



THE ARRETON AND OAKFIELD FEDERATION

COMPLAINTS POLICY & PROCEDURE 2016 - 2019

LMO Committee

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Introduction

The vast majority of concerns and complaints can be resolved informally. There are many occasions where concerns raised are resolved straight away through the class teacher, School Secretary or Headteacher, depending on whom the parent first approached.

Parents may feel able to raise concerns with members of staff without any formality, either in person, by telephoning or in writing. On occasions, it may be appropriate for someone to act on behalf of a parent.

At first it may be unclear whether a parent is asking a question or expressing an opinion rather than making a complaint. A parent may want a preliminary discussion about an issue to help decide whether there is cause for complaint and s/he wishes to take it further.

The following pages within this document explain the policy and procedure adopted by The Arreton and Oakfield Federation of Primary Schools.

The legal framework

Section 409 of the 1996 Education Act allows a local authority (LA) to make arrangements for the consideration or disposal of any complaint about the unreasonable action of the LA or of a Governing Body in relation to a statutory duty or power. This would include Admissions, the provision of an appropriate curriculum, SEN and Exclusions Appeals. Complaints of a more general nature fall outside the remit of this section.

The section 29 of the 2002 Education Act requires governing bodies to establish procedures for dealing with all complaints relating to the school or the provision of facilities or services, other than "complaints which fall to be dealt with in accordance with procedures required to be established by other statutory provision", and to publicise these procedures.

Section 496 of the 1996 Act allows a person to complain to the Secretary of State that a Governing Body (or LA) has acted, or is proposing to act, unreasonably with respect to any power conferred or duty imposed by that Act. Such a complaint is unlikely to be successful where a school can show that it has acted reasonably in seeking to resolve a complaint and has used a "fair" procedure.

1 Part 1: General Principles of Complaints

The underlying principle is that concerns ought to be handled, if at all possible, without the need for formal procedures. The requirement to have a complaints procedure need not in any way undermine efforts to resolve the concern informally. In most cases the class teacher or the individual delivering the service in the case of extended provision, will receive an approach from the potential complainant and may be able to resolve the issue immediately.

Framework of Principles:

An effective complaints procedure will:

- Seek to establish the nature of the complaint at the outset
- Encourage resolution of problems by informal means wherever possible
- Be easily accessible and publicised
- Be simple to understand and use
- Be impartial
- Be non-adversarial
- Allow swift handling with established time-limits for action and keeping people informed of the progress
- Ensure a full and fair investigation by an independent person where necessary
- Respect people's desire for confidentiality
- Address all the points at issue and provide an effective response and appropriate redress, where necessary
- Provide information to the school's senior management team and Governing Body, so that services can be improved, if necessary

Investigating Complaints

The person investigating the complaint makes sure they:

- Understand the precise nature of the complaint
- Establish what has happened so far, and who has been involved
- Clarify the nature of the complaint, the evidence supporting it and what remains unresolved
- Meet with the complainant or contact them (if unsure or further information is necessary), allowing them to be accompanied if they wish (i.e. by a friend, relative, colleague or professional representative)
- Clarify what the complainant feels would put things right
- Interview those involved in the matter and/or those complained of, allowing them to be accompanied if they wish (i.e. by a friend, relative, colleague or professional representative)
- Conduct each separate interview with an open mind and be prepared to persist in the questioning
- Keep notes of each interview meeting and share with its members

Resolving Complaints

At each stage in the procedure the school will want to keep in mind ways in which a complaint can be resolved. It might be sufficient to acknowledge that the complaint is valid in whole or in part or the complaint could be based on misinformation or assertions that have no evidential base. It may be appropriate to offer one or more of the following:

- An explanation
- An apology
- An admission that the situation could have been handled differently or better
- An assurance that the event or action complained of will not recur
- An explanation of the steps that have been taken to ensure that it will not happen again
- An understanding to review school policies and/or procedures in light of the complaint

Complainants should be encouraged to state what reasonable actions they feel might resolve the matter that gave rise to the complaint. An admission that the school could have handled the situation better is not the same as an admission of negligence. An admission that an employee acted improperly could have disciplinary consequences for the employee, his/her line manager or the Headteacher.

