

How to Guide

Complaints to Schools

Coram Children's Legal Centre is a unique, independent national charity concerned with law and policy affecting children and young people.

When a problem arises with a school or Local Authority, parents and carers can address this both informally and formally to try and resolve the situation.

How do you know if you have a complaint?

A complaint is a step that a parent can take where they consider something the school has done as unsatisfactory or unacceptable. The action or failure to act could have caused the parent to believe the school acted unreasonably, unfairly or unlawfully.

The acts by the school can be wide ranging but generally include:

- Bullying by another pupil or a member of staff
- The mishandling of behavioural matters e.g. disciplinary action that is not proportionate to the child's behaviour or the outcome of the behaviour
- Failure to conduct the relevant investigations or respond where concerns are raised about the child's wellbeing
- Failure to provide appropriate support, whether obligatory or requested e.g. where a child with Special Educational Needs is required to have a level of support that the school refuse to provide or a child with particular medical needs which the school disregards
- Failure to respond to concerns raised with regards to the child whether educational or welfare concerns
- Inappropriate behaviour by a member of staff towards a child. This can include the misuse of force against a child
- Lack of safeguarding measures to reduce risk of harm to children
- Failure to comply with their own policies
- Failure to publish relevant policies to deal with key issues
- Failure to follow statutory guidance— e.g. failure to comply with the procedures outlined in the Department for Education guidance on Exclusions for Maintained schools, Academies and Pupil Referral Units
- Discrimination
- Any other concerns about the school itself

This information is correct at the time of writing [June 2015]. The law in this area is subject to change. Coram Children's Legal Centre cannot be held responsible if changes to the law outdate this publication.

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In the majority of cases a problem can be resolved by contacting the appropriate member of staff. This can include the subject teacher, Head of Department, form tutor, Head of Year or the member of staff directly involved in the issue. Where you are unable to resolve the problem informally, the following steps can be taken to raise the matter further.

How to initiate the complaints process

Step 1

Establish what type of school your child attends – See factsheet on Types of Schools

The different types of schools include:

- Academy
- Maintained school
- Community school
- Foundation School
- Voluntary Aided School
- Voluntary controlled school
- Independent school

It is imperative to establish what type of school the child attends as it will determine who the school is accountable to and therefore the relevant authority if the complaint is to be escalated externally.

You can check this online at www.education.gov.uk/edubase or with the school itself.

Step 2

Request a Copy of the School's Complaints Policy and other relevant policies

There is a legal requirement on some schools to have a complaints policy.

Maintained schools must have a written complaints policy under s.29 Education Act 2002.

Independent Schools must have a complaints procedure under paragraph 7 of the Education (Independent School Standards) (England) Regulations 2010.

The complaints policy in particular should set out how the school deals with complaints. When you obtain the policy you should make a note of:

- The different stages of the complaints procedure
- The person to whom the initial complaint is to be made to
- The timescales in which a complaint should be made and dealt with
- How to raise a further complaint where you are dissatisfied with the way the school handles your complaint

Example 1

If your child has been experiencing bullying and this has been brought to the school's attention several times, in raising your formal complaint, you may wish to request the schools' Anti Bullying policy and their Behaviour and Discipline policy.

The Anti Bullying policy should clearly outline what would be considered bullying and the steps the school take to stop and tackle bullying. Furthermore, the Behaviour and Discipline policy should outline the sanctions the school implement where a pupil breaches the school rules which would include bullying another pupil.

Example 2

You have been made aware of pupils including your child being in a science lab and handling equipment and chemicals without supervision.

In raising a formal complaint, you may wish to request the school's Health and Safeguarding policy. You would highlight to the school the fact that the child's safety was compromised by the school's inability to put certain measures in place and therefore comply with the relevant policy.

Policies can usually be downloaded from the school's website. However, if they are not available you can request them directly from the school and they should be provided to you.

The Department for Education September 2014 guidance on '*Statutory Policies for Schools*' specifies the relevant policies schools should have by law, dependent on the type of school.

Step 3**Request for the disclosure of your child's educational records.**

To request a copy of the records you will need to write a letter to the school. Where the school is a Local Authority maintained school, your letter can state that you wish to obtain a copy of the records under the Education (Pupil Information) (England) Regulations 2005 and the Data Protection Act 1998. These records should be made available within 15 school days. The school can charge a small fee (maximum of £50) for photocopying but not for viewing these records.

For Academies, you may wish to check their funding agreement for information on disclosure; they generally tend to follow the same regulations as maintained schools. If your child attends an Independent School, the records should be disclosed to you under section 7 of the data Protection Act 1998 within 40 days.

