

# ***Complaints Policy***

***This policy applies to all Heart of Mercia Trust academies and the central team.***

<b><i>Trust Central Team</i></b>	<b><i>Hereford Sixth Form College</i></b>	<b><i>The Chantry school</i></b>
	<b><i>King Edward VI College, Stourbridge</i></b>	<b><i>John Kyrle High School and Sixth Form Centre</i></b>
	<b><i>Worcester Sixth Form College</i></b>	

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**Review History**

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1		New draft created	n/a
2		Updated version created for approval by Trust Board.	n/a

## 1 Introduction

- 1.1** The Trust and its schools and colleges are committed to high quality provision and support, and we operate in a climate of fairness, equality, and mutual respect.

We believe that we can learn from the experience and views of students, parents and other stakeholders and want to listen to and address any concerns that may arise.

- 1.2** At any stage of the complaints procedure, based on the details of the complaint, a decision may be made to deal with the complaint under a different and more relevant policy or procedure if appropriate.

- 1.3** Complaints should be logged promptly or at least within three calendar months of the alleged incident.

If a complaint is received after this time, unless there are exceptional circumstances, no further action will be taken.

- 1.4** It is in everyone's interest that concerns and complaints are resolved at the earliest possible stage. Many issues can be resolved informally, without the need to use the formal stages of the complaint's procedure.

The Trust and its academies will seek to resolve any concerns and complaints in a timely manner; however, it is regrettably inevitable that delays may occur when school/college holidays take place during the process.

We understand that there are occasions when the Trust will attempt to resolve the issue internally, through the stages outlined within this complaints policy.

The Trust takes concerns seriously and will make every effort to resolve the matter as quickly as possible.

- 1.5** Any person, including members of the public, may make a complaint about any aspect of the provision by one of its academies, central services or in relation to the Chief Executive Officer (CEO), Chief Financial Officer (CFO) or a Trustee.

Each academy of the Trust produces an annual report to their Local Governing Body (LGB) which summarises complaints received anonymously, category (students, parents, community etc.) and outcome (resolved or ongoing).

A summary is compiled by the Chief Executive and presented to the Trust Board annually.

Complaints by staff, grievances, and disciplinary actions in each academy of the Trust are reviewed by the Trust HR Director and reported to the Trust Board in the annual HR report.

## 2 Aims & Objectives

- 2.1** A concern or complaint can be made in person, in writing or by telephone to the relevant academy of the Trust.

They may also be made by a third party acting on behalf of a complainant, as long as they have appropriate consent to do so.

- 2.2** Complaints about the Chief Executive Officer (Chief Executive), Chief Financial Officer (CFO) or a Trustee, should be addressed to the Chair of Trustees, via the registered trust address (Folly Lane, Hereford, HR1 1LU). Please mark them as Private and Confidential.

- 2.3** A member of the public or a member of staff complaining about the facilities or services provided by a member academy, can appeal to the Trust if they believe there has been maladministration or procedural impropriety during their appeal to the academy LGB – see Point 6.8.

The Trust will only hear such appeals based upon maladministration<sup>1</sup> or procedural impropriety, not dissatisfaction with the decision made by an LGB in the appeal.

- 2.4** The Trust will not normally investigate anonymous complaints. However, the Chief Executive or Chair of Trustees (where appropriate) will determine whether the complaint warrants an investigation in conjunction with the Principal or Head of the academy as appropriate.

- 2.5** While the vast majority of complaints and concerns received by the Trust will be made in good faith, it must be recognised that there is the potential for unreasonably persistent, frivolous, or vexatious complaints.

In such cases the Chief Executive or Chair of Trustees, in conjunction with the academy Principal or Head, may decide that the complaint will not be investigated in the usual way. This decision will be communicated to the complainant in writing.

If the complainant is not satisfied with this decision, they can appeal.

- 2.6** The complainant must raise their complaint within three months of the incident or, where a series of associated incidents have occurred, within three months of the last of these incidents.

The Trust will consider complaints made outside of this timeframe if exceptional circumstances apply.