An effective procedure will identify areas of agreement between the parties. It is also of equal importance to clarify any misunderstandings that might have occurred as this can create a positive atmosphere in which to discuss any outstanding issues. It is equally important to identify those areas where perceptions and matters of evidence cannot be agreed.

Anonymous Complaints

Anonymous complaints may be disregarded, unless somebody is prepared to substantiate them.

It should be at the Headteacher or Governing Body's discretion to decide whether an anonymous complaint could relate to something serious or could be detrimental to the school and warrants an investigation.

Vexatious/Habitual/Nuisance Complainants

The headteacher and governing body are fully committed to the improvements of our schools. We welcome feedback from parents/cares and will always try to resolve any concerns as quickly as possible. This policy provides a procedure for parents/carers to use if they wish to make a formal complaint.

If properly followed, the 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, or continuously raises similar issues, the chair of the Complaints Panel is able to inform them in writing that the procedure has been exhausted and that the matter is now closed.

Sometimes, however, parents/carers pursuing complaints or other issues treat staff and others in a way that is unacceptable. Whilst we recognise that some complaints may relate to serious and distressing incidents, we will not accept threatening or harassing behaviour towards any members of the school community.

What we mean by 'an unreasonable persistent complainant'

Unreasonable behaviour may include:

Actions which are:

- Out of proportion to the nature of the complaint, or
- Persistent – even when complaints procedure has been exhausted, or

- Personally harassing, or
- Unjustifiably repetitious
- An insistence on: Pursuing unjustified complaints and/or
- Unrealistic outcomes to justified complaints
- Pursuing justifiable complaints in an unreasonable manner (e.g. using abusive or threatening language; or
- Making complaints in public or via social media networking site such as Facebook; or
- Refusing to attend appointments to discuss the complaint

Definitions

We have adopted the Local Government Ombudsman’s (LGO) definition of “unreasonable complainant behaviour and unreasonable persistent complaints” as follows:

Unreasonably persistent and vexatious complainants are those complainants who, because of the frequency or nature of their contacts with the school, hinder our consideration of their or other people’s complaints. The description ‘unreasonably persistent’ and vexatious’ may apply separately or jointly to a particular complainant.

Time-limits

Complaints need to be considered, and resolved, as quickly and efficiently as possible. An effective complaints procedure will have 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. It would be reasonable to expect that any further investigation required could be carried out within 20 working school days.

2 Part 2: The Formal Complaints Procedure

Dealing with Complaints – Formal Procedures

The formal procedure 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.

Schools should nominate a member of staff to have responsibility for the operation and management of the school complaints procedure (complaints co-ordinator). In smaller schools this will often be the headteacher. In cases where the head teacher is the subject of the complaint the co-ordination of the process should be delegated to another senior member of staff.

It is important that this review not only be independent and impartial but that it is seen as so. Therefore, individual complaints will not be considered by the full governing body as serious conflicts of interest can arise. In exceptional circumstances a complaint may result in disciplinary action against a member of staff and governors might be required to give an unprejudiced hearing to an appeal by the member of staff concerned. Similarly some governors might have previous knowledge of the problem which led to the complaint and would be unable to give fair and unbiased consideration to the issue.

The Stages of Complaints

An efficient school complaints procedure will have well defined stages. A flow chart can be found in Annexe C. At each stage it is helpful to clarify exactly who will be involved, what will happen, and how long it will take. There may, on occasion, be the need for some flexibility; e.g. the possibility of further meetings between the complainant and the member of staff directly involved, or further investigations may be required by the headteacher after a meeting with the complainant.

Three school-based stages are likely to be sufficient for most schools

- **Stage One:** complaint heard by a senior staff member (though not the subject of the complaint)
- **Stage Two:** complaint heard by the headteacher (or delegated member of staff) or chair of governors (or delegated governor)
- **Stage Three:** complaint heard by the governing body complaints panel

In smaller schools or on certain major issues, the Headteacher may decide to deal with concerns directly at Stage One.

