



# Complaints Policy

## Complaints Policy

### 1 Statement of Policy

- 1.1 The Constellation Trust must 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.
- 1.2 Concerns should be handled, if 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 school provision, will receive the first approach. It would be helpful if staff were able to resolve issues on the spot, including apologising, where necessary, or within 5 working days.
- 1.3 The Constellation Trust will meet and respond to its responsibilities under the Equality Act 2010, as set out in the Public Sector Equality Duty, April 2011.
- 1.4 This policy has been written in compliance with the 'Independent School Standards guidance 2019'.
- 1.5 Panel findings and recommendations will be available for inspection on the school premises by the proprietor and the Headteacher and provided to the complainant and where relevant, the person the complaint was about.
- 1.6 A written record will be kept of all complaints made and considered on an informal basis along with whether resolved; or a formal procedure; or progression to a panel hearing.
- 1.7 The school/academy will record the action it takes as a result of complaints (regardless of whether they are upheld)
- 1.8 Correspondence, statements and records relating to individual complaints are to be kept confidential except where the Secretary of State or a body conducting an inspection under section 109 of the 2008 Act requests access to them
- 1.9 For senior staff and the central team, the schemes of delegation responsibilities should be followed

## **2 Definitions**

- 2.1 The term 'Headteacher' also refers to any other title used to identify the Head of School.
- 2.2 The term 'Central team' refers to Trust staff.
- 2.3 The term 'Executive Head/CEO' is one person with both roles.
- 2.4 The term 'designated person' can be a member of senior team
- 2.5 The term 'employee' refers to any member of staff (teaching and non-teaching) employed to work at the school/academy within the Trust.
- 2.6 The term 'Investigating Officer' refers to any member of SLT, as defined by the School Teachers' Pay and Conditions Document, a senior support member of staff or where deemed necessary an external person delegated by the Headteacher (Executive Head/CEO where the Headteacher is the subject of the allegations), to investigate the matter.
- 2.7 The Trust Office should be notified of any formal investigations, which are planned and kept informed at all stages of the process

## **3 Dealing with Complaints: Formal Procedures**

- 3.1 Formal procedures will need to be invoked when initial attempts to resolve the issue are unsuccessful (see section 1.2) and the person raising the concern remains dissatisfied and wishes to take the matter further. Such complaints should be made in writing to the Headteacher. If the complaint is about the Headteacher then the complaint should be addressed to the Clerk to the Local Governing Body (LGB) for the attention of the Chair of the LGB and sent/taken into the academy.
- 3.2 The Headteacher or the Clerk to the LGB should then inform the Constellation Trust Office of the complaint.
- 3.3 The Constellation Trust will assist, when necessary, in appointing a nominated person (Investigating Officer) to formally investigate the complaint.

## **4 Aim**

- 4.1 The aim of this policy is to enable constructive feedback to be made to the school/academy and the Trust. Any issues or incidents will be dealt with efficiently and effectively.

## **5 Framework of Principles**

### **5.1 An effective Complaints Procedure will:**

- 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 Senior Leadership Team (SLT) so that services can be improved
- provide complainants with written responses where appropriate and if requested

### **5.2 Investigating Complaints**

#### **5.2.1 At each stage, the person investigating the complaint, the nominated person, should ensure that they:**

- establish what has happened so far, and who has been involved
- clarify the nature of the complaint, through a written statement, and what remains unresolved
- meet with the complainant or contact them (if unsure or further information is necessary)
- clarify what the complainant feels would put things right
- interview those involved in the matter and/or those complained of, with a colleague present or parent/carer in the case of a student
- conduct the interview with an open mind and be prepared to persist in the questioning
- keep notes of the interview, indicating whether the complaint was resolved at the preliminary stage or whether it is proceeding to a panel hearing

### **5.3 Resolving Complaints**

#### **5.3.1 At each stage in the procedure, the individual school/academy within the Trust will consider ways to resolve a complaint. It might 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
- an assurance that the event complained of will not recur
- an explanation of the steps staff have taken to ensure that it will not happen again
- an undertaking to review Trust policies in light of the complaint

5.3.2 Complainants should be encouraged to state what actions they feel might resolve the problem at any stage. An admission that the school/academy could have handled the situation better is not the same as an admission of negligence. It is important to clarify any misunderstanding that might have occurred in order to create a positive atmosphere in which to discuss any outstanding issues.

