

Rotherham Aspire

School Complaints Procedure for Handling School Complaints

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Children and Young People Services

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This document has been developed using information from the DCFS document – School Complaints Procedure, LEA/0180/2003 (2007) obtainable at www.governor.net.co.uk

Introduction

Since 1 September 2003 Governing Bodies (GBs) of all maintained schools and maintained nursery schools in England were required, under Section 29 of the Education Act 2002, to have in place a procedure to deal with complaints relating to the school and to any community facilities or services that the school provides. The law also requires the procedure to be publicised.

These procedures are not intended to cover those aspects of school life for which there are specific statutory requirements. In addition, allegations of child abuse, financial improprieties or other criminal activities will need to be dealt with through different procedures, as will complaints about contracted staff.

Formal Procedures

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.

Formal procedures (Appendix A) will need to be invoked when initial attempts to resolve an issue are unsuccessful and the person raising a concern remains dissatisfied and wishes to take the matter further.

The headteacher has responsibility for the operation and management of the school complaints procedure.

An effective Complaints Procedure will:

- encourage resolution of problems by informal means wherever possible;
- be easily accessible and publicised;
- be easy to understand;
- have clear time-limits for action
- ensure a full and fair investigation
- respect people's confidentiality where possible;
- keep the complainant informed of progress
- address all the points and provide an effective response
- provide information to the school's senior management team so that services can be improved.

(Appendix A shows our school complaints procedure)

The Education Act 2002 - relating to complaints

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 school;

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

Publishing the Procedure

There is a legal requirement, under Section 29 of the Education Act 2002, for the Complaints Procedures to be publicised. It is up to the Governing Body to decide how to fulfil this requirement but details of the Complaints Procedures could be included in:

- the school prospectus;
- the governors’ report to parents;
- the information given to new parents when their children join the school;
- the information given to the children themselves;
- the home-school agreement;
- home school bulletins or newsletters;
- documents supplied to community users including course information or letting agreements;
- a specific complaints leaflet which includes a form on which a complaint can be made; (Appendix B – Model Form, Appendix C, Model Leaflet)
- posters displayed in areas of the school that will be used by the public, such as reception or the main entrance;
- the school website.

Support for Complainants

As part of the general publicity about complaints procedures, it is important for parents to know where they can go for information, advice and advocacy, if they require it. Ideally, support should be offered from individuals and organisations who are clearly separate from those complained against, such as Parents' Advice Centres, Citizens Advice Centres, refugee support organisations and other local advice centres. However, advice often comes from Children and Young People Services officers (e.g. specially designated complaints officers). Children and Young People Services will always advise complainants to discuss their concerns with school.

Parents raising concerns or complaints should be invited to be accompanied by a friend, a relative or a representative at any stage of the procedure.

Support for a person being complained about

Staff who may be questioned as part of a complaints procedure investigation must feel that they are being treated in a fair way and be informed that they too will have an opportunity to state their case. They should be told about the procedure, given a copy of it, and be kept informed of progress. There is a crucial balance to be maintained between supporting the individual so that his/her rights and reputation are protected, and investigating a complaint thoroughly and impartially. They have the right to be accompanied by a union representative, friend or colleague at discussions about the complaint.

Support for School/Officers

Children and Young People Services can offer advice and support to schools when handling a complaint if required. Contact should be made with the Complaints Manager on 01709 823738 who will try to provide help.

Monitoring Complaints

The Governing Body should 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 Governing Body will not name individuals.

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

Recording Complaints

It would be useful for schools to record the progress of a complaint and the final outcome. A complaint may be made in person, by telephone, or in writing. At the end of a meeting or telephone call, it would be helpful if the

member of staff ensured that the complainant and the school have the same understanding of what was discussed and agreed. A brief note of meetings and telephone calls can be kept and a copy of any written response added to the record.

Investigating Complaints

It is suggested that at each stage, the person investigating the complaint, makes sure that they:

- Understand the nature of the complaint
- Identify what outcome the complainant is seeking by making their complaint
- Clearly explain the complaints process
- Interview those relevant to the investigation
- Keep a record of interviews/investigations
- Respond as quickly as possible to the complainant

Resolving Complaints

At each stage in the procedure schools 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. 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 that have been taken to ensure that it will not happen again;
- an undertaking to review school policies in light of the complaint.

An admission that the school could have handled the situation better is not the same as an admission of negligence.

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.

Complaints about Bullying

The Children's Plan (December 2007) Building Brighter Futures, promises to strengthen the complaints procedure for parents whose children experience bullying.

