



# Budmouth College

## Complaints Procedure

(County Document)

Governors' Committee responsible:	Strategic Advisory Committee and Personnel
Link Senior Leader responsible:	Principal
Date reviewed:	2 <sup>nd</sup> November 2016
Next review date:	November 2020

*Working Together, Creating Opportunities*

The Policy has been reviewed using the equality impact assessment initial screening record and positive impact is explicitly intended and very likely.

All *policies* can be found on the College 'R' drive in the Policies folder.

## Equality Impact Assessment – initial screening record

1. What area of work is being considered?

Complaints Procedure

2. Upon whom will this impact?

Students, Parents/Carers, Staff and Governors

3. How would the work impact upon groups; are they included and considered?

<b>The Equality Strands</b>	Negative impact	Positive impact	No impact
Minority ethnic groups			X
Gender			X
Disability			X
Religion, Faith or belief			X
Sexual Orientation			X
Transgender			X
Age (N/A to pre-school and school children)			X
Rurality			X

4. Does data inform this work, research and/or consultation, and has it been broken down by the equality strands?

	NO	YES	Uncertain
Minority ethnic groups	X		
Gender	X		
Disability	X		
Religion, Faith or belief	X		
Sexual Orientation	X		
Transgender	X		
Age	X		
Rurality	X		

Does the initial screening highlight potential issues that may be illegal? NO

Further comments:-

Do you consider that a full Equality Impact Assessment is required? NO

Initial screening carried out by

Amanda Fortescue (Acting Principal)

Signed .....

Date 1<sup>st</sup> November 2016

Comment by Principal:

Date.....

## **Pupil and School Improvement**

### **Complaints Procedure**

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## General Complaints Procedure

This procedure replaces all previous versions. It has been formulated in conjunction with Dorset Teachers' Council and it is recommended by them.

**Purpose:** To establish a procedure for dealing with complaints relating to the school, as required by section 29(1)(a) of the Education Act 2002.

**Scope:** All matters relating to the actions of staff and application of school procedures where they affect the individual pupils concerned.

**Note:** This complaints procedure should only apply where the complaint is to do with the running of the school and the application of its policies and procedures. For example, complaints about:

- School uniform and jewellery
- Nature of and arrangements for school activities
- Application of medication to pupils
- Loss by pupils of personal items at school
- Application of policies covering pupil behaviour, sanction, bullying
- How the school consults with parents over pupil progress
- Arrangements for the supervision of pupils
- The suitability of school visits
- The use of mobile phones.

**Exceptions:** Complaints which are to do with admissions, curriculum, exclusions or special educational needs are subject to separate statutory complaints procedures. **Complaints in these areas cannot be dealt with under the school's complaints procedure.** Dorset LA telephone numbers for guidance relating to complaints in these areas are as follows:

▪ <b>Admissions:</b>	<b>01305 224200</b>
▪ <b>Curriculum:</b>	<b>01305 254022</b>
▪ <b>Exclusions:</b>	<b>01305 225134</b>
▪ <b>Special Educational Needs:</b>	<b>01305 224888</b>

### **Legal Framework:**

Section 409 of the 1996 Education Act allows an LA to make arrangements for the consideration or disposal of any complaint about the unreasonable action of the LA or of a governing body in relation to a statutory duty or power. This would include admissions, the provision of an appropriate curriculum, SEN, and exclusions appeals. Complaints of a more general nature fall outside the remit of this section.

Section 39 of the 1998 Act requires governing bodies, in accordance with regulations, to establish procedures for dealing with non-statutory complaints and to publicise those procedures. No such regulations were published.

The 2002 Education Act includes the eventual repeal of sec.39 of the 1998 Act, in accordance with provision made by the Secretary of State by Order and its replacement with a similarly worded section [29(1)] which extends complaints to

those about the provision by the governing body of community facilities etc...as described by section 27. In establishing and publicising these procedures the governing body shall have regard to guidance given by the Secretary of State. As stated in section 1, above, this has now been issued.

Section 496 of the 1996 Act allows a person to complain to the Secretary of State that a governing body [or LA] has acted, or is proposing to act, unreasonably with respect to any power conferred or duty imposed by that Act.

In relation to a non-statutory complaint, there is no statutory right of appeal by a complainant to an LA.

