

## **HANDLING COMPLAINTS: ADVICE FOR SCHOOLS**

This advice makes suggestions about how any concern, complaint or allegation received by the school might be handled. It does not form part of any formally adopted procedure but may help where a school has adopted the local authority model.

### **Definition of a complaint**

- 1) In its initial stages (Part A) it sets out how the school will receive any complaint, of whatever nature, and how it will respond to the complainant. The investigative and appeal stages (Part B) are only to be used to deal with concerns or complaints about a school decision, a policy or procedure, or the way a school policy or procedure has (or has not) been implemented.

**If, at any stage, a complaint is received alleging child abuse, the member of staff or governor receiving the complaint will contact the local authority for advice immediately via the Local Authority Designated Officer (LADO). In such cases, the school will be advised to ensure that the procedures set out by the Cumbria Local Safeguarding Board are followed.**

**Any other allegation of misconduct or misbehaviour by a member of staff should not be treated using the Part B advice: the governing body should have adopted a separate disciplinary procedure for dealing with such matters.**

- 2) Concerns and complaints may be expressed by parents, carers, volunteers or members of the community with an interest in the working of the school, on matters for which the school is directly responsible. For the purposes of this advice, a complaint may be regarded as the formal registering of what may previously have been raised informally as a concern, either by the complainant requesting that the school use the formal procedure, or the school determining that it should use the procedure.

This advice may also be used to support the handling of any complaints raised about volunteers, such as governors, where employment procedures are not appropriate.

### **PART A: Receiving and responding to a concern or complaint**

- 3) It is expected that those wishing to raise a concern about an aspect of their child's education will arrange through the office to meet with the relevant member of staff (or their manager) about whom the concern is being raised. It may be appropriate to arrange for staff to have a senior colleague present for the meeting. Members of staff will
  - deal with and resolve the concern if they can
  - report to the headteacher that they have been notified about a concern and
  - explain what action they have taken to deal with it
- 4) If the concern is about a matter of school policy, then this should be referred to the headteacher.

- 5) If a member of the school (staff or governor) receives any concern, complaint, or allegation which is not about them personally, it will be referred in the first instance to the headteacher<sup>1</sup> so that a decision can be made about how to respond. If the complaint is about the headteacher, it will be referred to the chair of governors; if it is about the chair of governors, it will be referred to the clerk to the governing body.
- 6) Many concerns can be resolved by giving the complainant the opportunity to discuss matters with the individual concerned, whether a member of staff, the headteacher or a governor. The school expects that the vast majority of concerns will be resolved at this stage and relevant managers will make every effort to arrange for such a discussion to take place.
- 7) The conclusions of any meeting with the complainant and the outcomes of any informal investigation by a member of staff will be put in writing and copied to the complainant within 10 days following the meeting. The letter to the complainant should also explain that if they remain dissatisfied, they have 10 days to request that their concern is investigated as a complaint.

## **PART B: Investigating a complaint**

- 8) This refers to either
  1. An investigation by the headteacher or a senior member of staff (for complaints against members of staff other than the headteacher). OR
  2. An investigation by a nominated member of the governing body (for complaints against the headteacher, or a governor).

In the following paragraphs, the word 'investigator' refers to either the headteacher, senior member of staff or governor as appropriate.

### Making a complaint

- 9) The complainant should put his/her complaint in writing. The complainant may make a request for formal consideration of their complaint in person, or by telephone. In this case, the person receiving the request will record the details, confirm with the complainant that the written record correctly reflects their complaint, and then pass it to the relevant manager, or the headteacher, or the chair of governors, or the clerk, whichever is appropriate.