If the complaint is regarding the headteacher or a governor it will be necessary for the chair of governors (or another designated governor) to carry out Stage Two. An effective procedure will specify how a complaint will be dealt with if it concerns the conduct of the headteacher or a governor, or where the headteacher or governor has been involved in the issue previously.

If a complaint leads to disciplinary action the 'Staff Discipline Procedure' that has been adopted by the governing body should be applied.

Regardless of how many stages are relevant, an unsatisfied complainant can always take a complaint to the next stage. In this Local Authority, **Stage Four** directs the complainant to follow the DfE online complaints procedure.

3 Part 3: Managing and Recording Complaints

Dealing with Complaints – Initial Concerns

Schools need to be clear about the difference between a concern and a complaint. Taking informal concerns seriously at the earliest stage will reduce the numbers that develop into formal complaints. Identifying the difference between complaints based on assertions and those supported by verifiable evidence is equally important.

Recording Complaints

The school should record the progress of the complaint, including results of feedback and the final outcome at each stage. A complaint may be made in person, by telephone or in writing. Whichever method initiates the complaint it will be necessary to complete a complaint form so that all parties are clear to the exact nature of the complaint. A model complaint form can be found in Annexe D. At the end of the meeting or telephone call the member of staff or governor dealing with the complaint should ensure that the complainant and the school have the same understanding of what was discussed and agreed. A brief note of meetings and telephone calls should be kept and a copy of any written response added to the record.

The complaints co-ordinator should be responsible for the records and hold them centrally, in confidence.

Governing Body Role in Monitoring Complaints

The governing body should monitor the level and nature of complaints and review outcomes on a regular basis to ensure the effectiveness of the procedure and make changes where necessary. Complaints information shared with the full governing body will only be statistical, for monitoring purposes, after the complaint has been closed and will not give any specific details, or identify individuals. If the identity of any party becomes evident, no further discussion should take place and such information must remain confidential.

As well as addressing an individual's complaint, the process of listening to and resolving complaints will contribute to school improvement. When individual complaints are heard, the school may identify underlying issues that need to be addressed. The monitoring and review of complaints by the school and the GB can be a useful tool in evaluating a school's performance.

4 Annexe A – The Act (The Education Act 2002)

Section 29 of the Education Act 2002 requires that:

1. the governing body of a maintained school (including a maintained nursery school) shall –
 - (a) establish procedures for dealing with all complaints relating to the school or to the provision of facilities or services under section 27, other than complaints falling to be dealt with in accordance with any procedures required to be established in relation to the school by virtue of a statutory provision other than this section, and
 - (b) publicise the procedures so established
2. in establishing or publicising procedures under subsection (1), the governing body shall have regard to any guidance given from time to time (in relation to England) by the Secretary of State

Section 39 of the Education Act 2002 provides the following:

“maintained school” means a community, foundation or voluntary school, a community or foundation special school or a maintained nursery;

“maintained nursery school” means a nursery school which is maintained by a local education authority and is not a special school;

Annexe B – School Complaints Procedure

Stage One: Complaint Heard by Staff Member

It is in everyone's interest that complaints are resolved at the earliest possible stage. The experience of the first contact between the complainant and the school can be crucial in determining whether the complaint will escalate. To that end, staff will be made aware of the procedures, so that they know what to do when they receive a complaint.

The complainant has an opportunity for discussion of their concern with the appropriate member of staff, who clarifies with the complainant the nature of the concern, and reassures them that the school wants to hear about it. The member of staff may be able to explain to the complainant how the situation happened. It can be helpful to identify at this point what sort of outcome the complainant is looking for.

It is made clear to the complainant that if s/he wishes, s/he may be accompanied to any meeting, at any stage of the procedure, by a friend, relative, representative or advocate who can speak on his or her behalf, and that interpreting facilities are available if needed.

The school will respect the views of a complainant who indicates that he/she would have difficulty in discussing a complaint with a particular member of staff. In these cases, the complaints co-ordinator can refer the complainant to another staff member.