### **General Principles:**

1. The procedure is designed to ensure that, wherever possible, an informal resolution is attempted.
2. All stages of the complaints procedure should be investigatory rather than adversarial.
3. The procedure is intended to be extended to those persons who may have a legitimate complaint relating to the school and where that complaint may not be pursued through a statutory complaints procedure. It is anticipated that, primarily, these persons will be parents, as defined by Section 576 of the Education Act 1996, and those with parental responsibility as defined in the Children Act 1989.
4. The responsibility for dealing with general complaints lies solely with the school. The procedures of LAs and other agencies are expected to reflect existing legislation and ensure that any non-statutory complaint received by them will be redirected to the school immediately and that the complainant be informed accordingly.
5. The procedure will include provision that "An anonymous complaint will not be investigated under this procedure unless there are exceptional circumstances." These would include serious concerns such as child protection issues or bullying allegations, where the school would either involve appropriate external agencies or else conduct its own internal review to test whether there is any corroborative evidence which might trigger a formal investigation.
6. There will be a mechanism for terminating spurious complaints and those brought by vexatious complainants. Model letters are included in Appendix 3 to this procedure.
7. In advising the complainant of the outcome of their complaint it is important to be most circumspect in the details provided. To do otherwise may prejudice the ability of any employee complained about to continue in post. The release of certain information might be an obstacle to the fair application of disciplinary/ capability procedures or otherwise contravene the employee's employment rights. Sample responses are included in Appendix 3 to this procedure.

8. In the event that a complainant believes that the appropriate procedures have not been followed by the person dealing with their complaint, the complainant may make request that the Governing Body review the process that has been followed in order to verify whether the procedure has been adhered to. Any review request that is based solely on dissatisfaction with the outcome, rather than any identified failure to deal with a complaint according to procedure, will not be accepted.
9. Any governors involved in the process will receive prior training for their role.
10. If the complainant believes that the school is acting unreasonably, they may make a complaint to the Secretary of State under sections 496 and 497 of the 1996 Act.
11. It is important that any potential complainant is aware of the correct channel through which to pursue their complaint. This will reduce the likelihood of letters of complaint being sent with a scattergun approach to the LA, Secretary of State, Councillors, MP, local paper, individual governors, etc. Therefore, it is essential that reference is made to the existence of the Complaints Procedure in the school prospectus.
12. Some existing procedures include a “hearing” stage, where the subject of the complaint is questioned in the presence of the parent or by the parent. The absence of such a stage in this procedure is deliberate, as its inclusion creates an opportunity for confrontation, which runs counter to the resolution of any complaint. This is strictly in accord with the principle stated in DfES Guidance that the procedure should be non-adversarial.
13. It is helpful to place a limit on the time after which a complaint will **normally** not be considered (e.g. complaints must be raised within 3 months of the event being complained of, save in exceptional circumstances)
14. The school should included an indication of the time scale within which the school will process the complaint. For example, investigation of any complaint or review request shall begin within 5 school days of receipt of the same, save in exceptional circumstances. The investigation shall be completed as soon as reasonably practicable.
15. The matter of keeping a record of the complaint and its investigation could be addressed. (It would not be appropriate to keep this in the child’s record as the parent may request access and this could raise issues of confidentiality). The issue of taking notes/minutes may also be addressed.
16. The procedure should be designed to facilitate resolution of concerns with the minimum of conflict. Therefore, it is important that the procedure adopted carries the confidence of all interested parties so that it secures ‘closure’. This is more likely to be the case if the procedure adopted has been the subject of wide consultation.
17. The use of well designed ‘Complaints’ and ‘Review Request’ Forms may assist in the process by focusing the complainant on the importance of being specific about the nature of their complaint and the need to provide evidence or at least to be able to cite relevant incidents. Model letters and forms are provided in Appendix 3 of this document.