### Initial response to a complaint

- 10) However the complaint is notified, it should be acknowledged within 5 days by the investigator<sup>2</sup>. The investigator should provide the complainant with a copy of the Procedure.
- 11) Where appropriate, the investigator may offer an opportunity to meet the complainant as soon as possible to discuss the complaint, confirm what will be investigated and what outcome the complainant seeks. The outcomes of this meeting should then be confirmed in writing with the complainant and signed by both the complainant and the investigator. A copy of the outcomes should be sent to the complainant within 10 days of the meeting.
- 12) If it emerges at the meeting that the complainant is expecting to know that disciplinary action will be taken against staff as a result of the complaint, or that a decision taken as part of another statutory process (eg an exclusion) will be overturned, then the investigator should make clear that this is not possible (as disciplinary procedures are confidential and exclusions are subject to statutory appeal) and close the meeting. They should then take advice to make sure that the right procedure is being used.

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<sup>1</sup> or relevant senior member of staff or line manager

<sup>2</sup> If the complaint is first received by the clerk or chair of governors, they may send the acknowledgement

## Investigation

- 13) The complaint should then be investigated. The investigation may include:
- interviews with the person against whom the complaint is made (whether staff, governor, visitor, volunteer)
  - interviews with any other relevant witnesses
  - a review of any written papers
  - referring to any relevant school policies or procedures

The investigator may also wish to contact the local authority to check what procedures the school should have in place and what is regarded as good practice.

- 14) Interviews with children should only be undertaken by professionals (such as teachers or support staff who have a clearly established working relationship with the child) and not by governors. Permission will normally need to be obtained from pupils' parents for such interviews to take place. The school should take advice as necessary from the local authority to ensure that such interviews are conducted appropriately.**

- 15) The investigation should usually be concluded within 20 days dating from the meeting with the complainant (or from receipt of the complaint where no meeting has taken place, or from the date of confirmation by the complainant that no meeting is sought) and a written response sent to the complainant at the end of the investigation. If there is to be a delay in concluding the investigation, a letter should be sent to the complainant explaining the reason for the delay and providing a revised date.

- 16) The written response should explain briefly

- what the investigation entailed (but not details of what was said or written by witnesses)
- whether the complaint has been upheld and if isn't, the main reasons for not upholding
- any action the school proposes to take to resolve the complaint where it is upheld, including offering a resolution meeting (but not including any subsequent, specific actions against any individual)
- any policy or procedure recommendations to be made to the headteacher or governing body in the light of the investigation (whether the complaint is upheld or not)
- that there is a right of appeal to a panel of governors
- that any appeal must be made in writing days of their receiving the outcome letter (or of any failed resolution meeting)
- that if the right of appeal is not exercised, the matter is closed

- 17) Where a member of staff or volunteer (e.g. a governor) is the subject of the complaint, s/he should also receive a copy of the written response.

- 18) The complainant is not normally entitled to see any written records, notes or minutes made by the investigator during the investigation, except notes of meetings where the complainant was present (The school may nevertheless be required to comply with a release of information through a Data Protection disclosure or Freedom of Information request).

## Resolution meeting

The school might offer or agree to a resolution meeting at any time.

- 19) Where a complainant agrees to attend a resolution meeting, this should usually be arranged no later than 10 days after the date of the letter to the complainant. The purpose of the meeting is to give the opportunity for all parties to meet and agree any restorative actions.

- 20) Matters raised in this informal meeting would be confidential to that meeting with the only minutes being agreed outcomes. The meeting should be chaired or conducted by the investigator or the chair of governors or a third party external to the school. (This might be a representative of the local authority, the diocese, a governor of another school, a retired headteacher or other professional known in the community). The chair of the meeting may be nominated by either party, but should be acceptable to both.
- 21) In the event that the complaint has not been upheld, such a meeting may be delayed until after any appeal has been heard.
- 22) Should the meeting not produce a resolution, then the complainant can still appeal to a panel of the governing body against the outcome of the investigation. This request must be made within 5 school days of the resolution meeting.

