

Complaints policy

A policy for all parents and schools

Review November 2020

Responsibility for this policy:	Board of Directors (Trustees)
Responsibility for monitoring/evaluation (Trust level):	CEO
Responsible for monitoring and evaluation (school level):	Executive Headteacher/Headteacher/Head of School
Date of original policy:	September 2016
Date of next review:	September 2022 or as required
<i>Tracked changes from original policy:</i>	<i>Reference to role of EHT (throughout)</i> <i>Bullet points to replace numbered points (throughout)</i> <i>Further detail added for greater clarity (throughout)</i> <i>List of contents added (p2)</i> <i>Trust values added (p3)</i> <i>Information for complainant post-hearing added (p7)</i> <i>Records of complaints added (p7)</i> <i>Confidentiality added (p8)</i> <i>Complaint campaigns added (p8)</i> <i>The role of the ESFA added (p9)</i> <i>Contact information added (p10)</i>
Links to other policies:	Adult behaviour policy Health and Safety Policy Lone Working Policy Whistleblowing policy

Creating futures through our shared values of excellence, partnership and perseverance

LIST OF CONTENTS

1. Our Trust values	p3
2. Introduction	p3
3. Timescales	p4
4. Stages of the procedure	p4
5. Resolving concerns informally	p4
6. Formal stage 3 procedure	p5
7. The Trust complaints panel	p5
8. The hearing process	p6
9. Post hearing actions	p7
10. Records of complaints	p7
11. Confidentiality	p8
12. Complaint campaigns	p8
13. The role of the ESFA	p9
14. Contact information	p10

Create Partnership Trust is committed to reviewing all complaints and learning from them.

1 OUR TRUST VALUES



The Complaints Policy contributes to the Trust's core values:

- **Excellence:** - setting the highest possible standards and expectations
- **Partnership:** - working collaboratively
- **Perseverance:** - responding to difficult challenges

2 INTRODUCTION

Create Partnership Trust is required to have a policy and procedure in place to deal with concerns or complaints relating to any of its schools. It applies to concerns and complaints relating to the application of school procedures or the actions of staff, except in matters relating to:

- A child protection or safeguarding matter
- Freedom of information or subject access requests
- Pupil exclusions
- A special educational needs health care plan
- School admissions
- Staff grievances, capability or disciplinary procedures
- Whistleblowing
- Withdrawal of pupils from RE and/or the daily act of Collective Worship

These are dealt with under separate specific procedures, the details of which are available from the school or the Trust central offices.

The main purpose of the Complaints Policy is to give **parents/carers/guardians** the opportunity to raise concerns about the school/Trust. Should any complaints arise from external parties, they will be discussed at the appropriate level, handled respectfully and expediently and a response returned in writing. However, they will not lead to a final panel hearing.

The school/Trust does not deal with complaints concerning other providers on site (e.g Children's Centre). External providers should have their own complaints procedure.

If the school/Trust has evidence that a complainant meets the criteria of a serial or persistent complainant, it will take appropriate action such as reporting to the police.

The Trust is fully committed to dealing with concerns and complaints as promptly and efficiently as we can. Complainants are encouraged to speak initially and directly to the person who is most appropriate to respond – usually a senior leader or the Executive Headteacher/Headteacher/Head of School/Deputy Headteacher (EHT/HT/HoS/DHT).

The Trust aims to resolve any issue through fair, open and professional dialogue and mutual understanding, placing the needs of our pupils at the heart of the discussions. At any stage, complainants are encouraged to suggest actions which might resolve a

problem; points of agreement are identified; a positive atmosphere is encouraged.

To ensure that the complaints procedure is effective, the school/Trust must:

- ask the complainant at the earliest stage what they think might resolve the issue. (An acknowledgement that a matter might have been handled better is not the same as an admission of unlawful or negligent action.)
- advise the complainant of any escalation options at each stage of the procedure

It is important to note:

- Any concern or complaint should be brought to the attention of the school/Trust at the earliest opportunity.
- Any matter raised more than three months after the event will only be considered in exceptional circumstances.
- Anonymous complaints will not be considered unless there are exceptional circumstances.
- A complainant who is a parent/carer/guardian of a pupil at a Trust school and who is dissatisfied with the outcome at any stage, is allowed to escalate the procedure to the next stage.
- This does not apply to complainants who are not parents/carers/guardians of a pupil in one of the Trust schools.

3 **TIMESCALES**

The school/Trust will endeavour to meet the stated timescales at each stage of the process. Sometimes this may need to be extended but the complainant is kept fully informed.

If the school/Trust has made reasonable attempts to accommodate complainants with dates for meetings and they refuse or are unable to attend, the meetings can be convened in their absence and a conclusion can be reached in the interests of drawing a complaint to a close. Since issues have arisen around the challenges of COVID-19, it is now possible to set up virtual meetings with the agreement of the complainant and access to the appropriate technology.

