



STAMFORD ST GILBERT'S CHURCH OF ENGLAND PRIMARY SCHOOL

COMPLAINTS POLICY

2020/21

| Document Control | |
|--------------------------|-------------------------|
| Committee: | Full Board of Governors |
| Approved By Trustees On: | June 2021 |
| Review Cycle: | Annual |
| Date of Next Review: | June 2022 |

GUIDANCE for PARENTS

Introduction

At St Gilbert's Church of England Primary School all staff are dedicated to giving all children the best possible education and caring properly for their health, safety and welfare at all times. We are committed to working closely with parents and believe that school and parents must work together in partnership, each carrying out their own particular responsibilities to help pupils gain the most from their time in school. We also desire to have a good relationship with our neighbours and the wider community.

The safety and welfare of all pupils is of paramount importance and any concerns that arise may be considered under the child protection and safeguarding policies.

Whether you are a parent/carer, or member of the community, if you feel that something is not going quite as you would like it to, that we are doing something that you are unhappy with, or not doing something that you feel we should, please tell us about it. Anonymous complaints will not be dealt with under this policy. Should your complaint be covered by other statutory procedures, we may refer you to another statutory body. This complaint procedure is for parents and carers of the school. However, as a public body, the academy will handle complaints from the community respectfully and expediently. Members of the community are not obliged to follow the complaints policy though.

All third party providers who utilise the premises will have their own complaints procedures in place if they hire the academy facilities.

The difference between a concern and a complaint

A concern may be treated as an expression of worry or doubt over an issue considered to be important for which reassurances are sought.

A complaint may generally be recognised as 'an expression or statement of dissatisfaction however made, about actions taken or lack of action'.

Raising a Concern or Complaint

- **The first step: Informal**

Please arrange to discuss any concerns with your child's class teacher, or with the particular teacher concerned (including the Headteacher, should your concern be about the Headteacher). This communication may be made by letter, telephone or in person by appointment requested via the school office. We hope that most problems can be sorted out in this way. If you are uncertain about who to contact, please seek advice from the school office. If you are not the parent/carer of a child at our school, please contact the Headteacher to discuss your concerns.

- **The second step: Informal**

If, after speaking to your child's teacher, and having allowed sufficient time to deal with the issue, you do not feel that your concern has been properly dealt with, or if your concern is about the conduct of a particular teacher, then you should discuss the matter with the Headteacher. This communication may be made by letter, telephone or in person by appointment requested via the school office via enquiries@stgilberts.co.uk . In almost all cases we can sort things out satisfactorily in this way. If your concern relates to the Headteacher and is not resolved after the first step, please refer to "Taking matters further" below.

- **The third step: Formal**

If your attempts to resolve the matter informally have not been successful, you should make a formal written complaint to the Headteacher via enquiries@stgilberts.co.uk , unless the complaint is about the conduct of the Headteacher. If your complaint is about the conduct of the Headteacher, you should make a formal written complaint to the Chair of Governors, addressing your envelope to the Clerk to Governors, care of the school's

address clerk@stgilberts.co.uk . If for some reason you do not feel able to put your complaint in writing, please contact the school office to arrange an alternative means of capturing your complaint. In line with the Equality Act 2010, the academy will accept complaints by telephone or from a third party acting on behalf of the complainant should they have written consent to do so.

You will receive an acknowledgement from the Headteacher (or Chair of Governors *where additional stage is adopted*) within five school working days. The acknowledgement letter will also indicate the date by which you can expect to receive the Headteacher's / Chair of Governors written response to your formal complaint letter. This will normally be within ten school working days from the date of the acknowledgement letter. The Academy will also request written consent from the complainant before disclosing information to a third party.

We will also advise you of all escalation procedures at each stage of the process should you not be satisfied with the response.

- **Taking matters further:**

If your complaint is about the conduct of the Headteacher, or if you are dissatisfied with the Headteacher's response to your formal letter of complaint, and you are dissatisfied with the chair's written response, then you will need to contact the Clerk to Governors who will convene the Governors Complaints Committee via clerk@stgilberts.co.uk

You should send written details of your complaint, with any correspondence and evidence to support your complaint, to the Clerk to the Governors at the school address. Please ensure you provide written consent to this information being shared with third parties. If, for some reason, you do not feel able to do so, you should contact the Clerk, via the school, who will record your complaint as a statement for you to sign. The Clerk to Governors will write to acknowledge receipt of your complaint within five school working days. The acknowledgement letter will explain the process which is to be followed and the expected timescale for that process. Where your complaint is considered under written representations, this process may take up to 28 working days to allow for the collection of representations and evidence.

