

David Nieper Education Trust



Complaints Procedure

This policy was originated in conjunction with Working With Schools (HR Advisors)

Version Control

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Signed:	Date:
David Ashton	September 2022

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1. Purpose of the Complaints Procedure

This procedure aims to reassure parents and others with an interest in the academy that:

- any complaint against the academy will be dealt with in a fair, open and responsive way, with the aim of achieving a speedy and satisfactory resolution; and
- the academy recognises that a willingness to listen to comments and criticism and to respond positively, can lead to improvements in academy practices and provision for pupils.

2. Scope of the Procedure

- 2.1 The procedure takes account of The Education (Independent Academy Standards) (England) Regulations 2014 and advice given by the Education and Skills Funding Agency in 2017 with regard to dealing with academy complaints.
- 2.2 Complainants may be anyone with an interest in the work of the academy e.g. parents, carers, guardians, grandparents, neighbours of the academy. However, it is expected that it will be mainly parents or guardians who will make use of this procedure. The term 'parent' is therefore used throughout the procedure as a generic term but the procedure also applies in relation to any other type of complainant.
- 2.3 A complaint is defined as a clear statement of dissatisfaction about any specified aspect of the academy's work.
- 2.4 This procedure covers all complaints about the provision of facilities or services that an academy provides with the **exceptions** listed below, for which there are separate (statutory) procedures:

Exceptions	Who to contact
• Statutory assessments of Special Educational Needs (SEN)	Concerns should be raised directly with local authority SEND team
• Safeguarding	Academies have a duty to safeguard and promote the welfare of their pupils under section 175 of the Education Act 2002. It is not for the academy to investigate or make a judgment about possible abuse or neglect, but they must refer any concerns they may have to the appropriate organisation. Further information on safeguarding referrals please contact Mrs. L Howard.
• Allegations of professional abuse	Allegations of abuse or inappropriate conduct, or concern, regarding a member of the academy staff must be reported to the Headteacher immediately. Allegations of abuse against the Headteacher must be reported to the Academy Trust Chair of Trustees.

<ul style="list-style-type: none"> • Staff grievances and disciplinary procedures 	<p>These matters will be dealt with through the academy's internal disciplinary or grievance procedures. Complainants will not be informed of the outcome of any investigation.</p>
<ul style="list-style-type: none"> • Exclusion of children from academy 	<p>Further information about raising concerns about exclusion can be found at: www.gov.uk/government/publications/school-exclusion</p>
<ul style="list-style-type: none"> • Whistleblowing 	<p>Academies have an internal whistle-blowing procedure for their employees and voluntary staff. Other concerns can be raised directly with Ofsted.</p>
<ul style="list-style-type: none"> • Complaints about services provided by other providers who may use academy premises or facilities. 	<p>Providers should have their own complaints procedure to deal with complaints about service. They should be contacted directly.</p>

3. General

- 3.1 Records of all conversations and meetings with parents to resolve complaints should be kept. At a General Complaints Panel meeting, minutes will be taken. To help prevent recurring complaints, copies of correspondence and notes will be kept on file in the academy's records, but be held separate from individual pupil records.
- 3.2 If at any stage in the procedure it becomes apparent that the complaint falls outside the remit of these procedures, parents will be informed.
- 3.3 Complaints should be made as soon as possible after an incident arises and usually within three months, however, exceptions may be made in extenuating circumstances.
- 3.4 Extensions to time-lines will be at the discretion of the Chair of Trustees.

4. Serial or Persistent Complaints

- 4.1 If the complainant contacts the academy repeatedly about the same matter then such communications may be viewed as 'serial' or 'persistent' and the academy may choose not to respond. However, academies must not mark a complaint as 'serial' before the complainant has completed the procedure.
- 4.2 The decision to stop responding should never be taken lightly. An academy needs to be able to say yes to all the following:
 - The academy has taken every reasonable step to address the complainant's needs

- The complainant has been given a clear statement of the academy's position and their options (if any)
- The complainant is contacting the academy repeatedly but making substantially the same points each time.

The case is stronger if the academy agrees with one or more of these statements.

