

Ysgol Gyfun Bro Morgannwg Complaints Procedures



Background and introduction

Section 29 of the Education Act 2002 requires the governing bodies of all maintained schools in Wales to set up procedures to deal with complaints from “parents, pupils, members of staff, governors, members of the local community and others”. This includes complaints about the school and any community facilities or services that the school provides. The law also requires governing bodies to publish their complaints procedures.

Welsh Assembly Government (WAG) Guidance

The governing body has adopted this single complaints procedure that is suitable for use by both adults and pupils and refers to the following WAG Circulars :-

03/2004: School Governing Bodies Complaints Procedures (hereinafter referred to as Circular 03/2004); and
39/2006: Guidance for School Governing Bodies on Procedures for Complaints involving Pupils (hereinafter referred to as Circular 39/2006).

The school’s policy is intended to be consistent with the guidance and advice in these Circulars and fulfils its obligations under Section 29 of the Education Act 2002 as outlined above. Where doubt arises, persons or committees dealing with complaints will refer to and follow the Circulars.

Procedure

Ysgol Gyfun Bro Morgannwg Governing Body has established a three stage procedure. This procedure is intended to act as a model. In practice it is recognised that the procedures for stages 1 and 2 may need to be operated flexibly according to circumstances, provided always that all complaints are addressed fairly and resolved in an appropriate and timely fashion. Stage 3 is formal, and involves a complaints committee of the governing body. There are special cases:

- If a complaint concerns the Headteacher, the Chair or Vice Chair of governors, a governor or a group of governors, there are alternative procedures described in Appendix A..

- If a complaint relates, or appears to relate to alleged criminal activity, the action taken should be guided by paragraph 57 of Circular 03/2004.
- If a complaint involves (or appears to involve) a child protection issue, the action taken (normally by the child protection officer) should follow paragraph 58 of Circular 03/2004.

Principles

This policy is guided by section 3 of Circular 03/2004. Complaints will be handled in a way that is fair to all parties. The procedures will be applied consistently within sensible bounds of flexibility reflecting the circumstances and content of individual complaints.

To enable fast and effective complaint resolution at stage 1 a person or persons handling a complaint informally at stage 1 of the procedure may make a decision even though they have an interest or prior involvement in the matter.

At stages 2 and 3 persons handling complaints should be impartial and not compromised by an interest in or prior involvement with the matter. Investigatory procedures should reflect the advice in paragraph **29** of Circular 03/2004.

Confidentiality

All complaints must be handled confidentially. Accused persons should know the substance of any accusation that involves them. Circular 03/2004 considers that in certain rare circumstances this information may be withheld by the governors (paragraph 31).

Complaints involving pupils

These should be considered in accordance with the guidelines at paragraphs 32-33 of Circular 03/2004 and specifically follow the guidance in Circular 39/2006. The guidance in Circular 39/2006 is supplementary to Circular 03/2004 and should be read in conjunction with it.

Timetables for complaints

Every effort should be made to investigate and resolve complaints quickly and according to a timetable understood by all parties. Governors will be guided by paragraphs 35-38 of Circular 03/2004.

Anonymous complaints

Unless anonymous complaints include allegations of criminality or concern a child protection matter, in which case paragraphs 57-58 of Circular 03/2004 will be followed, the person receiving the complaint will refer the matter to the Headteacher who will determine whether or not it should be investigated (paragraphs 39–41).

Withdrawal of complaints

Where complaints are withdrawn this should be recorded and acknowledged by letter (paragraph 42).

Recording of complaints

The recording of complaints is dealt with under each stage below. The record of any complaint shall be kept for at least three years following the finalisation of the complaint.

Governors will from time to time request a detailed report on complaints received, and any trends and issues arising therefrom. This report will be the responsibility of the Headteacher, who may delegate its compilations.

Consideration and Resolution of the Complaints

Stage 1: A complaint is received and resolved informally by the first recipient of the complaint

Such a complaint may be made orally or in writing. The person receiving and handling the complaint will provide an opportunity for the complainant to meet with the recipient so that a decision can be reached, usually within ten school days, and conveyed to the complainant. The complainant should be advised that if s/he is dissatisfied with the outcome the complaint may be referred to the Headteacher. If the Headteacher is the first recipient of the complaint s/he may decide to delegate its handling to another member of staff under stage 1 or proceed instead to stage 2.

