

Hertfordshire County Council

Children, Schools and Families

Model Policies for Schools

Model procedures for dealing with school based complaints (Guidelines for headteachers and governing bodies)

Adopted by Community Committee - Jan 2010

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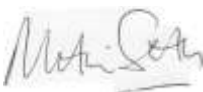
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Children, Schools and Families



MODEL PROCEDURES FOR DEALING WITH SCHOOL BASED COMPLAINTS

(Guidelines for Headteachers and Governing Bodies)

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AUTHORISING OFFICER:	MARTIN SOUTH
AUTHORISING OFFICER'S SIGNATURE:	
AUTHOR OF PUBLICATION:	MICHAEL FRANCIS
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General Principles of complaints

Most text extracted from 'School Complaints Procedure' document (DCSF)

Dealing with Complaints – Initial concerns

1. Schools need to be clear about the difference between a concern and a complaint. Taking informal concerns seriously at the earliest stage will reduce the numbers that develop into formal complaints.
2. These key messages deal with complaints but the underlying principle is that concerns ought to be handled, if at all possible, without the need for formal procedures. The requirement to have a complaints procedure need not in any way undermine efforts to resolve the concern informally. In most cases the class teacher or the individual delivering the service in the case of extended school provision, will receive the first approach. It would be helpful if staff were able to resolve issues on the spot, including apologising where necessary.

Schools may also wish to meet with parents if that would help resolve the issue.

Similarly parents may be given details of support organisations who may be able to impartially discuss the parents concerns with them (see Appendix 4).

Dealing with Complaints – Formal procedures

3. The formal procedures will need to be invoked when initial attempts to resolve the issue are unsuccessful and the person raising the concern remains dissatisfied and wishes to take the matter further.
4. Schools might wish to nominate a member of staff to have responsibility for the operation and management of the school complaints procedure. They could be termed the school's 'complaints co-ordinator'. In smaller schools this may often be the Headteacher.

Framework of Principles

5. An effective Complaints Procedure will:
 - encourage resolution of problems by **informal** means wherever possible;
 - be easily **accessible** and **publicised**;
 - be **simple** to understand and use;
 - be **impartial**;
 - be **non-adversarial**;
 - allow **swift** handling with established **time-limits** for action and keeping people informed of the progress;
 - ensure a full and **fair** investigation by an independent person where necessary;
 - respect people's desire for **confidentiality**;
 - address all the points at issue and provide an **effective** response and **appropriate** redress, where necessary;
 - provide **information** to the school's senior management team so that services can be improved.

Investigating Complaints

6. It is suggested that at each stage, the person investigating the complaint (the complaints co-ordinator), makes sure that they:

- establish **what** has happened so far, and **who** has been involved;
- clarify the nature of the complaint and what remains unresolved;
- meet with the complainant or contact them (if unsure or further information is necessary);
- clarify what the complainant feels would put things right;
- interview those involved in the matter and/or those complained of, allowing them to be accompanied if they wish;
- conduct the interview with an open mind and be prepared to persist in the questioning;
- keep notes of the interview.

Resolving Complaints

7. At each stage in the procedure schools will want to keep in mind ways in which a complaint can be resolved. It might be sufficient to acknowledge that the complaint is valid in whole or in part. In addition, it may be appropriate to offer one or more of the following:

- an apology;
- an explanation;
- an admission that the situation could have been handled differently or better;
- an assurance that the event complained of will not recur;
- an explanation of the steps that have been taken to ensure that it will not happen again;
- an undertaking to review school policies in light of the complaint.

8. It would be useful if complainants were encouraged to state what actions they feel might resolve the problem at any stage. An admission that the school could have handled the situation better is not the same as an admission of negligence.

9. An effective procedure will identify areas of agreement between the parties. It is also of equal importance to clarify any misunderstandings that might have occurred as this can create a positive atmosphere in which to discuss any outstanding issues.