The Governors' Complaints Committee will consider your complaint and write to advise you of the outcome. If your first language is not English, we will make every effort to support and assist, but it may be that a translator is required.

Please find the procedure for this panel hearing further on in this policy.

Brief notes of all meetings, telephone calls and conversations will be taken which will be kept securely and encrypted where appropriate. Copies of any responses will also be added to the complaint record. This will be held separate to the pupils school record and will only be held for as long as required under GDPR.

Any decisions made by the school will be made in line with the principles of administrative law. This means the decision must be lawful, rational, reasonable, fair and proportionate.

Should the school receive several complaints all based on the same subject or from complainants unconnected with the academy, we will send template responses to all complainants or publish a single response on the school website. Those who have complained can also contact the ESFA as detailed in this policy.

- **External Appeal:**

The decision of the Governors's complaints Committee is normally final; if you are dissatisfied with their response you are able to take your complaint to an external body. Complainants can contact the Ministerial and Public Communications Division at the Department for Education. The team will refer complaints about academies to the Education and Skills Funding Agency, which is the arm of the Department for Education which oversees academies. Complainants must make complaints in writing, either by post to: –

Academy Complaints and Customer Insight Unit
Education and Skills Funding Agency
Cheylesmore House
Coventry
5 Quinton Road

Coventry
CV1 2WT

Or, by using the Department for Education's online School Complaints form. This can be accessed at:
<https://www.gov.uk/complain-about-school>

You should be aware that the ESFA will usually only consider a complaint once the school's internal processes have been exhausted. The ESFA will examine whether the complaints policy and any other relevant policies were followed in accordance with the provisions set out. They cannot overturn a decision made but can make recommendations and take action where there are serious failings. The ESFA will also examine whether the school's policies adhere to education legislation. The ESFA will not usually re-investigate the substance of the complaint.

Please note that, unless your complaint is about the governors'/academy's response or lack of response, your complaint will generally have to be considered first by the governing body of the school/academy.

Safeguarding Referrals

Schools have a duty to safeguard and promote the welfare of their pupils under section 175 of the Education Act 2002. Where members of staff have a concern about the welfare of a child, they have a duty to make a referral to the appropriate organisation, usually Local Authority Children's Social Care Services. It is not for the school to investigate or make a judgment about possible abuse or neglect but they must refer any concerns they may have. As such, complaints about safeguarding referrals made in accordance with a statutory duty will not be considered under this procedure.

Time Limits

You should make the school aware of your concern as soon as possible after the matter or incident has occurred. You must raise the 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. We will consider complaints made outside of this time frame if exceptional circumstances apply. If you feel there are exceptional circumstances that have prevented you from meeting the time limit, you can provide an explanation of these circumstances along with your complaint so that these can take them into account.

The final decision rests with Governors as to whether your complaint will be considered when it is raised outside of the three month time limit. Where your child is no longer on roll at the school and your complaint is considered exceptionally, it will usually only be possible to have your complaint considered under the final stage of the school's procedure

In addition, if, at any stage of the process, we believe we are unable to meet the timescales which have been provided to you, we will contact you to inform you of the reasons for any delay and to provide you with a new timescale for the conclusion of that part of the process.

We will consider complaints made outside of term time to have been received on the first school day after the holiday period.

Withdrawing a Complaint

Should a complainant wish to withdraw their complaint they will need to do so in writing.

Complaints against governors

For complaints about against individual governors you should send written details of your complaint with any correspondence and evidence to support your complaint, to the Clerk to Governors at the school address clerk@stgilberts.co.uk. The clerk should then arrange for the complaint to be heard. This will be by the chair of governors and then a panel hearing if applicable.

If for some reason you do not feel able to do so, you should contact the Clerk, via the school, who will record your complaint as a statement for you to sign.