- The academy has reason to believe the individual is contacting them with the intention of causing disruption or inconvenience.
 - Their letters/emails/telephone calls are often or always abusive or aggressive
 - They make insulting personal comments about or threats towards staff.
- 4.3 The application of a 'serial or persistent' marking should be against the subject or complaint itself rather than the complainant.
- 4.4 Where the Chair of Trustees, judges a complaint to be serial or persistent, they should take appropriate action which may include rejecting the complaint and/or restricting contact between the complainant and the academy.
- 4.5 The Chair of Trustees, as appropriate, should write to the complainant and explain this decision and the reasons for it and what action will follow, if applicable.
- 4.6 Where a complainant seeks to reopen a matter which is the same as, or similar to, a matter previously considered under the procedure, the Chair of Trustees has the right to inform him/her that the procedure has been exhausted and the matter is closed.
- 4.7 The Department for Education does not itself use the term 'vexatious' when dealing with serial or persistent correspondents as it could potentially be inflammatory. However, it is a recognised term. In the context of Freedom of Information requests, 'vexatious' could be defined as the '*...manifestly unjustified, inappropriate or improper use of a formal procedure.*' An exemption therefore exists in Section 14(1) of the FOI Act. However, this exemption can only be applied to requests themselves, and not the individuals who submit them.

More information about dealing with vexatious requests for information is available on the [Information Commissioner's Office \(ICO\) website](#)

5. Banning from School Premises

- 5.1 Academies are private places, the public has no automatic right of entry. If an individual's behaviour is a cause for concern, an academy can ask him/her to leave academy premises.

- 5.2 In serious cases, the Headteacher or Chair of Trustees can notify them in writing that their implied permission to be on academy premises has been temporarily removed subject to a later review. If this decision is taken, academies are advised to always put it in writing and explain how the decision can be appealed. Academies should also give the individual the opportunity to formally express their views on the decision to ban in writing.
- 5.3 The decision should then be reviewed and either confirmed or lifted. If the decision is confirmed the individual should be notified in writing, explaining how long the ban will be in place.
- 5.4 Anyone wishing to complain about being banned can do so, by letter or email, to the Chair of Trustees. However complaints about banning cannot be escalated to the Department for Education. Once the academy procedure has been completed, the only remaining avenue of appeal is through the Courts; independent legal advice must therefore be sought.

6. Withdrawal of Complaints

- 6.1 Complaints may be withdrawn at any stage by the complainant by giving notice in writing.

7. Stage 1: Informal Stage

- 7.1 On occasions, a parent may raise a concern directly with academy staff without any formality. At this stage, it may be unclear whether the parent is making a complaint, seeking information or has misunderstood a situation. Regardless of this, the academy will aim to resolve the concern at this point in a speedy and effective way. All issues raised with staff will be responded to within 24 hours (48 hours at the weekend) with an outline of the actions to be taken. A full in detailed response will be provided within 5 working days.
- 7.2 However, if the concern is not resolved immediately and the parent confirms they wish the matter to be dealt with as a complaint, the opportunity to discuss the matter with an appropriate member of staff will be given e.g. Headteacher, Progress and Achievement Leader, or another member of the Senior Leadership Team. In the case of a complaint against the Headteacher, the complainant should, if appropriate, discuss their concerns with the Headteacher in the first instance. However, should the complainant feel it is inappropriate to do this, then they may proceed directly to Stage 2 of the procedure by writing to the Chair of Trustees.
- 7.3 If a parent raises a complaint with a Trustee then the Trustee should refer the complainant to the Headteacher or Chair of Trustees as appropriate.
- 7.4 The member of staff will discuss the issue with the parent and those involved in academy, with the aim of resolving the complaint as soon as possible. The

parent will be informed in writing of the outcome of the investigation and what action, if any, the academy proposes to take.

- 7.5 It is anticipated that the majority of complaints will be resolved at this stage. However, if the informal process has been exhausted and no satisfactory solution has been found, the parent will be informed by the academy of how to progress the matter to Stage 2 of the Academy Complaints Procedure.

8. Stage 2: Referral to the Chair of Trustees for further investigation

- 8.1 If wishing to proceed with the complaint, the parent will be invited to put the complaint in writing to the Chair of Trustees, via the academy using the form attached at Appendix 2. The form should be submitted within **ten school days** of receiving the written response at Stage 1. A copy of the form should be retained by the parent.
- 8.2 Where the complaint has been addressed by the Headteacher at Stage 1, Stage 2 will be undertaken by the Chair of Trustees. Complaints against the Chair of Trustees will be investigated by the Chair of the Board of Trustees.
- 8.3 The Chair of Trustees will acknowledge the written complaint within **five school days** of receipt and provide an opportunity to meet the parent to discuss the complaint within the following **ten school days**.
- 8.4 Following discussion with the parent, the Chair of Trustees will investigate the complaint and a written response will whenever possible be made within **fifteen school days** of the meeting. Where the parent refuses the offer of such a meeting the Chair of Trustees will inform the parent of the outcome of their investigation within **fifteen** school days of receipt of the written complaint. If this is not possible, a letter will be sent explaining the reason for the delay and providing a revised date by which they will respond.
- 8.5 The written response will include full reasons for the conclusions reached by the Chair of Trustees and what action, if any, the academy proposes to take to resolve the matter. The written response will also inform the parent how to progress the matter to Stage 3 of the Academy Complaints Procedure if they believe that the matter has not been adequately resolved at Stage 2.