The purpose of obtaining your child's school records is to establish if there are any key points that you can make reference to in your complaint.

Example 3

If your complaint is regarding the school's failure to address a bullying issue you have continuously raised, by obtaining the school records you would be able to establish whether any previous correspondence to the school regarding bullying incidents you raised were recorded, what action the school took and whether the school followed its own policies.

Step 4**Write your complaint letter**

Procedures for complaining to a school may vary from school to school, in general a complaint should be made in the form of a letter making it clear that a formal complaint is being made.

You can enclose any relevant documents with the letter to support your complaint.

The complaint's policy should outline to whom the letter should be addressed. Normally, the first stage of a complaint is dealt with by the Head teacher; therefore the letter can be addressed to the Head teacher. Please see below a sample letter.

SAMPLE LETTER

The school's address

Dear Sir/Madam (include the name of the Head Teacher if possible)

Re: Formal Complaint

I am writing to make a formal complaint with regards to...

- We would suggest detailing the incident/s that have taken place in chronological order, the most recent one first. (This will assist the school with the subsequent investigation)
- Make reference to the relevant school policy and how you believe the school have breached it.
- Include a paragraph about how you have tried to remedy the situation for example meeting with class teachers/other teacher or any letters that have previously been written to the school with regards to the matter.
- Finish the letter outlining how you would like the situation resolved.
- You should also send a copy of the letter to the Board of Governors.

Yours Sincerely/Faithfully,

Sign your name

THE PROCESS**The School**

The first stage of an internal complaint to the school will generally begin with the head teacher. Schools normally encourage resolution by informal means; this would normally be the first stage of the complaints process.

The policy should also outline the timescales in which complaints are dealt with and when you are likely to receive a response.

Generally, the head teacher would appoint a senior member of staff to conduct an investigation and report their findings.

The school should then address the complaint either via letter or with a meeting but this should be set out within the complaints policy. The school should outline their conclusions and any actions that will be taken as a result of the complaint.

The Governing Body

Where you are unsatisfied with the outcome at this stage, a further complaint can be made to the school's Governing Body. You should be informed of the timescale in which you can escalate the complaint to them.

In your complaint to the Governing Body, you should outline your reasons for escalating the complaints and request that it reviews the actions taken by the school to deal with the complaint.

The complaints policy should outline how the Governing Body will deal with the complaint. This can include arranging a meeting to discuss the matter. The Governing Body should communicate the outcome within the specified timescale outlined in the complaints policy.

Escalating a complaint outside the school

Where a parent is dissatisfied with the way the school or the Governing Body have dealt with the matter, a further complaint can be raised externally. As mentioned above, the type of school will determine which external body a further complaint can be made to. If you are uncertain of what type of school it is, you can search for this online on www.education.gov.uk/edubase using the name of the school, or the school itself can inform you.

The table below briefly outlines how a complaint can be escalated externally depending on the type of school.

Type of School	External Authority
Local Authority Maintained Schools including: <ul style="list-style-type: none"> - Community schools - Foundation schools - Voluntary Controlled school 	Local Authority → Local Government Ombudsman → Secretary of State
Voluntary Aided Schools	Local Authority and Local Church Diocese → Local Government Ombudsman → Secretary of State
Academies	Education Funding Agency → Secretary of State
Independent School	Independent Education and Boarding Team and Independent Schools Inspectorate

MAINTAINED SCHOOLS

If your child attends a Local Authority maintained school the next stage of your complaint will be raising a complaint further with the Local Authority.

Complaining to the Local Authority

Step 1

Obtain the Local Authority's Complaints Policy.

Some Local Authorities have a general complaints policy for complaints against all departments while others have one for individual departments. You can request the complaints policy by telephoning the relevant Authority.

It is advisable to make a note of any timescales involved. The policy will usually specify a timescale for responding to a complaint.

The Local Authority will not deal with all complaints relating to the school, they can however deal with matters such as the failure of a Governing Body to adequately respond to a complaint or failure of the school to follow statutory guidance. (Please see our factsheets on '*complaints to schools*' for more information of types of complaints the Local Authority deal with).

The Local Authority will normally operate a 3 stage complaints process which may include an informal resolution, a formal complaint then an external investigation.

Step 2

Write to the Local Authority.

Your complaint letter can be similar to the one sent to the school. This should essentially outline the basis for raising a further complaint.

Please note it is imperative to include any correspondence that you have had with the School/Governing Body.

