

# Harborne Academy Complaints Procedure



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# Dealing with Complaints

## Model Procedure and Guidance Notes

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## **Section A: Overview of Policy**

### **Overview and Scope**

1. Academies are required to have published procedures to deal with complaints by parents / carers / guardians or pupils relating to the Academy and to any community facilities or services that the Academy provides.
2. This procedure deals with all concerns or complaints relating to the actions of staff and application of Academy procedures where they affect individual pupils, except matters directly relating to curriculum, or to a particular exclusion, child protection, special needs statementing or admission issue, all of which are dealt with under separate procedures; details of these procedures should also be available from the Academy.
3. Similarly, any complaints by members of staff should usually be dealt with through the appropriate separate procedures such as grievance, capability or anti-harassment.

### **Part 1: General Principles of Complaints**

#### **Dealing with Complaints – Initial Concerns / Informal Procedures**

4. These procedures make a distinction between dealing with a concern or complaint informally or formally.
5. The underlying principle of the procedure is that, if at all possible, concerns and complaints ought to be handled and resolved informally (usually by the staff directly concerned) without the need to invoke a formal referral and process. The Academy must provide a response to any informal complaint within 10 working days unless agreed otherwise with the complainant.
6. An unreasonable refusal by the complainant to attempt an informal resolution may result in the concern or complaint being taken no further.

#### **Dealing with Complaints – Formal Procedures**

7. The formal Complaints Procedure will need to be invoked when initial or informal attempts to resolve the issue are unsuccessful and the person raising the concern or complaint remains dissatisfied and wishes to take the matter further by following the formal procedure and setting out the complaint in writing.
8. There are four stages to the Complaints Procedure:
  - Stage One: receiving a complaint

- Stage Two: complaint heard by staff member (though not the subject of the complaint)
- Stage Three: complaint heard by the Head Teacher
- Stage Four: complaint heard by the Governing Body's Complaints Panel

## Framework of Principles

9. Any concern or complaint should be brought to the attention of the Academy at the earliest opportunity. Any matter raised more than 3 months after the event will only be considered in exceptional circumstances.
10. A concern or complaint from a member of the public who is not a parent / carer / guardian of a student attending the Academy should be referred directly to the Head Teacher.
11. If the complaint is about the Head Teacher, it should be referred to the Chair of Governors. Such complaints should be dealt with under Stage 4 procedures.
12. An anonymous complaint cannot be dealt with unless there are exceptional circumstances.
13. Any concern or complaint will be dealt with in a way that:
  - respects confidentiality;
  - addresses all the points at issue;
  - provides an effective response, and, where necessary, appropriate redress.
14. Concerns and complaints should be handled in both an impartial and non-adversarial manner, and an open, transparent and constructive way.

## Investigating Complaints

15. At whatever stage, the person investigating the concern or complaint should:
  - (i) establish **what** has happened so far, and **who** has been involved;
  - (ii) clarify the nature of the complaint and what remains unresolved;
  - (iii) clarify what the complainant feels would put things right;
  - (iv) interview those involved in the matter and / or those complained of, allowing them to be accompanied if they wish.
16. Any person interviewed as part of an investigation is entitled to be accompanied by a friend or representative and / or a translator, and to agree any notes taken, particularly if the investigation is part of the formal process.

## Resolving Complaints

17. At whatever stage, the person dealing with the concern or complaint should endeavour to find a resolution, but obviously this will depend on the nature of the concern or complaint and what the complainant wants.
18. 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.
19. Complainants should be encouraged to stage what actions they feel might resolve the problem at any stage – though this should be on the understanding that it may not be possible or reasonable to deliver them.
20. It may be appropriate and sufficient to acknowledge that the complaint is valid in whole or in part – an admission that the Academy could have handled the situation better is not the same as an admission of negligence.
21. In addition, it may be appropriate to offer one or more of the following:
  - an expression of regret for any distress etc
  - an explanation;
  - an admission that the situation could have been handled differently or better;
  - an assurance that every effort will be made to ensure that the event complained of will not recur;
  - an explanation of the steps that have been taken to try to ensure that it will not happen again;
  - an undertaking to review Academy policies in light of the complaint.
22. Use of the formal procedures means that all attempts at an informal resolution of the concern have failed; resolution will then depend upon any recommendations based on judgments made from the evidence uncovered in the investigation.
23. Of course, an investigation may find no evidence for the complaint or that the complaint is otherwise groundless.