Should the complaint be about the Chair, the entire board of Governors or complaints involving both the Chair and Vice Chair you should send written details of your complaint with any correspondence and evidence to support your complaint, to the Clerk to Governors at the school address. who should then determine the most appropriate course of action. This will depend on the nature of the complaint.

If for some reason you do not feel able to do so, you should contact the Clerk, via the school, who will record your complaint as a statement for you to sign.

As a Single Academy Trust this may involve sourcing an independent investigator to complete the formal stage and suitable people from other schools, who meet the requirements of the regulations, to hear the panel hearing.

The Clerk to Governors will acknowledge receipt of your complaint within five school working days and initiate the correct process.

You will be advised of the outcome within ten school working days. There will be no further internal right of appeal for complaints against governors and any further complaints should be referred to the ESFA.

Unreasonable Complainant Behaviour

Staff and Governors are keen to ensure that all genuine complaints are dealt with fairly and promptly and in accordance with our agreed procedures. We would again emphasise that most matters can be resolved by discussing issues with our staff at the informal stages of our procedure.

Regrettably, there are times when complainants raise issues with or about staff in ways which are unacceptable. This can cloud the concern at the heart of the complaint, which may result in the delay or hindrance of a resolution. It can also have an adverse effect on pupils, staff and the effective running of the school. Examples of behaviours that we consider to be unacceptable are as follows:

- Refusing to articulate their complaint or specify the grounds of a complaint or the outcomes sought by raising the complaint, despite offers of assistance
- Using abusive or threatening language and/or behaviour.
- Making excessive demands on staff time and resources in pursuit of a complaint by frequent, lengthy, complicated and stressful contact with staff regarding the complaint, whether in person, by phone, email or letter while the complaint is being dealt with.
- Introducing trivial or irrelevant information which the complainant expects to be taken into account and commented on, or raises large numbers of detailed but unimportant questions, and insists they are fully answered often immediately and to their own timescales
- Making unjustified complaints about staff who are trying to deal with the issues and/or harassing individual staff members in a way which appears intended to cause personal distress rather than to find resolution
- Refusing to cooperate with the complaints procedure as set out in this policy.
- Refusing to accept that certain issues are not within the scope of a complaints procedures
- Persisting in repetitious complaints when these have been previously determined under the school complaints procedure.
- Changing the basis of the complaint as the consideration proceeds and/or making unjustified complaints about those trying to deal with the complaint.
- Pursuing unreasonable outcomes which are disproportionate to the nature of the matters in hand.
- Electronically recording meetings, telephone calls and conversations without the prior knowledge and consent of the other persons involved.

A complainant's behaviour may also be considered unreasonable if the person making the complaint does so either face-to-face, by telephone or in writing or electronically:-

- maliciously;
- aggressively;
- using threats, intimidation or violence;
- using abusive, offensive or discriminatory language;

- knowing it to be false;
- using falsified information;
- publishing unacceptable information in a variety of media such as in social media websites and newspapers.

Complainants should limit the numbers of communications with the school while a complaint is being progressed. It is not helpful if repeated correspondence is sent (either by letter, phone, email or text) as it could delay the outcome being reached. In addition, the school expects that any person wishing to raise a concern or complaint will:

- Follow the school complaints procedure.
- Treat all members of the school community with courtesy and respect.
- Recognise the time constraints that staff operate under and allow them a reasonable amount of time in which to respond / address any issues.

Where a complainant raises a complaint in a manner which the school feels is unreasonable, actions may be taken to remedy this. The actions will be proportionate to the nature of the behaviour and may include:

- An informal approach to inform the person that the behaviour is unacceptable and needs to be modified.
- A formal written communication advising the person that the behaviour is unacceptable and appropriate action may be taken if the behaviour is not modified.
- A tailored communications strategy such as setting limitations on the method and frequency of contact with staff / school personnel.
- Refusing to register and process further complaints about the same or similar subject matter where the matter has already been determined, or where complaints are vexatious, or where complaints are personally harassing and deliberately targeted at one or more members of staff without good cause.
- Setting limitations on the person's access to the school site.