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<sup>1</sup> The Parliamentary Commissioner for Administration's latest guidance states: 'Generally, maladministration means poor administration or the wrong application of rules. Some examples include: avoidable delay; faulty procedures or failing to follow correct procedures; not telling a person about any rights of appeal they have; unfairness, bias or prejudice; giving advice which is misleading or inadequate; refusing to answer reasonable questions; courtesy, and failure to apologise properly for errors; mistakes in handling a person's claim; not offering an adequate remedy where one is due'. They also note that this list is not intended to be a comprehensive definition of maladministration.

The Trust will consider complaints made outside of term time to have been received on the first term-time day after any holiday period.

- 2.7** This procedure covers all complaints about any provision of facilities or services by the Heart of Mercia Trust or its academies, other than complaints that are dealt with under other statutory procedures and policies, including those listed below.

Exceptions	Who to contact
<ul style="list-style-type: none"> <li>• Academy Admissions</li> <li>• Statutory assessments of Special Educational Needs</li> <li>• School re-organisation proposals</li> </ul>	Concerns about admissions, statutory assessments of Special Educational Needs, or school re-organisation proposals should be raised with the Trust/local authority as appropriate.
<ul style="list-style-type: none"> <li>• Matters likely to require a Child Protection Investigation</li> </ul>	<p>Complaints about child protection matters are handled under the Safeguarding and Managing Allegations policies in accordance with relevant statutory guidance.</p> <p>If you have serious concerns, you may wish to contact the local authority designated officer (LADO) who has local responsibility for safeguarding or the Multi-Agency Safeguarding Hub (MASH).</p>
<ul style="list-style-type: none"> <li>• Exclusion or suspension</li> </ul>	<p>Please refer to the Exclusions and Suspensions policy of the relevant academy.</p> <p>Further information about raising concerns about exclusion can be found at:  <a href="https://www.gov.uk/school-behaviour-exclusions/exclusions">https://www.gov.uk/school-behaviour-exclusions/exclusions</a></p>
<ul style="list-style-type: none"> <li>• Whistleblowing</li> </ul>	<p>The Trust has a Whistleblowing policy for all our employees, including temporary staff and contractors.</p> <p>The Secretary of State for Education is the prescribed person for matters relating to education for whistleblowers in education who do not want to raise matters direct with their employer. Referrals can be made at: <a href="http://www.education.gov.uk/contactus">www.education.gov.uk/contactus</a>.</p> <p>Volunteer staff who have concerns about our Trust or one of its academies should complain through the Complaints procedure.</p>
<ul style="list-style-type: none"> <li>• Staff grievances</li> </ul>	Complaints from staff will be dealt with under the Trust Staff Grievance policy unless it is against the Chief Executive, CFO, or a Trustee.

	<p>Complaints about the Chief Executive, CFO or a Trustee will be dealt with under this Complaints policy.</p>
<ul style="list-style-type: none"> <li>• Staff conduct</li> </ul>	<p>The Trust has a staff code of conduct for all employees in its academies and the central team.</p> <p>Complaints about staff will be dealt with under the academy's complaints and/or the Trust Staff Disciplinary policy, unless it is in relation to the Chief Executive, CFO, or a Trustee.</p> <p>Complaints about the Chief Executive, CFO or a Trustee will be dealt with under this Complaints policy and/or the Trust Senior Post Holders Disciplinary policy.</p> <p>Complainants will not be informed of any disciplinary action taken against a staff member as a result of a complaint. However, the complainant will be notified that the matter is being addressed.</p>
<ul style="list-style-type: none"> <li>• Complaints about services provided by other providers who may use school premises or facilities</li> </ul>	<p>Providers should have their own complaints procedure to deal with complaints about service. Please contact them directly.</p>
<ul style="list-style-type: none"> <li>• National Curriculum - content.</li> </ul>	<p>Please contact the Department for Education (DfE) at: <a href="http://www.education.gov.uk/contactus">www.education.gov.uk/contactus</a></p>
<ul style="list-style-type: none"> <li>• Suspected Fraud or Financial Irregularity</li> </ul>	<p>If the concern or complaint relates to suspected fraud or financial irregularity the person who wishes to complain should contact the DfE. The DfE will consider and determine appropriate action when they receive allegations of suspected fraud and/or financial irregularity, including where a funded provider has:</p> <ul style="list-style-type: none"> <li>• Claimed DfE funding through deception.</li> <li>• Broken the funding rules.</li> <li>• Not delivered education/training funded by the DfE.</li> </ul> <p>Before raising a concern with DfE, you must have a reasonable belief that the disclosure is true.</p> <p>If you believe there is fraud or financial wrongdoing at the Trust or one of its academies email full details, including the name of the organisation, to <a href="mailto:fraud.reports@education.gov.uk">fraud.reports@education.gov.uk</a>.</p>