Similarly, if the member of staff directly involved feels too compromised to deal with a complaint, the complaints co-ordinator can refer the complainant, with the approval of the compromised member of staff, to another member of staff. The member of staff may be more senior but does not have to be. The ability to consider the complaint objectively and impartially is crucial.

If the member of staff first contacted cannot immediately deal with the matter, s/he makes a clear note of the date, name, contact address or phone number and will agree a timescale to contact the complainant (normally 3 working school days). At this stage it is important to agree the exact nature of the complaint and have the complaints form (Annex D) completed.

After discussion with the complainant, the staff member dealing with the concern makes sure that the complainant is clear what action (if any) or monitoring of the situation has been agreed, putting this in writing or making notes of any conversations.

Where no satisfactory solution has been found within 10 working school days, the complainant will be asked if they wish their concern to be considered further. If so they are given clear information, both orally and in writing, about how to proceed and about any independent advice available to them, along with a copy of this procedure.

If a complaint is against the action of a headteacher or a governor, or if the headteacher has been very closely involved at Stage One, the chair of the governing body, or another designated governor, will carry out all the Stage Two procedures.

If the first approach is made to a governor, the governor must refer the complainant back to the appropriate person (or to the chair if the concern is about a governor) and advise them about the procedure. Governors must not act unilaterally on an individual complaint outside the formal procedure or be involved at the early stages in case they are needed to sit on a panel at a later stage of the procedure.

Stage Two: Complaint Heard by the Headteacher (or Chair/Designate)

At this point, the complainant may be dissatisfied with the way the complaint was handled at Stage One as well as pursuing their initial complaint. The Headteacher may delegate the task of collating the information to another staff member but not the decision on the action to be taken.

The Headteacher (or chair/designate) acknowledges the complaint in writing within 3 working school days of receiving the complaint. The acknowledgement gives a brief explanation of the school complaints procedure and a target date for providing a response to the complaint. This will normally be within 10 working school days; if this proves impossible, a letter is sent explaining the reason for the delay and giving a revised target date.

The headteacher (or chair/designate) provides an opportunity for the complainant to meet him/her to supplement any information provided previously. The headteacher (or chair/designate) also meets with members of staff and any witnesses involved and takes statements in order to seek a resolution.

The headteacher (or chair/designate) keeps written records of meetings, telephone conversations, and other documentation.

Following this investigation, a written response includes a full explanation of the outcome/decision and the reasons for it. Where appropriate, this includes what action the school will take to resolve the complaint.

The complainant is advised that should s/he wish to take the complaint further s/he should notify the chair of the governing body within 10 working school days (or the clerk if option 2 below applies) of the receiving the outcome letter.

1. If the chair of governors has not been involved in the process outlined above and has not been involved with the complaint, arrangements will be made for the chair of governors to meet with the complainant and the person the complaint is about. The purpose of such a meeting is to review the case with the view to resolving the matter.
2. Where such a meeting is not possible or is not able to resolve the matter, the complainant will be advised to write to the clerk of the governing body asking for the matter to be referred to the governors' complaints panel for consideration.

Stage Three: Complaint Heard by the Governing Body Complaints Panel

At this stage, advice may be sought from any relevant authority e.g. Local Authority, Board of Education (C of E) or Diocesan Schools' Commission (RC). This can provide a useful "outside view" on the issues.

Complaints which reach this stage will have done so because the complainant has not been satisfied by the responses received at the earlier stage/s of the procedure. It may be appropriate for the panel to consider that the complaint is against the school's procedures rather than against the member of staff whose actions led to the original complaint.

Upon receipt of a written request by the complainant for the complaint to proceed to Stage Three, the procedures outlined below will be followed.

The clerk to the governing body writes to the complainant within 3 working school days to acknowledge receipt of the written request. The acknowledgement will

- inform the complainant that the complaint is to be heard by three members of the school's governing body within 20 working school days of receiving the complaint
- explain that the complainant has the right to submit any further documents relevant to the complaint within a timescale to allow all relevant documents to be sent to attendees 5 working school days prior to the meeting.
- inform him/her of the right to be accompanied to the meeting by a friend/relative/colleague/other representative
- inform him/her of the right to call staff witnesses at the discretion of the chair of the panel
- explain how the meeting will be conducted

The clerk to the governors will also invite the headteacher to attend the panel meeting and to prepare a written report for the panel in response to the complaint, within a timescale to allow all relevant documents to be sent to attendees 5 working school days prior to the meeting.