Vexatious Complaints

10. If properly followed, a good complaints procedure will limit the number of complaints that become protracted. However, there will be occasions

when, despite all stages of the procedures having been followed, the complainant remains dissatisfied. If the complainant tries to reopen the same issue, the chair of the Governing Body is able to inform them in writing that the procedure has been exhausted and that the matter is now closed.

Time-Limits

11. Complaints need to be considered, and resolved, as quickly and efficiently as possible. An effective complaints procedure will have realistic time limits for each action within each stage. However, where further investigations are necessary, new time limits can be set and the complainant sent details of the new deadline and an explanation for the delay.

Stages of the complaints process

12. A clear complaints process has well-defined stages:

Informal – local resolution of the concern with staff member

Stage 1 – complaint heard by headteacher

Stage 2 – governor's panel

Recording Complaints

13. It would be useful for schools to record the progress of the complaint and the final outcome. A complaint may be made in person, by telephone, or in writing. At the end of a meeting or telephone call, it would be helpful if the member of staff ensured that the complainant and the school have the same understanding of what was discussed and agreed. A brief note of meetings and telephone calls can be kept and a copy of any written response added to the record.

Governing Body Review

14. The Governing Body can monitor the level and nature of complaints and review the outcomes on a regular basis to ensure the effectiveness of the procedure and make changes where necessary. Preferably, complaints information shared with the whole GB will not name individuals.

23. As well as addressing an individual's complaints, the process of listening to, and resolving complaints will contribute to school improvement. When individual complaints are heard, schools may identify underlying issues that need to be addressed. The monitoring and review of complaints by the school and the Governing Body can be a useful tool in evaluating a school's performance.