	<p>To raise a complaint about the Trust or an academy of the Trust with the DfE, please visit:  <a href="https://www.gov.uk/complain-to-dfe">https://www.gov.uk/complain-to-dfe</a></p> <p><b>After you've submitted your complaint to DfE</b>    You can send additional information and evidence by post to:    Ministerial and Public Communication Division    Department for Education    Piccadilly Gate    Store Street    Manchester    M1 2WD</p>
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- 2.8** If other bodies are investigating aspects of the complaint, for example the Police, the funding body, safeguarding teams or tribunals, this may impact on the Trust's ability to adhere to the timescales within this procedure or result in the procedure being suspended until those public bodies have completed their investigations. If this happens, the Trust will inform the complainant of a proposed new timescale.

If a complainant commences legal action in relation to their complaint, the Trust will consider whether to suspend the complaints procedure until those legal proceedings have concluded.

### 3 Procedures

- 3.1** The difference between a concern and a complaint can be defined as follows:
- A concern may be defined as: '*an expression of worry or doubt over an issue considered to be important for which reassurances are sought.*'
  - A complaint may be defined as: '*an expression of dissatisfaction made about actions taken or a lack of action.*'
- 3.2** The procedures outlined below in sections 4 to 8 apply to all academies of the Trust, the Trust's central team, Trustees and Local Governors.
- 3.3** Complaints can be sent electronically to the email address below:

<u>Academy</u>	<u>Email</u>
John Kyrle High School	<a href="mailto:h.richardson@jkhs.org.uk">h.richardson@jkhs.org.uk</a>
The Chantry School	<a href="mailto:lwebb@chantryschool.com">lwebb@chantryschool.com</a>
Hereford Sixth Form College	<a href="mailto:angela.wilson@hereford.ac.uk">angela.wilson@hereford.ac.uk</a>
King Edward VI College Stourbridge	<a href="mailto:melanie.cox@kedst.ac.uk">melanie.cox@kedst.ac.uk</a>
Worcester Sixth Form College	<a href="mailto:jo.payne@wsfc.ac.uk">jo.payne@wsfc.ac.uk</a>

## 4 Stage One – ‘Concerns’: Informal Resolution

- 4.1 A concern may be defined as ‘an expression of worry or doubt over an issue considered to be important for which reassurances are sought’.
- 4.2 The Trust will treat promptly, fairly, and seriously any concerns from students, parents, carers or other individuals or organisations involved with the Trust or its schools or colleges and endeavour to reach a speedy and satisfactory solution.
- 4.3 Where possible, concerns should be raised with the member of staff most directly involved and this may be done as an informal query, rather than a complaint. However, the complainant may also direct their concerns to the relevant line manager or Principal/ Head or Chief Executive as appropriate.

If a concern is raised directly with the Principal, Head or Chief Executive, it is likely they will forward the concern to the most appropriate member of staff in the academy or central team for it to be addressed.

If the complainant is not sure who to contact, they should contact the school or college reception who will be able to help.

- 4.4 Discussing or reporting a concern quickly will help the complainant and the Trust to find a quick and effective resolution. If, after attempting to resolve the issue within Stage One, a complainant remains dissatisfied with the outcome, they will be provided with information about the Trust’s formal complaints procedure and will proceed to Stage Two.

## 5 Stage Two – ‘Complaints’: Formal Resolution

- 5.1 A complaint may be defined as ‘an expression or statement of dissatisfaction about actions taken or a lack of action’.

A complaint can be made in person, in writing or by telephone to the relevant academy of the Trust, or the Trust and should be made within three months of the alleged incident having occurred.

Where a complainant is dissatisfied with the outcome of Stage One (Concerns – Informal Resolution) of this procedure, the formal complaint should be made in writing to the Principal or Head of the relevant academy, or if it pertains to the work of the Trust central team, the Chief Executive, or the Chair of the Trust Board.