The headteacher may also invite members of staff directly involved in matters raised by the complainant to respond in writing or to be called as a witness (subject to the discretion of the chair of the panel). The headteacher may also be accompanied by a representative.

The clerk to the governors convenes a governors' complaints panel from members of the governing body. It may be necessary for the governing body to appoint reserves to this panel to ensure that 3 governors are available to carry out their task within the set time.

The panel members will be governors (not the headteacher or staff governors) who have had no prior involvement with the complaint. The chair should not be included in a Complaints Panel, but will ensure that the complaint is heard by the panel within 20 working school days of receiving the letter requesting the complaint be heard by a panel of governors.

Governors will also be sensitive to and comply with the nine protected characteristics under the Equality Act 2010.

The clerk to the governors will write and inform the complainant, headteacher, any relevant witnesses and members of the panel at least 5 working school days in advance, of the date, time and place of the meeting. All relevant papers will be sent at the same time to the complainant and their representative, the headteacher and their representative and members of the panel.

It is the responsibility of the chair of the panel to ensure that a clerk is appointed to the panel and the meeting is properly minuted (this will normally be the Clerk to Governors).

The aim of the meeting will be to agree the exact nature of the complaint and achieve a reconciliation between the school and/or the named individual and the complainant. However, it may only be possible to establish facts and make recommendations which will demonstrate to the complainant that his or her complaint has at least been taken seriously but without a satisfactory resolution from the complainant's perspective.

The panel should remember that a complainant may be unused to dealing with groups of people in formal situations and may feel inhibited when speaking to the panel. It is therefore important that the chair of the panel ensures that the proceedings are as informal as possible. The chair will also ensure that the contributors are focussed on the complaint being heard and avoid disingenuous assertions being made unrelated to the case.

If either party wishes to introduce previously undisclosed evidence or witnesses, it is in the interest of natural justice to adjourn the meeting so that the other side has time to consider and respond to the new evidence.

NB: if **Stage Four** is required the procedure in this local authority directs the complainant to follow the DfE online complaints procedure.

Procedure for the Meeting of the Complaints Panel

- The complainant (and/or representative) to explain their complaint
- The complainant may call witnesses (at the discretion of the chair)
- The headteacher (and/or representative) to question the complainant and witnesses about the complaint

- Panel members to have an opportunity to question the complainant and witnesses
- The headteacher(and/or representative) to explain the school's response
- The headteacher may call witnesses (at the discretion of the chair)
- The complainant (and/or representative) to question the headteacher and witnesses about the school's response
- Panel members to have an opportunity to question the headteacher and witnesses
- Final statements by both the complainant and the headteacher
- The chair of the panel will explain to the complainant and the headteacher that the panel will now deliberate and a written decision will be sent to both parties within 10 working school days
- The complainant, headteacher and witnesses leave
- The panel considers the complaint and all the evidence presented and will
 - (a) reach a unanimous, or at least a majority, decision on the complaint and
 - (b) decide upon the appropriate action to be taken to resolve the complaint and

(c) where appropriate, suggest recommended changes to the school's systems or procedures to ensure that problems of a similar nature do not happen again.

A written statement outlining the decision of the panel must be sent to the complainant and headteacher within 5 working school days. The letter to the complainant will give details if there is any further right of appeal (Stage 4).

The Clerk and Complaints Co-ordinator will ensure that a copy of all correspondence and notes in relation to all stages of the complaint are kept in a separate confidential file.

