



## **Marshlands School**

# Complaints Procedure Policy

Last updated: May 2019

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## Statement of intent

Marshlands School aims to resolve all complaints at the earliest possible stage and is dedicated to continuing to provide the highest quality of education possible throughout the procedure.

The Complaints Procedures Policy has been created to deal with any complaint against a member of staff or the school as a whole, relating to any aspects of the school or the provision of facilities or services.

Any person, including a member of the public, is able to make a complaint about the provision of facilities or services that the school provides. This policy outlines the procedure that the complainant and school must follow.

Once a complaint has been made, it can be resolved or withdrawn at any stage.

The Headteacher will be the first point of contact when following the complaints procedure.

Signed by:



Headteacher

Date: 22/05/2019 reviewed



Chair of governors

Date: 24/05/2018

## 1. Legal framework

1.1. This policy has due regard to statutory legislation, including, but not limited to, the following:

- The Education Act 2002
- The Freedom of Information Act 2000
- The Immigration Act 2016
- The Equality Act 2010
- The General Data Protection Regulation (GDPR)
- The Education (Pupil Information) (England) Regulations 2005
- The School Information (England) (Amendment) Regulations 2016

1.2. This policy also has due regard to guidance including, but not limited to, the following:

- DfE 'Best Practice Advice for School Complaints Procedures 2016' 2016
- HM Government 'Code of practice on the English language requirement for public sector workers' 2016

## 2. Definition

2.1. For the purpose of this policy, a "complaint" can be defined as 'an expression of dissatisfaction' which can be regarding actions taken or a perceived lack of action.

2.2. Complaints can be resolved formally or informally dependent on the complainant's choice.

2.3. A concern can be defined as 'an expression of worry or doubt' for which reassurance is sought.

2.4. Any complaint or concern will be taken seriously, whether formally or informally, and the appropriate procedures shall be taken.

**NB.** For the purpose of this policy, "concerns" will be classed and addressed as complaints. Any further references to "complaints" will include "concerns".

## 3. Roles and responsibilities

3.1. The complainant will:

- Co-operate with the school in seeking a solution to the complaint.
- Express the complaint and their concerns in full at the earliest possible opportunity.
- Promptly respond to any requests for information or meetings.
- Ask for assistance as needed.
- Treat any person(s) involved in the complaint with respect.

3.2. The complaints co-ordinator will:

- Ensure that all parties involved in the complaint are fully updated throughout each stage of the procedure.
- Guarantee that all parties involved in the procedure are aware of any relevant legislation, including the Equality Act 2010, GDPR and Freedom of Information Act 2000.
- Keep up-to-date records throughout the procedure.
- Liaise with all parties involved to ensure the complaints procedure runs smoothly, including the headteacher, clerk and chair of governors.
- Be aware of issues in regards to sharing third party information.
- Understand the complainant's need for additional support, including interpretation support, and will be aware of any issues concerning this.

3.3. The investigator is involved in stages one and two of the procedure. Their role includes:

- Providing a sensitive and thorough interviewing process of the complainant in order to establish what has happened and who is involved.
- Considering all records, evidence and relevant information provided.
- Interviewing all parties that are involved in the complaint, including staff and children.
- Analysing all information in a comprehensive and fair manner.
- Liaising with the complainant and complaints co-ordinator to clarify an appropriate resolution to the problem.
- Identifying and recommending solutions and courses of actions to take.
- Being mindful of timescales and ensuring all parties involved are aware of these timescales.
- Responding to the complainant in a clear and understandable manner.

3.4. The panel chair will:

- Ensure that the meeting is minuted.
- Explain the remit of the panel to the complainant.
- Ensure that all issues are addressed and that outcomes are reached based on facts and evidence.
- Help to put at ease and console individuals involved who are not used to speaking at such hearings, particularly any children involved.

- Conduct the hearing in an informal manner, ensuring that everyone is treated with respect and courtesy.
- Ensure that the room's layout and setting is informal and non-adversarial, yet still sets the appropriate tone.
- Confirm that no member of the panel has previously been involved in the earlier stages of the procedure or has an external interest in the outcome of the proceedings.
- Give both the complainant and the school the opportunity to state their case and seek clarity without undue interruption.
- Provide copies of any written material or evidence to everyone in attendance of the meeting, ensuring that everyone has seen the necessary material.
- Organise a short adjournment of the hearing if required.
- Continuously liaise with the clerk and complaints co-ordinator to ensure the procedure runs smoothly.
- Help to provide the support necessary where the complainant is a child.