- 5.2 All formal complaints are dealt with by a single point of contact. This is determined by the Principal/Head/Chief Executive as appropriate.
- 5.3 For complaints about a Principal or Head, the complaint will be directed to the Chief Executive.
- 5.4 If the complaint concerns the Chief Executive, Governor or a Trustee, the complaint should be investigated by the Chair of the Trust Board.

If a formal complaint is received about the Chair, the complaint will be referred to the Vice Chair for investigation. Where the Chair of the Trust Board has investigated the complaint, they will write the letter of outcome to the complainant and provide a copy to the Chief Executive.

Note: Where the Chair/Vice-Chair of the Trust Board has investigated the complaint, they will write the letter of outcome to the complainant and provide a copy to the Chief Executive (except where the complaint is about them).

- 5.5** If a complaint is directly about the Trust, then the complaint should be sent to the Chief Executive to be investigated.
- 5.6** If the complaint concerns a decision made in an appeal to the LGB of a Trust academy, the complainant should state in writing their grounds for appeal to the Trust within ten working days of receiving the decision of the appeal to the LGB.

Trust Appeal hearings will only be granted based upon maladministration or procedural impropriety, not dissatisfaction with the decision made by an LGB in the appeal.

- 5.7** Complainants should:
  - Outline in reasonable detail the nature of the complaint and any unresolved issues.
  - Clarify, where possible, what actions they believe should be taken to resolve the complaint.

The Principal/Head/Chief Executive/Chair of the Trust Board will write to the complainant to acknowledge receipt of the complaint within five working days and will confirm that the process by which the complaint will be investigated and will confirm the date for providing a response to the complainant.

The Principal/Head/Chief Executive/Chair of Trustees will review the complaint and determine the most appropriate member of staff to handle the complaint or conduct further investigations (the investigating officer), where they deem this is required.

The Trust will consider complaints made outside of term time to have been received on the first term date after the holiday period.

- 5.8** The investigating officer, a Senior Manager within the Trust or Chair/Vice-Chair of the Board, as appropriate, will carry out whatever investigation is deemed necessary to understand the facts of the case and to achieve a successful outcome regarding the complaint. This may include, but is not confined to, interviewing relevant witnesses and taking statements of those involved, reviewing electronic or printed materials/policies etc.
- 5.9** The investigating officer will keep written records of all meetings undertaken as part of the investigation together with any other relevant documentation and evidence gathered.

- 5.10** A complainant may be accompanied by a friend or relative if requested to attend a meeting as part of the investigation. In this case, the complainant should make their own arrangements for such representation. The representative may ask questions.

The Trust will not normally allow legal representatives to accompany the complainant, although can be exceptionally granted at the discretion of the panel Chair.

- 5.11** The investigating officer should be made aware if the complainant has any additional requirements, for example a disability which should be considered prior to the meeting.

- 5.12** The investigating officer will review the evidence concerning the complaint and communicate their findings to the Principal/Head/Chief Executive within ten working days of the written complaint being received.

If this time limit cannot be met, the Chief Executive/Principal or Head/Chair of the Trustees will write to the complainant within this time period, explaining the reason for the delay and provide a revised date. It is regrettably inevitable that delays may occur when school/college holidays take place during the process.

- 5.13** A written response will be provided by the Principal/Head/Chief Executive/Chair of the Trustees include a full explanation of the decision relating to the complaint and the reasons. Where appropriate, this will include what action the academy or Trust will take to resolve the complaint.

- 5.14** The complainant will not be informed of any outcome or action that may or may not be taken against an individual following a complaint, due to confidentiality.

- 5.15** The complainant will be advised that if they are dissatisfied with the outcome, they may appeal the outcome of the complaint (see Stage Three).

## **6 Stage Three – Appeal**

- 6.1** If previous stage(s) fail to produce an acceptable solution the complainant may then appeal in writing within ten working days of receipt of the letter informing the complainant of the outcome of Stage Two. This should be addressed for the attention of the Clerk of the Local Governing Body of the academy or, for Trust Central Services, the Director of Governance as appropriate in the first instance.

- 6.2** A panel will be appointed to hear the appeal and will comprise three individuals not previously directly involved with the complaint, with one panel member who is independent of the academy/Trust Board and who has had no previous involvement in the case.