9. Stage 3: Review by the Trustees' Complaints Panel

- 9.1 If the parent remains dissatisfied, they will be advised that, in order to progress the complaint further to Stage 3, they must notify the Clerk to the Board of Trustees in writing **within ten school days** of receipt of the written response at Stage 2, enclosing a copy of the original complaint form.
- 9.2 Except in exceptional circumstances, should the parent not inform the Clerk to the Board of Trustees of their intention to proceed to Stage 3 within **ten academy days** of receipt of the written response at Stage 2, the complaint will be considered closed.

- 9.3 Complaints only rarely reach Stage 3. However, when the need arises, the **Trustees' General Complaints Panel** will consider complaints at this stage. (See Appendix 3)
- 9.4 A written acknowledgement of the complaint and the request for it to be heard at Stage 3 of the procedure will be sent to the parent by the Clerk to the Trustees within **five school days**.
- 9.5 The letter will inform the parent that the complaint will be heard by the General Complaints Panel (GCP) within **twenty school days** of receiving the complaint. Any request, by either party, to extend this time limit must be put in writing to the Clerk to the Board of Trustees. The letter will also inform the parent of the right to submit any further documents other than the complaint form and that these must be made available to the Clerk within **five school days** of receipt of the acknowledgement letter. The right of the parent to be accompanied by a companion of their choice and the right to call witnesses to the meeting, subject to the approval of the Chair of the GCP, will also be explained in the letter. The Clerk to the Board of Trustees should be informed of the names of any witnesses being called and their relevance to the complaint.
- 9.6 The Clerk to the Governing Board will send a copy of the letter of acknowledgement to the complaint to the Chair of Trustees and/or Headteacher and will request that a copy of the written response made at Stage 2, and any other documents for consideration at the hearing be submitted within **five school days** of receipt of the letter. The right to call witnesses to the meeting, subject to the approval of the Chair of the GCP, will also be explained in the letter. The Clerk to the Board of Trustees should be informed of the names of any witnesses being called and their relevance to the complaint.
- 9.7 The Clerk to the Governing Board will then convene a GCP meeting, having consulted with all parties on convenient times. The date, time and venue for the meeting will then be confirmed at least **ten school days** in advance.
- 9.8 The Education (Independent Academy Standards) Regulations 2010 Part 7 stipulates that the appeal panel in academies must comprise of at least three people, one of whom is **independent of the management and running of the academy**.
- 9.9 All relevant documents provided by both parties will be forwarded by the Clerk of the GCP to: the parent; the Chair of Trustees and/or Headteacher; and each panel member. These will be provided as soon as possible and, in any event, at least **five academy days** prior to the meeting.
- 9.10 The meeting will be held following the procedures for hearing a complaint detailed in Appendix 3.
- 9.11 Failure by the parent to attend the hearing without reasonable cause could result in

the hearing going ahead and a decision being made in their absence. The decision to proceed with the hearing without the presence of the parent will be at the discretion of the GCP.

- 9.12 A written decision will be sent to the parent and the Chair of Trustees by the Chair of the GCP within **ten academy days** of the hearing.
- 9.13 The letter will give details of the decision of the GCP and confirm that the decision of the panel is final.
- 9.14 If a complaint procedure has been exhausted and the complainant remains dissatisfied, they have the right to refer their complaint to the Education Funding Agency (EFA). EFA has a duty to consider all complaints raised however will only act where the Board of Trustees has acted unlawfully or unreasonably and where it is expedient or practical to do so.

The Education Funding Agency's powers, in respect of academies in England, are delegated to the Ministerial and Public Communications Division. They will examine if the complaint policy and any other relevant statutory policies were followed in accordance with the provisions they set out. The Ministerial and Public Communications Division also examines policies to determine if they adhere to legislation. However, they will not normally re-investigate the substance of the complaint. This remains the responsibility of the academy.

- 9.15 The ESFA will not overturn an academy's decision about a complaint except in exceptional circumstances where it is clear the academy has acted unlawfully or unreasonably. If the EFA finds that the academy has not handled a complaint in accordance with its procedure, the academy may be required to re-consider the complaint.