In addition to previous concerns you raised with the School, you should also set out why you feel the School have not addressed your concerns. Please note the Local Authority will not get involved if they feel that the school could deal with your complaint within the School management structure.

Complaining to the Local Government Ombudsman (LGO)

The LGO only investigate complaints about the way a Local Authority has acted or failed to act, and this has directly affected the complaint. They do not have the power to investigate the internal workings of schools. The types of complaints the LGO can investigate includes:

- Failure to adhere to timescales in the statutory assessment process for SEN
- Failure to provide Part 3 provision in a statement of SEN
- Failure to provide suitable education to a child out of school due to illness, exclusion or otherwise.
- Maladministration which has caused injustice.

Your complaint must be in writing and within 12 months of the complaint first arising.

The LGO produces a form which can be used to submit a complaint. This can be obtained by telephoning the LGO advice line on 0300 061 061, or can be downloaded from their website at www.lgo.org.uk. Alternatively, a complaint can be made via letter.

Once the complaint has been received by the LGO, it will be allocated to an investigator who will:

- Review the complaint
- Make written or telephone enquiries to the council
- Send the complainant the council's/school's response and await any comments

The Local Government Ombudsman will decide whether the Local Authority have acted inappropriately and make recommendations. Some remedies that can be issued can be found in our Factsheet on *Complaints to Schools*

ACADEMY SCHOOLS

After raising a complaint with the Academy and their Governing Body, if you are still dissatisfied with the Academy's response, you can escalate your complaint to the Education Funding Agency (EFA).

Complaining to the Education Funding Agency (EFA)

The EFA can investigate if there is a problem with the school's complaints procedure or if the school is not following the terms of its funding agreement. Therefore, it is advisable that you obtain a copy of their Funding Agreement to make reference to any breaches.

The complaint can be raised through the Department for Education by completing and submitting a '*School Complaints Form*' on their website www.gov.uk/complaint-about-school.

If the EFA finds that the Academy has breached the terms of the Funding Agreement, they will ask the Academy to take action to resolve the matter.

COMPLAINING TO THE SECRETARY OF STATE

The final stage of your complaint will be contacting the Secretary of State for Education. This step can be taken if all relevant complaints procedures and avenues have been exhausted.

The Secretary of State can take six months to respond to letters of complaint and very rarely finds it necessary to become involved.

The Secretary of State can make directions as they consider appropriate to ensure that the Governing Body or Local Authority exercises its duties, functions and powers as it should.

INDEPENDENT SCHOOLS

If your child attends an independent school you should follow their in-house complaints procedure. You should also look through your contract with the school to see if there are any breaches as a result of the school's actions. A Solicitor specialising in Contract Law should be able to assist you with this.

As a regulator, the Department for Education does provide standards and if you feel that your school is not meeting these standards you can make a complaint. The standards are:

- education
- pupil welfare and health and safety
- school premises
- staff suitability
- making information available to parents

The Department will consider any complaint that their standards are not being met and it can carry out an emergency inspection to make sure that pupils welfare, health and safety are safeguarded and that serious failings are dealt with.

Individual complaints should be addressed by the head teacher of the school and the chair of governors. However, if a parent considers that the school has not taken their concerns seriously or investigated them properly they should write to the Department for Education at:

Independent Education and Boarding Team
Mowden Hall
Staindrop Road
Darlington
County Durham
DL3 9BG
Tel: 01325 735 304
Tel: 020 7600 0100

Or alternatively you can contact the
Independent Schools Inspectorate
CAP House
9-12 Long Lane
London
EC1A 9HA

Ofsted

Ofsted can hear complaints about maintained schools and Academies once internal procedures have been exhausted. Ofsted will only look into systematic issues affecting the school as a whole and not cases of individual pupils. Complaints can be submitted to Ofsted online at www.ofsted.gov.uk

Legal Advice from Coram Children's Legal Centre

We offer advice on many areas of family, child and education law. This includes:

- Divorce and separation; family breakdown; mediation; parental responsibility; residence and shared residency; parent and child contact; kinship care; adoption; children's welfare; domestic violence.
- Children at risk of going into care, in care and/or leaving care, child protection procedures; looked-after children; contact with looked-after children; local authority support services to children in need; those at risk of homelessness and statutory complaints.
- School issues, including advice on all aspects of state-funded education for children of statutory school age e.g. admissions and appeals; attendance; bullying; complaints; discrimination; exclusions; transport.
- Similar school issues for children with disabilities / special needs, plus legal issues relating to special educational provision; transport; learning difficulties and education tribunal processes.
- Child protection, smacking.
- Leaving children home alone.

Child Law Advice Service
0300 330 5480