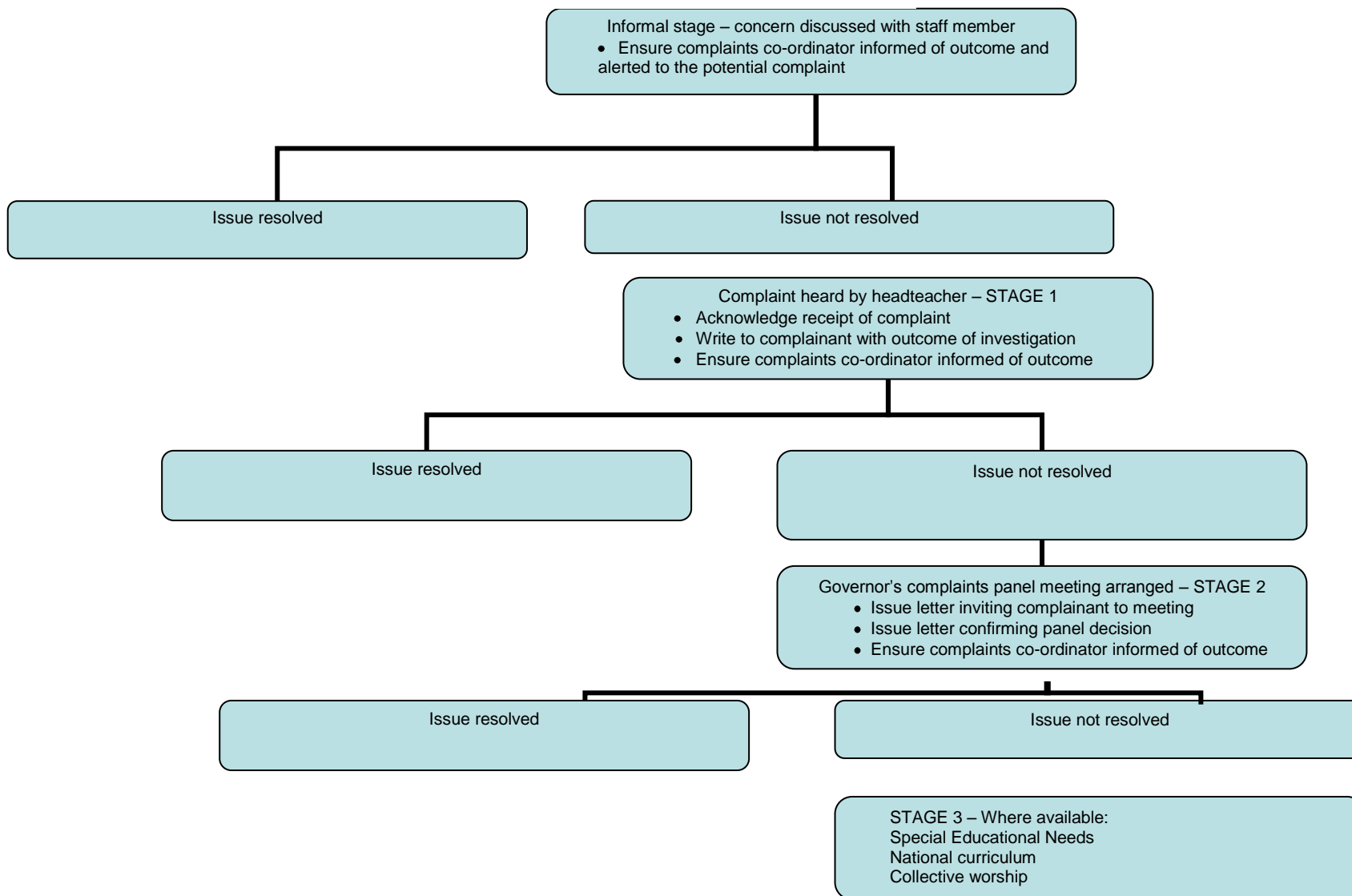
Publicising the Procedure

24. There is a legal requirement for the Complaints Procedures to be publicised. It is up to the Governing Body to decide how to fulfil this requirement but details of the Complaints Procedures could be included in:

- the school prospectus;
- the governors' report to parents;
- the information given to new parents when their children join the school;
- the information given to the children themselves;
- the home-school agreement;
- home school bulletins or newsletters;
- documents supplied to community users including course information or letting agreements;
- a specific complaints leaflet which includes a form on which a complaint can be made;
- posters displayed in areas of the school that will be used by the public, such as reception or the main entrance;
- the school website.

Flowchart

Summary of Dealing with Complaints



Why does the school need a complaints procedure?

Section 29 of the Education Act 2002 requires all maintained School Governing Bodies to adopt and publicise a complaints procedure for parents. This includes complaints about any community facilities or services that the school provides.

Previous legislation still applies. In particular, 1991 SEN Information Regulations require governing bodies of schools to publicise their complaint procedures in relation to SEN and the 1996 Education Act requires the LA to establish procedures for disputes between schools and parents about SEN provision.

There also remain specific requirements in relation to the National Curriculum, collective worship and religious education under the 1996 Education Act. The details are set out in Appendix 1.

How will these guidelines help you?

The Model Procedures include:

- Guidelines for Headteachers and Governing Bodies for handling complaints
- A Toolkit for Governors – Hearing Stage 2 Formal Complaints (Appendix 2)

Also included is:

- How to make a complaint about your child's school: Information for parents (Appendix 3)
- A model leaflet entitled 'How to Comment or Complain' - this is normally given to parents when their child starts school (Appendix 4)
- Complaints to CSCI from boarders and their parents and children in boarding schools and residential special schools (Appendix 5)

These procedures are now well-established in Hertfordshire and have been formally adopted or followed by the vast majority of schools. They were drawn up following consultation with headteachers, governors, the Diocesan authorities, the teacher associations and representatives of parent groups in 1995. The Diocese of St Albans commended the adoption of these procedures for Church of England Schools. For Roman Catholic schools the Diocese of Westminster has also provided its own guidelines for dealing with complaints.

