



# **KENILWORTH SCHOOL & SIXTH FORM COMPLAINTS PROCEDURE**

## **APRIL 2016**

### **POLICY DETAILS**

Date of policy: April 2016

Date of review: April 2016

Date of next review: April 2018

Member of staff responsible for overseeing that this policy is implemented and regularly reviewed:

Hayden Abbott (Headteacher)

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## ABOUT THIS POLICY

This policy has been developed after consulting:

- DfE School Complaints Procedure Guidance;
- The best practice of other local authorities;
- ‘Running a Complaints System’ (The Local Government Ombudsman);
- Other Local Authority complaints procedure for best practice;
- Headteacher and governors within Kenilworth School and Sixth Form.

After defining the key principles, this policy sets out the 5 separate stages of the complaints procedure itself.

## THE KEY PRINCIPLES OF THE POLICY

### 1.1. LEGAL CONTEXT

From September 2003 governing bodies of all maintained schools and nursery schools in England are required, under Section 29 of the Education Act 2002, to have in place a procedure to deal with complaints.

The School Standards and Framework Act 1998 provided an additional function of the governing body to establish and publish procedures for dealing with complaints relating to the school, other than those covered by legislation and formal procedures elsewhere.

### 1.2. SUMMARY

This policy sets out the procedures which Kenilworth School and Sixth Form will follow whenever it receives a complaint for which there are not alternative statutory procedures (see section 1.3).

A summary of the various stages is given below:

|                                      |                | <b>Primary Responsibility</b> |
|--------------------------------------|----------------|-------------------------------|
| 1 Informal discussion and resolution | Informal Stage | School Staff                  |
| 2 Investigation by Headteacher       | Formal Stage   | School Staff                  |
| 3 Complaints committee review        | Formal Stage   | Governing Body                |
| 4 LA investigation (WCC)             | Formal Stage   | WCC as LA                     |
| 5 Further recourse                   | Formal Stage   | Other                         |

Each of these stages will usually occur in order and there will usually be no return to previous stages (exceptions to this are noted within the procedure).

It is stressed that the majority of complaints are resolved on an informal basis (stage 1).

### 1.3. CIRCUMSTANCES UNDER WHICH THIS PROCEDURE SHOULD NOT BE USED

This guidance does not refer to areas where Warwickshire County Council (WCC), as the Local Authority (LA), has the lead role and for which different procedures must be followed. These areas are:

- Staff conduct
- Collective worship
- Religious education
- Pupil admissions
- Pupil exclusions
- Statements of special educational needs

Issues related to child protection, criminal investigations and employee grievances must also all be handled separately from this policy.

If you are uncertain about whether your concern falls outside this procedure the Headteacher can advise you if it is a matter which will be dealt with in a different way.

This complaints policy is distinct from formal staff disciplinary proceedings and this should be made clear to all concerned. There may be occasions where a complaint gives rise to disciplinary procedures which put the complaints process on hold. If and when this occurs, the complainant should be informed. Any non-disciplinary aspects of the complaint should continue to be dealt with through the usual complaints procedures.

If another policy is more appropriate than this complaints policy for any given situation then it should be used in preference to it. Staff wishing to complain should refer to other internal policies e.g. Whistleblowing Policy, Grievance, Pupil Conduct.

This policy does not cover complaints made against Warwickshire County Council. Any complaint of this sort should be dealt with in accordance with the Council's 'Corporate Complaints Procedure'.

#### 1.4. CIRCUMSTANCES UNDER WHICH STAGES OF THE PROCEDURE SHOULD BE MISSED OUT

This policy sets out the most suitable and effective process for dealing with the majority of complaints which are not covered by alternative statutory procedures (see above). In most cases any concern or complaint, regardless of whose attention it is initially brought to, should be discussed informally (stage 1) before being submitted at any of the following consecutive formal stages.

In some cases, it may be deemed inappropriate for individuals to discuss their concerns informally. In such cases, complainants may be directed to contact the Headteacher directly (i.e. begin at stage 2). Complainants may choose to contact the Headteacher directly of their own accord. In these cases it will be at the discretion of the Headteacher as to whether or not it is appropriate for the complainant to discuss the matter informally (i.e. return to stage 1).

If a complainant wishes to complain informally about the Headteacher, they are encouraged to raise the issue directly with him/her in the first instance with a view to agreeing a satisfactory solution. The complainant may invite another individual of their choice to attend a meeting with the Head to discuss the complaint, or may wish to ask for a governor to be in attendance. If it is not appropriate for the matter to be resolved at an informal level, the complainant may wish to issue a formal complaint.