3.5. All panel members will be aware that:

- The review panel hearing is independent and impartial.
- No individual with prior involvement in the complaint, or the circumstances surrounding it, is permitted to sit on the panel.
- The aim of the panel is to achieve a reasonable resolution and, ultimately, attain reconciliation between the parties involved.
- Reconciliation between the school and complainant is not always achievable, and that it may only be possible to establish facts and make recommendations to reassure the complainant that their case has been taken seriously.
- The panel can:
  - Dismiss or uphold the complaint, in whole or in part.
  - Decide on appropriate action to be taken.
  - Recommend changes that the school can make to prevent reoccurrence of the problem.
- Complainants may feel nervous or inhibited in a formal setting and, therefore, the proceedings should be as welcoming as possible.
- When a child is present at the hearing, extra care needs to be taken to ensure that the child does not feel intimidated, as well as ensuring the child's view is represented equally.

3.6. The panel clerk will:

- Continuously liaise with the complaints co-ordinator.
- Record the proceedings.
- Set the date, time and venue of all hearings, ensuring that this is appropriate, convenient and accessible to all parties involved.
- Collate all written material or evidence involved and send it to the parties involved in timely advance of the hearing.
- Greet all parties as they arrive at the hearing.
- Ensure that the minutes of the panel hearing are circulated.
- Notify the relevant parties of the panel's decision and any other actions to be taken.

## **4. Making a complaint**

4.1. The school will ensure that all aspects of the complaints procedure are:

- Easily accessible and publicised.
- Simple to understand and put into practice.
- Impartial and fair to all parties involved.
- Respectful of confidentiality duties.
- Continuously under improvement, using information gathered during the procedure to inform the school's senior management team.
- Fairly investigated, by an independent person when necessary.
- Used to address all issues in order to provide appropriate and effective responses where necessary.

4.2. Complaints are expected to be made as soon as possible after an incident arises in order to amend the issue in an appropriate timescale.

4.3. Marshlands School upholds a three-month time limit in which a complaint can be lodged regarding an incident.

4.4. Complaints made outside this time limit will not be automatically refused and exceptions will be considered.

4.5. In the case of any timescales changing, all parties involved will be informed of the changes in a timely manner.

4.6. Complaints should be made using the appropriate channels of communication, including the use of the [Complaints Procedure Form](#).

- All complaints shall be considered whether made in person, by telephone, in writing or electronically via email.
- 4.7. A complaint can progress to the next stage of the procedure even if it is not viewed as “justified”. All complainants are given the opportunity to fully complete the complaints procedure.
  - 4.8. Any complaint made against the headteacher shall be initially dealt with by the chair of governors.
  - 4.9. Any complaint made against the chair of governors or any other member of the governing board should be made in writing to the clerk to the governing board.

## **5. Complaints procedure**

### **Stage one – Informal complaint made to a member of staff**

- 5.1. The member of staff can discuss the complaint with the headteacher or complaints co-ordinator in order to seek support.
- 5.2. If the complaint concerns the headteacher, the complaints co-ordinator should be informed and will need to handle the complaint. The complainant can then be referred to the chair of the governing board.
- 5.3. In case a complaint is made initially to a governor, the complainant should be referred to the appropriate person. The governor in question should not act alone on a complaint outside the procedure; if they do, they cannot be involved if the complaint is subject to a hearing at a later stage of the procedure.
- 5.4. Within 15 school days, the complainant and the relevant member of staff should discuss the issue in a respectful and informal manner to seek a mutual resolution.
- 5.5. If an appropriate resolution cannot be sought at this informal level, or if the complainant is dissatisfied with the outcome following the initial discussions, the complainant may wish to proceed to the next level of the procedure.

### **Stage two – Formal complaint made to the headteacher**

- 5.6. Stage two of the process will be completed within 15 school days. Where the situation is recognised as complex, and it is deemed to be unable to be resolved within this timescale, the headteacher will contact the complainant to inform them of the revised target date via a written notification.
- 5.7. An appointment with the headteacher should be made, as soon as reasonably practical, in order to avoid any possible worsening of the situation.
- 5.8. If the complaint is against the headteacher, the complainant will initially need to write, in confidence, to the chair of the governing board. The chair will seek to resolve the issue informally before moving directly to stage three of the procedure.



- 5.9. In terms of a complaint being made against a member of staff, the headteacher will discuss the issue with the staff member in question. Where necessary, the headteacher will conduct interviews with any relevant parties, including witnesses and children, and take statements from those involved.
- 5.10. All discussions shall be recorded by the headteacher and findings and resolutions will be communicated to the complainant either verbally or in writing.
- 5.11. Once all facts are established, the headteacher shall contact the complainant in writing with an explanation of the decision.
- 5.12. Any further action the school plans to take to resolve the issue will be explained to the complainant in writing.
- 5.13. If the complainant is not satisfied with the outcome suggested, the procedure will progress to stage three.

