



# **Marden Primary Academy**

## **Complaints Procedure**

**Review date: Summer 2022**

**Next review: Summer 2025**

## ACADEMY COMPLAINTS PROCEDURES

*All Academies must have a complaints procedure which meets the standards set out in the Education (Independent School Standards) (England) Regulations 2014. See Appendix 1.*

**Academies' complaints procedures must be in writing, be made available to parents and set out clear timescales for the management of the complaint.**

### **DEALING WITH COMPLAINTS – INFORMAL STAGE**

It is important for Academies and governing bodies to differentiate between concerns and complaints and in both cases to keep procedures for dealing with them as informal as possible.

Academies need to be clear about the difference between a concern and a complaint. Taking informal concerns seriously at the earliest stage will reduce the numbers that develop into formal complaints.

All concerns will be taken seriously in order to establish an effective partnership between the Academy and the parents and should be dealt with promptly so that they can be resolved swiftly at the time. Occasionally, there may be complaints where the individual complainant does not wish to be identified at the preliminary stage. As far as possible, these should be dealt with under this procedure. However, there may be circumstances where confidentiality cannot be guaranteed because of the seriousness of the complaint. In addition, the wish of the individual complainant to remain anonymous may limit the ability of the Academy to fully investigate the nature of the complaint or take any action once an investigation is complete. The complainant should be informed if their desire for confidentiality inhibits the full investigation of the complaint.

The Academy may decline to investigate a matter if it is not very recent and the complaint could reasonably have been expected to be raised earlier. The normal expectation is that a complaint will be raised within **three months** of the alleged subject matter of the complaint though it will be important to judge whether or not the nature or seriousness of the allegation merits a more flexible approach.

**It is in everyone's interest that complaints are resolved at the earliest possible stage. The experience of the first contact between the complainant and the Academy can be crucial in determining whether the complaint will escalate.**

The vast majority of disagreements between Academies and parents/carers are resolved during routine day-to-day Academy business by means of communication, negotiation and mediation. However, from time to time, disagreements can develop into formal complaints. Parents/carers should arrange to meet with the Head of School, Executive Head or a member of the Senior Leadership Team with the aim of resolving any perceived problems. However, if a parent/carers insists on submitting a formal written complaint they should be informed of the procedure and encouraged to do the following:

- Put their complaint in writing.
- Make the complaint brief and clear, outlining the precise nature of the problem.
- Keep a copy.
- Send it to the Head of School and/or the Executive Head (or the Chair of Governors if the complaint is about the Head of School or Executive Head).

These key messages deal with complaints but the underlying principle is that concerns ought to be handled, if possible, without the need for formal procedures. The requirement to have a complaints procedure need not in any way undermine efforts to resolve the concern informally. In most cases, the class teacher will receive the first approach. It is beneficial if staff seek to resolve issues on the spot, including apologising where necessary.

## Principles

An effective Complaints Procedure will:

- Encourage resolution of problems by **informal** means wherever possible;
- Be easily **accessible and publicised**;
- Be **simple** to understand and use;
- Be **impartial**;
- Be **non-adversarial**;
- Allow **swift** handling with established **time-limits** for action and keeping people informed of the progress;
- Ensure a full and **fair** investigation by an independent person where necessary;
- Respect people's desire for **confidentiality**;
- Address all the points at issue and provide an **effective** response and **appropriate** redress, where necessary;
- Provide **information** to the Academy's senior management team so that services can be improved.

It is suggested that at each stage, the person investigating the complaint makes sure that they:

- Establish **what** has happened so far, and **who** has been involved;
- Clarify the nature of the complaint and what remains unresolved;
- **Meet with the complainant** or, at least contact them;
- Clarify what the complainant feels would put things right;
- Interview those involved in the matter and/or those complained of, allowing them to be accompanied if they wish;
- Conduct the interview with an open mind and be prepared to persist in the questioning;
- Keep notes of the interview;
- Feedback to the complainant.

## DEALING WITH COMPLAINTS

### Formal Stage 1

The formal procedures will need to be invoked when initial attempts to resolve the issue are unsuccessful and the person raising the concern remains dissatisfied and wishes to take the matter further. The person responsible for the initial stage of the complaint procedure is the Head of School.

The complainant should refer the matter **in writing** to the Chair of the Governing Body setting out the complaint.