In cases where the complaint is formal and concerns the school's Headteacher directly, stage 2 will be missed out and the formal complaints procedure will begin at stage 3.

If and when complaints about the school are brought to the attention of Warwickshire County Council, the majority of complainants will be advised to contact the school and to follow the procedures set out within this document from stage 1 onwards. In certain exceptional cases, however, it may be decided, at the discretion of the Director of Children, Young People & Learning, that it is appropriate to deal with the complaint at a different stage.

#### 1.5. WHO IS ALLOWED TO COMPLAIN?

This policy may be used by anyone who has a concern or complaint about any aspect of the school. In the main this will mean the parents and carers of the school's pupils, but may include neighbours of the school, or any other members of the local community.

#### 1.6. AIMS AND OBJECTIVES OF THE POLICY

This complaints policy aims to:

Encourage the resolution of problems by informal means wherever possible;

- Ensure that concerns are dealt with quickly, fully and fairly and within clearly defined time limits;
- Provide effective responses and appropriate redress;
- Maintain good working relationships between all people involved with the school.

#### 1.7. OTHER RELEVANT DOCUMENTS

The following documents may be relevant to those reading or implementing this policy:

- 'Schools' Appeals Procedure'.

#### 1.8. MONITORING COMPLAINTS

At all formal stages of the complaints procedure, the following information should be recorded:

- The name of the complainant;
- The date and time at which complaint was made;
- The details of the complaint;
- The desired outcome of the complainant;
- How the complaint is investigated (including written records of interviews held);
- Results and conclusions of investigations;
- Any action taken;
- The complainant's response (satisfaction or further pursuit of complaint).

The school may choose to appoint a member of staff as a 'complaints co-ordinator'. When this is the case, this individual will have the responsibility for the operation and management of the school complaints policy and will be responsible for monitoring complaints. Records should be retained for the periods specified in guidance on records retention (available separately).

#### 1.9. UPHOLDING OR NOT UPHOLDING COMPLAINTS

At each stage of the complaints procedure, the conclusion will be either:

- 1) That the complaint is upheld (in part or in full) and, where appropriate, some form of action is taken
- OR**
- 2) That the complaint is not upheld and reasons for this are clearly given.

In the first instance, it may be appropriate to offer one or more of the following:

- An apology;
- An explanation;
- An admission that the situation could have been handled differently or better;
- An assurance that the event complained of will not recur;
- An explanation of the steps that have been taken to ensure that it will not happen again;
- An undertaking to review school policies in light of the complaint.

In the second instance, the complainant may either choose to take no further action or to take their complaint to the next relevant stage.

#### 1.10. PUBLICITY AND COMMUNICATION

There is a legal requirement for schools to publicise their complaints procedures.

This policy will be published on the VLE and school web-site and may also be included, as appropriate, within the following:

- the information given to new parents when their children join the school;
- the information given to pupils at the school;
- the home-school agreement;
- home school bulletins or newsletters;
- documents supplied to community users including course information or letting agreements; posters displayed in areas of the school that will be used by the public, such as reception or the main entrance.

All staff and members of the governing body should be made aware of the complaints procedure and the various stages involved.

At all stages of the complaints procedure, everybody involved needs to be clear about what is happening and what their responsibilities are. In addition, the complainant should be told how to proceed to the next stage of the procedure if and when their complaint is not upheld.

#### 1.11. CONFIDENTIALITY

Confidentiality is vital. All conversations and correspondence will be treated with discretion. Complainants have the right to know what use will be made of personal

information and, accordingly, personal information will only be shared between staff on a 'need to know' basis.

#### 1.12. EQUAL ACCESS, ACCOMPANIMENT AND REPRESENTATION

Appropriate steps should be taken to ensure that any individual has the opportunity to raise their concerns or submit a formal complaint. This includes the right to be accompanied or represented by a friend or relative at discussions and hearings and/or to submit formal complaints which have been written by another individual on their behalf.

Should any meeting need to be held where any parties would have difficulties in terms of access, please contact the complaints co-ordinator at school who will endeavour to provide an appropriate venue.

It is an expectation that equal respect will be granted to each person involved within the process and that differences between people will be respected and understood.

