

Complaints about Schools

To schools

The first port of call for complaints about schools should usually be to the school itself. This applies both to maintained schools and Academies. The only exceptions would be if, for example, you feel that your complaint will not be given a fair consideration due to a conflict of interest.

So the first step is to follow the school's own complaints procedure. Schools must have a procedure for parents to complain by law. The Department for Education's (DfE) [non-statutory guidance on school complaints in England](#) details the procedure **maintained** schools should follow. If your complaint is about an academy or free school, see further below for information on how to complain.

Complaint or concern?

The guidance draws a distinction between a concern - which, according to the guidance, is an expression of worry or doubt - and a complaint, which is an expression of dissatisfaction. Either way, the emphasis is on resolution at the earliest possible stage and informal concerns should be taken seriously to reduce the number of formal complaints.

Best practice

The guidance provides some basic tips for best practice. According to the guidance any complaints procedure should be:

- easily accessible, publicised and simple to understand;
- impartial and non-adversarial;
- ensure a fair investigation;
- respect confidentiality;
- provide for an effective response and appropriate redress;
- provide for reporting to the senior leadership team.

The guidance sets out that a complaints procedure should consist of various stages. It is up to individual schools to determine what works best, but the guidance suggests that two or three stages will be considered sufficient for most schools.

The guidance suggests the formal stages for handling a complaint could consist of:

1. Complaint investigated by head teacher
2. Complaint investigated by chair of governors
3. Complaint heard by governing body panel

Time limits

The guidance indicates that schools may include a deadline for lodging a complaint in the first instance and 3 months is considered acceptable. However, if a complaint is lodged outside this timeframe the school should consider any extenuating circumstances rather than have a blanket policy refusing to accept complaints outside the period.

Although there are no time limits set out for resolving complaints the guidance emphasises that complaints need to be resolved as quickly and efficiently as possible. The DfE does not consider excessive time limits to be reasonable or acceptable, except in extenuating circumstances.

Complaining to the Secretary of State (the DfE)

Once the school complaints procedure has been exhausted, the guidance states that you can ask for the complaint to be referred for review by the Secretary of State ([DfE School Complaints Unit](#)). The Secretary of State will only intervene if the governing body of the school has acted unlawfully or unreasonably. The governing body will need to demonstrate that it has followed its complaints procedure and any other relevant policies and that these adhere to legislation. The substance of the complaint will not usually be reinvestigated.

Role of the Secretary of State

The DfE is responsible for national education policy. The Secretary of State for this department has power to hear complaints about maintained schools and local authorities which behave unreasonably or unlawfully. These are complaints under sections 496 (unreasonably) and 497 (unlawfully) of the Education Act 1996. The Secretary of State has powers to direct schools and LAs to take action to remedy any unlawful or unreasonable act.

Complaints against an LA or school acting unreasonably are less easy to make than complaints on the grounds that they have failed to fulfil a legal duty. That is because unreasonableness needs to be extreme to be unlawful. It is unlikely the DfE will overturn a school's decision about a complaint except in exceptional circumstances where it is clear the school has acted unlawfully or unreasonably.

As a general rule, if parents can make a complaint under Section 497 of the Act ('failure to fulfil a legal duty') then they should do that, rather than complaining of unreasonableness. However, in some cases, the complaint of unreasonableness is the only option: for example, where an LA is acting legally and there is no appeal to the Tribunal.

Complaints can be made on line:

<https://www.education.gov.uk/schools/leadership/schoolperformance/school-complaints-form>

Parents must:

- Say they are making the complaint under Sections 496 and/or 497 of the Education Act 1996
- Quote the specific legal duty which their LA or school has failed to fulfil
- Give the evidence, including copies of any letters which they have received, which show what has happened.

It may be helpful for parents to send a copy of their letter to a local councillor and ask them to take the matter up directly with the council.

The DfE undertakes to respond within 15 working days but their investigation may take more than six months. The DfE keeps no records of the outcome of the complaints it receives so it is hard to know how effective this course of action is. It should be remembered that the Secretary of State rarely uses his or her powers and if there is no remedy, for example because the child has left the school concerned, the DfE is unlikely to take up the complaint.

Remedies

The Secretary of State has considerable powers to direct schools and local authorities. Department officials may put pressure on a school or LA or issue guidance where it believes the law or good practice is being ignored.