The Chair of the Governing Body will consider the evidence of the complaint, in confidence and without reference to any other member of the Governing Body. If the complaint is serious or complex, advice must be sought from the Academy's appointed

legal advisors. Having considered the complaint the Chair will either write to the complainant with his/her findings and, should it be necessary, the reasons for a meeting with the complainant and the Executive Head/Head of School/Senior Manager in an attempt to resolve the matter.

Should either the complainant or the Executive Head/Head of School/Senior Manager be dissatisfied with the outcome of the Chairperson's investigation they may ask for the matter to be referred to a panel of the Governing Body by writing to the Clerk to Governors setting out the reasons for the referral.

***This panel should include at least one member who is independent of the management and running of the academy. Also, the panel should consist of at least three people who were not directly involved in the matters detailed in the complaint.***

The panel should ascertain their preliminary view as to whether the matter should be dealt with at an investigatory meeting. If the members' view is that the complaint should not proceed, the complainant should be informed, with reasons. The Academy's appointed legal advisors should be consulted at an early stage in the case of serious or complex matters.

Because it is quite likely that the complainant is not known to those investigating, at this stage it is very important to include a face to face interview. Such an interview would ensure that the nature of the complaint is very clear and also that the complainant knows the complaint is being taken seriously.

At this stage, following an investigation, the Governors could:

- Dismiss the complaint in part or in whole;
- Uphold the complaint in part or in whole;
- Decide on the appropriate action to take to resolve the complaint;
- Recommend changes to the Academy's systems or procedures to ensure that problems of a similar nature do not recur.

A common problem at this stage has been that the written response to the complainant has not addressed the specifics of the complaint. It is therefore essential to address the questions and concerns raised in the complaint.

Cases which may result in disciplinary action being taken against a member of staff must follow the procedures recommended by the Academy's appointed Human Resources advisors (Hoople Ltd) from whom specific advice should be sought.

### **How to conduct an investigation at Formal Stage 1**

1. Ask the complainant to put their complaint in writing to the Clerk to the Governors. It is often useful to stress that the letter not be too unduly long and that, if there is more than one issue, to list them clearly, i.e. number them or put them in bullet points. Sometimes parents/carers do not make it clear when they write and the precise nature of the complaint can be difficult to see.
2. Meet with the complainant. This **may** be less important for the Executive Head/Head of School/Senior Manager who may have met with the parent/carer on numerous occasions. However, for the Chair of Governors or any Governor, delegated to investigate the matter, it is highly recommended in order to grasp

the essential substance of the complaint. **It is also important to meet personally, so that the complainant knows they are being listened to and, that the complaint is being taken seriously.**

3. **The Academy must ensure that one member of the panel hearing is independent of the management and running of the Academy. A member of the Governing Body of the Academy does not qualify as an independent person.**
4. The complainant, the Executive Head/Head of School/Senior Manager and the Chair of Governors will provide the Clerk to the Governors with all documentation to be used at the meeting at least **ten days** before the meeting take place.
5. The Clerk to the Governors will distribute all documentation to both parties and to the members of the panel at least **seven days** before the meeting.
6. The complainant, the Executive Head/Head of School/Senior Manager and Chair of Governors will be advised by the Clerk to the Governors that they may be accompanied by a friend or representative at the meeting.
7. The normal procedure to be followed at the meeting is set out below. Provided he/she is satisfied that it will give all parties an opportunity to present their case, the Vice-Chair of the Governors may vary this procedure with advice from the Clerk to the Governors.
  - the panel will be Chaired by the Vice-Chair of the Governors and he/she will make arrangements for a note taker to be present. In the absence of the Vice-Chair the panel will agree a Chairperson for the meeting;
  - the Chairperson explains the purpose of the meeting and introduces those present;
  - the person calling the meeting presents their case;
  - the panel will have an opportunity to question the person calling the meeting;
  - the respondent presents their case;
  - the respondent can be questioned by the panel;
  - both parties withdraw;
  - the panel consider the case and then write to both parties within **seven** working days to advise them of their findings and their reasons.
8. Examine all necessary correspondence, reports and so on.
9. Talk to any other individuals or groups as necessary to arrive at a view.
10. Take some time to reflect.
11. Respond in writing and consider meeting with the complainant again to explain your findings.
12. There is no specific format required when putting the conclusions of an investigation into a report or letter to the complainant. However the following might be useful:
  - (i) indicate what evidence had been taken into account. It is important to include all interviews and the main reports, letters and so on.
  - (ii) An outline of the complaint.