### **Stage three – Complaints appeal panel (CAP)**

- 5.14. Following receipt of a stage two outcome, the complaint should be made in writing to the chair of governors within 10 school days.
- 5.15. Written acknowledgement of the complaint will be made within three school days. This will inform the complainant that a CAP will hear the complaint within 20 school days.
- 5.16. The chair of governors, or other nominated governor, will convene a CAP comprising:
  - Three members of the governing board. .
- 5.17. If the whole governing board is aware of the substance of a complaint before the CAP has been completed, an independent panel should be arranged to hear the complaint.
- 5.18. If the complainant believes there is likely to be bias in the proceedings, they reserve the right to request an independent panel.
  - The school will consider the request but ultimately the decision is made by the governing board.
- 5.19. 5 days' notice will be given to all parties attending the CAP, including the complainant.
- 5.20. Prior to the hearing, the chair of governors will have written to the complainant informing them of how the review will be conducted. The headteacher will also have a copy of this letter.
- 5.21. At the hearing, all participants will be given the opportunity to put their case across and discuss any issues.
- 5.22. The CAP will consider issues raised in the original complaint and any issues which have been highlighted during the complaints procedure.

5.23. The meeting should allow for:

- The complainant to be present and accompanied at the hearing if they wish.
- The complainant to explain their complaint and the headteacher to explain the reasons for their decision.
- The complainant to question the headteacher, and vice versa, about the complaint.
- Any evidence, including witnesses who have been prior approved by the chair of the CAP, to be questioned.
- Members of the CAP to question both the complainant and the headteacher.
- Final statements to be made by both parties involved.

5.24. The complainant will receive a written response explaining the panel's findings and recommendations within 15 school days. This letter will also explain whether there are any further rights of appeal and to whom they need to be addressed.

5.25. Where relevant, the person complained about will receive a summary of the panel's findings and recommendations.

## **6. Interviewing witnesses**

6.1. When interviewing children in order to gather information regarding a complaint, the interview should be conducted in the presence of another member of staff or, in the case of serious complaints, e.g. where the possibility of criminal investigation exists, in the presence of their parents.

6.2. The school will ensure that the conduction of interviews does not prejudice an LA designated officer's (LADO), or police, investigation.

6.3. The school understands the importance of ensuring a friendly and relaxed area which is free from intimidation.

6.4. All children interviewed will be made fully aware of what the interview concerns and their right to have someone with them.

6.5. Staff are allowed a colleague to support them at their interview. The colleague must not be anyone likely to be interviewed themselves, including their line manager.

6.6. The interviewer will not express opinions in words or attitude, so as to not influence the interviewee.

6.7. The interviewee will sign a copy of the transcription of the interview.

## **7. Recording a complaint**

7.1. A written record shall be kept of any complaint made, whether made via phone, in person or in writing, detailing:

- The main issues raised, the findings and any recommendations.
- Whether the complaint was resolved following an informal route, formal route or panel hearing.

- Actions taken by the school as a result of the complaint (regardless of whether the complaint was upheld).
- 7.2. All records are made available for inspection on the school premises by the headteacher.
  - 7.3. The school holds the right to use recording devices, where appropriate, to ensure all parties involved are able to review the discussions at a later date.
  - 7.4. Where there are communication difficulties or disabilities, the school may provide recording devices to ensure the complainant is able to access and review the discussions at a later point
  - 7.5. Details of any complaint made shall not be shared with the entire governing board unless completely necessary, in case an independent panel is needed to hear the complaint.
  - 7.6. Complainants have a right to access copies of these records under the GDPR and the Freedom of Information Act 2000.
  - 7.7. The school will hold all records of complaints centrally. Correspondence, statements and records relating to individual complaints are kept confidential except where the Secretary of State or a body conducting an inspection requests to access them.

## **8. Complaints not covered by this procedure**

- 8.1. Complaints regarding the following topics should be directed to the LA:
  - Statutory assessments of SEND
  - School re-organisation proposals
  - Matters which may require a child protection investigation
  - Admissions to schools
- 8.2. Complaints concerning admissions will be directed to the appropriate admissions authority.
- 8.3. Complaints about children being excluded from the school should be dealt with by following the process explained at: <https://www.gov.uk/school-discipline-exclusions/exclusions>
- 8.4. The school has an internal whistleblowing procedure for all employees and voluntary staff. Complaints of this nature should not be addressed using this complaints procedure. These concerns can be directed to Ofsted by telephone on: 0300 123 3155 or via email at: [whistleblowing@ofsted.gov.uk](mailto:whistleblowing@ofsted.gov.uk)
- 8.5. Staff grievances and disciplinary procedures will be dealt with using the school's internal grievance procedure. In these cases, complainants will not be informed of the outcome of any investigations.