Children and Young People Service's Children's Plan and Well Being Strategy also has a commitment to reducing bullying and harassment of children and young people.

Bullying complaints should be handled sensitively and allegations taken seriously. The complaints should also be well recorded.

Vexatious Complainants

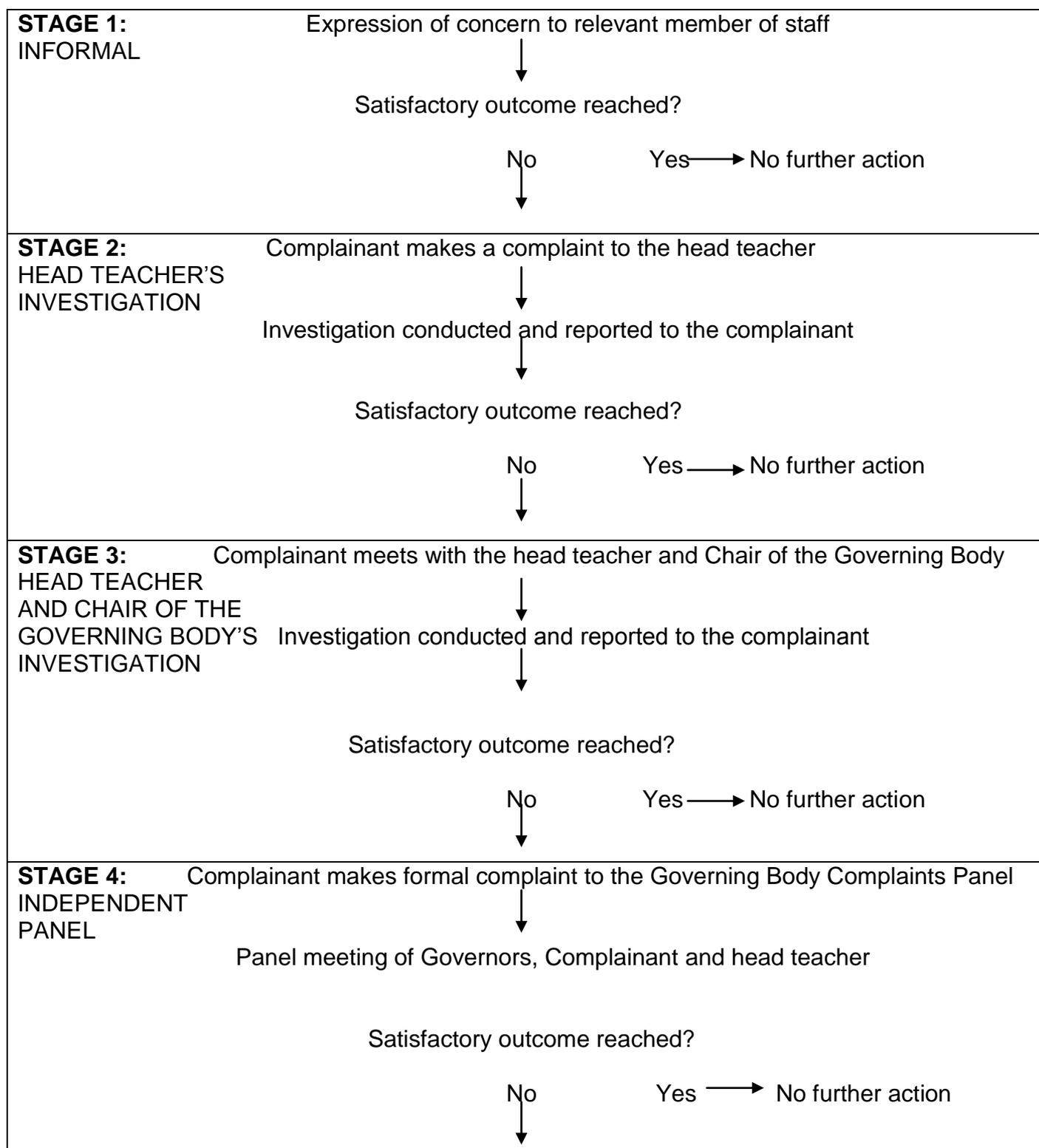
If properly followed, a good complaints procedure will limit the number of complaints that escalate. However, there will be occasions when, despite all stages of the procedures having been followed, the complainant remains dissatisfied. If the complainant tries to reopen the same issue, the chair of the Governing Body is able to inform them in writing that the procedure has been exhausted and that the matter is now closed. A complainant should however be advised of their right to contact Secretary of State for Education and Skills or the Local Government Ombudsman should it get to that stage.

