



**GENESIS**  
EDUCATION TRUST

# **SEND Complaints POLICY**

**St Mary's and St Saviour's**

Reviewed by SENDCo: **Autumn 2020**

To be reviewed: **Annually**

Next review: **Autumn 2021**

*\*Except in the case of dismissal the term 'Headteacher' refers to the Executive Head and the Headteachers (Federation). The power to dismiss is vested in the Executive Headteacher or Headteachers of individual schools. Executive Head/ Headteacher/Head Teacher/Associate Head (henceforth referred collectively as Headteacher, unless specifically stated)*

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### 1. Aims

Our school aims to meet its statutory obligations when responding to complaints from parents and carers of pupils with SEND needs at the school.

When responding to complaints, we aim to:

- Be impartial and non-adversarial
- Facilitate a full and fair investigation by an independent person or panel, where necessary
- Address all the points at issue and provide an effective and prompt response
- Respect complainants' desire for confidentiality
- Treat complainants with respect
- Keep complainants informed of the progress of the complaints process
- Consider how the complaint can feed into school improvement evaluation processes

We try to resolve concerns or complaints by informal means wherever possible. Where this is not possible, formal procedures will be followed.

The school will aim to give the complainant the opportunity to complete the complaints procedure in full.

To support this, we will ensure we publicise the existence of this policy and make it available on the school website.

## 2. Legislation and guidance

This document meets the requirements of section 29 of the Education Act 2002, which states that schools must have and make available a procedure to deal with all complaints relating to their school and to any community facilities or services that the school provides.

It is also based on guidance for schools on complaints procedures from the Department for Education (DFE).

This document meets the requirements set out in part 7 of the schedule to the Education (Independent School Standards) Regulations 2014, which states that we must have and make available a written procedure to deal with complaints from parents of pupils at the school.

It is also based on guidance published by the Education and Skills Funding Agency (ESFA) on creating a complaints procedure that complies with the above regulations, and refers to good practice guidance on setting up complaints procedures from the Department for Education (DFE).

This policy complies with our funding agreement and articles of association.

It also refers to good practice guidance on setting up complaints procedures from the Department for Education (DFE).

In addition, it addresses duties set out in the Early Years Foundation Stage statutory framework with regards to dealing with complaints about the school's fulfilment of Early Years Foundation Stage requirements.

## 3. Definitions and scope

The DFE guidance explains the difference between a concern and a complaint.

A **concern** is defined as "an expression of worry or doubt over an issue considered to be important for which reassurances are sought".

The school will resolve concerns through day-to-day communication as far as possible.

A **complaint** is defined as "an expression of dissatisfaction however made, about actions taken or a lack of action".

The school intends to resolve complaints informally where possible, at the earliest possible stage.

There may be occasions when complainants would like to raise their concerns formally. This policy outlines the procedure relating to handling such complaints.

This policy does not cover complaints procedures relating to:

- Admissions
- Statutory assessments of special educational needs and disabilities (SEND)
- Safeguarding matters
- Exclusion

- Whistle-blowing
- Staff grievances
- Staff discipline

Please see our separate policies for procedures relating to these types of complaints.

Arrangements for handling complaints from parents of children with SEND about the school's support are within the scope of this policy.

The referral structure for SEND complaints is as follows:

class teacher  special educational needs co-ordinator (SENDCO).  Headteacher  Executive Head

When a complaint is made to the Headteacher or Executive Head, (s)he may decide to deal with it or to refer it to an appropriate level in the structure. Where they have asked a colleague to deal with a complaint, feedback should be given to them.

Where a teacher other than the Headteacher receives a complaint (as opposed to an expression of concern) and deals with it, the Headteacher should be notified of the complaint and how it was resolved.

If all informal channels have been exhausted and there is still dissatisfaction, the complainant should be made aware of how formal procedures can be initiated.

Our SEND policy and information report includes information about the rights of parents and carers of pupils with disabilities who believe that our school has discriminated against their child.

Complaints about the services provided by other providers who use school premises or facilities should be directed to the provider concerned.

## 4. Principles for investigation

When investigating a complaint, we will try to clarify:

- What has happened
- Who was involved
- What the complainant feels would put things right

We also intend to address complaints as quickly as possible. To achieve this, realistic and reasonable time limits will be set for each action within each stage.

Where further investigations are necessary, new time limits will be set, and the complainant will be sent details of the new deadline with an explanation for the delay.

The school expects that complaints will be made as soon as possible after an incident arises and no later than 3 months afterwards. We will consider exceptions to this time frame in circumstances where there were valid reasons for not making a complaint at that time and the complaint can still be investigated in a fair manner for all involved.