Stage 2: A complaint is considered by the Headteacher

The Headteacher may handle a complaint informally according to the procedures laid down at stage 1. However, if the matter has not been resolved at stage 1 and the complainant refers the matter to the Headteacher, or in other circumstances at the decision of the Headteacher, a more formal consideration of the matter may be appropriate.

- The complaint should be put in writing, and acknowledged in writing.
- The complainant should be given a target date for a response to the complaint, usually 10 school days, and a copy of the complaints procedure.
- It may be appropriate for the complainant to have the opportunity to meet the Headteacher.
- It may be appropriate to provide facilities or assistance if the complainant has a disability.
- The complainant should be advised that they may bring a friend, relative or supporter to speak on their behalf.
- The Headteacher may wish to ensure the presence of a witness on the part of the school.
- Written notes should be kept of interviews, telephone conversations or other action.
- The Headteacher's decision should be conveyed in writing to the complainant, who should be advised of the opportunity to have the complaint heard by a complaints committee if dissatisfied with the decision.
- A record shall be kept that notes the name and address of the complainant, the date the complaint was received, a brief description of the complaint, the action taken to resolve the complaint, notes of interviews, etc, the outcome of the complaint, and any issues that may arise for action by the school.

Stage 3: A complaint is considered by the governing body

This should occur rarely and governors should be satisfied that stages 1 and 2 have been exhausted before considering any matter, or that there are special reasons why they should hear a complaint.

The governing body has established a complaints committee within its committee structure to meet when the need arises. This will be chaired by the Chair of governors, or if appropriate the Vice Chair. The Headteacher will not be a member. As well as the Chair there will be at least two, and no more than four other members. Three members, including the Chair will constitute a quorum. No member should have had prior involvement with the complaint or personal links with the complainant such that the fairness of the proceedings may be affected. The committee will be clerked by the clerk to the governors. The Chair may request that representatives of the LEA or other relevant body observe the meeting and are in a position to provide advice to the committee at the consideration stage.

The Chair of the committee shall be guided by paragraph 74 of Circular 03/2004 in making arrangements for the complainant to attend its hearing of the complaint, and by paragraphs 75–77 relating to the timetable for the hearing, the provision of written evidence, and the notice of meeting and associated papers. All parties should be enabled to provide written evidence if they so wish, and such evidence must be made available freely to all parties. At least five working days' notice should be given of the hearing. The committee will proceed with the hearing in the absence of the complainant or his/her representative unless good reason is shown why there should be an adjournment.

The conduct of the hearing shall be guided by paragraphs 78-81 of Circular 03/2004. Once all the evidence has been heard the committee shall consider its decision in private. It may adjourn to a second meeting in order to do this. It may be advised at this stage by representatives of the LEA or another relevant body. Paragraphs 82-88 of Circular 03/2004 provide guidance on procedures at this stage. Decisions will be by majority agreement with a second or casting vote from the Chair in the event of a tied vote. Guidance on the decision letter is given in paragraphs 85, 88 and 92 of Circular 03/2004. The record of the meeting shall include a full account of the committee's proceedings together with all relevant documentation; the decision reached; a note on action by the school or the governors consequent on the decision; the date of the decision, and a copy of the decision letter.

Appeals

These complaints procedures do not provide for an appeals stage, as the governors have considered that such a provision unduly prolongs the resolution of complaints without real benefit to the parties. Complainants will be advised that the LEA or if applicable the Welsh Assembly Government may review the procedures used by the governing body but not their decision.

Exceptions to these procedures

In each case below it may be appropriate for the person handling the complaint to seek informal resolution wherever feasible.

- Where the Headteacher is the subject of a complaint it shall be referred to the Chair of governors. S/he will follow paragraphs 94-96 of Circular 03/2004 in determining how to proceed.
- Where the complaint is against the Chair of governors it shall be referred to the Vice Chair who will follow paragraphs 100–102 of Circular 03/2004.
- Where the complaint is against both the Headteacher and Chair it shall be referred to the Vice Chair who will follow paragraphs 103-105 of Circular 03/2004.
- Where the complaint is against both Chair and Vice Chair the procedure shall be that the clerk to the governors shall convene the complaints committee whilst ensuring the members have no prior involvement with the complaint. In this instance the committee shall elect a Chair for the hearing.
- Further permutations of complaints against governors and routes for resolution are covered in paragraphs 108-116 of Circular 03/2004 and should be followed where appropriate.