#### 1.13. SUPPORT OFFERED BY WARWICKSHIRE COUNTY COUNCIL (WCC)

The HR Advisory service of WCC offer advice and guidance to Headteachers and governing bodies who feel they need extra support when dealing with a complaint.

If a complaint is formal and concerns the Headteacher, the governing body will deal with the complaint.

In exceptional circumstances, WCC is able to investigate on behalf of either the Headteacher or school governors. Where possible, the intention will always be for WCC to support the school in its own investigations rather than take complete responsibility for them itself.

#### 1.14. TIME BETWEEN STAGES

Although each of the stages within the procedure should occur consecutively, it is not necessary for each stage to immediately follow the last. Complainants may need some time to decide whether or not they wish to pursue the matter any further.

After each stage, the complainant and the individual who is dealing with their complaint at that time should agree an appropriate time limit within which the next stage should be accessed, if at all. If the complaint is not submitted to the next stage within this agreed time limit it should be considered as closed.

### 1.15. CHANGES TO TIME LIMITS AND DEADLINES

In general, the time limits and deadlines contained within this policy should be adhered to. However, in certain circumstances it may be deemed inappropriate or impossible to guarantee that this is possible.

Where a complaint leads to criminal proceedings this will always be the case.

If and when it becomes necessary to alter the time limits and deadlines set out within this policy, the complainant should be told and given an explanation as to why this has been the case.

### 1.16. APPEALS

If at any stage, as the result of a complaint, a decision or course of action is taken with regards to an individual (apart from the complainant) which they feel is ungrounded, unjustified or incorrect they have the right to appeal.

It is recommended that school governing bodies use their established appeal procedures in order to facilitate this. Complainants can access the Appeals Procedure documentation, using the link below:

### 1.17. VEXATIOUS COMPLAINTS

The Chair of governors can write to a complainant and refuse to consider their complaint at stage 3 if he or she feels that there are insufficient grounds to do so, if the complaint has already been considered at this stage or if it has been closed.

In both cases, the complainant has the right to take their complaint to Warwickshire County Council (stage 4) who will, if appropriate, investigate the school's adherence to the complaints policy.

## STAGE 1: INFORMAL DISCUSSION

### 2.1. INTRODUCTION

The vast majority of concerns and complaints can be dealt with informally. There are many occasions where concerns are resolved straight away without the need to submit a formal complaint. Indeed, many concerns raised at this level might not be classified as complaints.

### 2.2. WHO TO SPEAK TO INFORMALLY

Individuals may decide to raise their concerns with a member of school administrative staff, class teacher, senior teacher, governor or Headteacher depending on their wishes and the type of issues they want to discuss.

### 2.3. MONITORING

It is not necessary to record or monitor complaints at this level.

### 2.4. TIME SCALES

There are no specific time scales for dealing with concerns at this stage. However, as at all stages, issues should be considered and dealt with as quickly and effectively as possible.

### 2.5. RESPONSE

The individual who raised the issue should be informed of any action to be taken to resolve the issue. If appropriate, this might be confirmed in writing.

### 2.6. OPTIONS FOR COMPLAINANT

If the individual is dissatisfied with the response they have been given and would like to take their complaint further, they should be referred to the school's complaints procedure.

## STAGE 2: REFERRAL TO THE HEADTEACHER

### 3.1. INTRODUCTION

This is the first stage of the formal complaints process and, as a result, all communications between parties need to be carefully recorded and monitored as set out in the 'monitoring complaints' section of this document.

When a formal complaint is made directly against the school's Headteacher, Stage 2 is not required and the formal procedure begins at Stage 3.

### 3.2. INFORMAL DISCUSSION WITH HEADTEACHER

Before proceeding with a formal investigation, the Headteacher or an appropriate senior member of staff will meet with the individual and discuss their concerns and wishes. It may still be appropriate and satisfactory to reach an informal resolution at this point. If not, the Headteacher will decide whether the individual's complaint will be dealt with by this policy or another statutory procedure and advise them on what they will need to do.

### 3.3. SUBMITTING A FORMAL COMPLAINT

By this stage it must be clear that the concern is a definite complaint which will be dealt with according to this policy and should be formally submitted in writing to the Headteacher.

As indicated within the 'equal access, accompaniment and representation' section of this policy, all complainants have the right to submit formal complaints, at this or any stage, which have been written by another individual on their behalf.