5.3.3 It should be noted that unacceptable behaviour from complainants would not be tolerated:

- acting outside of the law
- if jeopardises the health and wellbeing of staff or students
- abusive language and behaviour towards staff or students

5.3.4 In the event of any of the above, appropriate steps will be taken:

- ask the complainant to leave the school/academy premises
- in repeated circumstances if the complainants behaviour is inappropriate towards a member of staff, they may be banned from the site for a fixed period of time
- Refer to the relevant authorities (LA, Safeguarding, Police etc.)

#### 5.4 **Persistent complaints**

A persistent complainant is someone whose behaviour can be characterised by:

- Actions which are obsessive, persistent, harassing, prolific, repetitious
- An insistence upon pursuing unsubstantial complaints and/or unrealistic or unreasonable outcomes
- An insistence upon repeatedly pursuing a complaint when the outcome is not satisfactory to the complainant but cannot be changed

Where all stages of the complaints procedure have been followed in response to a complaint, the Chair of the LGB can inform the complainant that the matter is closed.

5.4.1 Actions that may be taken against a persistent complainant include:

- Verbally informing the complainant that his/her behaviour is becoming unreasonable/unacceptable
- Informing the complainant in writing that his/her behaviour is now considered to be unreasonable/unacceptable
- Informing the complainant that, except in emergencies, all communication with the school should be by letter only

5.4.2 If the complainant tries to re-open the same issue after exhausting the complaints procedure, the correspondence may be viewed as persistent and the school may choose not to respond. The decision to stop responding should only be taken where all of the following statements are true:

- The school has taken every reasonable step to address the complainant's needs;
- The complainant has been given a clear statement of the school's position and his/her options (if any)
- The complainant is contacting the school repeatedly but making substantially the same points each time

5.4.3 Once the school/academy has decided that it is appropriate to stop responding, it must let the complainant know in writing.

5.4.4 Where the complainant raises a new issue, the school/academy must deal with this by beginning its complaints procedure again.

## 5.5 Time Limits

5.5.1 Complaints will be considered and resolved as quickly and efficiently as possible. Realistic time limits for each action within each stage must be set and communicated to the complainant. 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.

5.5.2 At each stage, clarification of exactly who will be involved, what will happen, and how long it will take must be communicated. There may, on occasion be the need for some flexibility; for example, the possibility of further meetings between the complainant and the member of staff directly involved and the Headteacher may require further investigations after a meeting with the complainant.

5.5.3 In most cases, complaints can be heard and resolved at the

school/academy during Stages 1 and 2. In the event this is not the case, the Headteacher can ask the Trust to assist by appointing an Investigating Officer.

The following stages are likely to be sufficient:

## **5.6 Stage 1 – Informal**

5.6.1 Complaint heard by a senior member of staff at the school/academy, resolved at the time, recorded and a written response given within 5 working days.

5.6.2 Where the complainant is not satisfied with the response given at stage 1, then the complainant can escalate the complaint to stage 2 (this will not happen automatically). The complainant must put the complaint in writing to the Headteacher or if the complaint is about the Headteacher, to the Clerk to the Local Governing Body (for the attention of the Chair of the LGB), within 10 working days of the written response.

## **5.7 Stage 2 – Formal**

5.7.1 If the complaint is not resolved at the informal stage 1, or the complainant feels the concerns are more serious in nature, then the complaint should be put in writing and passed on to the Headteacher (or the Clerk to the Local Governing Body for the attention of the Chair of the LGB, if the complaint is about the Headteacher). A written response will be sent within 10 working days.

