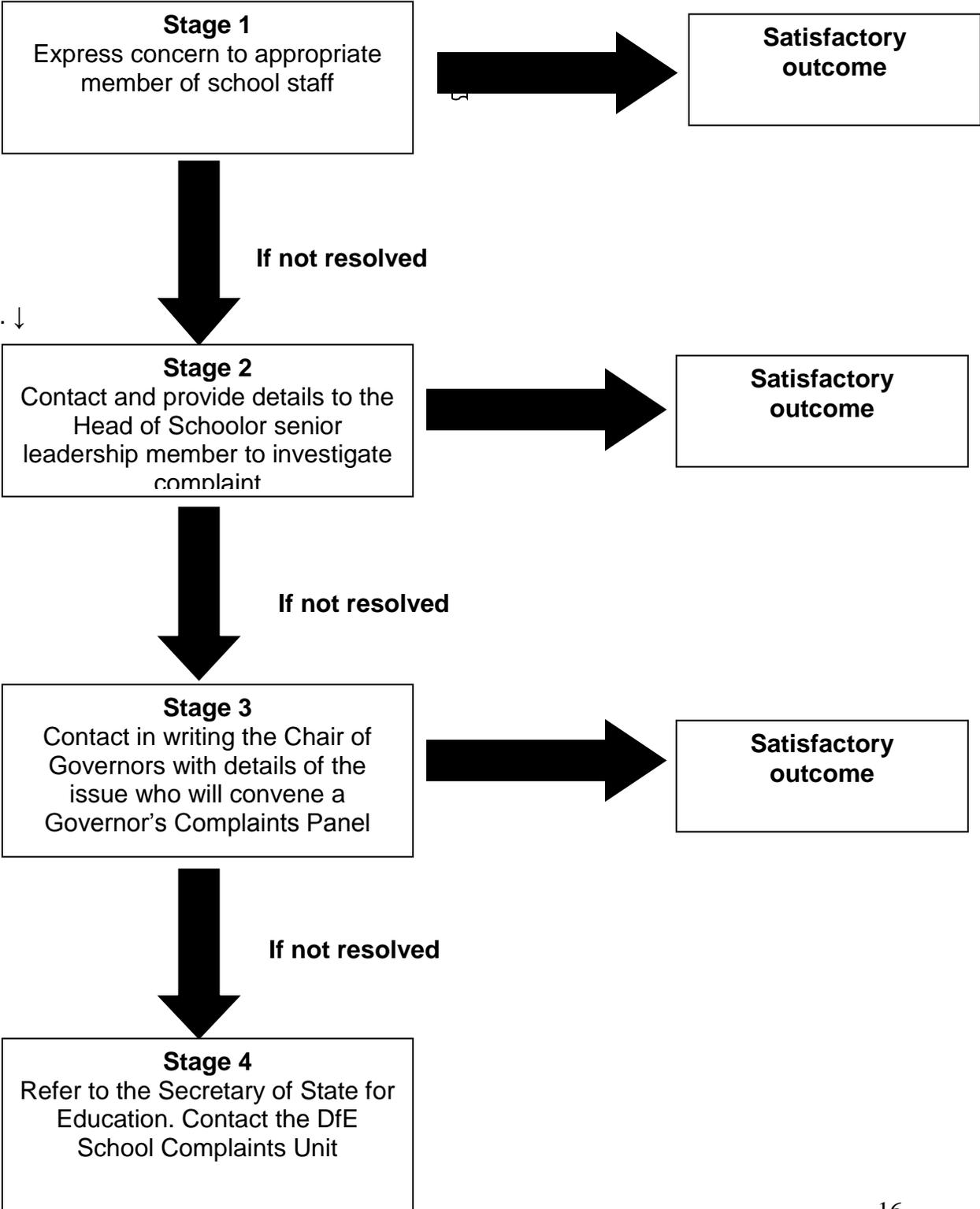
This policy will be reviewed every three years and every time a formal complaint reaches stage 2 or 3, whichever is earlier.

**Complaints Form**

**Appendix 1**

Please complete and return to .....	
who will acknowledge receipt and explain what action will be taken	
Your Name	
Pupil's Name	
Your relationship to the Pupil	
Address	
Postcode	
Daytime Tel Number	
Evening Tel Number	
Please give details of your complaint here	
What actions, if any have you taken to try and resolve your complaint	
What actions do you feel might resolve the problem?	
Are you attaching any paperwork?	
Signature	
Date	
<b>For Office Use only</b>	
Date acknowledgement sent	By Whom
Complaint referred to:	Date:

**Model Complaints Procedure Flowchart**



## Governor Complaints Panel procedure

- At the panel hearing:
  - The complainant will have the opportunity to present their complaint.
  - The Head of School will explain the school's position.
  - Those present will have the opportunity to ask questions.
  - Panel members will have the opportunity to ask questions of the complainant and the Head of School.
  - The Head of School will be given the opportunity to make a final statement to the panel.
  - The complainant will be given the opportunity to make a final statement to the panel.
  - The chair will ask the complainant if he or she feels they have had a fair hearing.
  
- The Chair of the Panel has responsibility to ensure that detailed minutes are taken.
  
- The Chair of the Panel will explain to the complainant and Head of School that the Panel will consider its decision and that a written decision will be sent to both parties within 15 working days. The complainant, Head of School, other members of staff and witnesses will then leave.
  
- The Panel will then consider the complaint and all the evidence presented and
  - Agree a decision on the complaint;
  - Decide upon the appropriate action to be taken to resolve the complaint; and
  - Where appropriate, suggest recommended changes to the school's systems or procedures to ensure that problems of a similar nature do not recur.
  
- A written statement clearly setting out the decision of the Panel must be sent to the complainant and Head of School. The letter to the complainant should also advise how to take the complaint further.
  
- The school should ensure that a copy of all correspondence and notes are kept on file in the school's records. These records should be kept separately from the pupil's personal records.