### **Appeal to the governing body**

- 23) The governing body could reserve the right not to proceed with an appeal where the complainant offers no specific grounds: it should not proceed with an appeal simply because the complainant's appeal is that the complaint has not been upheld.
- 24) Whilst it is expected that complainants should normally write direct to the clerk, a recorded verbal notification of the complainant's request for an appeal hearing is acceptable, provided it is given within the relevant timescale.
- 25) A letter should be sent to the complainant acknowledging that they have exercised their right to an appeal. This letter should:
- a) acknowledge that the complainant has exercised their right to appeal
  - b) confirm the grounds for the appeal
  - c) notify the complainant of the date when the appeal will be heard or reviewed (which should be within 20 days of receiving the appeal request)
  - d) explain the format of the appeal hearing or review.
  - e) inform the complainant of his/her right to submit any documents relevant to the complaint (but not material that would constitute an additional complaint) not later than 10 days prior to the hearing or review)
  - f) explain the complainant's right to be accompanied at the hearing by a friend of their choice
- 26) A panel of a *minimum* of two governors, not including the investigator, appointed by the governing body, should hear or review the complaint.
- 27) The investigator should also be invited to prepare a written report in response to the appeal for submission to the review panel and/or be invited to attend the hearing. They have the same rights as the complainant.
- 28) All relevant correspondence and any additional written materials produced by either side should be circulated to all parties not later than 5 school days before the date of the appeal. Any such material must not divulge confidential information relating to individual employees or children other than the complainant's.

### **Appeal review**

- 29) The panel should meet and review all the written evidence presented to them. Their remit is to consider
- a) whether the previous handling of the complaint was sound
  - b) whether the previous judgement reached was justifiable
  - c) whether to uphold or overturn the appeal

- 30) The panel may agree to adjourn to enable them to consider any significant written evidence not previously considered, or to remedy any significant defect in the previous investigation. This should not normally include any further interviewing of either the investigator or the complainant, nor witnesses for either side, but this may happen if it is clear that there have been defects in the previous investigation, and this must be put right to ensure a just decision is reached.
- 31) The panel should draft a response to the appeal. The written response should summarise
- a) what evidence the appeal panel considered
  - b) whether the appeal has been upheld and if it isn't, the main reasons for not upholding
  - c) any policy or procedure recommendations to be made to the headteacher or governing body in the light of the appeal (whether the complaint is upheld or not)
  - d) that this concludes the school's complaints procedure

If the school has decided to adopt an appeal hearing, the following is suggested:

### **Appeal hearing**

- 30) The chair of the appeal panel should give at least 10 days notice confirming to the complainant, the investigator and members of the panel, the time and venue for the hearing.
- 31) In the exceptional circumstances of the complainant or the investigator being legally represented, the chair of the appeal panel must be informed of this at least five days before the appeal is heard. The appeal panel may also be legally represented if it so chooses.
- 32) The appeal hearing should be held in accordance with the separate procedure attached. (Annex 4)
- 33) The complainant, the investigator of the complaint and any member of staff or volunteer who is the subject of the complaint should be notified of the outcome within as soon after the appeal as possible by the clerk in writing. The chair of the panel may do this in person as well.

Once this point is reached, the complainant will have exhausted the school's complaints procedure. The following information about other complaint mechanisms are included for the information of the school and should be given to the complainant. They do not form part of the governing body's own complaints procedure.

### **The Secretary of State**

The complainant has a separate right to complain to the Secretary of State if they believe that the governing body or the LA is acting unreasonably or is failing to carry out its statutory duties properly.

### **Ofsted**

The complainant has a separate right to complain to the Office for Standards in Education (Ofsted). Contact details can be found at [www.ofsted.gov.uk](http://www.ofsted.gov.uk).

## **ADVICE: ANNEX 1**

### **HANDLING COMPLAINTS: ADDITIONAL ADVICE FOR STAFF AND GOVERNORS**

#### CHILD PROTECTION

- 1) If a complaint is received against a member of staff that amounts to an allegation of child abuse, the advice of the Local Authority Designated Officer (LADO) should be immediately sought.