5.7.2 The Headteacher should then arrange a meeting with the complainant to resolve the complaint. If the complaint cannot be resolved, then they can ask the Trust to assist by appointing an Investigating Officer to formally investigate the complaint.

5.7.3 Where the complainant is not satisfied with the response given at stage 2, then the complainant can escalate the complaint to stage 3 (this will not happen automatically). The complainant must put the complaint in writing to the Headteacher (or the Clerk to the Local Governing Body for the attention of the Chair of the LGB, if the complaint is about the Headteacher) within 10 working days of the written response.

5.7.6 A panel will be appointed consisting of at least three people who were not directly involved in the matters detailed in the complaint. Reasonable notice will be given to the complainant of the date of the panel hearing. The complainant can be accompanied to the panel hearing if they wish.

5.7.7 A written record will be kept of all complaints raised at the formal stage whether they are resolved following a formal procedure, or proceed to a panel hearing; and any actions taken by the school because of those

complaints (regardless of whether they are upheld).

## **5.8 Stage 3 – Panel Hearing**

5.8.1 Complaint heard by the Complaints Committee (two members of the LGB who have not been involved in the complaint plus one representative\* who is independent of the management and running of the school/academy). This will usually take place within 10 working days of the receipt of the written complaint. The complainant will be informed in writing of the outcome within 5 days of the panel hearing and the matter will then be closed.

5.8.2 If the complainant feels that the LGB has acted illegally or arbitrarily in the handling of the complaint, then the complainant should refer to Education Funding Agency for procedures dealing with complaints about Academies.

*\*It is the schools'/academies responsibility to identify a suitable independent individual who can fulfil the role and responsibility of being the independent member.*

## **5.9 Managing and Recording Complaints**

5.9.1 A complaint may be made in person, by telephone, or in writing. At the end of a meeting or telephone call, the member of staff should ensure that the complainant and the school/academy 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 Coordinator should be responsible for the records and hold them centrally. All correspondence, statements and records of complaint must be kept confidential but may be shown to HMI Inspectors if requested.

## **6 Board of Directors Review**

6.1 The Board of Directors 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. Preferably, complaints information shared with the whole Board of Directors will not name individuals. The process of listening to and resolving complaints will contribute to Trust improvement. When individual complaints are heard underlying issues that need to be addressed may arise. The monitoring and review of complaints by the schools/academies and the Board of Directors can be a useful tool in evaluating the Trust's performance.



## **6.2 Stage 1 - Informal**

### **6.2.1 Complaint heard by a senior member of staff at the school/academy involved**

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

6.2.3 It would assist the procedure if the school/academy respected the views of a complainant who indicates that he/she would have difficulty discussing a complaint with a particular member of staff. In these cases, the relevant member of SLT can refer the complainant to another staff member. The member of staff likely to be involved should be suitably equipped to do so. Where the complaint concerns the Headteacher, the relevant member of SLT can refer the complainant to the Executive Head/CEO or the Chair of the LGB.

6.2.4 Similarly, if the member of staff directly involved feels too compromised to deal with a complaint, the relevant member of SLT may consider referring the complainant to another senior staff member. 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. Where the first approach is made to a Governor, the next step would be to refer the complainant to the appropriate person (e.g. Headteacher) and advise them about the procedure. Governors are advised to refer any complaints they receive to the Chair of the LGB.

6.2.5 A letter should be sent to the complainant outlining the complaint and agreed resolution or whether the complaint has been heard and there is no further action required/no case to answer.

## **6.3 Stage 2 - Formal**

### **6.3.1 Complaint heard by the Headteacher**

6.3.2 At this point, the complainant may be dissatisfied with the way the complaint was handled at Stage 1, as well as pursuing their initial complaint. In this case, the Headteacher or Deputy Headteacher will hear the complaint. If the complaint is about the Head teacher, the Executive Head/CEO will either hear the case or delegate to a designated person.