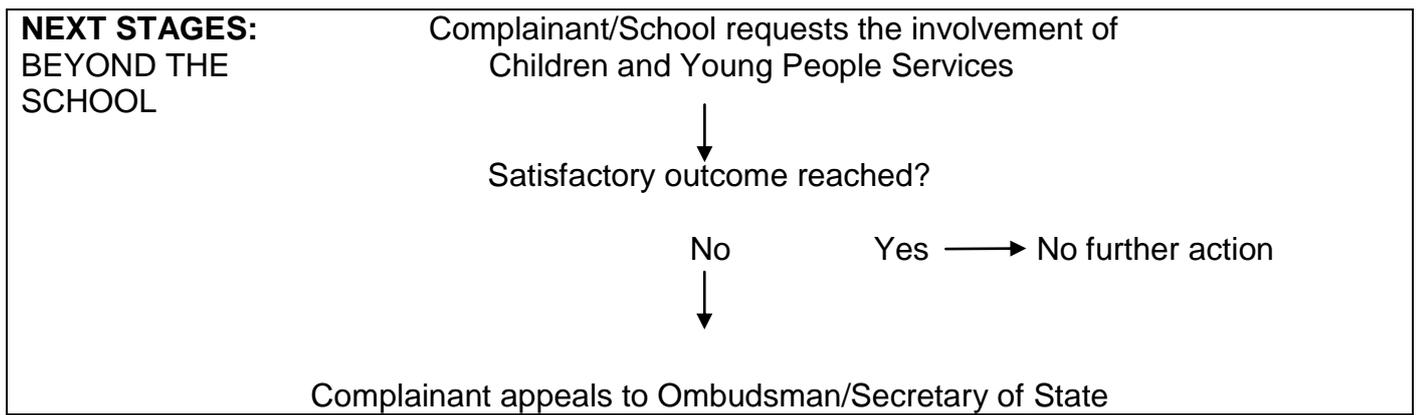
Confidentiality

It is very important to treat conversations and correspondence with discretion. It is vital that parents feel confident that their complaint will not mean that their child will be penalised. However, from the outset, all parties to the complaint should be made aware that some information may have to be shared with others involved in the operation of the complaints procedure.

It is usually proper to disregard anonymous complaints unless somebody is prepared to substantiate them, but the danger in this is that they may relate to something quite serious. If the forewarned eventuality occurs, to the detriment of the school, the complainant may come forward subsequently and say that s/he alerted the school even though the complaint was unsigned. It should be at the head teacher or governing body's discretion to decide whether the gravity of an anonymous complaint warrants an investigation.

Complaint Stages (detailed in Complaints Procedure)





Roles and Responsibilities of Independent Panel Members at Stage 4

The Role of the Clerk

It is strongly recommended that any panel or group of governors considering complaints 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.

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

The nominated governor role:

- check that the correct procedure has been followed;
- if a hearing is appropriate, notify the clerk to arrange the panel;

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;
- 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;
- 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.

Appendix A

Rotherham Aspire Complaints Procedure

Stage 1: 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, if staff are made aware of the procedures, they know what to do when they receive a complaint.

It would assist the procedure if the school 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 complaint can be referred to another staff member. Where the complaint concerns the head teacher, the complaint can be referred to the Chair of the Management Committee. The complainant should be advised to do this.

Similarly, if the member of staff directly involved feels too compromised to deal with a complaint, consideration should be given to referring the complainant to another 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.

When a member of the Management Committee has been approached as first point of contact, the next step would be to refer the complainant to the appropriate person and advise them about the procedure. It would be useful if members of the Management Committee did not act 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 2: Complaint heard by head teacher (Or designated officer)

If a complainant considers that they have not received a satisfactory response they can refer their complaint to the head teacher. (Or Chair of the Management Committee if the complaint is about the head teacher) At this stage it is useful to ask the complainant to complete a complaints form (Appendix B) or put their complaint in writing. In some cases the head teacher has already been involved in looking at the matter; in others it is his/her first involvement. In either case, it is helpful for the head teacher (or the person designated to investigate) to use guidelines to ensure consistency among cases, and to make sure that nothing happens at this stage which could make it difficult for later stages to proceed smoothly.

One of the reasons for having various "stages" in a complaints procedure is to reassure complainants that their grievance is being heard by more than one person.