#### WHICH PROCEDURE?

- 2) The school should always try to resolve concerns at the earliest possible stage, but should not prolong the use of an informal approach in order to delay or avoid a formal investigation. It reserves the right to deal with a concern by using the 'investigating complaints' stage of the Procedure, if this will resolve matters more speedily.
- 3) The school should not normally investigate anonymous complaints, but may retain and review any written material submitted anonymously for future reference and to ensure any warning signs are considered that will secure the safety of pupils and staff.
- 4) Complainants may not determine how a complaint should be investigated. Where a statutory or local authority procedure does not have to be followed, the school should use the relevant Procedure most recently adopted by the governing body. Any variation to the Procedure by the school should be agreed with the complainant in advance.
- 5) Complaints about governors should only be handled by the chair or clerk, using either the Procedure, or by referring to guidance set out in the DfE's *Governors' Handbook* and relevant legislation. Contact the Governor Support Team for further details and advice.
- 6) If the complainant has raised concerns about racist or homophobic incidents, staff should take advice from Allyson Carty [Allyson.carty@cumbria.gov.uk](mailto:Allyson.carty@cumbria.gov.uk) or Sara Nobili-Park [sara.nobili-park@cumbria.gov.uk](mailto:sara.nobili-park@cumbria.gov.uk)

#### TIMESCALES

- 7) All concerns should be responded to swiftly and appropriate action taken, including making an apology where appropriate, so that concerns do not unnecessarily escalate to formal complaints.
- 8) It is recommended that holding or initial response letters should be issued within 5 days. Investigations should be concluded within 20 days. Outcome or decision letters should take no longer than 10 days. Circulation of papers should be no later than 5 days prior to meetings.
- 9) All references to 'days' are to school days. The school should recognise that there may be circumstances for both parties that prolong the Procedure – such as sickness absence or holiday – and it would be reasonable to expect some variation or flexibility. The complainant should be informed of any change to timescales as soon as possible.
- 10) When a complaint is being handled, the investigator should arrange provisional dates for all stages in the procedure, allowing the school to plan for the appeal stage in advance.

#### INVESTIGATORS / PANEL MEMBERS/ 'TAINTED' GOVERNORS

- 11) The headteacher should ensure that those senior staff who may be delegated to act as an investigator have this duty included in their job description and provide suitable training and/or support.

12) The governing body should either

- nominate annually, a governor who will normally act as the investigator and another governor as a reserve OR
- delegate to the chair and clerk, the power to appoint any suitable governor at the time a complaint is received.

13) If any complaint is being investigated by a governor, either the chair or the investigating governor should also ensure that arrangements for any potential appeal are provisionally made at the outset of the investigation.

14) All categories of governor may be regarded as suitable to be appointed as investigators or to a panel, provided that a governor is not previously 'tainted' or has a *personal* conflict of interest that would prevent them from acting impartially.

15) A governor should only be regarded as 'tainted,' and therefore ineligible to act as investigator or member of an appeal panel, if s/he has had either

- a) Substantial personal involvement in the matter, or
- b) Substantial prior knowledge of the details of the complaint that would render them incapable of acting impartially (e.g., the investigator could not also sit on the appeal panel).

The fact that the *complainant* (or any individual who is the subject of the complaint) might deem a governor tainted should not be regarded as a sole determination of their ineligibility.

16) Relevant staff and governors should attend training to ensure that complaints can be handled appropriately.

#### CONFIDENTIALITY / RECORDS / COMMUNICATION

17) A complaint received by any member of the governing body should not be referred to other members of the governing body (except the chair) nor taken to a governing body meeting.

18) Governors approached personally by a complainant should advise them of the school's Procedure and refer them either to the headteacher, or to the chair of governors, or to put their complaint in writing to the clerk to the governors, whichever is appropriate.