The DCSF has confirmed our procedures are well ordered. They have, however, issued guidance in the form of a School Complaints Procedure Toolkit. The document is intended to help schools draw up a complaint procedure if they have not already done so, or to review their existing procedure if they wish. However, the good news is that the DCSF acknowledges that the majority of schools already have a complaint procedure in place, based on LA or Diocesan Board models

The DCSF guidance broadly reflects what this LA has for many years commended to schools. To obtain a copy of the guidance, download from www.governor.net.co.uk (go to Publications and search for School Complaints Procedure Toolkit) or telephone 01325 391290.

By following the up-dated procedures set out here, schools can ensure complaints are handled effectively.

How should schools handle complaints made by:

- A member of staff about another member of staff or the headteacher?
- A member of the governing body about a member of staff?
- A member of staff about a member of the governing body?
- Members of the public (not parents)?
- A parent whose child no longer attends the school?

This model procedure essentially covers complaints made by parents or carers of children who attend the school, but it is important that schools do have in place written procedures for the above eventualities. It would not normally be necessary for school to consider complaints made 12 months after the events complained of.

Complaint made by one member of staff against another (including the Headteacher)

If it cannot be resolved through day to day staff management activities, the normal course of action would be to invoke the Staff Grievance Procedure.

Complaint made by a governor about a member of staff

This should be dealt with through the complaints procedure outlined in this document. Clearly the governor concerned would have to withdraw from any meeting at which the complaint or its outcome was being discussed. If the complaint is related to the *conduct* of a member of staff, it would be more appropriate to invoke the school's Disciplinary Procedures.

Complaint by a member of staff against an individual governor acting in a personal capacity

The Chair of the governing body (or the Vice-Chair if the complaint is against the Chair) should attempt to resolve the matter informally. If such a resolution is not possible, and with the agreement of the governor concerned, a panel of governors could be set up to consider the matter as under the normal complaints procedure in this document.

Complaint by a member of staff against the action/decision of the governing body

If the decision was taken at a meeting of the full governing body the matter would have to be put on the agenda for review at another meeting and if the decision was then confirmed that would be the end of the matter. (For this reason it is important that matters that could potentially lead to a complaint or appeal are routinely dealt with by a committee with delegated authority, in order to allow for an appeal or a rehearing by an unprejudiced second group of governors). If a committee or individual with delegated authority took the original decision then a panel of

governors who were not involved in the decision should review the matter, ensuring that the member of staff concerned was given an opportunity to state his/her case to the panel. Any decision by the panel would be final.

Complaint by a member of the public (not a parent)

Complaints from members of the public are most likely to be dealt with by the Headteacher and beyond that the Chair of Governors.

Complaint by a parent whose child no longer attends the school

The purpose of this complaints procedure is to ensure that if an error has been made, or an injustice done, some action can be taken to remedy matters for the injured party. Where parents have removed their child from the roll of a school it is clearly impossible for the governing body to put things right for that child. However, the governing body has a duty of care to the pupils who remain on roll and it would be advisable for governors to investigate the circumstances to satisfy themselves that no-one had acted inappropriately and that procedures and policies had been followed correctly. It would be good practice to inform parents whether the complaint had been upheld or otherwise and of any changes to practice and procedures which have resulted.

What complaint/appeal procedures are NOT covered by this document?

These complaint procedures do not cover:

- Child Protection Procedures
- Appeals about admissions
- Appeals to governors discipline committee against permanent exclusion from school
- Staff Disciplinary Procedures

What is the position of staff complained about?

Under these complaints procedures any member of school staff who is complained about will have the opportunity to respond to the complaint during its investigation. They should also be able to see any response sent to the complainant as a result of the investigation.

There is an entirely separate procedure for schools to follow in dealing with staff disciplinary matters. Therefore, if in the course of considering a complaint the governing body or LA concludes that disciplinary procedures should be initiated, they will take separate action.

Where can the school get further help?

There is a "Toolkit" to help governors with practical arrangements for stage 2 complaints to the governing body attached as Appendix 2. For specific guidance on the materials in the "Toolkit" and for the practical arrangements for carrying out

governor investigations and hearings, please contact School Governance on 01582 830372.