The head teacher (or designate) acknowledges the complaint orally or in writing within 3 school days of receiving confirmation that the complaint is now to be dealt with at stage 2. The acknowledgement should give a brief explanation of the school's complaint procedure and a target date for

providing a response to the complaint. All effort should be made to respond to a complainant within 10 school days, if for any reason it is considered that this will not be possible the complainant should be advised.

Stage 3: Complaint heard by Chair of the Management Committee

The next stage of the complaints procedure should the complainant remain dissatisfied is to address the complaint to the Chair of the Management Committee (or designated member). They should acknowledge the complaint, orally or in writing within 3 school days and invite the complainant to meet with him/her and the head teacher to find a way forward.

Any relevant documentation, including information that the head teacher's has in relation to the complaint to date should be provided for the Chair of the Management Committee prior to the meeting.

The Chair of the Management Committee should keep written records of meetings, telephone conversations, and other documentation relating to the complaint.

Once all the relevant facts have been established, from the original investigation and this further meeting, the Chair of the Management Committee should adjourn the meeting and produce a written response to the complainant to discuss/resolve the matter directly.

A written response includes a full explanation of the decision and the reasons for it. Where appropriate, this should include 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 Management Committee within two weeks of receiving the outcome letter.

Stage 4: Complaint heard by Independent Panel

The complainant needs to write to the Chair of the Management Committee advising of their wish to escalate their complaint. The Chair or a nominated member will convene a Management Committee complaints panel. This should be within 20 school days of receiving the complaint. The complaint should be acknowledged in writing within 3 days. The letter should also explain that the complainant has the right to submit any further documents relevant to the complaint. These must be received in time for the documents to be sent to the three members of the panel.

The Management Committee' appeal hearing is the last school-based stage of the complaints process, and is not convened to merely rubber-stamp previous decisions. Therefore, individual complaints should not be considered by the full Management Committee as serious conflicts of interest can arise; for example, in exceptional circumstances a complaint may result in disciplinary action against a member of staff, and the Management Committee may be required to give an unprejudiced hearing to an appeal by the member of staff concerned. Similarly some members of the Management Committee might have knowledge of the problem which led to the complaint and would be unable to give unbiased consideration to the issue.

Many complaints are inevitably seen by parents as being “against” a particular member of staff and their actions. However, all complaints which reach this stage will have done so because the complainant has not been satisfied by the head teachers and/or the Chair of the Management Committee’s response at the earlier stages of the procedure, and it may be appropriate for the Management Committee to consider the complaint is against the school rather than against the member of staff whose actions led to the original complaint.

The Management Committee 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.

The procedure adopted by the panel for hearing appeals would normally be part of the school’s complaints procedure. The panel can be drawn from the nominated members and may consist of three or five people. The panel may choose their own chair.

The Remit of the Independent 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 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 member of the Management Committee sitting on a complaints panel needs to remember:

- It is important that the panel is independent and impartial and that it is seen to be so. No member of the Management Committee 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, members of the Management Committee need to try and ensure that it is a cross-section of the categories of governor and sensitive to the issues of race, gender and religious affiliation.
- The aim of the hearing, which needs to be held in private, will always be to resolve the complaint and achieve reconciliation between the school 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. If either party wishes to introduce

previously undisclosed evidence or witnesses, it is in the interests of natural justice to adjourn the meeting so that the other side has time to consider and respond to the new evidence.

- 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. 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 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.
- The members of the Management Committee sitting on the panel need to be aware of the complaints procedure.

Notification of the Panel's Decision

The chair of the panel needs to ensure that the complainant is notified of the panel's decision, in writing, with the panel's response; this is usually within 15 school days. The letter needs to explain if there are any further rights of appeal and, if so, to whom they need to be addressed. The school should ensure that a copy of all correspondence and notes are kept. These records should be kept separately from the pupil's personal records.

The Next Stages:

Children and Young People Services Complaints Manager is able to attend meetings between complainants and schools as an independent mediator. **It must be understood and made clear however to the complainant that any decision reached by the Management Committee is final and binding; further referral through Children and Young People Services or the Council's general complaints procedure is unable to be actioned.**

The Local Government Ombudsman investigates complaints about the alleged maladministration of Local Authority Services. As such, a complaint about the way in which Children and Young People Services operate its general school complaints procedure could, theoretically at least, be referred to the Ombudsman. The Ombudsman does, however, not look at internal school management matters and expects all complaints to have exhausted local arrangements for the consideration and disposal of complaints prior to investigating any matter within its jurisdiction.