## Complaints about our fulfilment of Early Years requirements

We will investigate all written complaints relating to the school's fulfilment of the Early Years Foundation Stage requirements, and notify the complainant of the outcome within 28 days of receiving the complaint. The school will keep a record of the complaint (see section 9) and make this available to Ofsted on request.

Parents and carers can notify Ofsted if they believe that the school is not meeting Early Years Foundation Stage requirements, by calling 0300 123 4234 or 0300 123 4666, or by emailing [enquiries@ofsted.gov.uk](mailto:enquiries@ofsted.gov.uk). An online contact form is also available at <https://www.gov.uk/government/organisations/ofsted#org-contacts>.

We will notify parents and carers if we become aware that the school is to be inspected by Ofsted. We will also supply a copy of the inspection report to parents and carers of children attending the setting on a regular basis.

## 5. Stages of complaint (not complaints against the Headteacher or a governor)

*The complaints procedure in academies, including free schools, and independent schools must consist of at least 3 stages, including an informal stage, a formal stage and a panel hearing. The procedure could include more than 3 stages. It must set out clear timescales for responding to, investigating and coming to conclusions at each stage. Insert and adapt the following to reflect your school's circumstances:*

The referral structure is as follows:

class teacher □ Special Educational Needs and Disabilities Coordinator □ Headteacher □ Executive Head

On occasions it will be appropriate to by-pass levels in the referral structure – this will be at the discretion of school staff.

When a complaint is made to the Headteacher or Executive Head, they may decide to deal with it or to refer it to an appropriate level in the structure. Where they have asked a colleague to deal with a complaint, feedback should be given to them.

Where a teacher other than the Headteacher receives a complaint (as opposed to an expression of concern) and deals with it, the Headteacher should be notified of the complaint and how it was resolved.

If all informal channels have been exhausted and there is still dissatisfaction, the complainant should be made aware of how formal procedures can be initiated.

### **Stage 1: The First Contact: Guidelines for Dealing with Concerns and Complaints Informally**

Complaints will be dealt with promptly, thoroughly and, in the first instance, on an informal basis.

- 1.1 The majority of concerns and complaints should be able to be resolved informally. There are many occasions where concerns are resolved straight away through the class teacher or SENDCo.
- 1.2 If contacting the school to request a meeting about an area of concern, parents and carers should always indicate the general area of concern to the member of staff they are speaking to. This will enable them to be referred to the right person and enable this person to gather any appropriate information enabling them to respond to the concern quickly.
- 1.3 Complaints should be dealt with at the most appropriate level. This will be determined by the nature and seriousness of the complaint. Under no circumstances should teachers become involved in discussions about the professional performance of a colleague. Where a member of staff feels that there should be upward referral of complaints, the referral structure is given above. In the event of a complaint being made to a member of the Governing Body, the complainant should be advised to speak to the Headteacher or Headteacher to resolve the matter informally. Governors must not prejudice themselves by discussing the complaint as this would prevent them from participating in a panel at a later stage.
- 1.4 When parents raise their concern with the appropriate member of staff they will clarify with the parent the nature of the concern. It can be helpful to identify at this point what outcome the parent is looking for.
- 1.5 The staff member will seek to resolve the complaint at this stage. The staff member will ensure that the parent is clear what action (if any) or monitoring of the situation has been agreed, putting this in writing where this seems the best way of making things clear. The staff member will keep a written record of the complaint and the action taken and notify the SENDCo. The SENDCo will then notify the Headteacher that a complaint has been made.
- 1.6 If the member of staff first contacted cannot immediately deal with the matter, s/he will refer the complaint to the SENDCo or Deputy/Assistant Head. On certain issues, the Headteacher may decide to deal with concerns directly at this stage.

- 1.7 If the concern relates to the Executive Head, the parent should contact the Chair of the Governing Body through the school office. The Chair may investigate the complaint, or may delegate this task to another Governor.

## **Stage 2: Referral to the Headteacher for Investigation**

- 2.1 If the parent is not satisfied that their complaint has been adequately dealt with, they may put their complaint in writing to the Headteacher and ask them to investigate. The Headteacher may delegate the investigation to the Deputy Head or Assistant Head.
- 2.2 If the Headteacher has been involved at Stage 1, the Stage 2 investigation will be carried out by another member of SLT or a Governor.
- 2.3 As necessary, the Headteacher (or designate) will interview witnesses and take statements from those involved.
- 2.4 Once all the relevant facts have been established, the Headteacher (or designate) will produce a written response to the complainant.