6.3.3 The complainant should put their concerns in writing to the Headteacher. This should include details, which might assist the

investigation, and an indication of what actions the complainant feels would resolve the complaint.

- 6.3.4 The Headteacher should inform the Constellation Trust that a formal complaint has been received to enable a central record to be kept.
- 6.3.5 The Headteacher should ensure that an investigation is carried out thoroughly and responsibly. It is the responsibility of the Headteacher to select an appropriate person to carry out any investigation. The Constellation Trust can provide advice and assistance with this.
- 6.3.6 Once the information from the investigation has been reviewed, the Headteacher should meet with the complainant to attempt to resolve the issue and to write to the complainant to inform them of the outcome.
- 6.3.7 Where the complainant is not satisfied with the response given at stage 2 then the complainant can escalate the complaint to stage 3 (this will not happen automatically). A panel will be appointed consisting of at least three people who were not directly involved in the matters detailed in the complaint. Reasonable notice will be given to the complainant of the date of the panel hearing. The complainant can be accompanied to the panel hearing if they wish.

#### **6.4 Stage 3 – Panel Hearing**

##### **6.4.1 Complaint heard by Complaints Panel of the Local Governing Body**

- 6.4.2 The complainant should write to the Chair of the LGB/Clerk giving details of the complaint. The Clerk will convene a complaints panel, none of whose members will have been directly involved in previous consideration of the complaint and one member who will be independent of the school/academy (i.e. a representative who is independent of the management and running of the school/academy).
- 6.4.3 The Constellation Trust should be informed that the complaint has progressed to Stage 3.
- 6.4.4 The Complaints Panel hearing is the last school/academy based stage of the complaints process, and is not convened to merely rubber stamp previous decisions.
- 6.4.5 Individual complaints would not be heard by the whole LGB or Board of Directors at any stage, as this could compromise the impartiality of any panel set up for a disciplinary hearing against a member of staff following a serious complaint

6.4.6 The LGB or Board of Directors may nominate a number of members with delegated powers to hear complaints at that stage, and set out its terms of reference. These can include:

- drawing up its procedures
- hearing individual appeals
- making recommendations on policy as a result of complaints

6.4.7 The procedure adopted by the panel for hearing appeals would normally be part of the Trust's complaints procedure. The panel can be drawn from the nominated members and will consist of at least three people. The panel may choose their own chair.

## **6.5 The Remit of the Complaints Panel**

6.5.1 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 changes to the school/academy's systems or procedures to ensure that problems of a similar nature do not recur

6.5.2 There are several points a Governor or Director 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 or Director 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/Directors need to try and ensure that it is a cross-section of the categories of Director and sensitive to the issues of race, gender and religious affiliation
- The aim of the hearing, which needs to be held in private, is to resolve the complaint and achieve reconciliation between the school/academy and the complainant. However, it has to be recognised 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 will satisfy the complainant that his or her complaint has been taken seriously
- An effective panel will acknowledge that many complainants feel nervous and inhibited in a formal setting. Parents/carers often feel emotional when discussing an issue that affects their child, and may choose to be accompanied. 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
- Extra care needs to be taken when the complainant is a child. Careful consideration of the atmosphere and proceedings will ensure that the child does not feel intimidated. 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/carer is the complainant, it would be helpful to give the parent/carer the opportunity to say which parts of the hearing, if any, the child needs to attend
- The Governors or Directors sitting on the panel need to be aware of the complaints procedure

## **7 Roles and Responsibilities**

### **7.1 The Role of the Clerk**

7.1.1 Any panel or group of Governors/Directors considering complaints should be clerked. The Clerk would be the contact point for the complainant 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 the parties in advance of the hearing
- meet and welcome the parties as they arrive at the hearing
- record the proceedings
- notify all parties of the panel's decision