- (iii) Your general findings, outlining the views from various parties.
- (iv) Your conclusion.
- (v) As raised in the previous point, recommendations may be made. If these are appropriate, then these should be in a separate section in the report or letter.

## **CONFIDENTIALITY**

Clearly, all the matters contained within this area of work – whether it is an informal concern, a formal complaint, or the ensuing investigation and final report – are strictly confidential and protected in legislation and good practice guidance. On no account should any of the issues raised during an investigation be discussed with any unauthorised parties.

## **TIMESCALES**

At each stage, it is advisable to discuss and agree timescales with the complainant. Some complaints are more complex than others and, as such – to allow for a thorough investigation to be done – may require more time. The important point to be made here is to keep the various parties informed, especially the complainant, if agreed timescales become unreasonable. However, as a rule of thumb, the following may be useful:

- |                                |            |
|--------------------------------|------------|
| • Informal Stage               | 2- 10 days |
| • Formal Stage 1 (Headteacher) | 20-30 days |
| • Formal Stage 2 (ESFA level)  | 30+ days   |

Academy holidays are not included in these timescales. It is good practice to keep all parties, especially the Executive Head/Head of School/Senior Manager and the complainant, informed of progress at all stages.

## **RESOLVING COMPLAINTS**

At each stage in the procedure Academies will want to keep in mind ways in which a complaint can be resolved. It might be sufficient to acknowledge that the complaint is valid in whole or in part. In addition, 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 Academy policies in light of the complaint.

## **VEXATIOUS COMPLAINANTS**

If properly followed, a good complaints procedure will limit the number of complaints that become protracted. However, sometimes a complainant finds it difficult to accept that this is the end of the procedure (this may apply to any of the formal stages but this is particularly the case at Stage 2) and it may be necessary to make very clear that the procedure has been exhausted and that the matter is now closed. Should this not stop the complainant from repeatedly trying to re-open the same issue then there should be some consideration to initiating the vexatious complaint process with the appropriate legal advice from the Academy's legal representatives.

## DEALING WITH COMPLAINTS - Formal Stage 2

This stage is reached when all efforts to resolve the complaint at Academy level (i.e. both the Executive Head/Head of School/Senior Manager and Governors have failed, in the eyes of the complainant, to resolve the issues).

In these circumstances the complainant can complain to the Education and Skills Funding Agency (ESFA). The easiest way is via <https://gov.uk> "schools complaints form"

### Introduction

The Education and Skills Funding Agency (ESFA) carries out certain functions in relation to Academies on behalf of the Secretary of State. One of the main functions is to ensure that Academies comply with the Funding Agreement entered into with the Secretary of State.

If any complaints or concerns arise in relation to breaches of the terms of Academies' Funding Agreements then the ESFA will seek to resolve these with an Academy without the need for parents and pupils to make a formal complaint. However, there will be issues where parents of pupils at Academies and pupils themselves have complained to the Academy and such complaints have been considered by the Academy in accordance with its complaints procedure and this has failed to resolve the matter. In these circumstances the complainant can complain to the ESFA and the complaint will be considered in accordance with this procedure.

***Below are some extracts from the ESFA document "Procedure for Dealing with complaints about academies"***

Doc reference: ESFA-00344-2013 This document is also available from <https://gov.uk>

### ***What the ESFA will investigate***

We will look at complaints about academies that fall into the following areas:

- undue delay or non-compliance with an academy's own complaints procedure
- an academy's failure to comply with a duty imposed on it under its funding agreement with the Secretary of State
- an academy's failure to comply with any other legal obligation, unless there is another organisation better placed to consider the matter as set out in the next section 3

### ***What the ESFA will not investigate***

We will not investigate complaints that are, for example:

- about the quality of education or leadership, or concerns affecting the school as a whole. These should be raised with Ofsted
- about discrimination. These should be raised with the Equality Advisory Support Service
- about data protection. These should be raised with the Information Commissioner's Office
- about exam malpractice or maladministration. These should be raised with the Office of Qualifications and Examinations Regulation (Ofqual) and relevant awarding body
- about criminal behaviour. These should be raised with the police
- about any matter which is, or has been, subject to legal action
- about employment matters. These should be raised through the academy's grievance procedure, or taken to an Employment Tribunal

- about safeguarding or child protection matters. These should be taken up with the academy's Local Safeguarding Children's Board
- about a child or young person's Statement of Special Educational Need where there is another route of appeal, for example the First Tier Tribunal (Special Educational Needs and Disability) Service formerly the Special Educational Needs and Disability Tribunal (SENDIST)