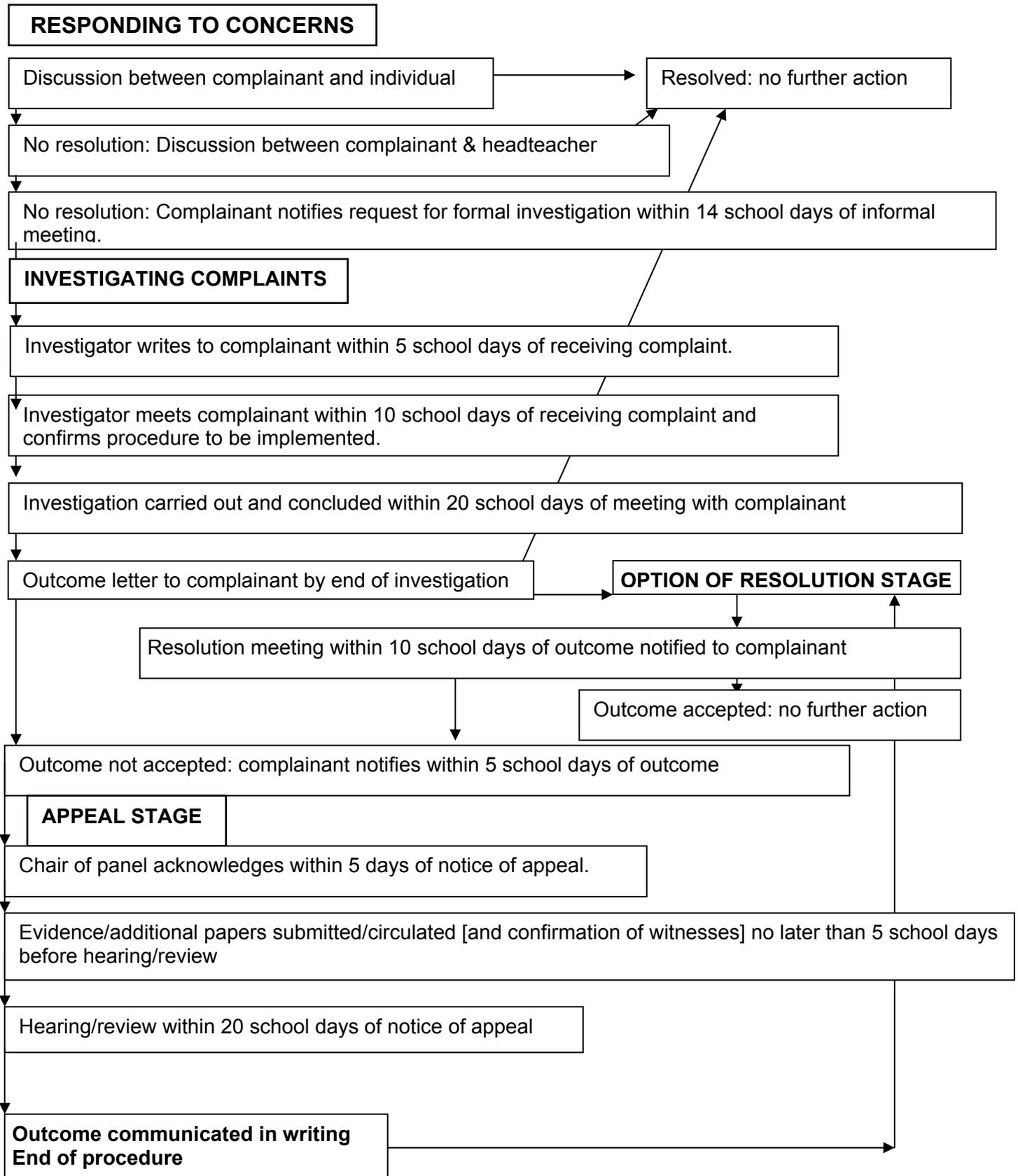
19) Complainants should be advised that they may harm the fair hearing of their complaint if they write to all members of the governing body.

20) All correspondence should use the school address. All letters from the governing body should be signed from and by the clerk to the governors, even where it is the chair of governors or other member of the governing body that is the investigator, or the chair of an appeal panel.

21) The school should retain records of complaints for at least one year. As part of its process of self evaluation, the governing body should monitor records to review the effectiveness of the procedure and how the process of resolving concerns can contribute to school improvement.