### **Appealing the Final Decision**

24. There will be occasions when, despite all stage of the procedures having been followed, the complainant remains dissatisfied. If the complainant tries to reopen the same issue, the Chair of the Governing Body will inform them in writing that the procedure has been exhausted and that the matter is now closed.
25. The complainant may take their complaint to the ESFA (Education and Skills Funding Agency) but, there is no onus on this body to re-open an investigation etc if it is satisfied that the Academy has dealt with the complaint appropriately. The remit of the ESFA is to review due process.

### **Time Limits**

26. A concern or complaint will be acknowledged as soon as it is received and attempts to deal with it informally will start as soon as practicable in timescales agreed by all parties. (It is recommended that, unless agreed otherwise with the complainant, this starts within 5 working days of receiving the concern or complaint and is completed within 10 working days of starting).
27. Once a complaint has been lodged formally, an investigation should begin within 5 working Academy days and a realistic but reasonable timescale should be set for completion. It is reasonable for a complainant to expect to receive verbal or written feedback within 10 working Academy days of an investigation completing.
28. However, where further investigations become necessary or delays occur, new time limits can be set and the complainant sent details of the new deadline and an explanation for the delay.
29. If a complaint is not resolved at a particular stage, the complainant has 10 working days to escalate their complaint to the next stage.

## **Part 2: The Complaints Procedure**

### **Stage One: Receiving a Complaint**

30. A complaint from a member of the public, who is not a parent/carer/guardian of a student attending the Academy, should go directly to the Head Teacher in the first instance. Parents / carers / guardians should, where possible, contact the member of staff concerned (which may be the Head Teacher) by letter, email, telephone or in person.
31. Whoever receives the complaint should direct the complainant to the member of staff concerned or to the Head Teacher:
  - (i) If the complainant wants an acknowledgement of the issue and / or a resolution to a problem which is relatively straightforward and / or the prevention of a recurrence, this is more likely to be suited to an informal process;
  - (ii) A formal process is required where the nature of the complaint is such that it requires (1) an investigation (rather than, or following, the appropriate person just “making enquiries about” or “looking into” an issue or the complaint) – or (2) the matter needs to be seen and recorded to have been dealt with.

### **A complaint should be acknowledged within 5 working academy days.**

32. If any member of staff receives a complaint, they should not attempt to deal with the issue but should pass it on to the appropriate person. Similarly, if a member of staff feels too compromised to deal with the complaint, the matter should be referred to a more appropriate member of staff.

33. Also, there will be occasions when the complainant may have concerns about discussing their complaint with a particular member of staff. If this is the case, the complainant should be directed to address their concerns to the Head Teacher or a designated member of the Senior Leadership Team.
34. If the first approach is made direct to a governor, the governor should direct the complainant to the appropriate person – usually the Head of Year. Governors should not act unilaterally on an individual complaint outside of procedures as such action may compromise future action regarding the complaint.

### **Stage Two: Complaint dealt with by Staff Member**

35. The Head of Year or appropriate member of staff or Head Teacher will attempt to resolve the complaint using whatever reasonable means are appropriate. This will usually involve meeting with the complainant to discuss the matter further and may also involve talking to pupils, other staff members or consulting senior staff including the Head Teacher.
36. If having raised their concerns with the Head of Year or appropriate member of staff, the complainant is still dissatisfied, or if the Head of Year or other nominated member of staff is the subject of the complaint, the complainant should contact the Head Teacher (unless the Head Teacher is the subject of the complaint – in which case the complaint should contact the Chair of Governors).