For academy level appeals, the appeal panel will be two members of the LGB and one independent member. The independent panel member will not be a member, director or employee of the academy but can be a senior member of staff or governor from a different academy of the Trust.

For appeals concerning Trust central services, the appeal panel will be two trustees and one independent member. The independent panel member will not be a director or employee of the Trust but may be either a member of a local governing body or a Trustee of another multi-academy trust.

**6.3** A complainant will be entitled to attend the appeal panel hearing and is able to be accompanied by an appropriate companion (friend or relative) if they wish. The panel should be notified of the chosen companion in good time in advance of the hearing. Legal representatives will not normally be permitted to attend although can be exceptionally granted at the discretion of the panel Chair.

**6.4** The complainant must submit any further written material they wish to include at this stage to the Clerk of the Local Governing Body or Director of Governance as appropriate at least ten working days before the meeting. Any written materials will be circulated to all parties at least five working days before the meeting date. The panel will also not review any new complaints at this stage or consider evidence unrelated to the initial complaint.

**6.5** The meeting will be held in private. Reasonable adjustments will be made for any complaints with special requirements.

The hearing will be conducted in accordance with the agenda found in Appendix 1.

**6.6** The outcome of the appeal will be communicated in writing to the complainant within five working days unless further investigation is required. The complainant will be informed of the expected timeframe.

**6.7** The panel can either uphold the complaint in whole or in part or dismiss the complaint in whole or in part. If the complaint is upheld in whole or in part, the panel will:

- Decide on the appropriate action to be taken to resolve the complaint.
- Where appropriate, recommend changes to system or procedures to prevent similar issues in the future.

The panel will ensure that those findings and recommendations are sent in writing to the complainant and, where relevant, the person complained about. Furthermore, they will be available for inspection on the appropriate premises.

The complainant will not be informed of any outcome or action that may or may not be taken against an individual following an appeal, due to confidentiality.

A record of all formal complaints and their outcome will be kept confidentially by the academy and/or the Trust.

**6.8** Where the complainant believes that an appeal conducted by an academy LGB involves maladministration or procedural impropriety, they can appeal to the Trust.

A Trust appeal hearing will normally be arranged within one calendar month of receipt of the appeal letter (subject to Trust Board members availability during school/college holidays).

The remit of the Trust appeal hearing will not be to have a re-hearing of the original complaint or consideration of any new evidence. However, as stated in 2.3, it can address points of alleged maladministration or procedural improbity at the previous LGB hearing.

In such instances the complainant should write to the Director of Governance asking for the complaint to be heard before a Complaint Panel of the Trust.

The Director of Governance, in conjunction with the Chief Executive and Chair of Trustees will arrange for the allegation of maladministration or procedural improbity to be investigated by a senior member of the Trust central team. They will review all relevant documentation pertaining to the allegation and produce a report for the Complaint Panel to consider.

The Director of Governance will acknowledge receipt of the complaint and outline the process and timescales for the panel hearing. Requests received outside of this timeframe will only be considered if exceptional circumstances apply.

The Director of Governance will write to the complainant to acknowledge receipt of the complaint and respond expediently to arrange the panel hearing. If this is not possible, the Director of Governance will provide an anticipated date and keep the complainant informed. The complainant will be given five working days' notice of the date of the meeting. The meeting will normally be arranged within one calendar month of receipt of the appeal letter.

If the complainant rejects the offer of three proposed dates, without good reason, the Director of Governance will decide when to hold the meeting. It will then proceed in the complainant's absence on the basis of written submissions from both parties.

The Complaint Panel will consist of three members, including two trustees and one independent member. None of the three members of the Complaint Panel will have been involved in the incidents or events which led to the complaint or have been involved in dealing with the complaint in the previous stages, or have any detailed prior knowledge of the complaint.

A complainant may bring someone along to the panel meeting to provide support. This can be a relative or friend. Legal representation will not usually be permitted at panel hearings although can be exceptionally granted at the discretion of the panel Chair.

Representatives from the media are not permitted to attend.

Prior to the panel hearing, the Director of Governance will:

- confirm and notify the complainant of the date, time, and venue of the meeting, ensuring that, if the complainant is invited, the dates are convenient to all parties and that the venue and proceedings are accessible.
- request copies of any further written material to be submitted to the panel.