Publication

In accordance with the statutory requirement, these complaints procedures will be summarised in the school's prospectus. It will be placed in full on the school's website associated with a link that enables download of Circulars 03/2004 and 39/2006 from the Welsh Assembly Government website. All

staff shall be given a copy and made aware of their roles in respect of the procedure.

The full document will be provided to all parents, pupils, relevant bodies and to others who request a copy. In future all new pupils, staff and governors will receive a copy.

Appendix A.

ADAPTATIONS TO THE 3 STAGE APPROACH

Introduction

A.1. There are a number of cases where the principles outlined in section 4 apply, but the complaint does not lend itself to the three-stage approach and adaptations will have to be made. These are set out below in respect of complaints which concern the whole governing body, an individual governor or governors including the chair and vice chair, the Headteacher or the complaints officer.

Complaint against the Headteacher

A.2. If the complaint is against the Headteacher, the first recipient should refer it to the chair of governors. The governing body's complaints procedure may set out an arrangement for the chair to delegate investigation of the complaint to the vice chair or to a designated governor. On receipt of a complaint about the Headteacher the chair should:

- consider paragraph 55 to check whether the matter is properly for consideration under the complaints procedure
- check whether the matter needs to be referred to other authorities such as the police and or social services (paragraphs 57–58)
- consider whether he or she needs to delegate consideration to another member of the governing body in light of any prior involvement by the chair in the matter or the relationship the chair has with the Headteacher.

A.3. Consideration of the complaint by the chair, vice chair or designated governor would constitute investigation under stage 2 of the procedure and the investigating governor should proceed in accordance with the process in paragraphs 65-70. Whichever governor carries out the investigation should not then be a member of the complaints or complaints appeal committee. The investigating governor should declare any potential conflicts of interest.

A.4. Following this process if the complainant is not happy he/she should be advised to write to:

- the vice chair – if the chair has investigated under stage 2, or

- the chair – if the vice chair or another delegated governor has investigated under stage 2 who should refer the matter to the chair of the complaints committee for consideration in accordance with stage 3 of the process at paragraphs 71–92.

Complaint concerning the Complaints Officer

A.5. If the Headteacher has assigned a member of staff as a Complaints Officer to deal with complaints at the first stage of the procedure and the complaint concerns the Complaints Officer, the complaint should be passed to the Headteacher.

A.6. The Headteacher can decide to delegate investigation to another senior member of staff under stage 1 of the procedure or to investigate it him or herself under stage 2.

A.7. If the complainant is not happy with the outcome he/she should be advised to write formally to the chair of governors in accordance with stage 3 of the process at paragraphs 71–92.

Complaint against the Chair of Governors

A.8. Any complaints about the chair of governors should be sent to the vice chair who should immediately inform the Headteacher, the LEA and where appropriate the diocesan authority. The vice chair should:

- check whether the matter needs to be referred to another authority such as the police or social services (paragraphs 57–58)
- consider whether to obtain advice from the LEA or diocesan authority.

A.9. The vice chair may consider investigating the complaint or delegating this task to another designated governor. This would constitute an investigation under stage 2 of the procedure. Alternatively the vice chair could refer the matter directly to the governing body complaints committee for investigation and consideration. The chair to the complaints committee should then proceed in accordance with the process for stage 3 consideration set out in paragraphs 71–92.

A.10.. It is recommended that the matter is not brought to the governing body's attention until it has been determined by the complaints committee and any appeal committee.

Complaint against the Headteacher and the Chair of Governors

A.11. Complaints against the Headteacher and chair of governors should be sent to the vice chair of governors who should inform the LEA and if applicable the diocesan authority. The vice chair should:

- check whether the matter needs to be referred to another authority such as the police or social services (paragraphs 57–58)
- consider whether to obtain advice from the LEA or diocesan authority.