## **Possible Outcomes at Stage 2**

- 3.1 When informal procedures have been exhausted, complainants should be informed clearly by the Headteacher that:
  - a) The matter about which they complained has been dealt with appropriately by staff within the context of school policies and procedures, OR
  - b) The complaint has been found by the Headteacher to be valid and that the Headteacher within his/her responsibility for overall internal management of the school will take appropriate action, OR
  - c) The Headteacher / Executive Head will refer the matter to the Governing Body for their consideration.
- 3.2 The written response will include an explanation of the decision and the reasons for it. Where appropriate, this will include what action the school will take to resolve the complaint
- 3.3 The complainant will be advised in the written response. Should s/he feels that their complaint has not been investigated in line with these procedures, they should write to the Chair of the Governing Body within two weeks of receiving the written response to request a review. This request for a review will need to set out the reasons for the request, clearly stating which aspects of this procedure they feel have not been followed correctly

## **Stage 3: Review by the Governing Body**

- 4.1 The Governing Body will not take any role in a complaints investigation, other than to review a case to determine whether the complaints procedure was followed correctly. The only exception will be if the complaint relates to the Governing Body or a member of the Governing Body. In these cases, the Chair of the Governing Body will appoint an Investigating Officer.
- 4.2 Upon receipt of a written request by the complainant for the complaint to proceed to stage 3, the Chair of the Governing Body will write to the complainant to acknowledge receipt of the written request for review.
- 4.3 The acknowledgement will inform the complainant that the complaint will be heard by three members of the school's Governing Body. The letter will reiterate that the role of the panel is to review whether the correct procedure has been followed by the school in addressing the original complaint and that the Panel will not review the decisions taken at Stage 1 and Stage 2, nor will the Panel hear any new evidence.
- 4.4 The Chair of the Governing Body will arrange to convene a Governors' Complaints Panel. The panel members will be governors who have had no prior involvement with the complaint. If s/he has not previously been involved, the Chair or Vice Chair of the Governing Body will generally chair the panel; however, if both have been involved, or are unavailable, another Governor will chair the panel.
- 4.5 The Chair of the Panel will write and inform the complainant, Headteacher / Executive Head and members of the Panel at least five working days in advance, of the date, time and place of the meeting. The request for review setting out why the complainant believes the complaints procedure has not been correctly followed will be enclosed with this letter. The notification to the complainant will also inform him/her of the right to be accompanied to the meeting by a friend/advocate/interpreter.
- 4.6 It is the responsibility of the Chair of the Panel to ensure that the meeting is properly minuted by the Clerk to Governors.
- 4.7 The meeting will allow for:
- The complainant to explain why they believe their complaint has not been handled in accordance with this procedure
  - The Headteacher / Executive Head to explain the procedure followed by the school
  - panel members to have an opportunity to question both the complainant and the Headteacher / Executive Head
  - Final statements by both the complainant and the Headteacher / Executive Head.
- 4.8 The Chair of the Panel will explain to the complainant and the Headteacher / Executive Head that the Panel will now consider its decision, and a written decision will be sent to both parties within 15 working days. The complainant and Headteacher / Executive Head will then leave.
- 4.9 The Panel will then reach a decision on whether this procedure has been correctly followed.
- 4.10 A written statement outlining the decision of the Panel will be sent to the complainant and Headteacher within 15 working days.
- 4.11 The school will ensure that a copy of all correspondence and notes are kept on file in the school's records. These records will be kept separately from a pupil's personal records.

## **6. Complaints against the Headteacher or a governor**

Complaints made against the Headteacher should be directed to the chair of governors (Rev Canon Ade Ademola) and will be investigated using the same process as Stage 2.

The complaint will be acknowledged by the Chair of the Governing Body who will write to the complainant to acknowledge receipt of the written request for review. The Chair of Governors (or other person appointed by the Chair of Governors for this purpose) will then conduct their own investigation. Depending on the nature of the complaint, the Chair of Governors may invite the complainant to a meeting to discuss their concerns further and obtain additional information or clarify the resolution they are seeking. The written conclusion of this investigation will be sent to the complainant within 15 school days.

Where a complaint is against the chair of governors or any member of the governing board, it should be made in writing to the clerk to the governing board (Gill Hand) in the first instance.

## **7. Referring complaints on completion of the school's procedure**

If the complainant is unsatisfied with the outcome of the school's complaints procedure, they can refer their complaint to the ESFA (Education and Skills Funding Agency). The ESFA will check whether the complaint has been dealt with properly by the school. The ESFA will not overturn a school's decision about a complaint. However, it will look into:

- Whether there was undue delay, or the school did not comply with its own complaints procedure
- Whether the school was in breach of its funding agreement with the secretary of state
- Whether the school has failed to comply with any other legal obligation

If the school did not deal with the complaint properly, it will be asked to re-investigate the complaint. If the school's complaints procedure is found to not meet regulations, the school will be asked to correct its procedures accordingly.