It should be noted that parents/carers and members of the wider community do not have an automatic right to enter school grounds and the headteacher may ask the complainant to leave the premises after an incident where behaviour has been verbally and/or physically aggressive. They also may be banned from entering the school site by the Board of Governors with immediate effect but will be given the opportunity to express formally their views on the decision. Once the review of the representation has taken place, a decision to confirm or lift the ban will be made. The complainant has the right to appeal this decision and also apply to the courts..

In the event of such behaviour, the school will write to the person concerned to advise that his/her licence to enter the school premises has been temporarily revoked, subject to a review of the decision. The letter will invite the individual to put forward his/her views as to the ban and also advise how he/she can appeal the decision. The decision will then be reviewed and the ban either confirmed or lifted. If the decision is confirmed, the person will be notified in writing and advised how long the ban will be in place.

Any restrictions placed on a person as a result of this policy will be time limited, with a specified date as to when the restrictions will be reviewed and potentially lifted. The period of review will usually be three months; however, for more serious breaches, this may extend to a period of six months.

Again, we would emphasise that the Headteacher and Governing Body are committed to ensuring a full and fair consideration of all legitimate complaints and we recognise that the majority of parents/carers and members of the wider community will conduct themselves in accordance with this policy. However, we reserve the right to take any necessary actions under this policy in those rare cases where a person does not.

(Note: No complaint should be summarily dismissed as vexatious, but should be carefully assessed first. According to the Department for Education, vexatious is defined as 'serial' or 'persistent'.)

Caution should be exercised before taking any of the actions outlined above and responses must be proportionate. Further advice and support is available from the EFSA. The academy will also follow the Best Practice guidance from the government in this respect.

Managing serial or persistent complaints

There will be occasions when despite all stages of the complaint procedure being followed, the complainant remains dissatisfied. If they endeavour to re-open the issue, they will be informed that the matter is now closed. If the complainant contacts the school again regarding the closed complaint it will be considered as serial or persistent and therefore the academy will not respond if we believe we have taken every reasonable step to address the complainant's concerns, the complainant has been given a clear statement of our position and their options and the complainant contacts the academy repeatedly, making substantially the same points each time

The academy will also not respond if :

- letters, emails, or telephone calls are often or always abusive or aggressive
- insulting personal comments about or threats towards staff are made
- the academy has reason to believe the individual is making contact with the intention of causing disruption or inconvenience

In these instances, legal advice may be sought and a single point of contact or restricted email access will be put in place.

The characteristics of a 'frivolous' or 'vexatious' complaint are:

- complaints which are obsessive, persistent, harassing, prolific, repetitious
- insistence upon pursuing unmeritorious complaints and/or unrealistic outcomes beyond all reason
- insistence upon pursuing meritorious complaints in an unreasonable manner
- complaints which are designed to cause disruption or annoyance
- demands for redress that lack any serious purpose or value

The academy will not refuse to accept further correspondence or complaints from an individual we have had repeat or excessive contact with. The application of a 'serial or persistent' marking will be against the subject or complaint itself rather than the complainant.

Governors' Complaints Procedure

Refer also to the flow chart at the end of this section

- If a person is not satisfied with the response from the Headteacher or from the Chair of Governors, or if the complaint is about the Headteacher then he/she is entitled to take their complaint to the Governing Body's Complaints Committee.
- All complaints to the Governing Body's Complaints Committee must be in writing (or as detailed on Page 2 where appropriate in line with the Equality Act 2010) and should include full details of the complaint, enclosing any supporting evidence. This should be sent to the Clerk to the Governors, care of the school. The Clerk will then ensure the complaints process is started as soon as practicable (a complainant can request that the Clerk to the Governors write down the complaint on their behalf where writing a letter is difficult).
- A minimum of three Governors including an independent panel member will be selected to form a Governing Body's Complaints Committee to consider the complaint; it is recommended that the Chair of Governors is not on this committee. Those Governors chosen should ideally have no knowledge whatsoever of the details surrounding the complaint or of the complainant themselves. The Complaints Committee can choose its own Chair.
- It is appreciated that this may not always be possible, particularly in some rural schools. However, the Governing Body should always try to find impartial Governors whenever possible.
- Once the Complaints Committee has been formed, they will ensure they are familiar with the school's complaints procedure and then decide how they wish to consider the complaint.
- As an academy, our internal complaint procedures **will** culminate in a hearing before a panel of at least three people, one of whom will be independent of the management and running of the academy.