A.12. The vice chair may consider investigating the complaint or delegating this task to another designated governor. This would constitute an investigation under stage 2 of the procedure. Alternatively the vice chair could refer the matter directly to the governing body complaints committee for investigation and consideration. The chair to the complaints committee should then proceed in accordance with the process for stage 3 consideration set out in paragraphs 71-92.

A.13. The vice chair or delegated governor must declare any potential conflicts of interest before consideration of the matter under stage 2 and if necessary delegate the matter to another governor.

Complaint against the Chair and the Vice Chair

A.14. Any complaint about the actions of the chair and vice chair of governors should be referred to the clerk of the governing body who should refer the matter to the chair of the complaints committee. The chair of the complaints committee should seek advice from the LEA and if appropriate the diocesan authority, and arrange for a complaints committee hearing to be arranged in accordance with stage 3 of the process at paragraphs 71–92.

A.15. If the chair of the complaints committee is the chair or vice chair of governors, the complaint should be referred to the chair of the complaints appeal committee who should become the chair of the complaints committee in respect of that particular case. In these instances the complaints appeal committee would need to have a separate chair. If the posts of chair of the complaints committee and chair of the complaints appeal committee are held by the chair and vice chair of governors, both these committees will need to appoint a new chair to hear the complaint.

Complaint against a Governor (Including the Vice Chair) or Group of Governors

A.16. Any complaint about the actions of a governor or group of governors should be referred to the chair of governors provided that the chair is not one of the group of governors being complained about. If the chair is involved and is part of the group being complained about, the complaint should be sent to the vice chair, providing they also are not part of the group of governors. The chair or vice chair should then deal with the complaint in the same way as a complaint against the Headteacher as set out in paragraphs 94-96.

. If the chair and vice chair are part of the group of governors, the complaint should be referred to the clerk to the governing body who should refer the matter to the chair of the complaints committee for action under stage 3 of the process set out in paragraphs 71-92. If the chair of the complaints committee is the chair or vice chair of governors, the complaint should be referred to the chair of the complaints appeal committee who should become the chair of the complaints committee in respect of that particular case. In these instances the complaints appeal committee would need to have a separate chair.

A.17. If the matter proceeds to consideration by the governing body at stage 3 particular care will need to be taken to ensure that the members of the complaints committee can be regarded as impartial.

A.18. If a number of governors are the subject of a complaint, and as a result too few governors remain to fulfil the requirements of the complaints procedures in terms of constituting a complaints committee, then the 'whole governing body' procedures in paragraphs 112-116 below should be used.

Complaints concerning the Whole Governing Body

A.19. Any complaint about the actions of the whole governing body should be sent to the clerk of the governing body who should immediately inform the Headteacher, chair of governors, the LEA and as appropriate the diocesan authority.

A.20. On receipt of a complaint about the actions of a governing body, the LEA should consider whether the matter is one to be considered in accordance with section 15 of the School Standards and Framework Act 1998 as amended by section 55 of the Education Act 2002. This provides

that where a school is causing concern the LEA can issue a warning notice to the governing body in accordance with its powers of intervention.

A.21. If no action is appropriate under these provisions the LEA, and/or if appropriate the diocesan authority, may wish to secure the agreement of the governing body that the complaint be heard by a committee independent of the governing body and specially constituted for that purpose.

A.22. If the LEA or, if appropriate, the diocesan authority decides not to pursue any action, the clerk to the governing body may inform the complainant that the matter will be raised at the next governing body meeting. If the next planned governing body meeting is some time away, the chair of governors and the clerk may consider arranging a separate meeting to consider the complaint. The complainant may be informed of the proposed action and timing of the governing body meeting. The complainant may be afforded the same opportunity to give written and oral evidence as he or she would have been given if the matter were being dealt with by the governing body complaints committee.

A.23. The governing body may look at the evidence and arrive at a decision in the same way that its complaints committee would. The complainant may be sent by the clerk to the governing body:

- the decision and an explanation of the reasons for the decision
- an explanation that if the complainant is dissatisfied he or she can ask the LEA, (diocese, if appropriate) or the Welsh Assembly Government to review the procedure used by the governing body but not the decision itself.