Further information about ESFA's procedure for dealing with complaints about academies can be found at

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/321851/Complain_about_an_academy.pdf

- 9.16 The Local Authority has no role in reviewing the application by the academy of its complaints procedures

10. Complaints concerning a Trustee

- 10.1 In the case of a complaint made against a Trustee, the Chair of Trustees will investigate the matter and then decide on any appropriate action. Where appropriate this could include making a recommendation to the Board of Trustees about possible suspension. Where the complaint is against the Chair of Trustees the Vice-Chair will undertake the investigation and reach a decision. The Chair or Vice-Chair will write to the complainant giving details of their decision within **fifteen academy days** of receipt of the complaint.

The complainant can appeal against the decision of the Chair or Vice-Chair within a maximum of **ten academy days** of receipt of the decision letter. The Board of Trustees can either delegate the appeal to the complaints committee, or may, where they think it appropriate, appoint three other Trustees to form a complaints panel to investigate and make a recommendation by majority decision to the Governing Board.

David Nieper Academy is committed to dealing with all complaints fairly and impartially, and to providing a high quality service to those who complain. We will not normally limit the contact complainants have with the academy. However, we do not expect our staff to tolerate unacceptable behaviour and will take action to protect staff from that behaviour, including that which is abusive, offensive or threatening.

David Nieper Academy defines unreasonable complainants as '*those who, because of the frequency or nature of their contacts with the academy, hinder our consideration of their or other people's complaints*'.

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

- refuses to articulate their complaint or specify the grounds of a complaint or the outcomes sought by raising the complaint, despite offers of assistance;
- refuses to co-operate with the complaints investigation process while still wishing their complaint to be resolved;
- refuses to accept that certain issues are not within the scope of a complaints procedure;
- insists on the complaint being dealt with in ways which are incompatible with the adopted complaints procedure or with good practice;
- introduces 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;
- makes unjustified complaints about staff who are trying to deal with the issues, and seeks to have them replaced;
- changes the basis of the complaint as the investigation proceeds;
- repeatedly makes the same complaint (despite previous investigations or responses concluding that the complaint is groundless or has been addressed);
- refuses to accept the findings of the investigation into that complaint where the academy's complaint procedure has been fully and properly implemented and completed including referral to the Department for Education;
- seeks an unrealistic outcome;
- makes excessive demands on academy 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 in social media websites and newspapers.

Complainants should limit the numbers of communications with an academy 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.

Whenever possible, the Headteacher or Chair of Trustees will discuss any concerns with the complainant informally before applying an 'unreasonable' marking.

If the behaviour continues the Headteacher will write to the complainant explaining that their behaviour is unreasonable and asking them to change it. For complainants who excessively contact **David Nieper Academy** 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 informed. This may include banning an individual from **David Nieper Academy**.

Appendix 2. Form to notify formal Academy Complaint (stage 2 and/or Stage 3)

Your name:

Student's name:

(if applicable)

Your relationship to the student:

(if applicable)

Address:

Postcode:

Daytime telephone number:

Evening telephone number:

Please give details of your complaint.(Continue on a separate sheet if necessary)

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

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

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

Signature:

Date:

FOR ACADEMY USE:

Date acknowledgement sent:

By whom:

Complaint referred to:

Date:

**Please complete and return to
.....(Chair of Trustees) who will
acknowledge receipt and explain what action will be
taken.**

Appendix 3 Trustees' Complaints Panel

Role

The panel has the power to make decisions on behalf of the Board of Trustees and may:

- dismiss the complaint in whole or in part;
- uphold the complaint in whole or in part;
- decide on the appropriate action to be taken to resolve the complaint if the complaint is upheld
- where appropriate recommend, to the next meeting of the Board of Trustees, changes to the academy's systems or procedures to ensure that problems of a similar nature do not recur.

Membership

A pool of Trustees will be named for this purpose from which two Trustees will be appointed. A third member, who is independent of the management and running of the academy must also be appointed.

No member of the General Complaints Panel should have had prior involvement with the complaint or complainant.

The Chair of the General Complaints Panel will be appointed prior to meeting.

The Chair of Trustees will not be a member of the General Complaints Panel. If the Chair of Trustees has been involved at an earlier stage in the procedure they also should not be a member of the General Complaints Panel. Their role would be to attend the panel hearing to give evidence of what had been done to address the complaint in earlier stages.

Appendix 3a

Trustees' Complaints Panel - Procedures for Hearing a Complaint at Stage 3

The aim of the meeting is to resolve the complaint and achieve a satisfactory outcome for the parent and the academy.

The Chair of the GCP will ensure that the meeting is properly managed and minuted.

Although the meeting will follow the structured order below, the Chair will endeavour to ensure that the proceedings are as informal as possible and that all parties are put at their ease, given potential sensitivities and anxieties.