**ADVICE: ANNEX 2**

**HANDLING COMPLAINTS: TIMESCALES**



## **ADVICE: ANNEX 3**

### **HANDLING COMPLAINTS: UNREASONABLY PERSISTENT, HARASSING OR ABUSIVE COMPLAINANTS**

The headteacher and governing body are committed to the improvement of our school. We welcome feedback from parents/carers and should always try to resolve any concerns as quickly as possible. There is a procedure for parents to use if they wish to make a formal complaint. Sometimes, however, parents or carers pursuing complaints or other issues treat staff and others in a way that is unacceptable. Whilst we recognise that some complaints may relate to serious and distressing incidents, we will not accept threatening or harassing behaviour. The aim of this leaflet is to provide information about our school policy on unreasonably persistent complainants or harassment of staff.

#### **What do we mean by 'an unreasonably persistent complainant'?**

An unreasonably persistent complainant may be anyone who engages in unreasonable behaviour when making a complaint. This will include parents and carers who pursue complaints in an unreasonable manner. Unreasonable behaviour may include:

- actions which are
  - out of proportion to the nature of the complaint, or
  - persistent – even when the complaints procedure has been exhausted, or
  - personally harassing, or
  - unjustifiably repetitious and/or
- an insistence on
  - pursuing unjustified complaints and/or
  - unrealistic outcomes to justified complaints and/or
- an insistence on
  - pursuing justifiable complaints in an unreasonable manner (eg using abusive or threatening language; or
  - making complaints in public; or
  - refusing to attend appointments to discuss the complaint

#### **What is 'harassment'?**

We regard harassment as the unreasonable pursuit of issues or complaints, particularly if the matter appears to be pursued in a way intended to cause personal distress rather than seek a resolution. Behaviour will fall within the scope of this policy if:

- it appears to be deliberately targeted over a significant period of time at one or more members of school staff or others, without good cause;
- the way in which a complaint or other issues is pursued (as opposed to the complaint itself) causes ongoing distress to school staff or others;
- it has a significant and disproportionate adverse effect on the school community, interfering with the daily business of the education of pupils.

#### **What can you expect from the school?**

Anyone who raises informal or formal concerns and complaints with the school can expect us to:

- keep in touch regularly in writing over:
  - how and when problems can be raised with the school
  - details of the school's complaints procedure
  - details of the school's Unreasonably Persistent Complaints/Harassment Policy
- respond within a reasonable time
- be available for consultation within a reasonable time limit, bearing in mind the needs of pupils
- respond with courtesy and respect

- attempt to resolve problems using reasonable means in line with the school's complaints procedure and advice from Cumbria County Council or diocesan authority
- keep those involved informed of progress

This leaflet forms part of the school's complaints procedure, available on request from the school office.

### **What the school expects of you**

The school expects anyone who wishes to raise concerns with the school to:

- treat all staff with courtesy and respect
- respect the needs of pupils and staff within the school
- avoid the use of violence (including threats of violence) towards people or property
- recognise the time constraints under which members of staff in schools work and allow the school a reasonable time to respond to a complaint
- recognise that some problems may not be resolved in a short time
- follow the school's complaints procedure

### **Schools' responses to unreasonably persistent complaints or harassment**

This policy is intended to be used in conjunction with the school's complaints procedure. Taken together, these documents set out how we will always seek to work with parents, carers and others with a legitimate complaint to resolve a difficulty. However, in cases of unreasonably persistent complaints or harassment, the school may take the following steps, as appropriate:

- inform the complainant informally that his/her behaviour is now considered by the school to be unreasonable or unacceptable, and request a changed approach
- inform the complainant in writing that the school considers his/her behaviour to fall under the terms of the Unreasonably Persistent Complaints/ Harassment Policy
- require all future meetings with a member of staff to be conducted with a second person present: in the interests of all parties, notes of these meetings may be taken
- inform the complainant that, except in emergencies, the school will respond only to written communication

The school has a duty of care to staff and pupils and will take emergency measures should these become necessary in extreme cases.