Any written material will be circulated to all parties at least three working days before the date of the meeting. The panel will not normally accept, as evidence, recordings of conversations that were obtained covertly and without the informed consent of all parties being recorded.

The hearing will be conducted in accordance with Section 4 of the Complaints Panel Hearing procedure in Appendix 1.

The panel will also not review any new complaints at this stage or consider evidence unrelated to the initial complaint to be included. New complaints must be dealt with from Stage 2 of this procedure.

The meeting will be held in private. Electronic recordings of meetings or conversations are not normally permitted unless a complainant's own disability or special needs require it. Prior knowledge and consent of all parties attending must be sought before the recording of meetings or conversations can take place. Consent will be recorded in any minutes taken.

The committee will consider the complaint, and all the evidence presented. The committee can:

- uphold the complaint in whole or in part.
- dismiss the complaint in whole or in part!

If the complaint is upheld in whole or in part, the committee will:

- decide on the appropriate action to be taken to resolve the complaint!
- where appropriate, recommend changes to the Trust's systems or procedures to prevent similar issues in the future.

The Chair of the Complaint Panel will provide the complainant and the Trust with a full explanation of their decision and the reason(s) for it, in writing, within five working days.

The letter to the complainant will include details of how to contact the DfE if they are dissatisfied with the way their complaint has been handled by the Trust.

The response will detail any actions taken to investigate the complaint and provide a full explanation of the decision made and the reason(s) for it. Where appropriate, it will include details of actions the Trust will take to resolve the complaint.

The panel will ensure that those findings and recommendations are sent by electronic mail or otherwise given to the complainant and, where relevant, the person complained about. Furthermore, they will be available for inspection on the academy premises.

A written record will be kept confidentially by the Trust of all complaints, and of whether they are resolved at the preliminary stage or proceed to a panel hearing, along with what actions have been taken, regardless of the decision.

All correspondence statements and records relating to individual complaints will be kept confidential, except where the Secretary of State or a body conducting an inspection under Section 109 of the Education and Skills Act 2008 requests access to them.

- 6.9** Where a complainant believes that there has been maladministration or procedural impropriety in the conduct of a Trust appeal hearing, they should contact the Department for Education (See point 6.10 below).
- 6.10** If the complainant is not satisfied with the response to a complaint and they have exhausted the redress available under this policy, they may complain to the Department of Education (DfE).

The DfE will not normally reinvestigate the substance of complaints or overturn any decisions made by the Trust. They will consider whether the Trust/relevant school or college has adhered to education legislation and any statutory policies connected with the complaint and whether they have followed Part 7 of the Education (Independent School Standards) Regulations 2014 [Part 7 of the Education \(Independent School Standards\) Regulations 2014](#).

Details of the how to complain to the DfE can be found here:

[Complaints procedure - Education and Skills Funding Agency - GOV.UK \(www.gov.uk\)](#)

The complainant can refer their complaint to the DfE online at: [www.education.gov.uk/contactus](#), by telephone on 0370 000 2288

Or by writing to: Academy Complaints and Customer Insight Unit Education and Skills Funding Agency Cheylesmore House 5 Quinton Road Coventry CV1 2WT

- 6.11** Very occasionally and regrettably it may be necessary to close a complaint where the complainant is still dissatisfied.

## **7 Unreasonable, Vexatious or Malicious Complaints**

- 7.1** The Trust is committed to dealing with all complaints fairly and to providing a high-quality service to those who complain. However, we do not expect our staff to tolerate unacceptable behaviour and will take action to protect staff from such behaviour, including that which is abusive, offensive or threatening.
- 7.2** The Trust defines unreasonable complainants as 'those who, because of the frequency or nature of their contacts with an academy, would cause significant disruption to the safe and effective operation of the academy, harass or threaten any members of the academy or Trust, or engage in vexatious complaints by seeking to re-open matters that have already been subject to a concluded complaints procedure.'

Examples of unreasonable, frivolous, or vexatious complaints or complainants might include:

- Exorbitant expectations about the level of resources to be devoted to investigating a matter.
- Unrealistic expectations about the seriousness of the matter complained about
- Excessively frequent communication about the matter
- Excessively long lists of questions about the matter
- Repeated complaints about unrelated items

**7.3** Where a complainant acts in an unreasonable manner, the Trust may inform the complainant that the complaints procedure has been drawn to an end by reason of the conduct of the complainant.