How long should the school take in dealing with concerns and complaints?

Schools should aim to deal with these quickly and efficiently at stage 1, so avoiding the formal stage two procedure wherever possible. All complaints should be acknowledged within **5 school days**.

The governing body should deal with and respond fully to stage 2 formal complaints within **28 school days** of the written complaint being received. If this is not possible parents need to be given the reasons for the delay and to be kept informed of progress.

What is the FIRST stage in dealing with a complaint?

Most concerns, or potential complaints, can be resolved informally by offering parents a full discussion with the member of staff who is best able to help. This may involve the headteacher and the Chair of Governors working together to investigate the complaint. This is where the process should start and sometimes governors approached by parents informally will need to steer parents in this direction initially.

Governors need to be aware that if they do become involved closely with complaints at stage 1, they cannot be involved with stage 2 of the complaints procedure.

If the complaint is about the provision the school is making for a child's special educational needs, then a parent might find it helpful to talk to the named SEN Officer where this applies. The Parent Partnership Service will be able to provide advice on the procedures the LA has in place for resolving disputes between schools and parents over SEN provision.

Schools should give parents wishing to complain further a copy of the School Complaints Procedure and ask them to set out their complaint in a letter or by completing the complaint form.

What is the SECOND stage in dealing with a complaint?

Please see "Hearing Stage 2 Formal Complaints - A Toolkit for Governors" (Appendix 2) for detailed guidance on all the practical steps for investigating and hearing stage 2 complaints.

The Chair of Governors will arrange for the complaint to be investigated and considered under the arrangements approved by the governors for this purpose. This will usually involve a panel of governors appointed to act on behalf of the governing body. **In the case of Special Educational Needs complaints and**

National Curriculum or Collective Worship complaints, the Chair of Governors must inform the Complaints Manager.

If the Chair of Governors, or other governors, have been involved in earlier discussions to try and help settle the disagreement at stage 1, then arrangements should be made for another governor with no prior involvement to take charge of the investigation and consideration of the complaint.

It may be helpful to offer the parent an opportunity to talk about the complaint in the course of the investigation, prior to any complaint hearing. This might clarify the outstanding matters of complaint which remain unresolved and what outcome is sought by the complainant.

Parents should be provided with full details of how the governors' complaint panel will conduct any further investigation. In some cases it may not be necessary for there to be a formal complaints panel hearing with both parties present together. Generally, however, a formal hearing is the best way for both parents and the school headteacher and staff to be satisfied they have had a proper opportunity to be listened to by governors. Everyone should also be informed in advance of the order of proceedings for complaint hearings.

Both parties should make available to the panel, in advance, any written information they intend to use in the formal hearing.

Who can attend a Stage 2 hearing?

At any meeting parents may be accompanied by a friend or representative who may speak on their behalf. This person could be an interpreter of their choice and parents should be encouraged to do this where necessary.

The Chair of the panel may invite to the meeting any person who may help establish the facts of the complaint. Parents need to be told who this person is before the meeting.

Any member of staff required by governors to attend any meeting or hearing will have the opportunity to be accompanied or represented.

A member of staff named by parents in the complaint may also choose to attend a meeting even if not required to do so by governors and may be represented. If this happens, parents should be told before the meeting

What happens after the investigation/hearing?

When the complaint has been fully investigated and any hearing has taken place parents should be notified of the **findings** in writing by the Chair of the panel hearing the complaint or the governor responsible for the investigation.

The report, with findings, should, at the same time, be published to the governing body and will, in addition, include any **recommendations**. A meeting of the

governing body must accept the findings but can accept, reject or reject in part, the recommendations.

The Chair of Governors should write to the parents to confirm any actions agreed by the governing body. Any agreed actions must be implemented by whoever it applies to - this could be the governing body as well as the headteacher. Parents should also be informed whether and how they can take their complaint further.

A copy of the report must be sent to the Headteacher and the Complaints Manager in the case of those complaints where there is a right in law to a third stage of complaint to the County Council.