If new information or witnesses are introduced at the meeting which had not previously been notified to the Clerk, the panel may adjourn the meeting so that everyone has time to consider and respond to the new information.

Order of meeting

1. The Chair welcomes the parent and his/her companion and introduces the GCP.
2. The Chair explains the purpose of the meeting, the procedure, and asks for confirmation that all written evidence has been made available to all parties.
3. The parent/companion explains the complaint, calling in witnesses if appropriate.
4. The GCP may ask questions of the parent/companion and any witnesses.
5. The parent and companion leave the meeting.
6. The Chair welcomes the Headteacher and Chair of Trustees where the complaint has been addressed by the Chair at Stage 2).
7. The Chair explains the purpose of the meeting, the procedure, and asks for confirmation that all written evidence has been made available to all parties.
8. The Headteacher and the Chair of Trustees present a response to the complaint, including describing the action taken to address the complaint at Stages 1 and 2 of the procedure and calling witnesses, if appropriate.
9. The GCP may ask questions of the Headteacher and Chair of Trustees.
10. The Headteacher and Chair of Trustees leave the meeting.
11. The parent, together with his/her companion, is invited back into the room to make a final statement, then leaves the meeting.

12. The Headteacher and Chair of Trustees, are invited back into the room to make a final statement, then leaves the meeting.
13. In exceptional circumstances the panel may decide at any stage to adjourn the hearing pending further investigation.
14. The panel will then consider the information that has been presented. The Clerk will remain for this part of the meeting in order to clarify anything if necessary, but the Trustees' deliberations will not be minuted.
15. The GCP will consider the complaint and must reach a majority decision. The GCP will also decide what action (if any) to take to resolve the complaint and, if appropriate, recommend to the Board of Trustees changes to ensure similar complaints are not made in future.
16. When a decision has been made, the Chair first recalls the parent, then the Headteacher and Chair of Trustees and each is informed of the outcome and any recommended action to be taken.
17. The Clerk will confirm all outcomes in writing to both parties, in accordance with paragraphs 9.12 of the Complaints Procedure.

Appendix 3b

Trustees' Complaints Panel - Procedures for Hearing a Complaint at Stage 3

The aim of the meeting is to resolve the complaint and achieve a satisfactory outcome for the parent and the academy.

The Chair of the GCP will ensure that the meeting is properly managed and minuted.

Although the meeting will follow the structured order below, the Chair will endeavour to ensure that the proceedings are as informal as possible and that all parties are put at their ease, given potential sensitivities and anxieties.

If new information or witnesses are introduced at the meeting which had not previously been notified to all parties, the panel may adjourn the meeting so that everyone has time to consider and respond to the new information

Order of Meeting

1. The Chair welcomes the parent and their companion, and the Headteacher and the Chair of Trustees where the complaint has been addressed by the Chair at Stage 2) to the meeting and introduces the GCP.
2. The Chair explains the purpose of the meeting, the procedure, and asks for confirmation that all written evidence has been made available to all parties.
3. The parent (or his/her companion) will outline his/her complaint and explain why they are dissatisfied with the academy's response to date. The parent may call any witnesses in support of their complaint who will attend the meeting only for the time that they are providing information. Witnesses may be questioned by all parties.
4. The GCP and Headteacher and Chair of Trustees will have the opportunity to ask questions of the parent.
5. The Headteacher and Chair of Trustees will explain their involvement in the complaint and the reasons for their decisions at Stages 1 and 2. The Headteacher and Chair of Trustees may call any witnesses who will attend the meeting only for the time that they are providing information. Witnesses may be questioned by all parties.
6. The Trustees and parent will have the opportunity to ask questions of the Headteacher and Chair of Trustees.

7. The Headteacher and Chair of Trustees then the parent will be given the opportunity to sum up their statements. No new information may be introduced at this stage.
 8. In exceptional circumstances the panel may decide at any stage to adjourn the hearing pending further investigation.
 9. Both parties will leave the meeting and the panel will then consider the information that has been presented. The Clerk will remain for this part of the meeting in order to clarify anything if necessary, but the Trustees' deliberations will not be minuted.
 10. The GCP will consider the complaint and must reach a majority decision. The GCP will also decide what action (if any) to take to resolve the complaint and, if appropriate, recommend to the Board of Trustees changes to ensure similar complaints are not made in future.
 11. When a decision has been made, the Chair first recalls the parent, then the Headteacher and Chair of Trustees and each is informed of the outcome and any recommended action to be taken.
 12. The Clerk will confirm all outcomes in writing to both parties, in accordance with paragraphs 9.12 of the Complaints Procedure.
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