Oral Hearing Procedure

- The Clerk to Governors will invite the complainant to attend a meeting where they will be able to put their complaint personally to the Governors' Complaints Committee. The complainant should receive not less than ten days' notice of the meeting (calendar days). The aim of the panel meeting should be reconciliation and to put things right that may have gone wrong. The complainant should also be advised that they have the right to submit any further information or documentation relevant to the complaint and that this information should be received in sufficient time so it can be provided to the Committee at least five school working days before the hearing. They should also be informed that any written materials will be provided to the Headteacher in advance of the hearing. Recording devices are not permitted and all parties will be made aware of this prior to and at the start of the meeting.
- Complainants have the right to fair meeting and can request an independent panel if they believe there is likely to be bias in the proceedings. Complainants will need to provide clear evidence of bias to support their request. If the appearance of bias is sufficient then the request will be agreed to but it is the academy's decision whether to agree to it.
- All complaints will be treated fairly and complainants will be offered a chance to state their case in person or in writing, at each stage of the procedure. If the academy has made reasonable attempts to accommodate complainants with complaint meetings and they refuse or are unable to attend, then the academy will convene meetings in the absence of the complainant and reach a conclusion in the interests of drawing the complaint to a close.
- The Clerk to Governors should inform the Headteacher of the time and date of the meeting, invite him/her to attend and provide all the details of the complaint available at that time, so that the Headteacher can provide a written report in response to the complaint. This report should be provided at least five school working days before the meeting so it can be shared with all parties.
- The Headteacher should be present to respond to the complaint. Teachers will not attend. If their evidence is needed, it should either be obtained via the Headteacher, or where this is not appropriate, by a governor either before or after the meeting with the complainant. Written evidence should generally be made available to both parties at least five school working days in advance of the hearing, subject to any data protection constraints. Advice will be sought from the *Data Protection Officer at the EFSA* if there are concerns as to what materials can be shared. The Governors will only make a decision about the complaint once they have heard both the complainant's and the school's evidence.
- The structure of such a meeting will be flexible. However, it is anticipated it will follow a similar process to admission appeals. The Chair of the Committee will outline the procedure. The complainant will then present his/her case. The complaints committee will have familiarised themselves with the written complaint before the meeting opens and will then have an opportunity to ask any questions, as will the Headteacher. The complaint will then be responded to by the Headteacher and both the complainant and the committee will have the opportunity to ask questions.
- Each party can then be asked to summarise their position in brief. Both parties will then leave to allow the governors to make their decision in private. The complainant and the Headteacher will enter and leave the room at the same time; neither will be alone with the committee.
- Both the complainant and Headteacher are entitled to bring a representative with them if they wish. Either party intending to bring a representative would be expected to contact the Clerk to the Governors before the hearing to notify them.
- These committees are not legal proceedings therefore there will be no legal representation. However, we do recognise that there are occasions where legal representation may be appropriate during panel hearings i.e. if a trust employee is a witness in a complaint, they may be entitled to being union or legal representation.

Adjudications

- Regardless of which method is adopted, the Complaints Committee should take a robust and unbiased approach and not simply endorse the decision of the Headteacher without any consideration of the evidence.
- The Complaints Committee must have all the necessary evidence they feel is necessary for them to make their decision. If they are not satisfied and require further evidence from either party, they should adjourn and request that information. The Complaints Committee should only make their decision if they are satisfied they have sufficient evidence with which to make a final decision.
- The decision of the Complaints Committee will be given to the complainant, where relevant the person complained about and the Headteacher and Chair of Governors in writing within 5 school working days of the decision along with the minutes of the meeting subject to required redaction in accordance with the DPA 2018 and any actions taken by the academy following the procedure. Providing the procedures as laid down in the complaints policy are followed then there is no right of appeal following this decision. However, the academy will also provide the minutes of the panel hearing.
- The decision letter will outline the nature of the complaint, the factors taken into consideration and the decision of the Complaints Committee along with the reasons for the decision. Where appropriate it will include details of actions the academy will take to resolve the complaint. In the case of written representations, the decision letter should be sufficiently thorough so as to obviate the need for minutes to include any other information.
- Under the Freedom on Information Act 2020 complainants can request to have sight of all documents relating to their complaint, subject to restrictions as detailed in LCC guidance 'Disclosure of Information to Parents and Others'.
- The academy will keep a central register of complaints received including
 - 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 school or the trust, regardless of outcome
 - determine who is responsible for these records and make sure the data is kept secure

Under the General Data Protection Act, records will not be kept for longer than necessary unless statutory regulations apply. Records will be kept confidentially and encrypted (except where the Secretary of State or a body conducting an inspection under section 109 of the 2008 Act requests access to them).