- 8.6. This complaints procedure is not to be used when addressing any complaints made about services provided by a third party who may use the school premises or facilities. All complaints concerning this should be directed to the service provider.

## **9. Exceptional circumstances**

- 9.1. If the complaint suggests that a child has been at risk of significant harm through violence, emotional abuse, sexual harassment or neglect, it may be referred without further notice to Children's Social Care and/or to the LA.
- 9.2. If a social services authority decides to investigate a situation, the headteacher or governing board may postpone the complaints procedure.
- 9.3. Where a matter can be resolved through a legal appeal, it will not be considered as a formal complaint. The key areas are: admissions decisions, certain decisions relating to formal assessment of SEND, and decisions to permanently exclude a child.

## **10. Serial and persistent complainants**

- 10.1. The school will act in a manner they believe to be appropriate when dealing with an individual who consistently makes the same complaints or who continuously asks the school to reconsider their position.
- 10.2. If a complainant attempts to re-open an issue which has previously fully completed the complaints procedure, the chair of the governing board will inform the complainant that the matter is now closed.
- 10.3. If the complainant contacts the school regarding the same issue again, the complaint may be classed as 'serial' or 'persistent' and the school does not have an obligation to respond.
- 10.4. The school must ensure that a complaint is not classed as 'serial' before they have fully completed the complaints procedure.
- 10.5. The school will not take the decision to stop responding to an individual lightly. The school will ensure that:
  - 10.6. They have previously taken every reasonable step to address the problem.
  - 10.7. They have provided the complainant with a statement of their position.
  - 10.8. The complainant is contacting the school repeatedly with the same complaint.
  - 10.9. If the school believes that the complainant is continuously contacting the school to cause disruption or inconvenience, or if the complainant is being abusive or threatening, the school has the right to not respond to the correspondent.
- 10.10. Once the school decides to no longer respond to a complainant, the individual will be informed of this decision in writing.

- 10.11. If the school finds it difficult to deal with a complainant due to their unreasonable behaviour, then their complaint can be directed to the LA.
- 10.12. The complainant has the right to a third-party representative, such as the Citizens' Advice Bureau, throughout the complaints procedure.
- 10.13. Any new complaint made by a 'serial' complainant will be responded to.
- 10.14. Complainants hold the right to refer their complaint to their local MP. This would not make the individual a 'serial' or 'persistent' complainant.
- 10.15. The school will not deny any individual access to information that they have a right to under The Education (Pupil Information) (England) Regulations 2005.

## **11. Barring from the premises**

- 11.1. School premises are private property and therefore any individual can be barred from entering the premises.
- 11.2. If a parent's behaviour is cause for concern, a school can ask the individual to leave the premises.
- 11.3. The headteacher will notify the parties involved via writing, explaining that their implied licence for access to the premises has been temporarily revoked subject to any representations that the individual may wish to make.
- 11.4. The individual involved will be given the opportunity to formally express their views regarding the decision to bar them.
- 11.5. This decision to bar will be reviewed, taking into account any discussions following the incident.
- 11.6. If the decision is made to continue the bar, the individual will be contacted in writing, informing them of how long the bar will be in place.
- 11.7. Anyone wishing to make a complaint regarding a barring order can do so in writing, including email, to the headteacher or chair of governors.
- 11.8. Once the school's complaints procedure is completed, the only remaining avenue of appeal is through the Courts.

## **12. Standard of fluency complaints**

- 12.1. As members of a public authority, all staff are subject to the fluency duty imposed by the Immigration Act 2016, which requires staff members to have an appropriate level of fluency in English in order to teach pupils.
- 12.2. The school is free to determine the level of spoken communication necessary in order for staff members to develop effective performance, but it will be matched to the demands of the role in question.
- 12.3. The school will be satisfied that an individual has the necessary level of fluency appropriate for the role they will be undertaking, whether this is an existing or potential new member of staff.