If a complainant submits a formal complaint anonymously the scope of investigation may be limited without recourse to the source of the complaint. If the anonymous complaint concerns the safeguarding of children the matter will always be treated seriously and investigated, where sufficient information or evidence is provided in the complaint. Any other anonymous complaints will be investigated only in so far as it is possible given their anonymous nature. Anonymous complainants may refer to the Whistle Blowing policy if appropriate. Also located on the school website.

### 3.4. ACKNOWLEDGEMENT AND TIME SCALES

The Headteacher should formally acknowledge the complaint within 3 school days of receiving it and begin an investigation.

### 3.5. THE INVESTIGATION

The Headteacher will need to investigate the complaint and review any relevant documentation and information. If necessary, the Headteacher will interview witnesses and take statements from those involved. If the complaint centres around a pupil, the pupil will also usually be interviewed.

As indicated within the 'equal access, accompaniment and representation' section of this document, all individuals have the right, at this or any other stages, to be accompanied or represented by a friend or relative at discussions and hearings. This includes the right of teachers to be accompanied by a representative from their Trade Union.

When pupils are interviewed, an additional member of staff should always attend.

### 3.6. RESPONSE

The Headteacher will provide the complainant with a full written response within 10 school days of acknowledging it. This response will determine whether or not the complaint has been upheld, the reasons why, and what action (if any) will be taken.

### 3.7. OPTIONS FOR COMPLAINANT

If the individual is dissatisfied with the response they have been given and would like to take their complaint further, they should be referred to the school's complaints procedure and told how to move on to the next stage.

## STAGE 3: REVIEW BY GOVERNING BODY COMPLAINTS COMMITTEE

### 4.1. INTRODUCTION

Complaints only rarely reach this formal level, but it is important that governing bodies are prepared to deal with them.

Upon receiving a formally submitted complaint at this stage the Chair of governors will usually choose to deal with it by holding a complaints committee hearing. However, in some cases, it may be possible and appropriate for the Chair of governors to resolve the issue with the complainant by other means without the need for a complaints committee review.

The complaints committee must be clerked. The clerk may be a member of the school staff, the clerk to the governing body or another governor. If required, WCC will offer support and guidance to the clerk, the Chair of governors and/or the members of the complaints committee on procedural issues but will not normally play any part in reviewing the details of the complaint itself.

When stage 2 has been missed out (see section 1.4), this is the first stage under which a formal complaint about the Headteacher will be dealt with.

### 4.2. THE COMMITTEE

It is recommended that school governing bodies annually agree five governors who will be able to form part of a complaints committee if and when this becomes necessary at any point. The three governors appointed to the complaints committee in any case will usually be chosen from this group of five.

The committee will generally consist of three governors who have not previously been involved with dealing with the complaint. The committee should elect its own chair.

### 4.3. SUBMITTING A FORMAL COMPLAINT

The complainant must submit a written request to the Chair of governors for their complaint to be considered by a complaints committee.

### 4.4. ACKNOWLEDGEMENT AND TIME SCALES

The Chair of governors should acknowledge receipt of this letter within 5 school days if possible but no more than ten at most by writing to the complainant. This letter will inform them that their complaint will be heard by a complaints committee within 15 school days.

#### 4.5. PREPARATION

The Chair of governors will then contact the clerk and ask him or her to begin making preparatory arrangements.

The clerk will convene a meeting of the complaints committee. The membership of the complaints committee will be confirmed, a date and time will be arranged for a hearing and all existing relevant documentation will be given to the three appointed governors. The clerk should then formally write to the complainant, the Headteacher and any other relevant staff or witnesses and inform them:

- Of the date, time and venue of the hearing;
- Of the aims and objectives of the hearing and how it will be conducted;
- That any documentation they wish the committee to consider must be returned to the Clerk no later than 5 school days before the hearing takes place;
- Of the rights of equal access, accompaniment and representation as set out within this document;
- How and when the committee will reach their decision.

It is the responsibility of the clerk to ensure that all parties receive all relevant documents at least 3 school days before the date of the hearing so as to allow individuals to familiarise themselves with them.

#### 4.6. THE HEARING

The hearing should allow each party involved to explain their understanding or interpretation of events and for other parties to question them. The hearing will, therefore, usually operate according to the following format:

- The chair will introduce all parties to one another and explain the principles, objectives and format of the hearing
- The complainant will be given the opportunity to explain their complaint. Following this the Headteacher and the complaints committee will be allowed to ask the complainant questions.
- The Headteacher will then be given an opportunity to explain the school's official response, interpretation or view about the complaint. Following this the complainant and committee will be allowed to question the Headteacher.
- Every party will be given the opportunity to call witnesses and question witnesses called by other parties.
- The Headteacher and the complainant will both be given the chance to give final statements.