We will not consider complaints more than 12 months after a decision or action is taken. The only exceptions will be if the delay in sending the complaint to us was unavoidable or if there is evidence that the academy is not currently complying with legal requirements. We reserve the right not to consider complaints that:

- are malicious (that is, they are instituted without sufficient grounds and serving only to cause annoyance)
- use obscenities, racist or homophobic language
- contain personally offensive remarks about members of our staff
- are repeatedly submitted with only minor differences after we have fully addressed the complaint

### **Outcomes from investigations**

We cannot change any decision an academy has made about your complaint. Our role is to look at whether the academy considered your complaint properly, by following a procedure that is in line with legal requirements. If we uphold a complaint then we may do one or both of the following:

- ask the academy to reconsider the complaint from an appropriate stage
- ask the academy to change its complaints procedure so that it complies with legal requirements

Where possible, please put your complaint in writing. If you have difficulty in providing details in writing, we will discuss with you alternative ways of receiving the information. Complaints about academies should be sent to:

- via the Department for Education's schools complaints form <https://gov.uk>
- by post to

*Ministerial and Public Communications Division Department for Education  
Piccadilly Gate Store Street  
Manchester  
M1 2WD*



## COMPLAINTS PROCEDURE (Summary)

### Step 1

- **Talk to the teacher about your concerns** and explain them carefully. (Often this is all that is needed to find a solution)

If you still have concerns and do not feel that the teacher has addressed them adequately ....

- **Make an appointment to talk to the Head of School/Senior Manager or Executive Head.** Say that you have already talked to the teacher but you still have concerns.
- Discuss the matter with the Head of School/Senior Manager/Executive Head.

If you still have concerns and do not feel that the Head Teacher/Senior Manager or Executive Head has addressed them adequately ....

### Step 2

- **You should write to the Chair of the Governors** of your child's Academy. The address is available from the Academy. Depending on your complaint, the Chair of the Governors may refer the matter to a committee of the Governing Body.
- Your letter should state clearly the concerns that you have and should contain all the relevant facts of which you are aware. If possible, include dates, times and the names of staff and/or pupils who know about the matter.

If you do not feel that the Governors have addressed and dealt with your concerns to your satisfaction....

### Step 3

- **You can refer your concerns to the Education and Skills Funding Agency (ESFA) Department for Education.**

Your letter should state clearly the concerns you have and should contain all the relevant facts. If possible, include dates, times and the names of staff and/or pupils who know about the matter.

## **Appendix 1**

### Education (Independent School Standards) (England) Regulations 2014

#### PART 7 - Manner in which complaints are handled

33. The standard about the manner in which complaints are handled is met if the proprietor ensures that a complaints procedure is drawn up and effectively implemented which deals with the handling of complaints from parents of pupils and which—

- (a) is in writing;
  - (b) is made available to parents of pupils;
  - (c) sets out clear time scales for the management of a complaint;
  - (d) allows for a complaint to be made and considered initially on an informal basis;
  - (e) where the parent is not satisfied with the response to the complaint made in accordance with sub-paragraph
  - (d) establishes a formal procedure for the complaint to be made in writing;
  - (f) where the parent is not satisfied with the response to the complaint made in accordance with sub-paragraph
  - (e) makes provision for a hearing before a panel appointed by or on behalf of the proprietor and consisting of at least three people who were not directly involved in the matters detailed in the complaint;
  - (g) ensures that, where there is a panel hearing of a complaint, one panel member is independent of the management and running of the school;
  - (h) allows for a parent to attend and be accompanied at a panel hearing if they wish;
  - (i) provides for the panel to make findings and recommendations and stipulates that a copy of those findings and recommendations is—
    - (i) provided to the complainant and, where relevant, the person complained about; and
    - (ii) available for inspection on the school premises by the proprietor and the head teacher;
  - (j) provides for a written record to be kept of all complaints that are made in accordance with sub-paragraph (e) and—
    - (i) whether they are resolved following a formal procedure, or proceed to a panel hearing; and
    - (ii) action taken by the school as a result of those complaints (regardless of
    - (iii) whether they are upheld); and
  - (k) provides that correspondence, statements and records relating to individual complaints are to be kept confidential except where the Secretary of State or a body conducting an inspection under section 109 of the 2008 Act requests access to them.
-