What can parents do if they are not satisfied with the outcome of the second stage of investigation?

In most cases it is expected that parental complaints will be satisfactorily resolved following formal complaint to the governing body. However, should parents remain dissatisfied, the following sections explain the circumstances in which complaints can be taken further.

**When is there a THIRD stage of complaint to the County Council and how does it work?
(THIS APPLIES TO VERY FEW COMPLAINTS AS SET OUT BELOW)**

When it is a complaint about the National Curriculum, or if it is about Collective Worship in a community or voluntary-controlled school.

Parents can complain further to the LA by writing to the Complaints Manager (see Appendix 1).

The complaints manager will acknowledge receipt of the complaint and will notify the Chair of Governors and the Headteacher. The Complaints Manager will arrange for the complaint to be investigated. The investigator will seek the comments of the governing body and any other information or advice as necessary.

Following investigation, the complaint will be considered by a panel of the Complaints Manager and three members of the LA.

Parents of a pupil may discuss their complaint with the investigating officer and may present their case personally to the panel. At any meeting the parent may be accompanied by a friend or representative who may speak on his or her behalf and also by an interpreter of his or her choice. A representative, or two representatives, of the governing body may make an oral presentation if the governing body wish.

When the complaint has been fully investigated and considered the Complaints Manager will notify the parent of the outcome in writing. This will explain reasons, any action taken or proposed to be taken and any further recourse available. A

copy will be sent to the Clerk and Chair of Governors and the Headteacher. This brings the third stage to a conclusion.

When it is a complaint about the way a school is providing for a child's Special Educational Needs.

Parents can complain further to the LA by writing to the Complaints Manager.

The Complaints Manager will acknowledge the letter and will notify the Chair of Governors and the headteacher. The Complaints Manager will arrange for the complaint to be investigated. The investigator will seek the comments of the governing body and any other information or advice as necessary.

When the complaint has been fully investigated and considered the Complaints Manager will notify parents of the outcome in writing, giving the reasons for it, any action or proposed action to be taken and the further recourse available. A copy of this will be sent to the Headteacher, the Chair of Governors and to anyone else concerned in the investigation. This brings the third stage for Special Educational Needs complaints to a conclusion.

What happens when there is NO statutory third stage of complaint to the County Council?

If the complaint is about denominational religious education in a voluntary aided school or collective worship in a voluntary aided school in accordance with the trust deed or previous practice before the school became a voluntary aided school:

There is no formal right of complaint to the LA (see Appendix 1). This is because the LA has no power to inspect the provision or to influence its content but complaint beyond the second stage may be made to the relevant Diocesan authority where this applies.

For Roman Catholic schools, complainants should write to the Director of the Education Service, Diocese of Westminster, 46 Francis Street, London SW1P 1QN. For Church of England schools complainants should write to the Diocesan Director of Education, Diocese of St Albans Education Centre, Hall Grove, Welwyn Garden City, AL7 4PJ.

If the complaint is about GENERAL MATTERS that are the responsibility of the governing body:

THERE IS NO STAGE 3 INVESTIGATION BY THE COUNTY COUNCIL

For the vast majority of complaints there is no right of appeal to the LA beyond the school's governing body (please see below for exceptions).

Parents may contact the complaints helpline for further advice but will be told there is no right of a further stage of formal investigation by the LA.

Can parents complain to anyone other than the County Council?

Parents have the right to complain to the Secretary of State for Education and Skills (under the Education Act 1996), if they believe that a governing body or the LA is acting or proposing to act unreasonably (section 496), or is failing to carry out a statutory duty (section 497). This has to mean that the LA or the governing body is acting outside its powers, or misusing them. Only then would the Secretary of State follow up the complaint.

The Secretary of State will then contact the LA or the governing body for information.

Where can parents get help?

Parents who remain dissatisfied following the Stage 2 consideration of their complaint by the Governing Body may seek advice from the CSF complaints helpline (tel: 01992 588542).