- The hearing will be concluded by the chair who should explain that the committee will consider its decision and write to both parties within 5 school days informing them of the outcome.

This format will need to be altered under certain circumstances, including instances where Warwickshire County Council, rather than the Headteacher, has played an investigating role. Ultimately, the chair of the meeting has control over its proceedings.

#### 4.7. AFTER THE HEARING

The committee will then consider the complaint and all the evidence presented and:

- Reach a unanimous, or at least a majority decision, on the complaint;
- Decide upon the appropriate action (if any) to be taken;
- Where appropriate, suggest changes to, or request a review of, the school's systems or procedures to ensure that problems of a similar nature do not happen again.

This information will be included in both the letters to the Headteacher and the complainant.

#### 4.8. OPTIONS FOR COMPLAINANT

If the individual is dissatisfied with the response they have been given and would like to take their complaint further, they should be referred to the school's complaints procedure and accompanying public guidance leaflet and told how to move on to the next stage.

## STAGE 4: COMPLAINT WITH WARWICKSHIRE COUNTY COUNCIL

### 5.1. INTRODUCTION

Complainants are entitled to complain to Warwickshire County Council (WCC) Local Authority (LA) if they believe that their complaint was not handled fairly and in accordance to the school's complaints policy. Complaints can only be considered once the school's procedures have been completed in full.

Complaints very rarely reach this level. However, it is important that the LA, the school are ready to deal with them if necessary and that the complainant is fully informed of how and when they can complain at this level.

### 5.2. SUBMITTING A FORMAL COMPLAINT

Complaints must be submitted, in writing, to the following address:

The Director of Children, Young People & Learning, Warwickshire County Council, Shire Hall, Warwick, CV34 4RL. This written complaint must include the following information:

- Details of the original complaint;
- The judgement and action taken by the governing body;
- Reasons for believing that the original complaint was not dealt with fairly and in accordance with the school's complaint's procedure;
- The expected or desired outcome.

### 5.3. ACKNOWLEDGEMENT AND TIME SCALES

WCC will also write to the school's Headteacher and Chair of governors to inform them that a complaint has been made against the actions they have taken with regards to the original complaint.

### 5.4. THE INVESTIGATION

WCC will examine all relevant documentation considered by the school in their original investigation as well as the records and correspondence produced at each stage.

### 5.5. THE RESPONSE

WCC will write to the complainant and inform them of their findings within 20 working days of acknowledging their original complaint. Copies of this letter will be sent to the Headteacher and Chair of governors.

## 5.6. POSSIBLE OUTCOMES

If WCC decides that the school has failed to handle the original complaint fairly and according to its complaints policy the matter will be referred back to the governing body.

The governing body will then be requested to reinvestigate the complaint at stage 3 (review by governing body complaints committee). The governing body will need to re-appoint a new complaints committee.

Again, WCC Governor Services will be able to offer support to the governing body in their investigations.

## 5.7. OPTIONS FOR COMPLAINANT

If the individual is dissatisfied with the response they have been given and would like to take their complaint further, they should be referred to the school's complaints procedure and accompanying public guidance leaflet and told how to move on to the next stage.

## STAGE 5: THE SECRETARY OF STATE

### 6.1. INTRODUCTION

Individuals have the right to contact the Secretary of State for Education with regards to the way their complaint has been handled.

Usually, they will not take any action until both the school and the Council's procedures have been exhausted.

### 6.2. COMPLAINING TO THE SECRETARY OF STATE

Complainants have a right of appeal to the Secretary of State for Education under sections 496 or 497 of the 1996 Education Act if they believe that the LA has acted unreasonably. If the Secretary of State agrees that a complaint is justified, the Department for Education has the power to require the LA to take certain actions including issuing instructions to school governing bodies in appropriate circumstances, although in practice this would be very rarely exercised.

### 6.3. CONTACTING THE SECRETARY OF STATE

The DfE National Enquiry Line can be contacted on: Telephone: 0870 000 2288

Fax: 01928 79 4248

Web site: [www.education.gov.uk](http://www.education.gov.uk)

If you wish to write to the Secretary of State for Education by post:

Rt. Hon Nicky Morgan MP Secretary of State for Education Sanctuary Buildings Great Smith Street

London SW1P 3BT