For more information or to refer a complaint, see the following webpage:

<https://www.gov.uk/complain-about-school>

## **8. Dealing with serial, persistent or unreasonable complaints**

The school will endeavour to be helpful to individuals contacting us with a concern, request for information or a complaint.

However, in cases where a school is contacted repeatedly by an individual making the same points, or asking the school to reconsider their position despite all stages of the complaint procedure being followed, the school will need to act appropriately in such circumstances.

The school reserves the right to not respond to complaints that have been previously investigated and completed fully in accordance with the school's complaints procedure.

Should the school view the persistent and unreasonable contact of a complainant as constituting spurious, vexatious, abusive, unreasonably persistent or harassing and threatening behaviour, we will take steps supported by legal action as appropriate to ensure the school can continue its work safely and securely.

The Genesis Education Trust defines unreasonable complaints as 'those who, because of the frequency or nature of their contacts with the school, hinder our consideration of their or other people's complaints' (DfE January 2016).

A complaint may be regarded as unreasonable when the person making the complaint:-

- Refuses to articulate their complaint or specify the grounds of their complaint and outcomes sought, despite offers of assistance.
- Refuses to cooperate with the complaints investigation whilst still wishing for it to be resolved.
- Refuses to accept certain issues are not within the scope of the complaints procedure.
- Insists on the complaint being dealt with in ways which are not compatible with the complaints procedure and good practice.
- Introduces trivial or irrelevant information and expects these to be taken into account and commented on, or raises large numbers of detailed but unimportant questions, and insists these are answered fully and often immediately and to their own timescales.

- Makes unjustified complaints about staff dealing with the issued and seeks to have them replaced.
- Changes the basis of the complaint as the investigation proceeds.
- Repeatedly makes the same complaint (despite previous investigation and outcome concluding the complaint is groundless).
- Refuses to accept the findings of the investigation into the complaint where the school's complaint procedure has been fully and properly implemented and completed, including referral to the DfE.
- Seeks an unrealistic outcome.
- Makes excessive demands on school time by frequent, lengthy, complicated and stressful contact with staff regarding the complaint in person, in writing, by email and by telephone while the complaint is being dealt with.

A complaint 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 social media, websites and newspapers.

Whenever possible, the Executive Headteacher or the Chair of Governors will discuss any concerns with the complainant informally before applying an 'unreasonable' marking to a complaint.

If the behaviour continues, the Executive Head will write to the complainant explaining that their behaviour is unreasonable and asking them to change it. For complainants who excessively contact the school causing a significant level of disruption, we may specify methods of communication and limit the number of contacts in a communication plan. This will usually be reviewed after 6 months.

In response to any serious incident of aggression or violence, the concerns and actions taken will be put in writing immediately and the police will be informed. This may also include banning individuals from school premises.

## 9. Record-keeping

The school will record the progress of all complaints, including information about actions taken at all stages, the stage at which the complaint was resolved, and the final outcome. The records will also include copies of letters and emails, and notes relating to meetings and phone calls.

This material will be treated as confidential and held centrally, and will be viewed only by those involved in investigating the complaint or on the review panel.

This is except where the secretary of state (or someone acting on their behalf) or the complainant requests access to records of a complaint through a freedom of information (FOI) request or under the terms of the Data Protection Act, or where the material must be made available during a school inspection.

The details of the complaint, including the names of individuals involved, will not be shared with the whole governing board in case a review panel needs to be organised at a later point.

Where the governing board is aware of the substance of the complaint before the review panel stage, the school will (where reasonably practicable) arrange for an independent panel to hear the complaint.

Complainants also have the right to request an independent panel if they believe there is likely to be bias in the proceedings. The decision to approve this request is made by the governing board, who will not unreasonably withhold consent.

## 10. Learning lessons

The Chair of Governors will review any underlying issues raised by complaints with the Headteacher and/ or Executive Head, where appropriate, and respecting confidentiality, to determine whether there are any improvements that the school can make to its procedures or practice to help prevent similar events in the future.

## **11. Links with other policies**

Policies dealing with other forms of complaints include:

- Admissions policy
- Safeguarding policy
- Exclusion of pupils policy
- SEND policy
- Disability equality policy
- SEND information report
- Disciplinary procedures

### **Genesis Education Trust Complaint Form**

Please complete this form and return to the Headteacher who will acknowledge its receipt and inform you of the next stage in the procedure.



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

**Signature:**

**Date:**

SCHOOL USE:
Date form received:
Received by:
Date acknowledgement sent:
Acknowledgement sent by:

Complaint referred to:			
Date:			