**7.4** A complaint may be regarded as unreasonable when the person making the complaint:

- Refuses to articulate their complaint and provide the relevant information, despite assistance being offered.
- Refuses to co-operate with the complaints investigation whilst still wishing their complaint to be resolved.
- Refuses to accept that certain issues are not within the scope of this policy.
- Insists on the complaint being dealt with in a way that is incompatible with this policy or with good practice.
- Changes the basis of the complaint as the investigation proceeds.
- Introduces trivial or irrelevant information which the complainant expects to be taken into account, or raises large numbers of detailed but unimportant questions, and insists they are fully answered, often immediately and to their own timescales.
- Makes unjustified complaints about staff who are trying to deal with the complaint.
- Repeatedly makes the same complaint (despite previous investigations/responses concluding that the complaint has no grounds or has already been addressed).
- Seeks an unrealistic outcome.
- Refuses to accept the findings of an investigation, where the Complaints Policy has been exhausted.
- Makes excessive demands on the academy whilst the complaint is being dealt with, in terms of the amount of contact with staff regarding the complaint.
- Behaves inappropriately, such as maliciously, aggressively, threateningly, uses abusive language, falsifies information, or knows the complaint to be false.

**7.5** Where a complainant's behaviour is very serious, the concerns will be put in writing, the police may be informed, and, under Section 547 of the 1996 Education Act, the complainant may be banned from academy premises.

The safety of staff and pupils/students is of paramount importance to us and the public has no automatic right of entry.

**7.6** Complainants should limit the number of communications with the academy whilst a complaint is being processed, so as not to delay an outcome being reached.

## 8 Record Keeping and Information Sharing

### 8.1 The Trust commits to:

- Record the progress of the complaint and the final outcome.
- Record whether the case progressed to a panel hearing.
- Record the action taken by the academy or the trust, regardless of outcome.
- Determining who is responsible for these records and make sure the data is kept secure in accordance with GDPR and the Trust's Data Protection and Data Retention policies.
- Ensuring that correspondence, statements, and records relating to individual complaints are kept confidential except where the Secretary of State or a body conducting an inspection under Section 109 of the Education and Skills 2008 Act requests access to them.

## 9 Equality Impact

The Trust's responsibilities towards promoting equality, diversity and inclusion have been considered when drafting this policy.

Date of review	Date agreed	LGBs	MAT Board	Review date	Comments

## Appendix 1

### Complaints Hearing Guidance and Procedure

Hearing Panel members should be aware that:

- the meeting must be independent and impartial and should be seen to be so. No-one may sit on the Hearing Panel if they have had a prior involvement in the complaint or in the circumstances surrounding it.
- the aim of the meeting should be to resolve the complaint and achieve reconciliation between the academy/Trust and the complainant. The Trust recognises that the complainant might not be satisfied with the outcome if the meeting does not find in their favour. It may only be possible to establish the facts and make recommendations.
- many complainants will feel nervous and inhibited in a formal setting. Parents/carers often feel emotional when discussing an issue that affects their child.
- extra care needs to be taken when the complainant is a child/young person and present during all or part of the meeting/proceedings.
- written material is seen by everyone in attendance in advance of the meeting. The complainant can send additional material up to ten days prior to the hearing date.
- the procedure for hearing the appeal will be outlined by the Chair of the Panel, as below.

### COMPLAINTS PANEL HEARING PROCEDURE

#### **1. Membership**

- 1.1 The panel shall comprise at least three members.
- 1.2 The Principal/Head/Chief Executive may not sit on the Panel. In addition, no person may sit on the Panel who has any interest in its findings or who has been involved in any way in an investigation or other disciplinary action leading up to the reference of the particular matter to the Panel unless it is reasonably impracticable to avoid.
- 1.3 The Chair of the panel will be allocated by the Clerk of the Local Governing Body or Director of Governance as appropriate.
- 1.4 The quorum for meetings of the Panel shall be three members.
- 1.5 The Panel shall convene a meeting as soon as practicable after a reference to it and shall give the complainant or appellant at least five working days notice of the meeting.
- 1.6 The Clerk to the Local Governing Body or Director of Governance shall act as Clerk to the Panel.