4 **STAGES OF THE PROCEDURE**

- **Informal stage 1:** raising a concern
- **Informal stage 2:** referring to the Complaints Team at the Trust
- **Formal:** referring to the Board

5 **RESOLVING CONCERNS INFORMALLY**

Informal stage 1: raising a concern

It is in everyone's interest to resolve concerns at the earliest possible stage before they become formal complaints which invoke formal procedures.

Anyone with a concern should take it to the most appropriate person at the school – a child's class teacher or their leader, for example – and not necessarily directly to the Headteacher. The aim will be to address the concern immediately or arrange a meeting to discuss the matter at a mutually convenient time and in a positive manner. The Headteacher is always willing to listen to any concerns of parents but the Trust advises against her/his direct involvement at this early stage. Naturally, this depends on the seriousness of the complaint.

Sometimes the school may require further time for an internal investigation and a second meeting is arranged.

In most cases, individual Trustees, Local Advisers or the CEO are not able to get involved at this point or act unilaterally on an individual concern or complaint (even if they have been approached directly by the complainant) because they may be involved at a later stage or asked to be part of a panel hearing. If a Trustee, Local Adviser or the CEO is approached, s/he will refer the complainant to the procedure.

The Trust expects that all concerns and complaints are treated impartially and objectively. It is committed to respecting the

views of complainants who may indicate that they are uncomfortable in discussing the matter with a particular member of staff. In these cases, they will be referred to another appropriate staff member. The Trust is equally committed to ensuring that it respects the views of a staff member who does wish to discuss the matter with the complainant. Another member of staff in a leadership position is likely to step in.

If the concern or complaint relates to:	it should be directed in the first instance to:
the school's HoS, DHT or any other member of staff	the EHT/HT as appropriate
the school's Executive Headteacher (EHT) or Headteacher (HT) or one of the Create Central team (at the Trust offices),	the CEO via the Complaints Team at the Trust.
the CEO	the Chair or Vice Chair of the Board
an individual Local Adviser or Trustee	the Chair or Vice Chair of the Board
the Chair of the Local Advisory Board	the Chair or Vice Chair of the Board
the Chair of the Board	the CEO or the Vice Chair to inform the Members
both the Chair and the Vice Chair	the CEO or HR Manager to inform the Members

Informal stage 2: referring to the Complaints Team at the Trust

Complainants may be asked to put their concerns in writing but in most cases a senior leader will be available to deal with enquiries face to face. If further investigation is required, complainants are kept informed and should expect to receive feedback no less than 10 school days after the details of the complaint were provided. If the investigation takes longer than 10 school days, the complainant is kept informed in writing.

If the complainant remains dissatisfied with the outcome of the informal procedures, the process can move to the formal procedure.

6 FORMAL STAGE 3 PROCEDURE

If the complainant remains dissatisfied with the way the matter has been handled, the concern or complaint should be sent in writing to the Chair of the Board, Create Partnership Trust, Cambrai Court, 1231 Stratford Road, Hall Green, Birmingham B28 9AA. The envelope should be marked as confidential.

The Chair (or the Vice Chair) will decide on the most appropriate course of action which might include a meeting in the first instance or referral of the matter to the Trust Complaints Panel.

The complainant is entitled to a fair meeting or review and can request an independent panel if s/he feels there is likely to be bias in the proceedings. The complainant must provide evidence of this bias in support of her/his request. Persons with any potential conflict of interest should not take part in the process. Anyone involved in the process (informally or formally) must not act in a way that is biased. This concept derives from the principle that *Justice must not only be done but be seen to be done*.

7 THE TRUST COMPLAINTS PANEL

The Board nominates two Trustees and one independent member to form a complaints panel. The Chair of the Board (or Vice Chair) cannot be a member of the panel if s/he has had a previous role in the matter; e.g. receiving the formal complaint. The panel has delegated powers to:

- Dismiss the complaint in whole or in part
- Uphold the complaint in whole or in part
- Decide on appropriate action to resolve the complaint
- Recommend changes to the Trust's or the school's procedures
- Recommend disciplinary action
- Identify any procedures or risks to ensure that similar issues do not occur

The members of the panel must:

- Act impartially and independently

- Consider all equality issues (e.g. gender balance, interpreting facilities, disability access)
- Have had no prior involvement in the complaint or the circumstances surrounding it

The independent panel member must ensure that the panel has an external source of scrutiny and challenge in its consideration of the complaint to ensure that the decision is not biased.

The hearing is held in private. Its aim is to achieve reconciliation between the school and the complainant and put things right that may have gone wrong. The panel acknowledges the nerves and inhibitions of complainants and witnesses. The Chair ensures that proceedings are considerate and respectful. All panel members ensure that they are conversant with the procedure.