## **Part A: Complaining about the actions of a member of staff other than the Principal.**

### **1) Informal Stage**

The complainant is normally expected to arrange to communicate directly with the member of staff <sup>1</sup> concerned. This may be by letter, by telephone or in person by appointment. Many concerns can be resolved by simple clarification or the provision of information and it is anticipated that most complaints will be resolved by this informal stage. [In the case of serious concerns it may be appropriate to address them directly to the Principal <sup>2</sup>] An unreasonable refusal to attempt an informal resolution may result in the procedure being terminated forthwith. [Any dispute in relation to the “reasonableness” may be determined through the review process]

### **2) Formal Stage**

If the complaint is not resolved at the informal stage the complainant must put the complaint in writing and pass it to the Principal<sup>2</sup>, who will be responsible for its investigation.<sup>3,4</sup>

The complainant should include details which might assist the investigation, such as names of potential witnesses, dates and times of events, and copies of relevant documents. In addition the Principal<sup>2</sup> may meet with the complainant to clarify the complaint.<sup>5</sup>

The Principal<sup>2</sup> will collect such other evidence as he/she deems necessary. Where this involves an interview with a member of staff, who is the subject of the complaint, that member of staff may be accompanied by a friend or representative if he/she wishes.

The investigation will begin as soon as possible and when it has been concluded, the complainant, and the member of staff concerned, will be informed in writing of the outcome. This may be to the effect that:

- There is insufficient evidence to reach a conclusion, so the complaint cannot be upheld
- The concern is not substantiated by the evidence
- The concern was substantiated in part or in full. Some details may then be given of action the school may be taking to review procedures etc... but details of the investigation or of any disciplinary procedures will not be released
- The matter has been fully investigated and that appropriate procedures are being followed, which are strictly confidential. [e.g. where staff disciplinary procedures are being followed]

The complainant will be told that consideration of their complaint by the Principal is now concluded.

If the complainant is not satisfied with the manner in which the process has been followed, the complainant may request that the Governing Body review the process followed by the Principal<sup>2</sup> in handling the complaint. Any such request must be made in writing within two weeks of receiving notice of the outcome from the Principal, and include a statement specifying any perceived failures to follow the procedure. The procedure described in Part C will be followed.

If the complainant considers that the decision of the Principal is perverse, or that the Principal has acted unreasonably in considering the complaint, then the complainant

may bring a complaint against the Principal under part B of this procedure. This will provide an opportunity for the evidence to support such a complaint to be investigated.

## **Part B: Complaining about the actions of the Principal**

### **1) Informal stage**

The complainant is usually expected to arrange to speak directly with the Principal. [In the case of serious concerns it may be appropriate to raise them directly with the Chair of the Governing Body<sup>6</sup>] Many concerns can be resolved by simple clarification or the provision of information. If the matter is not resolved, and if both parties agree, then a third party may be invited to act as a mediator at a further meeting. A refusal, unreasonably, to attempt an informal resolution may result in the procedure being terminated forthwith.

### **2) Formal Stage**

If the complaint is not resolved at the informal stage the complainant must put the complaint in writing and pass it to the Chair of the Governing Body<sup>6</sup> who will determine which of the agreed procedures to invoke<sup>3,4</sup>. If it is determined that the complaint is "General", the Chair<sup>6</sup> will arrange for its investigation.

The complainant should include details which might assist the investigation, such as names of potential witnesses, dates and times of events, copies of relevant documents etc. In addition the complainant will be invited to meet with the Chair<sup>6</sup> to present oral evidence or to clarify the complaint.<sup>5</sup>

The Chair<sup>6</sup> will collect such other evidence as is deemed necessary. This may include the interviewing of witnesses and others who may provide relevant information.

The Principal will be provided with a copy of the complaint and any additional evidence presented by the complainant or collected by the Chair<sup>6</sup>. Once there has been an opportunity for the Principal to consider this, he/she will be invited to meet separately with the Chair<sup>6</sup>, in order to present written and oral evidence in response. The Principal may be accompanied at this meeting by a friend or representative.

When the investigation has been concluded, the complainant and the Principal will be informed in writing of the outcome. The complainant will not be informed of any disciplinary/capability action.

The complainant will be told that consideration of their complaint by the Chair<sup>6</sup> is now concluded.

If the complainant is not satisfied with the manner in which the process has been followed, or considers that the decision of the Chair<sup>6</sup> is perverse, or that the Chair<sup>6</sup> has acted unreasonably in considering the complaint, then the complainant may request that the Governing Body review the handling of the complaint by the Chair<sup>6</sup>. Any such request must be made in writing within two weeks of receiving notice of the outcome from the Chair<sup>6</sup>, and include a statement specifying any perceived failures.

### **Part C: Review Process**

Any review of the process followed by the Principal<sup>2</sup> (Part A) or the Chair<sup>6</sup> (Part B) shall be conducted by a panel of three members of the Governing Body.