Academies and free schools

Just like maintained schools, academy and free Schools must have a procedure for parents to complain by law. You should first complain to the Academy itself. The school's complaints policy must be in writing, available to parents and set out clear timescales for how complaints will be handled.

The complaints procedure must comply with The Education (Independent School Standards) Regulations 2010. The complaints process should have three stages:

1. an opportunity to resolve the complaint with the academy on an informal basis, for example through discussion with a senior member of staff;
2. a formal complaint stage when the complaint is made in writing and usually responded to by the academy; and

3. a hearing with a panel set up by the academy trust, comprising at least three people not directly involved in the matters detailed in the complaint, one of whom must be independent of the management and running of the school. Parents must be allowed to attend the panel and be accompanied if they wish

Complaining to the Education Funding Agency

If you are dissatisfied with the academy's response, you should then address your complaint to the [Education Funding Agency](#) (EFA). The EFA handles complaints about academies and free schools and there is [guidance](#) available which sets out the procedure for responding and investigating complaints. Part of their role is to make sure academies comply with the terms of their funding agreement which is a contract between the academy and the Secretary of State. The EFA will not usually investigate complaints more than 12 months after the decision or action was taken. The only exceptions will be if the delay in sending the complaint was unavoidable or if there is evidence that the academy is not currently complying with legal requirements.

Matters which the EFA will investigate:

- Undue delay on non-compliance with published complaints procedures
- Allegations that the academy has acted unlawfully or failed to comply with a contractual duty imposed on it under its Funding Agreement with the Secretary of State or any other legal obligation.

Remedies

If the EFA finds that the Academy has not dealt with a complaint properly they will not overturn the Academy's decision but will ask it to reconsider and ensure the decision complies with the relevant Regulations. Such actions may include:

- Asking the Academy to review its procedures to ensure non-recurrence
- Asking the Academy to review its decision in the individual case

If the Academy does not comply, the Secretary of State may, if appropriate, seek to enforce the terms of the Funding Agreement through the courts.

To Ofsted

Ofsted is the body which inspects most schools approximately once every three years. Schools are required to notify parents of the inspection, and to include details of how they can pass their views to inspectors. Parents can ask to speak to inspectors during the inspection.

In addition, parents have a legal right to complain to Ofsted on the work of:

- maintained schools, academies and city technology colleges;
- maintained nursery schools; and
- non-maintained special schools.

For example, Ofsted could investigate complaints about:

- The quality of education provided by the school and the standards achieved;
- Inadequate provision for pupils with SEN;
- Neglect of pupils' personal development and well-being;
- The quality of the leadership and management e.g. whether the school spends its money well (this could include the SEN budget for example).

Ofsted cannot investigate complaints about problems affecting an individual child or mediate between parents and school. However, actions Ofsted can take include:

- Ofsted can call an immediate inspection at short notice in response to a very serious complaint;
- Ofsted can order the school to call a meeting of parents to be chaired by an inspector;
- Ofsted can require a school or local authority to provide information;
- Ofsted can discuss parents' concerns informally with the school or consider them when it next inspects the school.

Generally, Ofsted will need to give a parent's name to the school to investigate properly, which may affect the parent's relationship with the school. (They can complain anonymously but this would restrict what Ofsted can do for them.)

Where a parent has concerns about a school, they can find more information about when and how to complain, the type of complaints Ofsted is able to act upon and the action it can take [here](#) or parents can contact Ofsted on 0300 123 4666.

To the Information Commissioner

Parents who have problems accessing school records, minutes of governors' meetings, school policies or other public documents or who believe their child's records have been disclosed unlawfully, or are incorrect or out of date, may complain to the Information Commissioner within set time limits. They should first exhaust the school or local authority complaints procedure.

There are different timescales for the school to reply to a written request depending on whether the request is for the school record (Data Protection Act or Information Regulations) or a public document (Freedom of Information Act).

The Information Commissioner website gives details of how to complain <http://www.ico.org.uk/> or phone 0303 123 1113

If a governing body fails to provide the school record under the Information Regulations (see Parents' rights to information section), parents can also complain to the Secretary of State.

See also:

- our briefing about [LA complaints](#) which contains information about making a complaint to the LA about the curriculum of a school;
- our briefing about [going to the High Court](#) which deals with Judicial review and claims of educational negligence.