The **Secretary of State for Education and Skills** can receive complaints under Section 496 of the Education Act, 1996, on the grounds that a Governing Body or Children and Young People Services is acting or is proposing to act unreasonably, or under Section 497 of the same Act, on the grounds that either the Governing Body or Children and Young People Services has failed to discharge its duties under the said Act. The Secretary of State may contact the Governing Body or Children and Young People Services for more information in order to consider the complaint further. These powers relate to County Schools and Voluntary Schools and Grant-Maintained Schools and City Technology Colleges.

CONTACTS

The Secretary of State for Education and Skills
Sanctuary Buildings
Great Smith Street
London SW1P 3BT

Telephone number: 0870 0002288

Local Government Ombudsman
The Commission for Local Administration in England
Beverley House
17 Shipton Road York YO30 5FZ

Telephone number: 01904 663200

Links

Children and Young People Services, Children's Plan and Wellbeing Strategy
2007 - 2010

<http://www.rotherham.gov.uk/NR/rdonlyres/0FB5CD19-4E86-4FB3-A8D0-9FEC15718040/0/CYPPlan0710.pdf>

The Children's Plan, Building Brighter Futures (2007)

http://www.dcsf.gov.uk/publications/childrensplan/downloads/The_Childrens_Plan.pdf

Appendix B - Complaint form

**Please complete and return to who will
acknowledge receipt and explain what action will be taken.**

Your name:

Pupil's name:

Your relationship to the pupil:

Address:

Postcode:

Day time telephone number:

Evening telephone number:

Please give details of your complaint.

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

Appendix C – School Complaints Procedure – A guide for parents, carers and members of the public

Most members of the community have a positive relationship with schools but sometimes things go wrong. It is important that you raise your concerns as soon as you can. By taking positive steps early on, we are more likely to be able to sort out your complaint.

All complaints are taken seriously and we have procedures in place for dealing with them. In most cases we hope to be able to resolve your complaints/concerns at an early stage.

Information below provides detail on all stages in the complaints procedure;

Stage 1

Complaint heard by staff member

It is in everyone's interest that complaints are resolved at the earliest possible stage.

The first point of contact for raising a concern or making a complaint would usually be to a class teacher, form tutor or head of year. If the complaint is about a head teacher you can refer your complaint directly to the Chair of the Governing Body.

Give consideration to exactly what the concern is and what you feel would put the situation right.

Once you have spoken about your concerns give the person handling the situation an opportunity to resolve it.

If you continue to be dissatisfied you can request that your complaint be considered at Stage 2

Stage 2

Complaint heard by head teacher (Or designated officer)

At this stage it would be helpful to put your complaint in writing or complete the schools complaints form. As well as complaint details and desired outcomes it is also helpful to include information about what you have already done about your complaint e.g. who you have spoken to about it and what happened as a result.

The head teacher (or designated officer) acknowledges the complaint orally or in writing within 3 school days.

All effort will be made to respond to a complainant within 10 school days, if for any reason it is considered that this will not be possible the head teacher should advise you.

Stage 3

Complaint heard by Chair of the Governing Body

The next stage of the complaints procedure should the complainant remain dissatisfied is to address the complaint to the Chair of the Governing Body (or designated Governor). They should acknowledge the complaint, orally or in writing within 3 school days and invite you to meet with him/her and the head teacher(where appropriate) to find a way forward.

A full written response to your complaint will be given.

Stage 4

Complaint heard by independent panel of Governors

You need to write to the Chair of Governors advising of your wish to escalate the complaint within two weeks of receiving your response if you are still dissatisfied with the outcome. The Chair, or a nominated governor, will convene a Governing Body complaints panel. This will usually be within 20 school days of receiving the complaint. You will be invited to attend the panel to discuss your complaint.

The chair of the panel needs to ensure that you are notified of the panel's decision, in writing, with the panel's response; this is usually within 15 school days.

If you remain dissatisfied:

If you feel that we have not complied with our complaints procedure you can contact the Council's Complaints Manager in Children and Young People Services who may be able to provide further advice.

You can refer your complaint to The Local Government Ombudsman or The Secretary of State for Education and Skills, however they will usually not consider a complaint unless the school has been given an opportunity to respond.

CONTACTS

Complaints Manager
Children and Young People Services
Riverside House
Main Street
Rotherham
S60 1AE

Telephone number: 01709 822642

E mail: cyps-complaints@rotherham.gov.uk

The Secretary of State for Education and Skills
Sanctuary Buildings
Great Smith Street
London SW1P 3BT

Telephone number: 0870 0002288

Local Government Ombudsman
The Commission for Local Administration in England
Beverley House
17 Shipton Road York YO30 5FZ Telephone number: 01904 663200