It is important to recognise that the complainant might not be satisfied with the outcome of the panel hearing and it may only be possible to establish facts and make recommendations which will satisfy the complainant that the matter has been taken seriously.

In line with DfE advice, the Trust will not generally agree to either party bringing legal representation to the hearing. The hearing panel is not a form of legal proceedings. However, there may be some occasions where legal representation may be appropriate; e.g. if a member of staff is a witness in a complaint, s/he may be entitled to bring union or legal representation.

8 THE HEARING PROCESS

Role of CEO/EHT/HT

- To ensure that the correct procedure is used and appropriate action taken within Informal Stages 1 and 2.
- To ensure that all concerns and complaints are logged and that response times are kept within a reasonable time frame.
- To ensure that complainants are aware of the full policy including the Formal Stage.

Role of the clerk

- To support the Trust Complaints Panel and act as a contact point for the complainant
- To set the time, date and venue of the hearing, taking reasonable measures to ensure that dates are convenient to all parties and that venues are accessible
- To collate and circulate any written evidence, sending it to the parties at least 5 days in advance of the hearing
- To record the proceedings
- To notify all parties of the panel's decision within 10 school days

Role of the Chair

- To chair the hearing effectively, explaining the panel's remit to all parties and ensuring that all parties are put at ease
- To ensure that each party has the opportunity to put forward its case without interruption
- To ensure that key issues are addressed and key finds of fact are made
- To ensure that all parties are treated with courtesy and respect
- To ensure that each member of the panel acts independently and objectively
- To ensure that no panel member has a vested interest in the outcome of the proceedings or any prior involvement in the matter
- To ensure that written material is seen by all the parties by the date specified and that, if new material comes to light, that all parties have the time to consider and comment

The process

- Witnesses are only required to attend for the part of the hearing when they give evidence.
- The panel hearing does not commence until all parties are present.
- The complainant may be accompanied by a friend.
- Following introduction, the complainant is invited to state her/his concern and use her/his witnesses – **invited in turn** – to support the case.
- The EHT/HT/CEO may question the complainant and witnesses after each has spoken.

- The EHT/HT/CEO is invited to explain the school's or Trust's actions and use her/his witnesses – invited in turn – to support the response.
- The complainant may question the EHT/HT/CEO and witnesses after each has spoken.
- The panel members may ask questions at any point.
- The complainant is invited to sum up the complaint.
- The EHT/HT/CEO is invited to sum up the school's/Trust's response.
- The Chair explains that both parties will hear from the panel within 10 school days.
- All parties leave the hearing while the panel decides on the outcome.
- The clerk remains with the panel.

The decision

The panel can make findings and recommendations. A copy of these is provided to the complainant and, where relevant, to the person complained about.

The complainant is informed in writing about:

- The conclusion and reasons for any decisions
- Any further rights of appeal; ie. to the ESFA

The complainant also receives a copy of the minutes. (Failure to provide these may lead to a further complaint.) The complainant is entitled to receive these, subject to any necessary redactions under the Data Protection Act 2018. The panel will take advice on this from the Trust's HR legal advisers.

9 POST HEARING ACTIONS

The Trust encourages both parties to meet informally after the hearing to ensure an ongoing and positive dialogue and professional relationship.

Should the complainant remain dissatisfied with the outcome, s/he has the opportunity to take **the** complaint further to the Education and Skills Funding Agency (ESFA), which is part of the Department for Education (DfE).

S/he may also contact Ofsted (Office for Standards in Education) which can consider complaints about the school as a whole but cannot investigate matters concerned with individual pupils.

10 RECORDS OF COMPLAINTS

The school/Trust must:

- Keep a written record of all complaints (retained at school level for each school but reported appropriately to the CEO and/or Board)
- Identify whether the complaints are resolved following informal or formal procedures or progress to a Trust Complaints Panel hearing
- Identify all actions taken by the school/Trust as the result of those complaints
- Determine who is responsible for these records and make sure the data is kept secure.

Where there are communication difficulties, the school/Trust may wish to use recording devices to ensure that the complainant is able to access and review the discussions at a later point; however, all parties must agree in advance to being recorded. The Trust does not agree to allow complainants to record meetings if it is not required for the purposes of reasonable adjustment. It is also important to consider that:

- recordings may affect third parties called to act as witnesses
- there could be impact on individuals if recordings are lost or leaked.

The Trust will not accept as evidence, recordings of conversations which were obtained covertly and without the informed consent of all parties.

Responsibility for records of complaints is with the EHT/HT of each school and the HR Manager at Create Central – all under the line management of the CEO.