The Remit of the Complaints Panel

The Panel can:

- dismiss the complaint in whole or in part
- uphold the complaint in whole or in part
- decide on the appropriate action to be taken to resolve the complaint
- recommend the changes to the school's systems or procedures to ensure that problems of a similar nature do not recur

There are several points which any governor sitting on a complaints panel needs to remember:

- It is important that the appeal hearing is independent and impartial and that it is seen to be so. No governor may sit on the panel if they have had a prior involvement in the complaint or in the circumstances surrounding it. In deciding the make-up of the panel, governors must try to ensure that it is a cross-section of the categories of governors and be sensitive to the nine protected characteristics under the Equality Act 2010.
 - a) The aim of the hearing, which needs to be held in private will always be to establish the veracity, resolve the complaint and achieve reconciliation between the school and the complainant. However, it has to be recognised that the complainant might not be satisfied with the outcome if the hearing does not find in their favour. It may only be possible to establish the facts and make recommendations which may demonstrate to the complainant that his or her complaint has been taken seriously.

- b) An effective panel will acknowledge that many complainants feel nervous and inhibited in a formal setting. Parents often feel emotional when discussing an issue that affects their child. School staff may also feel under threat because of the nature of the complaint and possible disciplinary consequences if upheld. The panel chair will ensure that the proceedings are as welcoming as possible. The layout of the room will set the tone and care is needed to ensure the setting is informal and not adversarial.
- c) Whilst in most cases, a parent or guardian will be the proper channel for making a complaint on behalf of their child, extra care needs to be taken when the complainant is the child. Careful consideration of the atmosphere and proceedings will ensure that the child does not feel intimidated. A child must be accompanied by a parent, guardian or other responsible adult. The panel needs to be aware of the views of the child and give them equal consideration to those of adults. Where the child's parent is the complainant, it would be helpful to give the parent the opportunity to say which parts of the hearing, if any, the child needs to attend.
- d) The governors sitting on the panel must be aware of the complaints procedure.

Roles and Responsibilities

The Role of the Clerk

A clerk will be appointed to the panel. The clerk will be the contact point for the complainant and all other parties and be required to:

- Set the date, time and venue of the hearing, ensuring that the dates are convenient to all parties and that the venue and proceedings are accessible;
- Collate any written material and send it to all parties in advance of the hearing;
- Meet and welcome the parties as they arrive at the hearing;
- Record the proceedings;
- Notify the complainant and the headteacher of the panel's decision within 10 working school days.

The Role of the Chair of the Governing Body or the Designated Governor

The designated governor role:

- Check that the correct procedure has been followed;
- Seek a resolution acceptable to both parties
- If a hearing is appropriate, notify the clerk.

The Role of the Chair of the Panel

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

- The remit of the panel is explained to the parties and each party has the opportunity of putting their case without undue interruption;
- each side and the panel are given the opportunity to ask questions;
- The issues are addressed;
- Key findings of fact are made;
- Parents and others who may not be used to speaking at such a hearing are put at ease;

- The hearing is conducted in an informal manner with each party treating the other with respect and courtesy;
- The panel is open minded and acting independently;
- No member of the panel has a vested interest in the outcome of the proceedings or any involvement in an earlier stage of the procedure; written material is seen by all parties. If a new issue arises it would be useful to give all parties the opportunity to consider and comment on it

Notification of the Panel's Decision

The chair of the panel will ensure that the complainant is notified of the panel's decision/response, in writing, within 5 working school days. The letter will explain any further rights of appeal and to whom they should be addressed.