Appendix 5 is a model leaflet for schools. It also shows other sources of help which parents can be signposted to.

What kind of record will be kept about complaints?

Elected Members of the County Council will receive a report each year on any third stage National Curriculum, Collective Worship and Special Educational Needs complaints and will also receive a report on complaints about any National Curriculum and Collective Worship complaints which have been considered by schools at the second stage.

The complaints team will maintain records of complaints made or referred by parents to them for advice. These can help the LA identify trends and identify where schools may require particular guidance or support.

Schools should, as good practice, formally record and monitor all stage 2 complaints to the governing body.

Information may be published from time to time about the number and nature of complaints. Publication will not include reference to any named individual or school.

NATIONAL CURRICULUM AND COLLECTIVE WORSHIP COMPLAINTS

1. Purpose

- 1.1 The purpose of this appendix is to provide more information on complaints which are specifically about the National Curriculum and Collective Worship, under the terms of Section 409 of the 1996 Education Act as amended by paragraph 107, Schedule 30, School Standards and Framework Act 1998.
- 1.2 They cover complaints made by anyone about the performance of duties or exercise of power by the LA or by the governing bodies of schools maintained by the LA. A complainant may make a complaint on behalf of a group of people with their agreement.

2. Scope of the arrangements

2.1 The schools covered are all schools maintained by the LA which are:

- primary schools (but excluding nursery classes)
- secondary schools
- special schools which are not established in a hospital

They do not cover nursery schools or special schools established in a hospital.

2.2 The kind of complaint covered here is defined by the 1996 Education Act. They are complaints that the governors of a school or the LA are not doing what the law requires of them because they:

- have failed to fulfil any of the duties listed below; or
- have acted or are proposing to act unreasonably in performing any of those duties or exercising any power relating to the curriculum or collective worship.

The duties involved are as follows and are common to the LA and governing bodies unless otherwise stated (references are to sections of the 1996 Education Act).

- (i) The provision of a curriculum including religious education and worship which meets the general requirements of Sections 350 -352 of the Act.
- (ii) The implementation of the national curriculum and compliance with orders and regulations made about its requirements and exceptions to its provisions (Sections 356 - 389).

- (iii) Provision to pupils of compulsory school age of courses leading to an external qualification only if that qualification and the associated syllabus criteria have been approved by the Secretary of State or under arrangements approved by the Secretary of State (Section 400).
- (iv) Provision of religious education and worship as required by the Act and other enactments (Sections 375 - 389 and 394).
- (v) Compliance with regulations about the provision of information (Section 408).
- (vi) Operation of charging policies in relation to the curriculum (Sections 455 - 456).
- (vii) The need to act reasonably in deciding whether or not to be associated with an application for exemption from all or part of the National Curriculum in order to carry out developmental work (Section 362).
- (viii) In the case of the LEA only, the establishment of a standing advisory council on religious education and review of the agreed syllabus for the area if the standing advisory council so require (Sections 390 - 393).
- (ix) In the case of a governing body only, consideration of appeals by parents about the temporary withdrawal of pupils from part or all of the provisions of the National Curriculum.
- (x) Compliance with any other enactments relating to the curriculum.

3. Requirements

3.1 Consideration of a complaint will need to establish whether the LEA (or the governors) are acting reasonably and within the law and meeting their obligations or whether if this is not the case some action is required. In considering that question it may be necessary to consider whether:

- the LA's/governors' policy is consistent with legal requirements;
- their actions are consistent with their policy;
- the actions of staff are consistent with their policy.

4. The role of the Secretary of State

4.1 The 1996 Education Act lays down that the Secretary of State may not consider any National Curriculum or Collective Worship complaint unless it has first been considered under the LA's arrangements for handling complaints. The intention of this provision is that complaints should, if

possible, be dealt with and resolved between the complainant and the parties responsible - the LA and/or the governing body.

- 4.2 A complainant who is still dissatisfied after these arrangements have been exhausted will be able to complain to the Secretary of State.