The review will normally be conducted through a consideration of written submissions, but reasonable requests to make oral representations should be considered sympathetically.

The panel will first receive written evidence from the complainant.

The panel will then invite the Principal<sup>2</sup> or the Chair<sup>6</sup>, as appropriate, to make a response to the complaint.

The panel may also have access to the records kept of the process followed.

The complainant, and the Principal<sup>2</sup> or the Chair<sup>6</sup>, as appropriate, will be informed in writing of the outcome. This may be to the effect that:

- There is insufficient evidence to reach a conclusion, so the complaint cannot be upheld
- The concern is not substantiated by the evidence
- The concern was substantiated in part or in full but that the procedural failure did not affect the outcome significantly so the matter is now closed.
- The concern was substantiated in part or in full and the Governing Body will take steps to prevent a recurrence or to rectify the situation [where this is practicable].

## Appendix 1

### What if I Have Concerns About Aspects of my Child's Education?

#### A GUIDANCE LEAFLET FOR PARENTS

Dorset's schools have excellent relationships with their parents. From time to time however you may have a concern about aspects of your child's education. Schools will be happy to look into these concerns. Most concerns are resolved by informal discussion with school staff. This leaflet answers some of the most commonly asked questions.

**Q. What if my complaint is to do with admissions, curriculum, exclusions or special educational needs?**

**A.** There is a separate statutory complaints procedure for dealing with your complaint. It cannot be dealt with under the school's complaints procedure. Dorset LA telephone numbers for guidance if you wish to make a complaint relating to these areas are as follows:

- **Admissions:** 01305 224200
- **Curriculum:** 01305 254022
- **Exclusions:** 01305 225134
- **Special Educational Needs:** 01305 224888

**Q. What do I do if I have a concern about my child's education?**

**A.** You should discuss your concern with the school.

**Q. What if my child is no longer on the school roll?**

**A.** The school will set aside your complaint and take no further action under this policy. The Principal or Chair of Governors will write to you closing the matter on behalf of the school.

**Q. What if I take my child off the school roll during the time my complaint is being considered?**

**A.** The school will set aside your complaint and take no further action under this policy. The Principal or Chair of Governors will write to you closing the matter on behalf of the school.

**Q. Who should I contact at the school?**

**A.** It would be sensible to the Principal in the first instance. This should be by letter, telephone or in person (by prior appointment). He or she will know from clear, written internal procedures how to deal with the matter.

**Q. What if my concern is to do with an individual employee of the school?**

**A.** If your concern is to do with the conduct or competence of an individual employee it will be looked into by the school. If necessary it will be dealt with under the school's disciplinary procedures. It cannot be dealt with under the school's complaints procedure.

**Q. Should I contact a school governor?**

A. The governor should advise you to raise your concern with the Principal. In the interests of fairness governors can only be involved if the matter becomes a formal complaint.

**Q. Should I contact the Local Authority (LA)?**

A. The LA will advise you to raise your concern with the Principal.

**Q. What if my concern remains unresolved?**

A. What happens next depends on the nature of your concern. Provided your child is still on the school roll there are formal procedures dependent on the nature of the concern.

**Q. What if my complaint is about the way the school is run, its policies or procedures, and/or their effect on my child?**

A. You should put your complaint in writing, using the appropriate complaints form, which can be obtained from the school office.

**We hope you find this guidance leaflet helpful. It has been produced by Dorset LA's Children's Services Directorate.**

## Model Complaint Form

Please complete this form and return it to the Clerk to Governing Body, who will acknowledge its receipt and inform you of the next stage in the procedure.

Your name: .....

Relationship with school [ e.g. parent of a student on the school's roll ]:  
.....

Student's name [ if relevant to your complaint ]:  
.....

Your Address:

Daytime telephone number: .....

Evening telephone number: .....

Email .....

Please give concise details of your complaint, [including dates, names of witnesses etc...], to allow the matter to be fully investigated:

You may continue on separate paper, or attach additional paperwork, if you wish.

Number of additional pages attached =

What action, if any, have you already taken to try to resolve your complaint? [i.e. who have you spoken with or written to and what was the outcome?]

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

Signature:

Date:

School use:  
Date Form received:  
Received by:  
Date acknowledgement sent:  
Acknowledgement sent by:

Complaint referred to:			
Date:			