11 CONFIDENTIALITY

All correspondence, statements and records relating to individual complaints are kept confidential except where the Secretary of State or a body conducting an inspection require access to them. There may be occasions when complaints are made or continue to be escalated after a pupil has left the school. The Trust gives approval to the schools to holding records of complaints separate to pupil records, so that access to them can be maintained even when the pupil's educational record has moved to another school. In these cases, the school must ensure confidential and secure storage of the information.

12 COMPLAINT CAMPAIGNS

The Trust is mindful that schools can sometimes become the focus of a campaign, receiving large volumes of complaint on one subject and/or from people unconnected with the school or the Trust. In these cases, there will be a single Trust response, not one from an individual school. The Trust's approach in these circumstances is to refer to our objectives and values but also try to understand the root causes of any campaign and attempt to contribute to a resolution. The Trust would not want to contribute in any way to an escalation of tension.

If the press or social media become involved in the campaign, the Trust will produce a single Trust statement and will not expect any individual responses from the targeted school or its leaders.

If a complainant tries to reopen the same issue, s/he will be informed that the procedure has been completed and the matter is now closed. If the complainant contacts again on the same issue, the correspondence may then be viewed as *serial* or *persistent*. However, a complainant should not be marked as *serial* for exercising her/his right to refer a complaint to her/his MP, regardless of which stage the complaint has reached.

The school/Trust may receive complaints which are *vexacious*, and display the following characteristics:

- obsessive, persistent, harassing, prolific, repetitious
- insistence on unrealistic outcomes
- pursuing complaints in an unreasonable manner
- designing complaints to cause disruption or annoyance
- demanding redress that lacks serious purpose or value

The application of *serious* or *persistent* marking is against the subject or complaint itself rather than the complainant.

When to stop responding

The decision to stop responding is not taken lightly and only after the school/Trust can demonstrate:

- taking every reasonable step to address the complainant's concerns
- having given a clear statement of the school's/Trust's position and the complainant's options
- that the complainant has contacted the school/Trust repeatedly

Additionally:

- if communications are abusive or aggressive
- staff are insulted or threatened
- the school/Trust believes that the individual intends to cause disruption or inconvenience

The school/Trust must take advice from its HR legal adviser and discuss the matter with the CEO before deciding to stop responding. If that decision is made, the individual will need to be formally informed.

Barring from school premises

Although our schools and the central offices fulfil a public function, they are private places and the public has no automatic right of entry. Schools and offices must act to ensure they remain safe places for pupils, staff and other members of their community.

The EHT/HT/HoS has the right to ask an individual to leave the premises if her/his behaviour is causing concern. In some cases, an individual can be barred. This decision must be approved by the CEO and guidance sought from the Trust's HR legal advisers.

NB The Trust's Adult Behaviour Policy describes the actions to be taken in extreme circumstances to protect the pupils, staff and the buildings and grounds where adult behaviour is unacceptable and poses a risk.

13 THE ROLE OF ESFA

- The ESFA expects that any complaint about a school/Trust will have completed the Trust's complaints procedure first.
- The exception to this is when children are potentially at risk of harm or missing education
- The ESFA cannot overturn a decision about a complaint but it can make sure that the complaint was handled properly

The complainant must provide evidence that the school/Trust:

- Does not have a complaints procedure
- Did not provide a copy of its complaints procedure when requested
- Does not have a procedure which complies with statutory regulations
- Has not followed its published complaints procedure
- Has not allowed its complaints procedure to be completed

ESFA is not able to:

- Overturn the Trust's decision
- Re-investigate the original complaint
- Review the accuracy of minutes taken
- Order that compensation is paid
- Direct the school to discipline/exclude pupils
- Force the school to discipline/dismiss staff
- Instruct the school to apologise

ESFA is able to intervene when the school/Trust has:

- Breached a clause in its funding agreement
- Failed to act in its duties under education law
- Acted (or is proposing to act) unreasonably when exercising related education functions

The ESFA reviews evidence including the published policies of the school/Trust to determine if it is appropriate to take action. This action is typically:

- Explaining the legislative framework
- Recommending improvements to statutory policies
- Issuing a warning notice (e.g. where leadership and governance has broken down or safety is threatened)
- Issuing a Financial Notice to Improve (FNtI) to set out the conditions required for it to be lifted
- If necessary, sharing information with relevant bodies (e.g. LA, Ofsted) to ensure appropriate safeguarding, remedial or preventative action is taken



14 CONTACT INFORMATION

- The school directly – information on each school’s website
- The Trust by letter: Create Partnership Trust, Cambrai Court, Stratford Road, Hall Green, Birmingham B28 9AA
- The Trust by email: info@createpartnershiptrust.org.uk
- The ESFA by letter: Education and Skills Funding Agency, Cheylesmore House, 5 Quinton Road, Coventry, CV1 2WT
- Ofsted by email: enquiries@ofsted.gov.uk
- Ofsted by phone: 0300 123 4666