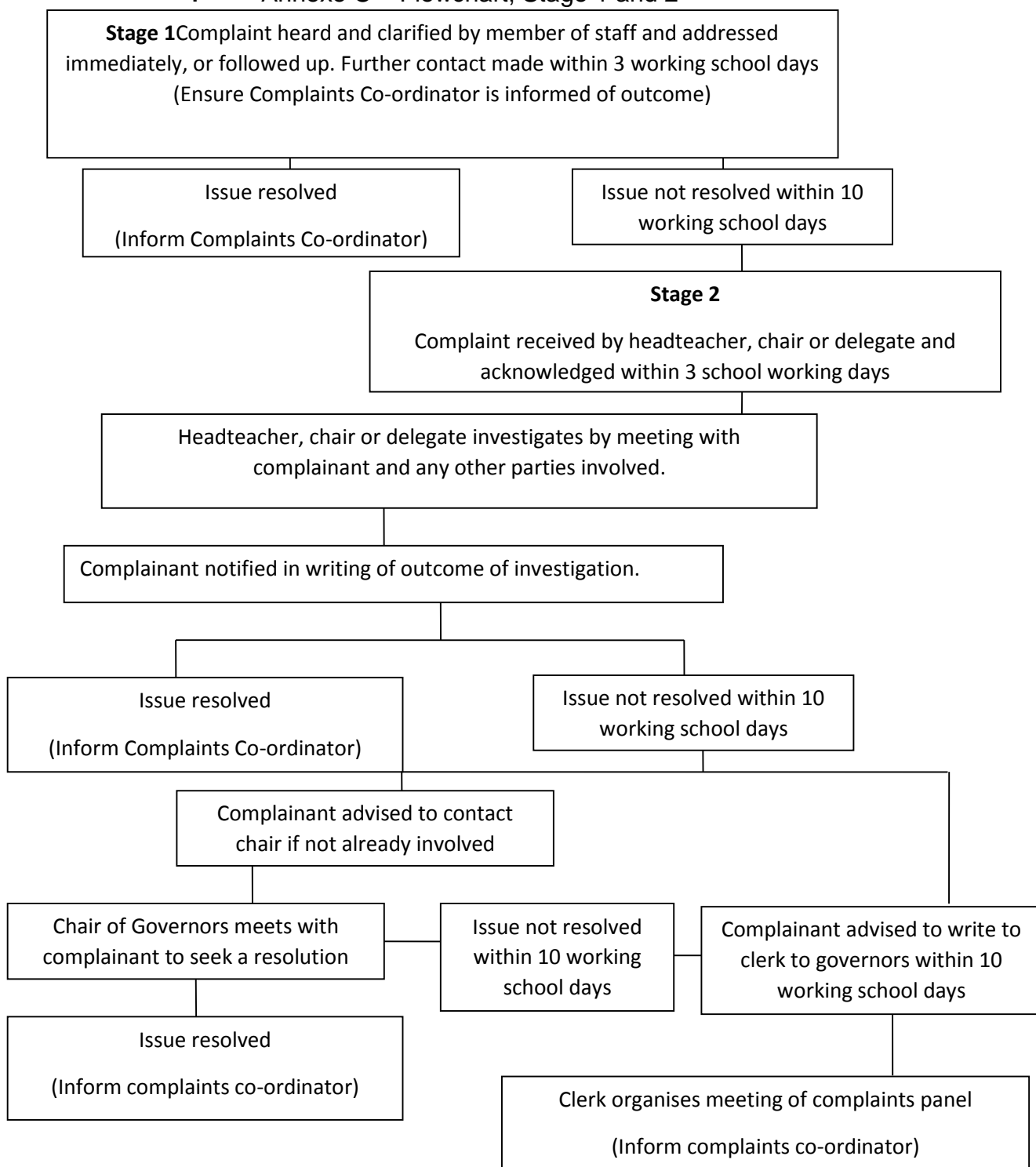
Stage 4: Complaints to the DfE

All stages of the school's complaints procedure must be exhausted before a complaint can be considered at this stage. If a complainant wishes to go beyond the governors' complaints panel they may write to escalate the complaint to the DfE. Guidance is available at