#### **2. Terms of Reference**

##### **Local Governing Body**

- To examine and determine an appeal against a Principal's or Head's complaint decision letter and to make recommendations as it deems appropriate.
- To give the complainant/appellant the right to make representations. The representations, which may be made in writing, may also be made orally, for which purpose the complainant may be accompanied by one other representative or friend.

## Trust

- To examine and determine an appeal against a Chief Executive or Chair of Trustees complaint decision letter and to make recommendations as it deems appropriate.
- To give the complainant/appellant the right to make representations. The representations, which may be made in writing, may also be made orally, for which purpose the complainant may be accompanied by one other representative or friend.
- To examine and determine an appeal alleging maladministration or procedural impropriety by a local governing body during an appeal process.

### 3. Delegated Powers

- Authority to examine and determine an appeal(s) against complaint decision letters as outlined above.
- Authority to make recommendations if appropriate.

### 4. Conducting a Complaints Hearing

#### Pre-hearing

- The names of those who are to present evidence to the Panel or represent either side shall be notified to the other party no later than three days before the hearing is held.
- The appellant must attend the hearing. A student can be accompanied by their parent(s) and one other friend or representative.
- The Chair shall determine which witnesses, if any, shall give evidence. If the presence of a witness is requested, then their attendance will be voluntary accepting that written evidence will always be admissible instead. Written evidence must be signed and dated by the person providing it.
- All documentation to be considered by the Panel will have been made available to the other party no later than three working days before the hearing is held. The Chair shall determine the admissibility of papers presented at the hearing.
- The notification times identified in these procedures are for guidance. Where either party cannot adhere to the times identified, variations can be agreed with recourse to a ruling by the Chair if there is no agreement.
- Legal representation will not usually be permitted at complaint appeal hearings. It can be granted exceptionally at the discretion of the Chair if they feel that any of the following factors are compelling:
  - the seriousness of the complaint
  - whether any points of law are likely to arise
  - the capacity of the complainant/appellant to present the case.
  - procedural complexities, such as the need to interview and cross-examine witnesses.
  - the need for reasonable speed in making the adjudication, and
  - the need for fairness between the parties

#### The Hearing

- The Chair shall call in both parties, introduce them and state the purpose of the hearing. The Chair will remind both parties that the proceedings shall remain confidential until a final decision has been taken.

- The Chair has the right to exclude from the proceedings any of those participating in the hearing if they behave unreasonably or disregard the instructions of the Chair.
- The complainant will present their complaint appeal.
- Panel members may, if they wish, ask questions of the appellant.
- The respondent may ask questions of the appellant (if present)
- The respondent will be invited to explain how the complaint was managed and what decisions were taken regarding the complaint.
- The Panel may, if they wish, ask the respondent questions.
- The appellant may ask the respondent questions (if present)
- Following summaries by the appellant and respondent, they will leave the meeting.
- The panel will then consider the case in private and determine matters of fact 'on the balance of probabilities' based upon the information provided to them at the hearing. The Clerk to the Governing Body or the Director of Governance will remain to advise the panel as appropriate.
- The panel can:
  - uphold the appeal in whole or in part.
  - dismiss the appeal in whole or in part!
- If the complaint is upheld in whole or in part, the Hearing Panel will:
  - decide on the appropriate action to be taken to resolve the complaint. The panel may vary or dismiss the decision that has given rise to the appeal.
  - where appropriate, recommend changes to the academy's/Trust's systems or procedures to prevent similar issues in the future.
- The Chair of the Complaints Panel will provide the complainant and relevant academy/Trust with a full explanation of their decision and the reason(s) for it, in writing, within five working days.
- If an appellant is notified that their appeal is unsuccessful, they will be advised of the Funding Provider's complaints procedure. A complaint to the DfE is not a further stage of appeal. The Funding Provider does not hear evidence or seek to substitute its own decision for that of the academy/Trust. In considering a complaint the Funding Provider would undertake an enquiry to consider whether the College had followed its own procedures and would advise the Trust accordingly. The Funding Provider would only ask the academy/Trust to review the decision itself in exceptional circumstances if it appeared to the Funding Provider that the decision was unreasonable.

## Appendix 2

### Trust Complaints Procedure Flow Diagram