It is important that the complaint and the investigation papers are not attached to the child's file as they do not relate to the child.

On occasion, a complaint may continue after a pupil has left the school and in this instance the academy will retain the records confidentially and encrypted whilst the complaint is ongoing so that access can be maintained.

Reference Points

- Education Act 1996 (Sections 496 & 497)
- Education Act 2002 (Section 29)
- Apprenticeships, Skills, Children and Learning Act (“The Act”) 2009 (Chapter 10, Part 2, sections 206-224)
- The Education (Independent School Standards) Regulations 2014
- Education Act 2011
- ‘Complaints About Schools – Model Procedure’ (see attached Appendix 1)
- Best Practice Advice for School Complaints Procedures 2016
- The Equality Act 2010

Contact Point

LA & School Community Liaison Officer (01522-554884)

Action Points

All maintained schools and academies are required to have a procedure in place for dealing with complaints relating to the school and any community facilities or services that the school provide. The procedure must be published.

Academies should follow the guidance issued by the Education Funding Agency.

APPENDIX 1

EXAMPLE OF FORMAL WRITTEN COMPLAINT

Please complete and return to the Headteacher or the Clerk to Governors depending on the stage of your complaint. You will receive an acknowledgement and an explanation of the process.

Your name:

Pupil's name:

Your relationship to the pupil:

Your address:

Postcode:

Day time telephone number:

Evening telephone number:

Please give details of your complaint.

What action, if any, have you taken to try and resolve your complaint?
(Who did you speak to and what was the response?)

What actions do you feel might resolve the problem at this stage?

Are you attaching any paperwork? If so, please give details:

Please provide written consent to disclose this information and additional papers you submit to third parties

Signature:

Date:

Official use only

Date acknowledgement sent:

By whom:

Complaint referred to:

Date of referral:

APPENDIX 2

INVITATION TO A HEARING

(Sample letter from the Clerk to Governors inviting the Complainant to a hearing)

Dear

Reference: Your complaint against (Name of school)

I write to acknowledge your letter dated (insert date) and to confirm that your letter is being considered under our school complaints procedure.

The Governors' Complaints Committee has been convened to consider your complaint and the Committee has decided that their adjudication will proceed by way of an oral hearing.

For this purpose, you are invited to attend the meeting of the Complaints' Committee at (time) on (date) at (place).

At this meeting you will be given the opportunity to present your case to the Complaints Committee. The Headteacher will also attend to present the school's case. You will present your complaint first and the Headteacher and the Committee may then ask you questions. The Headteacher will then present the school's case and both you and the Committee may then ask the Headteacher questions. You will then both be given an opportunity to present a brief summary of your respective positions and after this you will both leave the hearing. The Committee will write to you within five school working days to inform you of their decision.

You may bring a representative with you to the meeting if you wish. If you do intend to bring a representative, please notify me so that I can make necessary arrangements.

If you have any written evidence which you intend to use to support your complaint, please forward copies to me by (date) so that these can be shared with the Complaints Committee and the Headteacher in advance of the meeting. Meanwhile, I am enclosing the Headteacher's supporting documents for your information. Please note that if materials are presented for the first time at the hearing itself, the meeting may be adjourned to allow the other party time to consider it.

For the avoidance of doubt, all communication should be through me, as the Clerk to Governors; neither party should send responses to the other directly.

Please confirm your attendance by (date).

Yours sincerely

(Clerk to Governors is the signatory)

APPENDIX 3

FORMAL COMPLAINT TO GOVERNORS

This action should only be taken once the Headteacher has responded in writing to a formal complaint OR if the complaint is about the Headteacher.