### **Stage Three: Complaint dealt with by the Head Teacher**

37. The Head Teacher will attempt to resolve a complaint using whatever reasonable means are appropriate. This may involve meeting the complainant to discuss the matter further. It may also involve the Head Teacher interviewing staff members.
38. The Head Teacher must be allowed reasonable time to investigate the complaint and gather any information that is required. On this basis, the Head Teacher should aim to be able to give either verbal or written feedback to the complainant no later than 10 Academy working days after receipt of the complaint. If the Head Teacher is unable to meet this deadline, he or she will provide the complainant with an update and a revised response date.
39. On some occasions, the Head Teacher may delegate the investigation to a member of the Senior Leadership Team who has had no involvement with the case. The decision on the appropriate person rests with the Head Teacher.
40. If having raised concerns with the Head Teacher, the complainant is still dissatisfied or if the Head Teacher is the subject of the complaint, the complainant should contact the Chair of Governors.

#### **Stage Four: Complaint dealt with by Governing Body**

41. The Governing Body has responsibility for ensuring that any formal complaints are dealt with. **Complaints must be in writing.**
42. In cases that require urgent consideration, the Chair may deal with the matter exclusively without delay.
43. Otherwise, the Chair of Governors should decide if a reasonable attempt has been made by the Head Teacher or other staff member(s) to address the concern or complaint. It is important that concerns or complaints are dealt with appropriately as well as properly and that staff are not subjected to “double jeopardy”.
44. The Chair of Governors may refer to the Academy for advice and guidance in deciding how to deal with the concern or complaint if the nature of it requires this.
45. If the Chair of Governors decides that the concern or complaint has been dealt with reasonably, the complainant should be informed and should also be informed that their only grounds for appeal may be on the basis of the way in which their concern or complaint was handled (and not against the decision made).
46. If the Chair of Governors decides in consultation with 2 additional governors that the concern or complaint may not have been dealt with reasonably and that a formal appeal is appropriate, a hearing by a Complaints Panel of the Governing Body should be arranged.
47. The Chair will ensure that a panel of three individuals will be convened to form the Complaints Panel to hear the complaint. This will comprise of two previously uninvolved governors and one person independent of the management and running of the Academy.
48. Individual complaints will not be heard by the whole Governing Body at any stage as this could compromise impartiality eg where a panel is set up for a disciplinary hearing against a member of staff following a serious complaint.
49. The designated governors will deal with the complaint on an impartial basis via a panel hearing – please refer to **Notes for Guidance**.
50. It is important that any hearing is independent and impartial and that it is seen to be so. No governor may sit on a panel if they have had prior involvement in the complaint or in the circumstances surrounding it.
51. In deciding the make-up of the panel, governors should try to ensure that it is a cross-section of categories of governors and, so far as is practicable, sensitive to the issues of race, gender and religious affiliation.
52. The Clerk to the Governing Body will normally record the proceedings.
53. The aim of the hearing, which must be held in private, will always be to resolve the complaint and achieve reconciliation between the Academy and the complainant.

54. The panel will:

- Uphold the complaint in whole or in part; or
- Dismiss the complaint in whole or in part; or
- Where appropriate, decide action to be taken to uphold the complaint; or
- Make findings and recommendations (which are available for inspection on the Academy premises by the proprietor and the Head Teacher);
- Provide to the complainant and, where relevant, the person complained about, a copy of any findings and recommendations it makes.

55. However, where the complainant is not satisfied with the outcome, it may only be possible for the panel to establish the facts and make recommendations which will satisfy the complainant that their complaint has been taken seriously.

56. Following the hearing, the complainant will receive written feedback from the Clerk to the Governing Body including any decisions, recommendations and the reasons for them and, if appropriate, the next steps. The written feedback should be issued within ten Academy working days after the investigation has concluded.

57. If the outcome might lead to action under another procedure eg disciplinary, the complainant need only be informed that appropriate action will be taken.

58. The Chair of Governors is responsible for ensuring that the correct procedures have been followed.

59. There will be occasions when, despite all stages of the procedures having been followed, the complainant remains dissatisfied. If the complainant tries to reopen the same issue, the Chair of the Governing Body will inform them in writing that the procedure has been exhausted at that the matter is now closed but that the complainant may take their complaint to the ESFA. The remit of the ESFA is to review due process – there is no onus on the ESFA to re-open an investigation. Complaints about the Academy can be submitted online by following the link below:

<https://www.gov.uk/government/publications/complain-about-an-academy/complain-about-an-academy>

Alternatively, complaints can be made in writing to:

ESFA Complaints  
Chief Executive's Office  
Cheylesmore House  
Quinton Road  
Coventry  
CV1 2WT

## **Part 3: Notes for Guidance**

### **Before the Panel Hearing**

60. At least 5 working Academy days before the hearing, the Clerk will:

- Confirm and notify the complainant of the date, time and venue of the meeting, ensuring that, if the complainant is invited, the dates are convenient to all parties and that the venue and proceedings are accessible;
- Request copies of any further written material to be submitted to the Panel at least 2 working Academy days before the meeting.

### **The Complaints Panel Hearing**

61. The hearing should be as informal as possible – many complainants feel nervous and inhibited in a formal setting and parents / carers / guardians often feel emotional when discussing an issue that affects their child. The proceedings should be as welcoming as possible and the layout of the room should try to ensure the setting is informal and not adversarial, so as to set the appropriate tone.

62. Any parties being heard may be accompanied by a person of their choice – a friend, representative and / or translator – and notes taken should be agreed by attendees.

63. Governors on the panel should make themselves familiar with these procedures before any hearing.

64. Witnesses are only required to attend for the part of the hearing in which they give their evidence.

65. Before the hearing starts, the panel should agree who will act as Chair of the Panel.

66. It will not usually be appropriate for the hearing to consider any issues or material which is introduced at the hearing for the first time.

67. The hearing should follow any agreed meeting protocols and proceedings should be as follows:

1. After introductions, the complainant should be invited to explain their complaint and be followed by their witnesses.
2. The Head Teacher may question both the complainant and the witnesses after each has spoken.
3. The Head Teacher is then invited to explain the Academy's actions and be followed by the Academy's witnesses.

4. The complainant may question both the Head Teacher and the witnesses after each has spoken.
5. Up to this point the panel may ask questions at any time.
6. The complaint is then invited to sum up their complaint.
7. The Head Teacher is then invited to sum up the Academy's actions and response to the complaint.
8. The Chair explains that both parties will hear from the panel within a set timescale.
9. Both parties leave together while the panel decides on the issues.

68. It is recommended that any panel considering complaints is clerked. The Clerk is the contact point for the complainant as is required to:

- set the date, time and venue for the hearing, ensuring that the dates are convenient for 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 parties as they arrive at the hearing;
- record the proceedings;
- notify all parties of the panel's decision.

69. 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 / carers / guardians and others who may not be used to speaking at such hearings 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;
- written material is seen by all parties. If a new issue arises all parties should be given the opportunity to consider and comment on it;
- the complainant is notified of the panel's decision, in writing, with the panel's response and what further steps may be planned or available. This is usually within the agreed timescales.

## **Adopting and Publicising the Procedures**

70. The Governing Body should formally accept and adopt these procedures at a meeting.
71. The procedures should then be made available to all staff through the agreed mechanisms eg. online as well as on request.
72. Parents / carers / guardians should be notified that the Academy has procedures and that these are available on the Academy's website or on request. Further they should be notified that an "easy-to-read" flow chart is also available.

## **Monitoring**

73. The Academy will maintain a written log of complaints, how they are handled and whether they are resolved at the preliminary stage or proceed to a panel hearing and whether any action is taken as a result of the complaint (whether or not it is upheld). A summary of all complaints will be reported to the Governing Body at the end of each academic year.

## **Confidentiality**

74. 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 Education Act 2008 requests access to them.

## Appendix 1 – Complaints Form

Please complete and return to.....Head Teacher / Chair of Governors who will acknowledge receipt and explain what actions will be taken.

Your name:

Student's Name:

Your relationship to the Student:

Address:

Postcode:

Daytime Telephone Number:

Evening Telephone Number:

Email:

Please give details of your complaint:

*(Please continue on a separate sheet as necessary)*

What action, if any, have you already taken to try to resolve your complaint?  
*(Who did you speak to and what was the response)?*

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

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

**Signature:**

**Date:**

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**Official Use**

**Date acknowledgement sent:**

**By Whom:**

**Complaint referred to:**

**Date:**

## Appendix 2

### COMPLAINTS PROCEDURE FLOWCHART