### **Physical or verbal aggression**

The school will not tolerate **any** form of physical or verbal aggression against school staff. If staff are subject to this type of aggression the school may:

- ban the individual from entering the school site, with immediate effect
- request an Anti-Social Behaviour Order (ASBO)
- prosecute under Anti-Harassment legislation

Legitimate new complaints will always be considered, even if the person making them is (or has been) subject to the Unreasonably Persistent Complaints/ Harassment Policy. The school nevertheless reserves the right not to respond to communications from individuals subject to the policy.

## **ADVICE: ANNEX 4**

### **HANDLING COMPLAINTS: CONDUCT OF APPEAL *HEARING* (WHERE THE SCHOOL HAS NOT CHOSEN AN APPEAL *REVIEW*)**

#### **General principles**

- 1) The aim of the hearing is to resolve the complaint and achieve reconciliation between the school and the complainant.
- 2) It is the responsibility of the chair of the panel to ensure that arrangements are made for the hearing to be properly minuted by a clerk.
- 3) The complainants may be unused to dealing with groups of people in formal situations. It is recommended that the chair ensures that the procedures are as informal as possible. Complainants should have been informed of their right to be accompanied.
- 4) The panel, the complainant, the investigator and any individual who is the subject of the complaint, should all have access to the same information at least 5 school days before the hearing. The introduction of previously undisclosed evidence or witnesses would be reason to adjourn the meeting so that the other side has time to consider and respond to the new evidence.
- 5) Witnesses may be called to the appeal by either party subject to the approval of the chair of the panel, which must be sought at least ten days before the hearing.
- 6) The chair of the panel, at least 5 school days before the hearing, should let all parties know of the witnesses who are eligible to be called. It should be for the chair to decide whether a child may be present at any part of the meeting.
- 7) Only the complainant and his/her representative, the person about whom the complaint is made, the panel, and the investigator and his/her representative should be present throughout the hearing. Any other witnesses who appear at the hearing should be called into the meeting to give evidence, at the appropriate time.
- 8) Prior to the beginning of the hearing, the panel should convene to confirm the procedure to be followed, and consider any requests for variations to procedure.

#### **Order of hearing**

- 1) Welcome and introduction by chair of the panel.
- 2) Confirmation of the procedure to be followed.
- 3) Complainant, or their accompanying person, presents the appeal.
- 4) Questions to complainant may be asked by the panel and the investigator.
- 5) Any witnesses for the complainant are then called to give their evidence. Questions may be asked of any witnesses, as they appear, by the panel and the investigator.
- 6) The investigator responds to the complaint.
- 7) Questions to the investigator may be asked by the complainant and the panel.
- 8) Witnesses may be called by the investigator to give their evidence. Questions may be asked of any witnesses, as they appear, by the panel and the complainant.

- 9) At the end of these stages, no further evidence can be offered.
- 10) Summing up by the investigator of the evidence presented.
- 11) Summing up by the complainant of the evidence presented.
- 12) Concluding remarks by the chair of the appeal panel. Explanation of what happens next by the chair of the panel.
- 13) The complainant and the investigator and any companions are asked to leave, and the panel deliberates. Only the outcome and reasons to be given in the letter to the complainant are recorded by the clerk, and not the deliberations prior to reaching a decision.
- 14) At any point in the proceedings, the chair may agree to an adjournment, subject to the proviso that it does not cause an unreasonable delay.

### **The decision**

- 15) The panel should either:
  - uphold the complaint in full and inform the complainant of the grounds for its decision and if appropriate recommend a remedy, or
  - uphold it in part and give reasons why, or
  - dismiss it and inform of the reasons why it did not uphold the complaint

Whatever the decision, the panel may also invite all parties to a resolution meeting.
- 16) The panel should provide a decision orally where a decision can be reached within an hour of the end of the meeting and the complainant is able to remain to hear it.
- 17) The outcome of the appeal hearing should be confirmed in writing within 5 days of the hearing. The investigator should receive a copy of the letter, as should any individual named as part of the complaint.
- 18) The chair of the appeal panel should inform the governing body of any general outcomes or recommendations, provided that details of the complaint are not disclosed and employee confidentiality are not compromised.