### **7.2 The Role of the Chair of Governors or the nominated Director**

7.2.1 The nominated Director role:

- Check that the correct procedure has been followed
- If a hearing is appropriate, notify the Clerk to arrange the panel

### **7.3 The Role of the Chair of the Panel**

7.3.1 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
- 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
- each side is given the opportunity to state their case and ask questions
- All parties see written material. If a new issue arises it would be useful to give all parties, the opportunity to consider and comment on it

## **7.4 Notification of the panel's decision**

7.4.1 The Chair of the Panel needs to ensure that the complainant is notified of the panel's decision, in writing within 5 working day. The letter needs to explain if there are any further rights of appeal and, if so, to whom they need to be addressed. The Executive Head/CEO and where relevant, the person complained about will be notified of the panel's decision.

## **7.5 Checklist for a Panel Hearing**

7.5.1 The panel needs to consider the following points:

- the hearing is as informal as possible
- witnesses are only required to attend for the part of the hearing in which they give their evidence
- after introductions, the complainant is invited to explain their complaint, and be followed by their witnesses
- the Headteacher or nominated representative may question both the complainant and the witnesses after each has spoken
- the Headteacher or nominated representative is then invited to explain the school/academy's actions and be followed by the Trust's witnesses
- the complainant may question both the Headteacher or nominated representative and the witnesses after each has spoken
- the panel may ask questions at any point
- the complainant is the invited to sum up their complaint
- the Headteacher or nominated representative is then invited to sum up the Trust's actions and response to the complaint
- both parties leave together while the panel decides on the issues
- the Chair explains that both parties will hear from the panel within a set time scale

## Appendix 1

### The Constellation Trust Complaints Procedure (Stage 3)

The Complaints Committee will consist of 2 members of the LGB and 1 representative\* who is independent of the management and running of the school/academy

*\*It is the schools'/academies responsibility to identify a suitably independent individual who can fulfil the role and responsibility of being the independent member.*

- 1.1 Introduction by the Chair of the Complaints Committee and a reminder to attendees present of:
  - the Complaints Procedure under which the meeting has been called;
  - the meeting will be as informal as possible;
  - the manner/format of the meeting as detailed below;
  - the degree of confidentiality;
  - those present and the purpose of the meeting;
  - the supporting evidence
- 1.2 Complainant is invited to explain their complaint and share any evidence, and be followed by witnesses (if applicable). The witnesses should leave the room when they have given evidence and answered all the questions.
- 1.3 The Headteacher or nominated representative may question both the complainant and the witnesses after each have spoken.
- 1.4 The Headteacher or nominated representative is then invited to explain the school/academy's actions and be followed by the Trust's witnesses (if applicable).
- 1.5 The panel may ask any questions at any point.
- 1.6 The complainant is then invited to sum up their complaint.
- 1.7 The Headteacher or nominated representative is then invited to sum up the school/academy's actions and response to the complaint.
- 1.8 The Chair explains that both parties will hear from the panel within a set time scale.

- 1.9 Both parties leave together while the panel deliberates.
- 1.10 The panel, in the presence of the Clerk, will consider all the information presented by both parties; any mitigating circumstances and any decision must be reasonable and fair. In the event that further information is needed from any of the persons who have left the meeting then all such persons should return to the meeting when such information is being obtained. An opportunity should be given to each party to question or comment upon this additional information.
- 1.11 Confirmation of the decision of the panel should be sent in writing to all parties concerned by the Clerk to the Complaints Committee (within 5 days of the panel hearing and the matter will be closed).
- 1.12 The Chair of the Committee should clearly inform the complainant of the decision.
- 1.13 Once the process is complete and a decision given, if the complainant feels that the LGB have acted illegally or arbitrarily in the handling of the complaint, then the complainant should refer to the Education & Skills Funding Agency (ESFA) at [www.gov.uk/government/organisations/education-and-skills-funding-agency](http://www.gov.uk/government/organisations/education-and-skills-funding-agency) (via the schools complaints form) for procedures dealing with complaints about Academies.