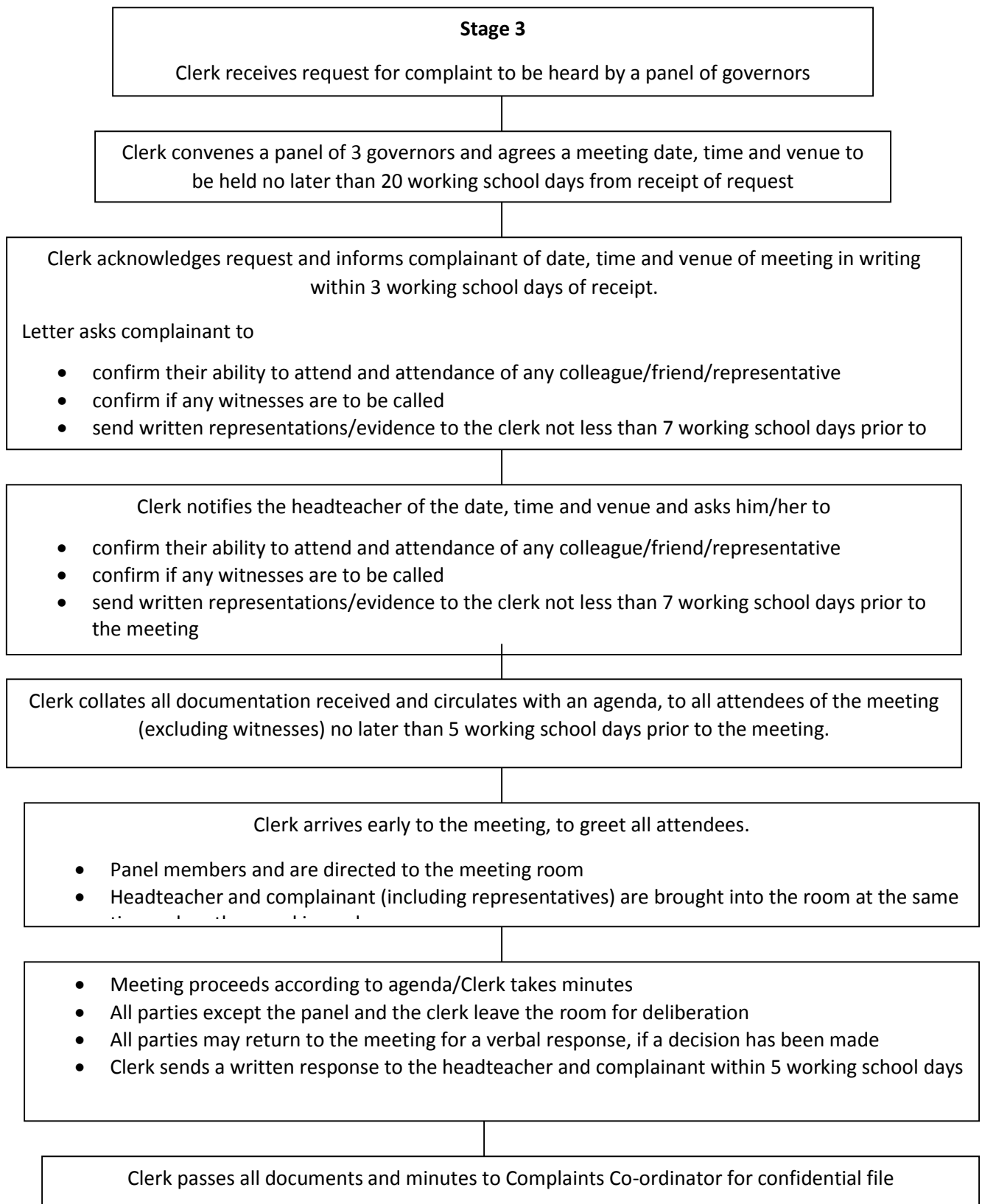
<http://www.education.gov.uk/aboutdfe/complaintsprocedure/b00212240/making-complaint-school/guidance-on-making-a-complaint-about-a-school>

For voluntary-aided schools: The Diocesan Boards (C of E) and Diocesan Schools Commissions (RC) give advice on general complaints procedures to their schools but the Boards have no powers to receive appeals from complainants. A voluntary-aided school could involve LA officers in its general school complaints procedure in the same way a community schools can.

4 Annexe C – Flowchart, Stage 1 and 2



5 Annexe C – Flowchart Stage 3



Annexe D – Complaints Form

Please complete and return to Rosie Barnard (complaints co-ordinator) who will acknowledge receipt and explain what action will be taken.

Your name:

Pupil's name:

Your relationship to the pupil:

Address:

Postcode:

Daytime telephone number:

Evening telephone number:

E-mail address:

Please give the details of your complaint.

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

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

Signature:

Date:

Official use

Date acknowledgement sent:

BY who:

Complaint referred to:

Date: