Model School Complaints Policy

for Foundation, Voluntary Aided, Community and Voluntary Controlled Schools

Schools Intervention Service

Adopted by: **Arbury Primary School Governing Body**

On the 12th January 2017

To be reviewed January 2020

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An Introduction to the Complaints Policy

The Governing Body is required by law (section 29 of the Education Act 2002) to establish procedures for dealing with complaints relating to the school, or to the provision of facilities or services (unless the issue is covered by other legislation – see Appendix 3). The Local Authority has no statutory authority to investigate school complaints.

1. What is a complaint?

The Governing Body uses the Local Government Ombudsman definition of what is a complaint. A complaint is

> *'an expression of dissatisfaction about a service (whether that service is provided directly, by a contractor, or by a partner) that requires a response.'*

2. Who can make a Complaint?

Any person who has a legitimate interest in the school may make a complaint. This will include pupils on roll at the school irrespective of their age, although normally a complaint from a pupil would come through a parent.

Where a person is not able to make a complaint himself or herself, a friend or other family member may do so on their behalf, but that person does not become the complainant. The Governing Body will not accept complaints from legal representatives.

3. Purposes of a Complaints Procedure

The purpose of a Complaints Procedure is to provide a comprehensive, open, transparent, fair and timely vehicle through which:

- something that may have gone wrong can be identified, acknowledged and, where necessary, put right;
- an apology may be made where appropriate;
- the school can, where appropriate, learn from the process, making it less likely that a similar complaint will be brought in the future.

4. Publicising the Complaints Procedure

The law imposes a duty on governing bodies to publicise their complaints procedure. This is done through:

- making copies of the procedure available in the school (clearly this should be easily accessible without a potential complainant being asked the reason why it is being requested);
- including the procedure on the school's web site, ensuring that it is easy to find through a link from the first page.

5. Adopting the Complaints Procedure

The Governing Body should formally minute the adoption of the procedure indicating the date on which it was adopted and the date by which it will be reviewed. A review might be required in the following circumstances:

- to take account of any changes to legislation or to reflect new local authority or government guidance;
- in the light of any recommendations from the Chair or a Review Panel arising from consideration of a complaint.

6. Timescales for complaints

The Governing Body has accepted the view of the Department for Education that a complaint should normally be expected to lodge their complaint within 90 calendar days of the event being complained about. The 90 day limit has been established because investigation is more difficult after a period of time: memories may not be as clear as they would have been earlier, records may not be as readily available and witnesses may not be employed at the school. A delay in making a complaint may also disadvantage any person who is the subject of it, making it more challenging for them to defend themselves for the same reasons.

In exceptionl circumstances, the Chair of Governors, acting on behalf of the Governing Body, will consider complaints submitted outside this timeframe. In such instances the complainant will need to offer an explanation as to why there has been a delay in making a complaint.

Where a number of complaints are made in one letter of complaint, some of which lie outside the timeframe, the Chair of Governors will determine which complaints can be considered, taking account of their relevance to the substantive complaint or complaints made within the timescale.

Preliminary stage – dealing with concerns informally

Before the formal processes are invoked every effort should be made to resolve matters informally. This is in line with complaints policies nationally. The Governing Body will ensure parents are made aware of how they can raise a concern through the governors' communication policy.

Some issues are likely to be best resolved through discussion with a class teacher, form tutor, head of year or other member of staff below the level of a school leader. In some cases, though, a person may feel the need to escalate the matter to the school leader.

Initially school staff below the level of Principal/Headteacher will seek to resolve matters through provision of information and clarification. Where it is clear that there is a significant level of challenge, staff will refer the matter to the Principal/Headteacher as a cause for concern. The Principal/Headteacher will then seek to resolve the matter through discussion with those expressing concerns. Staff are advised not to engage in prolonged correspondence of an argumentative nature but to refer the complaint to the Principal/Headteacher at that stage.

Whether attempts to resolve concerns at an informal stage are by telephone conversation or through meetings, school staff should take a note of any agreed action points and summarise these at the end of the conversation. The notes should be circulated promptly to those involved in the discussion.

The formal Complaints Procedure will not normally be accessed unless the Principal/Headteacher has first been given the opportunity to discuss the matter with the complainant, either by telephone or, preferably, in person. Where the Principal/Headteacher is unable to resolve matters through discussion, the parent will be asked if they wish to make a formal complaint to the Principal/Headteacher. This complaint should be made in writing using the formal School Complaints Form at the end of this document.

Part 1 – Making a formal complaint to the principal/headteacher

The procedure

1.1 The procedure for making a formal complaint requires a complainant to complete, and to submit, a Complaint Form and to do so within 90 days of the issue about which they are complaining.

1.2 The Principal/Headteacher will acknowledge the complaint form in writing within 3 school days and investigate the matter so that the complainant receives a response within 10 school days. On occasion, the complaint may be too complex to investigate within this timescale and, in these circumstances, the Principal/Headteacher will write to the complainant explaining why it is not possible to work within the timescales laid down and to advise when a response will be issued.

1.3 If the complaint is against the Principal/Headteacher, the complaint form should be sent directly to the Chair of Governors, c/o the school. The procedures set out in Part 2 of this document should then apply.

Expected Outcomes

1.4 Normally there are two possible outcomes from a complaint. These are action taken by the school to put matters right. This might involve one or more of the following:

- a review of policy or procedure
  - changes to routines
  - action to remedy a health and safety concern
  - restorative work involving a pupil and a member of staff
  - risk assessment to determine the likelihood of similar problems recurring
  - an apology
  - action towards a member of staff (on the occasions that this is of a disciplinary nature, no further information can be shared as this is a matter of employment contract law for employees and a straightforward matter of privacy for volunteers).
- a decision that no action is necessary or justified.

1.5 The Governing Body will not normally award financial compensation unless required to do so by virtue of legislation.

The Complaint Form

1.6 A complainant who has first discussed the issue with the Principal/Headteacher may make a complaint and to do so they must use the Complaint Form. The complainant is asked to be brief and clear about the issue and to state what would, for them, provide a resolution to the complaint. Unless there are exceptional circumstances, the complaint form should be submitted within 90 school days of the issue causing complaint.

Arranging Help for the Complainant to Articulate Concerns and Understand Procedure

1.7 If a complainant wishes to seek help in explaining the issue and/or with completing the Complaint Form, then support may be available from one of the following sources:

From School Staff. The Governing Body accepts that a member of the school staff may provide support unless the Principal/Headteacher agrees that there is good reason why they should not do so. This support does not extend to support with the basis of the complaint per se, rather it is restricted to advice on how best to present the information.

From the Local Authority (LA). The LA, through its Education Adviser Service, will offer procedural advice to the complainant and, where appropriate, look actively at whether there is anything they can do to aid a speedy resolution, including a facilitated discussion, mediation or conciliation in those cases where, in their view, this approach has a reasonable chance of success.

From external sources. A complainant may, if they wish, seek support from any person who is not a member of staff, including legal support or from statutory and charitable organisations. A complainant may nominate a person to issue, and to receive, correspondence on their behalf. Whilst the school acknowledges that, on rare occasions, parents may wish to contact solicitors, the school will not accept a complaint from a legal representative. The school will not use legal representation within the complaint resolution process but nor will parents' legal representative be permitted to attend relevant meetings.

Part 2 – Referring a formal complaint to the chair of governors

2.1 Where the complainant considers that the Principal/Headteacher's written response does not resolve the complaint, the complainant may ask the Chair of Governors to reconsider the Principal/Headteacher's response. This request should be made within 10 school days of receiving the Principal/Headteacher's response.

2.2 If the complaint is about the Principal/Headteacher then the complaint form will be submitted direct to the Chair of Governors. Unless the complaint is about the Principal/Headteacher, the Chair of Governors will not consider the complaint unless the Principal/Headteacher has had opportunity to seek to resolve the matter first.

2.3 If the complaint is about the Chair of Governors then the complaint form should be sent to the Vice Chair of Governors who will act in the role of Chair for this process.

The procedure

2.4 If emailing the complaint, care should be taken to ensure that the complainant has the official email address for the Chair of Governors, available from the school office, and that they use this. It can be obtained from the school office. In the subject field of the email, the complainant should write, 'Formal Complaint'. If delivering or posting a letter, the complainant must address it to the Chair of Governors at the school address and should write 'Formal Complaint' on the envelope. This will ensure that the complaint is dealt with promptly and enable the school to comply with the timescales set out in the policy.

2.5 The complainant should not share the complaint with other governors. A detailed knowledge of the complaint will preclude governors from serving on a review panel if the complaint is not resolved through the good offices of the Chair. Governors receiving a complaint in this way should immediately refer it back to the Chair without considering the content.

2.6 The Chair of Governors will acknowledge the complaint form in writing within 3 school days of receipt and investigate the matter so that the complainant receives a response within 10 working days. On rare occasions, the complaint may be too complex to investigate within this timescale and, in these circumstances, the Chair will write to the complainant explaining why it is not possible to work within the timescales laid down and to advise when a response will be issued.

2.7 As part of the investigation, the Chair will make early contact with the complainant and either propose a meeting or substantial telephone call to consider the issues raised. If telephoning, the Chair should determine whether it is necessary to withhold any number that is not the school's telephone number.

2.8 The focus of that conversation should be to:

- Consider any gaps on the complaint form;
- Consider any aspects of the complaint where additional clarification is required;
- Consider the extent to which any evidence is available that has not been mentioned on the complaint form

- Establish the complainant's view as to witnesses who might need to be interviewed;
- Establish what would provide for the complainant an acceptable resolution to the complaint;
- Establish whether there is any pressing reason for the matter to be investigated more quickly than the published timescale allows for;
- Discuss with the complainant whether there is anything that might help resolve matters outside the complaints procedure, for example, alternative dispute resolution methods.

2.9 The key elements of the Chair's investigation are likely to include:

- Achievement of a shared understanding with the complainant of the nature of the complaint and of what it is that remains unresolved;
- Establishing what has happened and who was involved;
- Interviews and/or written statements from those adults and children whose information and views, in the opinion of the Chair of Governors, need to be taken into account; although the final decision of whom to interview rests with the Chair, it is expected that the voice of affected children will be heard and be given sufficient weight.
- Sensitivity and thoroughness when conducting interviews;
- A detailed report that will provide a clear record that will be helpful for any subsequent review;
- A clear analysis of the information and conclusions reached;
- An authoritative outcome that is based on the evidence and does not merely state acceptance of evidence;
- Recommendations to resolve the complaint.

Expected Outcomes

2.10 The Chair will report on the extent to which s/he considers the complaint is fully, or in part:

- **Substantiated** i.e. where there is sufficient evidence to uphold the complaint
- **Malicious** – i.e. where it is proven that the complainant has no case and where, also, there is evidence that the complainant deliberately tried to deceive the school, made the complaint as part of a deliberate attempt to cause distress or otherwise acted with malice
- **False** – i.e. where there is insufficient evidence to prove that there was not legitimate basis to the complaint, or
- **Unsubstantiated** – i.e. where there is insufficient evidence to reach a conclusion.

2.11 In terms of future actions there are two possible outcomes from a complaint. These are:

- action taken by the school to put matters right. This might involve one or more of the following:
  - a review of policy or procedure
  - changes to routines
  - action to remedy a health and safety concern
  - restorative work involving a pupil and a member of staff
  - risk assessment to determine the likelihood of similar problems recurring
  - an apology
  - action towards a member of staff (on the rare occasions that this is of a disciplinary nature, no further information can be shared as this is a matter of employment contract law for employees and a straightforward matter of privacy for volunteers).

- a decision that no action is necessary or justified.

2.12 The Governing Body will not normally award financial compensation unless required to do so by virtue of legislation.

Role of the Clerk to the Governors

2.13 The Chair of Governors will appoint the Clerk to the Governing Body to:

- act in a 'progress chasing' role to track the complaint and to ensure that timescales set out within the policy are being adhered to wherever possible;
- ensure that the complainant is kept up-to-date, including where timescales have not been met and the reasons why;
- receive any concerns that the complainant might have and advise the Governing Body about the operation of the process;
- inform the Governing Body of any shortcomings in the delivery of its complaints procedure, both during the process and subsequently:
- arrange for the outcome of the investigation to be communicated to all parties so they receive it at the same time. This will be in the form of an email or letter from the Chair of Governors, depending on the style of communication that has been used by the complainant during the process.

2.14 The letter from the Chair of Governors represents the conclusion of the Chair's consideration of the complaint. Neither the Chair nor any member of staff should respond to the complainant after this point. The Clerk should thereafter handle all correspondence. The complainant will be advised that the matter is closed except for the possibility of a review by a governors' panel (see Part 3).

Part 3 – Referring a formal complaint to a governors' panel

The procedure

3.1 Where the complainant considers that the Chair of Governors' written response does not resolve the complaint, the complainant may ask the Clerk to convene a Panel of Governors who have had no prior involvement with the complaint (or the issues which led to the complaint) to review the Chair's response. The complainant must complete, and submit to the Clerk, a Review Request Form (see below). S/he should do this within 10 school days of the date of issue of the letter giving the decision on the complaint. This form is structured in a way that helps ensure that the reasons for requesting a review can be readily understood, and that contact information is recorded and available to those who might need it.

3.2 If emailing, the complainant should take care to ensure that s/he has the official email address for the Clerk and that s/he uses this. It can be obtained from the school office. In the subject field of the email, the complainant should write, 'Complaint Review Request'. If delivering or posting a letter, the complainant must address it to the Clerk at the school address and write 'Complaint Review Request' on the envelope'. The Clerk should acknowledge the request for review within 3 school days.

3.3 If the complainant requires assistance in articulating the need for a review then support may be provided by those identified as able to offer help in part 2 of the guidance (pages 5/6 above). These include school staff, LA officers and other external sources of support. Again, it is not for those supporting the complainant to comment on the merits or otherwise of review, but rather to help the complainant articulate their position to the governors' panel through the Review Request Form.

3.4 The governors' panel will only consider requests for review outside the 10 day timeframe in exceptional circumstances. These might include:

- the reasons for a review not being known to the complainant within 10 school days;
- the complainant needing to delay making their request for review because they needed the time to collect evidence that could not have been gathered during the first 10 school days:
- the complainant not having been able to request a review within 10 calendar days because of being abroad or being incapacitated.

3.5 It is a matter for the governors' panel to determine whether a review will be carried out based on the information supplied in the Review Request Form. Normally, the governors will apply the following criteria in determining whether or not to carry out a review:

- the complainant's view that not all aspects of the complaint have been addressed;
- the complainant's view that not all available evidence has been considered;
- the complainant's view that not all relevant witnesses have been interviewed
- the complainant's view that the decision has not been adequately justified in the Chair's decision letter;

- the complainant's view that the decision has not been adequately explained.

3.6 The review process cannot be used to consider cases where the complaint was not dealt with in accordance with published time-scales. That would require a fresh complaint to be made.

3.7 The Governing Body has decided that any review should be conducted in writing only because

- face-to-face hearings can be emotive and stressful for complainants and staff;
- if there is a hearing, there would need to be an opportunity for cross-examination and, to be successful, this might require a level of chairing skills for which few governing bodies are trained;
- while being potentially stressful, there is nothing inherent in a face-to-face hearing that can add value to consideration of the complaint;
- there should be no new evidence in support of the complaint that cannot be aired in writing;
- the only points for consideration will be the complainant's concern about how the complaint had been handled and all such points can be written down and considered without the need for a hearing.

Composition of Review Panel

3.8 The Clerk will convene a Review Panel comprising 3 or 5 members who have had no prior involvement with the complaint or the causes of the compliant. Members of the Review Panel will elect a chair from among themselves and they will use a simple majority vote to do so.

3.9 An LA adviser may be invited to the meeting, at the discretion of the governors, to give procedural advice only.

Convening the Review Meeting

3.10 The Clerk will liaise with all the Review Panel members to propose, and to agree, a date, time and venue for the review. This is most likely to be at the school but the Clerk should ensure that the meeting will be in an appropriate environment i.e.

- there will be a sufficient number of tables and chairs and that these will be suitable for use by adults;
- where governors have agreed a face-to-face review the size of the room will be conducive to constructive discussion;
- the meeting will not be disturbed;
- the confidentiality of proceedings can be protected.

3.11 The Governing Body is mindful of the challenges that volunteer governors can encounter in finding time to prepare for a review and in finding a date and time when all members are available. The Governing Body has decided that it is more preferable to allow sufficient time for the process than it is to set a deadline that may be all too easy to miss. The Governing Body therefore has decided that a Review Panel should meet within, what the Governing Body considers to be, the reasonable time frame of 20 school days, starting from the day when the request for a review was received, or the next school day if that was not a school day. If there are exceptional reasons why there is slippage to the timescales laid down the clerk will explain the reasons for this to the complainant.

Further Written Representations to the Review Panel

3.12 Prior to the meeting of the Review Panel, the Clerk will seek any written representations from the complainant concerning the reasons why the matter should be reviewed. The complainant will have 10 school days to provide this information on the Review Request Form. The Clerk will supply this information to the Chair of Governors who will have 5 school days to submit any further comments to the Panel on the reasons given for review. The Panel should have 5 clear school days to consider all the information in advance of the meeting. The information to be sent by the clerk to the Review Panel should comprise the following:

- The completed complaints form;
- Response to the complaint from the Chair of Governors
- The completed Review Request Form
- Any additional written representations from the Chair of Governors or the complainant

The Review Panel meeting

3.13 The Review Panel meeting will normally be clerked by the Clerk to the Governing Body. Where this is not possible the Chair of Governors will ensure that an alternative suitable person is responsible for the clerking function.

3.14 At the start of the meeting the Panel will elect a chair who will be responsible for the conduct of the meeting and for liaising with the clerk subsequently to ensure that all parties receive timely notification of the outcome within 5 days of the date of the review meeting.

3.15 The first responsibility of the Panel is to consider whether they will allow a review of the complaint considering the criteria set out at 3.5 (above). If the Panel considers there is no merit in review they will agree on the reasons for that decision and the Clerk will record these. Given that the Governing Body is committed to the principle of natural justice, and the outworking of that principle in practice, it is anticipated that most requests for review will be accepted and, where there is doubt, the balance of judgement will weigh in favour of the complainant.

3.16 If the Panel agrees that the review should proceed it will consider objectively the complaint, the Chair's response, the reasons set out in the Review Request Form, and any further written representations from the Chair or complainant. It will then decide whether the response to the complainant has been fair and reasonable in the circumstances. The Review Panel must take care to ensure that it does not favour one side or the other for any reasons other than those arrived at through an objective assessment of all the evidence.

Conclusions and Recommendations

3.17 The Review Panel must come to a conclusion as to whether the request for a review was justified in identifying alleged shortcomings in the investigation of the complaint by the Chair of Governors. Because the review is not an appeal, the Review Panel cannot reverse the earlier decision of the Chair of Governors. But it can make any recommendations that it sees fit. Such recommendations might include:

- an apology
- a re-consideration of an earlier decision
- a review of a policy or a procedure, or
- a decision that no action is necessary or justified.

Communicating the Outcome

3.18 The matter should remain confidential. The Clerk will communicate the outcome, and set out the reasons for it, in a letter to the complainant, the outline of which will have been formulated by the Review Panel in the meeting. The final version will be agreed and signed by the Chair of the Panel. It is essential that the review decision letter is sent to all the parties at the same time. This will be in the form of an email or letter, depending on the style of communication that has been used by the complainant during the process. Whilst the letter should avoid unnecessary detail, there should be sufficient information to demonstrate that the review was considered in full.

3.19 The issue of the review decision letter concludes the process and the school should not enter into any further correspondence with the complainant. Beyond the school complaints process, any person may complain to the Secretary of State for Education that the governing body of a maintained school has acted either unlawfully or unreasonably. They may do this by writing to the address shown below.

School Complaints Unit
Department for Education
2nd Floor Piccadilly Gate
Store Street
MANCHESTER
M1 2WD

The Department for Education is unlikely to re-investigate the substance of the complaint. Their Interest is likely to be restricted to whether due process has been followed correctly. More information is available at www.education.gov.uk.