- 12.4. If a member of the school community feels that a staff member has insufficient proficiency in spoken English for the performance of their role, they are required to follow the complaints procedure outlined in section 5 of this policy.
- 12.5. For the purpose of this policy, a “**legitimate complaint**” is one which is about the standard of spoken English of a member of staff; complaints regarding an individual’s accent, dialect, manner or tone of communication are not considered legitimate complaints.
- 12.6. All legitimate complaints regarding the fluency duty will be handled in line with the processes outlined in this policy.
- 12.7. In addition to the processes outlined in this policy, the school will assess the merits of a legitimate complaint against the necessary standard of spoken English fluency required for the role in question.
- 12.8. To assess the merits, the school will undertake an objective assessment against clear criteria set out in the role specification or, against the level of fluency descriptors relevant to the role in question.
- 12.9. If the complaint is upheld, the school will consider what action is necessary to meet the fluency duty; this may include:
  - Specific training
  - Specific re-training
  - Assessment
  - Re-deployment
  - Dismissal
- 12.10. Appropriate support will be provided to staff to ensure that they are protected from vexatious complaints and are not subjected to unnecessary fluency testing.
- 12.11. Records of complaints regarding fluency will be kept in accordance with the processes outlined in section 7 of this policy.

### **13. Role of the school complaints unit (SCU)**

- 13.1. If a complainant remains dissatisfied once the complaint procedure has been completed, they have the right to refer their complaint to the Secretary of State.
- 13.2. The Secretary of State will only intervene when they believe that the governing board has acted unlawfully or unreasonably.
- 13.3. The SCU will not overturn a school’s decision about a complaint except in exceptional circumstances, such as the school acting unlawfully.
- 13.4. When making a final decision about a complaint, the school reserves the right to seek advice from the SCU on whether they are acting reasonably and

lawfully; however, they will not be able to advise on how to resolve the complaint.

## **14. Availability**

- 14.1. A copy of this Complaints Procedures Policy will be published on the school website in accordance with the School Information (England) (Amendment) Regulations 2016.

## **15. Reviewing the procedure**

- 15.1. The complaints procedure will be reviewed every two years, taking into account the latest guidance issued by the DfE.
- 15.2. Responsibility for reviewing the procedure belongs to a committee of the governing board, an individual governor or the headteacher.
- 15.3. All projected review dates will be adhered to.
- 15.4. Information gathered through reviewing the complaints procedure will be used to continuously improve and develop the process.
- 15.5. The monitoring and reviewing of complaints will be used to help evaluate the school's performance.

## **16. Policy for Unreasonable Complainants**

- 16.1 Marshlands 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'.

- 16.2 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 complaints procedure has been fully and properly implemented and completed including referral to the DfE.
  - 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.
- 16.3 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
- 16.4 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.
- 16.5 Whenever possible, the headteacher or chair of governors will discuss any concerns with the complainant informally before applying an 'unreasonable' marking.
- 16.6 If the behaviour continues, the headteacher 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 six months.
- 16.7 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 the premises.



## Complaints Procedure Form

If you have tried unsuccessfully to resolve your complaint and wish to take the matter further, please complete this form and send it to the headteacher. (If your complaint is against the headteacher, you will need to send the form to the chair of the governing board.)

Name:	Address:
Pupil's name (if applicable):	
Pupil's date of birth (if applicable):	
Daytime telephone number:	
Evening telephone number:	
Email:	Postcode:
What is your complaint concerning, and what action would you like the headteacher to take?	
When did you discuss your concern/complaint with the appropriate member of staff?	
What was the result of the discussion?	
Signed:	Date:

## Example Letter to Complainant for a Stage Two Complaint

*An example of a letter that the chair of the governing board may send to the complainant, upon receipt of a complaint at stage two.*

Dear,

Thank you for your letter dated \_\_\_\_\_ setting out the reasons why you are not satisfied with the headteacher's response to your complaint about \_\_\_\_\_.

I am writing to let you know that I will be arranging for a complaints appeal panel (CAP) to consider your complaint, in accordance with our school's complaints procedure.

As explained in the procedure, the chair (Mr/Mrs \_\_\_\_\_) of the CAP will advise, in writing, how the CAP intends to consider your complaint.

Yours sincerely,

Chair of the governing board

## Example Letter for Complaints Against the Headteacher

Dear,

I have received your complaint against the headteacher of Marshlands School.

I write to let you know that I have forwarded a copy of your complaint to the headteacher, with a request that they respond to the issues raised in the complaint within 10 school days.

A copy of the headteacher's response will be sent to you as soon as possible.

If you are not satisfied with the headteacher's response, I will arrange for a complaints appeal panel (CAP) to consider your complaint in accordance with stage two of the attached complaints procedure.

As explained in the procedure, the chair (Mr/Mrs \_\_\_\_\_) of the CAP will advise you, in writing, how the complaint will proceed.

Yours sincerely,

Chair of the governing board